

# Echoes #11 – No borders, no problem

Detaining Civil Fleet Ships means: let more people die at sea ....

Italian courts are apparently asserting their independence. For Albania or Luventa, in Catania or in Brindisi, on a legal level, Meloni, Piantedosi & Co. have suffered severe setbacks in recent weeks. At the same time, Italian authorities continue to misuse administrative measures to detain rescue ships in even more arbitrary ways. They know they will lose again on a legal level, but they try to win, or, better formulated, to weaponize time: to let more people on the move drown or get pushbacked as a policy of deterrence. It is therefore all the more important that solidarity with and between the civil fleet actors remains strong.

Since the beginning of the year 2024:

- 7,516 people arrived to Italy by boat, a significant number of whom arrived autonomously (UNHCR figures as of March 17)
- 1,186 people were rescued by the civil fleet from more than 180 boats in distress (CMRCC figures)
- 195 people who fled via the Central Mediterranean are reported dead or missing. Those figures do not take into account invisible shipwrecks (UNHCR figures as of February 29)
- 2,738 people were pushed back to Libya after they were intercepted by the EU-supported so-called Libyan Coast Guard (IOM figures as of March 16)

## Latest political developments

### Effects of Externalisation in Tunisia – Racism, Ordeal of Migrants and No End in Sight

*by migration-control.info*

Extreme violence and an openly racist policy against Black people have been ongoing in Tunisia for more than a year now. The already existing racism in Tunisia escalated in the beginning of 2023, catalysed by a racist and discriminatory speech against people on the move from sub-Saharan Africa, which the Tunisian President Kais Saied gave on February 21. In the days following the speech, groups of marginalised young men targeted Black people in different Tunisian cities. Black people were subjected to acts of violence, including pogroms of armed mobs. They faced several forms of institutional violence like racial profiling and arbitrary detention by security forces. Even valid residence papers did not protect Black people from violence: numerous people were arrested regardless of their residence status. Some were seriously injured, houses were set on fire and an unknown number of people disappeared. Many found themselves without shelter and food and were deprived of their right to health and transportation.

The ongoing violence culminated in [illegal mass deportations](#) to the desert areas bordering Libya and Algeria executed by Tunisian authorities. In July 2023 alone, [Al Jazeera reported in a video](#) that about 1.200 Black people were stuck at the Libyan border without food, water, and shelter. Since then, numerous deaths have been recorded and deportation to the border areas are still ongoing. Simultaneously, departures from Tunisia to Europe increased massively in summer 2023. During the four summer months alone, more than 83,000 people crossed the sea – figures that we have not seen in this region since around the mid-2010s – and besides people from Sub-Saharan countries were Tunisians themselves. In April 2023, civil search and rescue organisations and migrant solidarity networks voiced in a [joint statement](#) that Tunisia is neither a safe country of origin nor a place of safety for those rescued at sea. Violence and insecurity remain; in the following part we aim to provide an overview of the current situation.

In reaction to the increased number of crossings, border violence along the Tunisian route increased and means of control of migratory movements were reinforced. On the water, the number of interceptions by the Tunisian coast guard, with nearly 70,000 interceptions in 2023, doubled as compared to the year before. Reports of the violent behaviour of the Tunisian coast guard – boats being pushed away and rammed, people being beaten with sticks and intimidated with gunshots, coast guard stealing engines from rubber dinghies and leaving people adrift at sea – [are piling up](#).

What can be further observed is that the Tunisian coast guard is more actively involved in the EU-implemented "push-back by proxy regime" in the Central Mediterranean, which means that the EU is outsourcing interceptions at sea to non-European actors to reduce the number of crossings. A [detailed analysis published by the CivilMRCC](#) elaborates how four elements – strengthening the capacities of the Tunisian coastguard (equipment and training), setting up a coastal surveillance system, creating a functional MRCC, and declaring a Tunisian Search and Rescue Region – are used by the European Union and its member states to replicate in Tunisia the regime of refoulement by proxy set up in Libya just a few years earlier.

Of being intercepted and brought back to land, the [Central Mediterranean Analysis by the Alarm Phone, published in February 2024](#) states that "the deportation of people intercepted at sea by the Tunisian coastguards has become a systematic practice in recent months." The situation for Black migrants is far from being safe on land as well. After the peak of deportations of Black migrants to the Libyan-Tunisian and Algerian-Tunisian border zones in July and September 2023, which we have also [documented on migration-control.info, expulsions continue, as the Tunisian civil rights organisation FTDES reports](#). At the Libyan border, people are handed over by Tunisian authorities to Libyan militias, where they end up in detention centers run by armed groups. [Deportations to the Algerian border zone also continue](#) in Tunisia's west. It is hard to assess the number of deportations, as most of the time the Tunisian authorities rob sub-Saharan migrants, take their money, and confiscate their cell phones. Migrants therefore have little chance of providing evidence of these illegal deportations.

In addition, chain deportations from Tunisia via Algeria to Niger are documented. Algeria's long-standing illegal practice of deporting people to Niger has been well documented by the Alarm Phone Sahara. [In October 2023](#), the APS reported that the "practice of pushbacks continues to this day, and many of the people who found themselves stranded in Niger after being deported from Algeria report that they were already in Tunisia beforehand and had been deported from there to the Algerian border." The activist group confirmed its observations [in December](#), drawing on an interview with a "Guinean migrant who was initially in Tunisia, pushed back to Algeria and then pushed back to Niger." According [to an article published by the Guardian in mid-March 2024](#), this deportation practice has led to the separation of children from their parents by the police. "Their mums and dads go out to beg and then the police catch them and take them to Algeria," a person is quoted in the article. In 2023, almost 1,500 unaccompanied children approached the Tunisian offices of the UNHCR to seek support.

Then there are also those who have fled their countries of origin, for whom the living conditions in Tunisia are so terrible that they would rather return than remain in Tunisia. In 2023, the International Organisation for Migration (IOM) repatriated 2,557 migrants. These "voluntary returns" are occurring in a context of violence and impossibility of earning a living, without safe alternatives of staying or moving somewhere else. In fact, the returns cannot be considered "voluntary."

The migrants who are still waiting in Tunisia's coastal areas for an opportunity to cross endure ongoing hardships and face police brutality. In a [video posted](#) on March 6, 2024 [on X by Refugees in Tunisia](#), an alliance of migrants in Tunisia, one can see a person walking through olive groves, where many people waiting for a possible departure seek shelter. The video shows destroyed cabins made of plastic sheeting while a person reports that "the police came inside here today, burned our houses down, took some phones, money...They burned down all our houses. It's not easy for us."

Despite these documented violations of human rights, the European Union and its member states continue trying to curb the arrivals by the sea. The big promises that von der Leyen and Meloni made on [their visit in Tunis in June 2023](#) flopped. Tunisia is still not willing to take migrants back and is not in for externalised asylum procedures. Frontex is not welcome. The EU is picking up the pieces. In a document that migration-control.info obtained, the EU admits that apart from delivery of spare parts and equipment for the coast guard, not much else has been achieved. But instead of acknowledging the freedom of movement for all, the EU continues to control migration movements and wants to finance a control center between Libya and Tunisia to limit the mobility of migrants between these countries.

While acknowledging the ongoing violence exercised by the border regime, 2023's "little summer of migration" also shows how fragile the European closure is. People could make their way from North Africa to Europe within a very short period and the collective arrivals had the power to tear down institutions of the border regime. In September 2023 in Lampedusa, for example, [the hotspot was opened due to the number of arrivals](#) and people were transferred to the mainland quickly from where they could continue their journeys. The people affected, Tunisians, and migrants in Tunisia are constantly opposing the policies violating their human rights.

In January 2024, [Al Jazeera reported](#) on protests by families whose relatives (most of whom were reported to be from the small village of El Hancha in the Sfax Governorate) went missing when trying to leave Tunisia. The families erected roadblocks and burned tires around the village to pressure the authorities to continue their search efforts, and [brought their protest to the capital](#) to criticize the “official silence about their missing relatives.” In February, [Refugees in Tunisia published a video](#) showing a group of migrants demonstrating in Zarzis, a coastal town in Tunisia's south, demanding rights and pressuring authorities and international organizations such as the UNCHR to provide humanitarian support and protection. Their organization and protest actions are part of years of migrant and anti-racist struggles in Tunisia and North Africa as well as in the countries of origin and European diasporas.

Recently, the number of arrivals from Tunisia has dropped. The European policies might be an influence along with the autumn and winter weather conditions that make the crossing harder. But from autumn onwards, the Libyan route has seen an increase in traffic, with many departing from the east of the country. Reinforcing one border shifts migratory routes, as people on the move are constantly reinventing strategies for transgressing borders. Let's support their movement and resistance, let's continue our struggle against the violence exercised by the border regime and our struggle against European externalization of borders. Freedom of Movement for All!

#### Further reading:

- Echoes, Issue 7, July 2023: [A Critical Look at the Situation in Tunisia and the New EU-Tunisia Deal](#)
- migration-control.info, June 2023: [“This is a shame for humanity” – Update on the ongoing protest of the Refugees in Tunisia](#)
- migration-control.info, April 2023: ["If we stay here we are going to die"– Testimonies from refugees in Tunisia about their protest sit-in at the UNHCR in Tunis and its violent eviction](#)

## Italy: the curse of the announcement and the flowing water, the permanent election campaign and the violence of the border.

Some communication expert should advise the Italian government to avoid triumphalist announcements about “reduced landings”: as was the case in 2022 then promptly in 2023, every time a minister in the Meloni government publicly claims fewer arrivals in Italy, the facts disprove him within days.

This was also the case in mid-March 2024: after Interior Minister Piantedosi had claimed the success of the government's policy of collaboration with the Libyan militias and the Tunisian regime with the result of “seventy per cent fewer landings in the first two months of 2024,” departures from the coasts of Libya and Tunisia immediately resumed and from 14<sup>th</sup> to 26<sup>th</sup> of March, more than 5,400 people arrived in Italy (source: Viminale), a figure in line with the 2023 statistics. Many of the landings occurred on Lampedusa, either as spontaneous arrivals or as rescues carried out by the Italian Coast Guard and GdF, but, more significantly, as a percentage in comparison to 2023 through contribution of the civil fleet ships as well.

It therefore seems plausible to attribute the decrease in the number of crossings of the Central Mediterranean in January and February 2024 above all to the weather and consequent sea conditions: it has been several years since such a long period of bad weather and stormy seas has been recorded in winter.

One does not want to underestimate here the considerable efforts made by the Italian government in strengthening the proxy refoulement mechanisms: old and new funding seems to have reached the regime of Kais Saïed and the Libyan militias; the operational capabilities of the Garde Nationale in Tunis and of the Libyan patrol boats (among which the latest new ones donated by Italy and the EU are particularly aggressive) certainly appear to have been augmented; the exchange of information with Frontex and the European authorities has been made more efficient; and the trips of government representatives and officers of the Italian intelligence services to Benghazi and Tripoli are not to be missed.

But once again, the collective intelligence of the people on the move proves capable of devising new ways to challenge the European border control regime, as shown by recent developments in travel trajectories and modes. As an old Venetian proverb says: “you cannot stop water, it will always find ways to flow.”

But the Italian government desperately needs arguments for the Italian and European “permanent election campaign”: there are many regional and local elections in sight and in June there are votes for Brussels and Strasbourg. There is

also the competition for “who is the worst” within the right-wing coalition. There is war in the world, and therefore so many internal economic and social problems, that they need to revive the “theatre of fear”: the invasion of migrants is a somewhat worn-out theme, and according to the polls the Italian public opinion itself believes less and less in it, but they can always try to use it.

But this does not mean that the action of the Meloni government is just pure propaganda. On the contrary, it unfortunately translates into concrete measures, laws and practices that exacerbate border violence, and produces more deportations and deaths at sea: almost 400 lives lost between confirmed dead and missing (according to IOM data) in most cases are due to non-assistance. More suffering therefore for women, men and children on the move.

Let us take a first example: the Italy/Albania memorandum for the creation of extraterritorial detention camps in a non-EU member country. It has been approved by the parliaments of both States and all constitutional exceptions have been addressed. Tenders worth hundreds of millions of euros to set up the camps were also recently approved with great haste. Surely these devices will affect a few hundred people each year and are not “the” solution to the governments' problems. But at the same time, as was already the case since 2016/2017 with the agreements with third countries, they represent a new “fact that creates law,” a new step in the dismantling of the architecture of international and asylum law in particular, a new step in the dehumanization of people on the move, in their management as a “passive object” in European migration policies.

Let us take a second example: the government's goal of creating at least one administrative detention center (CPR) in each of Italy's twenty regions, with the intention of speeding up and intensifying deportations to so-called “safe” countries. Certainly this unhealthy intention is encountering many obstacles, mainly due to the resistance of the local governments (municipalities and regions) concerned. But at the same time, even moving in this direction has led to a further worsening of living conditions for the people detained there, with an increase in police violence to counter their resistance. Additionally, it has led to a persistent disinvestment in the facilities and paths needed for dignified reception.

Other examples could be shown, but let us take a third and final one: from October 2023 to the present day, the Piantedosi Decree-Law has been applied more and more frequently to hit Civil Fleet ships with fines and administrative detentions of twenty to sixty days. It has now become almost a habit, and in March as many as four ships were detained almost simultaneously: Humanity 1, Sea Watch 5, Sea Eye 4 and Geo Barents. But what is striking is the motivation: in all cases the blame is for “failing to cooperate” or even “obstructing” the criminal interception and capture activities of the so-called Libyan Coast Guard during rescue operations that saved the lives of hundreds of people. And, likewise, the government has intensified its efforts in criminalizing newly landed people in an obsessive attempt to increase the statistics on arrested “smugglers.” It is the world turned upside down!

In the face of all this, there are just as many signals to the contrary, which speak of solidarity and respect, of continuity in resistance and endurance, by people on the move in the first place, as well as from the Civil Fleet and widespread social movements and initiatives. Solidarity comes, too, on the grounds of respect for the rule of law and of the law itself as a terrain for conflict. Between January and March 2024, there have been several rulings by civil and criminal courts all the way to the Supreme Court of Cassazione that have openly declared the Italian government's regulations and consequent practices illegitimate: from the request for acquittal for the Iuventa Crew by the Trapani prosecutor's office and the final decision on the Asso 28 case stating that in any case “Libya is not a safe harbor” up to the orders of the judges of Brindisi and Crotona that respectively freed Ocean Viking and Humanity 1 from the effects of the Piantedosi Decree-Law. There was also questioning before the European courts of the accelerated and onerous procedures for the detention and forced deportation of people. At the same time, the preliminary hearing in Ragusa against seven members of Mediterranea for “aggravated aiding and abiding of illegal immigration” the Mare Jonio / Maerk Etienne case continues, even while the same ship continues to persist in the deployment of her rescue operations.

Perhaps the brutality of the Italian government, and all its contradictions, can also be explained as a response to this long series of practical and judicial defeats for their policies.

What is certain, however, is that 2024 has only just begun and the struggle, on every front, is wide open in its ways and possible outcomes.

March 25<sup>th</sup>, 2024

# Diary of cooperation at sea

January 03	<p>Open Arms rescues two boats adrift with 6 and 52 people on board, one of which first contacted the AlarmPhone for assistance. After disembarkation in Salerno two days later, a 17 and 20-year-old are arrested, accused of having facilitated illegal entry into national territory.</p> <p><a href="https://twitter.com/openarms_it/status/1742541996294656094?s=09">https://twitter.com/openarms_it/status/1742541996294656094?s=09</a></p>
January 11	<p>Geo Barents rescues 37 people on an overcrowded fiberglass in the international waters off the Libyan Coasts. Naples is assigned as POS.</p> <p><a href="https://twitter.com/MSF_Sea/status/1745732813058355244?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Etweet%7Ctwtr%5Etrue">https://twitter.com/MSF_Sea/status/1745732813058355244?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Etweet%7Ctwtr%5Etrue</a></p>
January 18	<p>Humanity 1 rescues 126 from an overcrowded, unseaworthy wooden boat in international waters. AlarmPhone alerted the case before all are brought safely onboard the NGO ship. Ortona, requiring an additional 3 days at sea for the survivors, is assigned as POS.</p> <p><a href="https://twitter.com/soshumanity_en/status/1747941990745182646">https://twitter.com/soshumanity_en/status/1747941990745182646</a></p>
	<p>57 people are rescued by Open Arms in degrading weather conditions from three small boats.</p> <p><a href="https://twitter.com/openarms_found/status/1748077944969322692?s=09">https://twitter.com/openarms_found/status/1748077944969322692?s=09</a></p>
January 25	<p>Geo Barents rescues 68 people from three unseaworthy fiberglass boats. Genova is assigned as POS.</p> <p><a href="https://twitter.com/MSF_Sea/status/1750634988515500204?t=x04jeSYbyFKHhQLZbhap9g&amp;s=09">https://twitter.com/MSF_Sea/status/1750634988515500204?t=x04jeSYbyFKHhQLZbhap9g&amp;s=09</a></p>
January 28	<p>Humanity 1 assists in the rescue of 42 people who had alerted AlarmPhone and were spotted by Seabird. Unfortunately, 6 additional people from the same boat had previously been intercepted by a merchant vessel, their fate unknown.</p> <p><a href="https://twitter.com/soshumanity_en/status/1751669852035481994">https://twitter.com/soshumanity_en/status/1751669852035481994</a></p>
January 29	<p>Ocean Viking rescues 71 people from an overcrowded rubber boat, first spotted by Seabird in Libyan SAR.</p> <p><a href="https://twitter.com/SOSMedIntl/status/1752009090157428917?t=xUNP0rEkmsXHHBP4XXSZw&amp;s=09">https://twitter.com/SOSMedIntl/status/1752009090157428917?t=xUNP0rEkmsXHHBP4XXSZw&amp;s=09</a></p>
January 30	<p>SeaWatch 5 rescues 50 people from an overcrowded wooden vessel spotted by Seabird. Civitavecchia is assigned as PoS.</p>
February 1	<p>Humanity 1 spots an overcrowded wooden boat with 64 people. Survivors are brought on board and the distant port of Marina di Carrara, 1.200 kilometers away, is assigned. The NGO vessel notified relevant authorities of distress case, including Libyan Coast Guard, which had a vessel a few nautical miles away that never attempted to contact the NGO.</p>
February 5	<p>Geo Barents rescues 134 people who had reached out to AlarmPhone from an overcrowded double deck wooden boat.</p>
February 6	<p>Ocean Viking responded to the distress case located in international waters off the coast of Libya. After rescuing 110 people, Ortona, 1.420km away, is assigned as POS. Over the course of the day, OV performs an additional 3 rescues: a wooden boat with 49 people that was listing dangerously, 58 people from a rubber boat, and 44 from a fiberglass boat.</p> <p><a href="https://twitter.com/SOSMedFrance/status/1754854747868147729?s=19">https://twitter.com/SOSMedFrance/status/1754854747868147729?s=19</a></p>
February 9	<p>Ocean Viking arrives in the port of Brindisi to disembark the 261 survivors from a series of challenging rescues jeopardized by the Libyan Coast Guard, who performed dangerous maneuvers near the rescue operations, threatening the safety of those aboard the distress vessels, despite having authorized the rescues by OV. OV is placed under 20-day detention under the Piantedosi decree and given a fine of 3.333 euros.</p> <p><a href="https://twitter.com/SOSMedIntl/status/1756298071355412551">https://twitter.com/SOSMedIntl/status/1756298071355412551</a></p>

February 17	AlarmPhone is alerted to two distress cases, one rubber boat with over 60 people and another case of 19 people stranded on an oil rig, having gotten there by swimming after the boat they were on began to take on water. Geo Barents, on the way to the oil rig, first rescues the 60 on the rubber boat before bringing aboard the remaining 19 stranded on the oil platform. Tragically, 1 person from the rubber boat was found dead, and another passed away aboard GB. An additional 3 people are missing from the group on the oil rig, having stayed on the distress boat.  <a href="https://twitter.com/MSF_Sea/status/1759158910169096496?t=dV7ac3tmr1hpjaWCXvx01A&amp;s=09">https://twitter.com/MSF_Sea/status/1759158910169096496?t=dV7ac3tmr1hpjaWCXvx01A&amp;s=09</a>
February 19	While on the way to Bari, 37 people spotted by Pilotes Volontaires and coordinated with AlarmPhone are rescued by Geo Barents. The people reported being at sea 4 days, and despite asking for help from authorities, waited countless hours for assistance before being found by the NGO vessel.  <a href="https://twitter.com/MSF_Sea/status/1759575594369528126">https://twitter.com/MSF_Sea/status/1759575594369528126</a>
February 20	Brindisi judge suspends the administrative detention of the Ocean Viking. For magistrate Roberta Marra, the measures issued by the Italian government blocking humanitarian ships are illegitimate, on the basis of the Piantedosi decree.
February 27	Sea Watch 5 rescues 45 people from an unseaworthy boat, in time to avoid bad weather and 3m high waves forecasted for the following days. The port of Catania is assigned.
February 28	After an alert by AlarmPhone, Sea Eye 4 rescues 57 people in the Maltese SAR. Tragically, 2 bodies are also recovered during the rescue operation and four others remain in critical conditions.

## Reports

### Civil fleet: over a year of operation time lost!

#### *SOS Humanity*

In conjunction with the new law which it passed in January 2023, the far right Italian government has been systematically assigning distant ports for disembarkation to rescue ships for over a year, in order to actively hinder their work. As this clearly violates EU and international law, in April 2023, several SAR NGOs filed a [lawsuit at the civil court in Rome](#) and submitted a [complaint to the EU Commission](#) in July 2023.

**The new SOS Humanity data analysis shows the extent of the obstruction: in 2023 alone, rescue ships lost more than a year of operation time in total.**

Interactive map : <https://sos-humanity.org/en/our-mission/change/over-a-year-of-operation-time-lost/>

Instead of assigning a close port of safety, [as required by maritime law](#), Italy sends non-governmental rescue ships systematically to ports in the north and/or east of Italy that are far away from the area of operation. The journey there, which takes several days, means a huge physical and psychological burden for the survivors, who have often been in mortal danger at sea for days and have fled from human rights violations. It also creates additional costs for us as search and rescue organizations due to the higher consumption of supplies and fuel. Moreover, it means less time in the area of operation and therefore more deaths in the central Mediterranean.

#### **Unequal conditions for civil fleet and coast guard**

This practice is also linked to the new Italian law (“Piantedosi Decree”) that came into force in 2023, which stipulates, among other things, that non-governmental rescue ships must immediately sail to the assigned port after the first rescue and thus leave the area where most maritime emergencies occur, even if there are open distress cases in the vicinity. If NGOs do not comply, they face fines of up to 50,000 euros as well as the detention and ultimately confiscation of their rescue ships. In many cases, non-governmental rescue ships were detained last year because they were unable to sail to the ports assigned without jeopardizing the safety of those rescued on board.

The ships of the Italian Coast Guard, on the other hand, continue to bring people rescued from distress at sea ashore at nearby ports. The practice of assigning distant ports is aimed solely at non-governmental rescue ships. This means that smaller rescue ships can no longer dock in Lampedusa, while large rescue ships such as the *Humanity 1* are prevented from disembarking survivors in nearby Sicily.

- year 2023
- number of distant ports: 20
- disembarkation at distant ports: 107
- extra kilometers: 150,538
- days lost: 374

### **Three and a half times around the world**

For the civil fleet this amounted to a total loss of 374 days of operation in the world's most dangerous migration route. For over a year, rescue ships were forced to sail to and from distant ports instead of saving lives. The ships traveled more than 150,538 kilometers on unnecessarily long routes – that is more than three and a half times around the world! The political practice of assigning distant ports thus represents a new low in the obstruction of the life-saving work of search and rescue NGOs.

## **Left to drown - Geo Barents comics (MSF)**

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## **Legal fragment**

### **Italy-Albania protocol: a new attempt of border externalization**

**Francesca Bocchini, EMERGENCY**

On 6 November 2023, the Italian government signed a Memorandum of Understanding with Albania to enhance bilateral cooperation on migration matters. Albania has committed to devote areas of its own territory to the establishment of facilities fully managed and financed by Italy. These areas are considered as Italian border zones and fall within the Italian jurisdiction.

By means of this agreement, two facilities – with a maximum capacity of 3,000 people – will become operational: one located at the port of Shengjin[1] to carry out initial reception and screening procedures to identify vulnerable migrants who cannot be subjected to border procedures, in line with the hotspot model[2]; the other located in Gjader to conduct asylum border and return procedures, like in holding centers for repatriation in Italy[3].

#### **The ratification process**

Upon the signature of the Protocol, the Italian government announced that a ratification law was not necessary based on article 19 of the 1995 Treaty of Friendship and Cooperation between Italy and Albania. The mentioned article, however, provides for agreements to regulate only Albanian migration to Italy. Reference to this treaty were not deemed sufficient to avoid a resolution of the Italian Parliament, in accordance with Article 80 of the Italian Constitution.

Thanks to the pressure made by opposition parties and CSOs, the government drafted a ratification law, which was approved by the Chamber of Deputies on 25 January[4] and by the Senate on 15 February[5]. Although a proper legislative process was restored, the process that led to the ratification marks an example of the government's intention to bypass Parliamentary scrutiny and to manage migration as an emergency and highly political issue.

On the Albanian side, the ratification was temporarily halted by the Albanian Constitutional Court. The Protocol was judged to be "in line with the Constitution"[6] on 29 January. The Albanian Parliament approved the ratification of the Protocol on 22 February[7].

## Fundamental rights concerns

This agreement poses serious doubts about the application of EU law in a third country, and severely lowers protection standards, with special reference to detention and reception, as well as the right to asylum, the right to defense and the prohibition of refoulement.

According to the High Commissioner for Human Rights at the Council of Europe, Dunja Mijatovic, the Protocol “raises a range of important questions on the impact that its implementation would have for the human rights of refugees, asylum seekers and migrants. These relate, among others, to timely disembarkation, impact on search and rescue operations, fairness of asylum procedures, identification of vulnerable persons, the possibility of automatic detention without an adequate judicial review, detention conditions, access to legal aid, and effective remedies. The MoU creates an ad hoc extra-territorial asylum regime characterized by many legal ambiguities. In practice, the lack of legal certainty will likely undermine crucial human rights safeguards and accountability for violations, resulting in differential treatment between those whose asylum applications will be examined in Albania and those for whom this will happen in Italy”[8].

Although Ursula Von Der Leyen praised the Protocol, qualifying it as “out-of-the-box-thinking”[9], it has paved the way for an erosion of the common asylum system and for the application of different standards of protection by European Member States.

Instead of investing in the harmonization of European standards, the enhancement of the reception and inclusion system in Italy or the reinforcement of search and rescue capacity in the Mediterranean, the political choice is – once again – to devote substantial resources to border externalization and deterrence. According to the Italian ratification law, costs resulting from the Protocol could exceed 600 million euros from 2024 until 2028. This is a relevant investment that will come with a human price. Building on previous experiences, these measures will prove to be ineffective and cause more suffering and human rights violations for people on the move.

## Impact on SAR operations and the shipwreck

According to article 4.4 of the Protocol, its application will be limited to people rescued in the Mediterranean by Italian naval assets. This WOULD hence exclude the involvement of NGOs assets. Despite these mild reassurances, a risk for small NGO assets may emerge, should they be asked to perform transshipment to Italian naval assets that will later reach Albania. THE PROTOCOL will have the effect of normalizing two concerning practices and create a dangerous precedent for search and rescue operations: faraway ports and selective disembarkations. The assignment of distant ports had so far interested humanitarian vessels and was based on the alleged overstretch of the reception facilities and ports in the southern regions of Italy. As SAR NGOs, we have denounced this discriminatory practice, which aims to reduce the presence of SAR vessels at sea and affect the financial sustainability and efficacy of SAR operations, diverting funds from rescue operations to unnecessary navigation costs.

The same considerations – fewer available assets and inefficient resource allocation – would apply to Italian naval assets and will have an impact on survivors. Reaching distant ports in fact results in exposing rescued people on board to poor weather conditions, the risk of re-traumatization and the possible deterioration of their already vulnerable conditions, due to a long and unjustified navigation. It also implies that access to basic services, such as medical care and mental health support, is unduly postponed.

Neither the Protocol nor the ratification law explicitly state that vulnerable people are not subject to detention or repatriation. Likewise, no details are available regarding the practical implementation of vulnerability assessments.

In an interview, the Italian Deputy Minister of Foreign Affairs explained that “following the intervention of the Italian authorities, an immediate verification of migrants at sea should be carried out on vessels at the disposal of the Italian state, in order to identify foreigners who prima facie should be eligible for the facilities in Albania. In fact, vulnerable people would be excluded, namely: minors, unaccompanied minors, the disabled, the elderly, women, single parents with minor children, victims of human trafficking, people with serious illnesses or mental disorders, people for whom it is established that they have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, and victims of genital mutilation. After screening at sea, individuals deemed vulnerable will remain on board to be taken to Italy.”[10]. In short, selective disembarkation and additional journeys for vulnerable people from Albania to Italy would emerge as a prevailing practice.



This is illegitimate because a search and rescue operation is considered to terminate in a place of safety. This means that before disembarkation, all rescued people are equally vulnerable as survivors of a distress case. In fact, international law and guidelines distinguish SAR from non-SAR considerations and provide that: “Any operations and procedures such as screening and status assessment of rescued persons that go beyond rendering assistance to persons in distress should not be allowed to hinder the provision of such assistance or unduly delay disembarkation of survivors from the assisting ship(s).”[11].

UNHCR published its opinion on the matter of processing asylum claims or screening vulnerabilities on board ships and clarified that: “Claims to international protection by rescued persons are best assessed in fair and efficient procedures on dry land, once disembarkation in a safe place has been secured and the immediate needs of rescued people, including those with specific vulnerabilities, have been addressed.”[12]

This Protocol will not help saving lives at sea or improve migration management. It will prolong the stay of survivors on board assisting ships and delay their access to Italian and European soil, in breach of international law and in violation of the human rights of migrants. This is the last frontier of border externalization. What will be next?

[1] Law Decree A.C.1620, p. 15, <http://documenti.camera.it/leg19/pdl/pdf/leg.19.pdl.camera.1620.19PDL0068550.pdf>

[2] Law-decree 25 July 1998, n. 286, article 10 ter, <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1998-07-25;286>

[3] Law-decree 25 July 1998, n. 286, article 14, <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1998-07-25;286>

[4] Camera dei Deputati, <https://temi.camera.it/leg19/provvedimento/protocollo-italia-albania-in-materia-migratoria.html>

[5] ANSA, Ok definitivo del Senato all'accordo Italia-Albania, [https://www.ansa.it/ansamed/it/notizie/rubriche/politica/2024/02/15/ok-definitivo-del-senato-allaccordo-italia-albania\\_e6ef1bec-b58e-485e-a399-0599295941f1.html](https://www.ansa.it/ansamed/it/notizie/rubriche/politica/2024/02/15/ok-definitivo-del-senato-allaccordo-italia-albania_e6ef1bec-b58e-485e-a399-0599295941f1.html)

[6] AP news, Albania's Constitutional Court says migration deal with Italy can go ahead if approved, <https://apnews.com/article/migrants-albania-italy-deal-constitutional-court-d097afbc6e85ca41f2924a1a0ea07422>

[7] Euronews, Albanian parliament approves controversial deal to hold migrants for Italy, <https://www.euronews.com/2024/02/22/albanian-parliament-approves-controversial-deal-to-hold-migrants-for-italy>

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[9] AP news, Top EU official lauds Italy-Albania migration deal but a court and a rights commissioner have doubts, <https://apnews.com/article/eu-italy-albania-migration-asylum-rescue-court-91a92ebe5a0ea0e4273609a7ad0eed47>

[10] Askaneews, Italia-Albania, esame sprint. Governo: screening migranti in mare, <https://askaneews.it/2024/01/16/italia-albania-esame-sprint-governo-screening-migranti-in-mare/>

[11] MSC Resolution 167(78), 2004, paragraph 6.20

[12] UNHCR, Legal considerations on the roles and responsibilities of States in relation to rescue at sea, non-refoulement, and access to asylum, <https://www.refworld.org/policy/legalguidance/unhcr/2022/en/124184>

## Criminalisation

### “Sara Mardini- Sean Binder” Trial: A first big victory

**Iasonas Apostolopoulos**

**Witness of Defense**

Finally, after 5.5 years, the first phase of the trial is over! On 30th January 2024, they were all found innocent at the Lesvos Court of Appeal!

The trial is referred to as the largest case of criminalisation of solidarity in Europe, with 37 initial defendants, 24 identified, and five people imprisoned for over three months in pretrial detention, including Sarah Mardini, Sean Binder and Nassos Karakitsos. Among the defendants are volunteers and aid workers from several different NGOs who were active on the Greek island of Lesvos in the period 2016-2018.

The trial is divided into two phases. The first phase concerned the misdemeanor charges such as espionage, forgery, illegal access to state communications and

assistance to a criminal organization. The second phase refers to the felony charges (people smuggling, belonging to a criminal organization, money laundering and fraud) for which trial dates have yet to be set. The felony charges are still not concluded. Last year, on 13th January, when the trial of the misdemeanors began, the court on Lesbos accepted the complaints filed by the lawyers and canceled the procedure due to legal errors in the indictment that violated the rights of the defendants, such as “vague charges,” and “non-translation of documents in a language the defendants could understand.”

Therefore, eight of the defendants were released, including Mardini and Binder. The rest (16 people, mostly Greek, but also international people who didn't appear last year to file complaints and contest the procedure) were not released and were brought to Lesbos for trial this January.

The trial started on 29 January 2024. The 16 defendants faced up to eight years in prison, for the misdemeanor offenses of espionage and forgery. From the first moment, the trial proved farcical. According to the indictment, the defendants committed espionage by:

- a) monitoring the Greek Coast Guard's VHF frequencies to intercept state secrets,
- b) using binoculars to scan the sea to intercept state secrets (the number and type of the Greek CG vessels and Frontex),
- c) using encrypted mobile applications to share these state secrets with others.

In reality:

- a) The Coast Guard radio frequencies were the open marine VHF channels CH 16 and 12! CH 16 and CH 12 are marine channels accessible to anyone for maritime and SAR purposes and they are definitely not a place where state secrets are shared! This “detail” was carefully hidden and we had to bring it up during the hearing to enlighten the court of this super obvious thing. It is our duty as rescuers and seafarers to always monitor CH16 and CH12 (the local Lesbos channel)
- b) Using binoculars was and remains a standard practice when you are looking for boats in distress. The purpose of spotting was to locate boats in danger in order to mobilize the emergency response teams on land and sea and not for spying! Especially at the Lesbos context, spotting by binoculars was of crucial importance to identify and locate boats in time before they crash into the rocks.
- c) The “encrypted mobile applications” is the Whatsapp group made by UNHCR itself! It consisted of more than 400 participants, NGOs, independent volunteers, including state officials! This “detail” was also carefully hidden and we had to bring it up during the hearing to “enlighten” the court.

It sounds unbelievable, but this is the truth. On these grounds, 24 people have been held hostage for six years now. Based on these ridiculous elements, civil rescuers have been put into prison and targeted as criminals.

Once again, the coast guard never appeared to support the charges, even though they were summoned.

The only witness for the prosecution in the trial was a police (!) commander of Lesbos, who in response to all the questions from the court and the lawyers kept saying, “I don't know, I cannot recall, I don't remember.”

There was not the slightest evidence of guilt presented and, as a result, all the defendants were unanimously acquitted with the agreement of the prosecutor.

This proves in the most glaring way that these prosecutions are political and intended to stop people saving lives at sea. The purpose of these prosecutions is not to convict. The purpose of these prosecutions is to terrorize, discredit, and erase solidarity from European borders. The purpose of these prosecutions is to intimidate and kick volunteers

and aid workers off the shores of Lesbos, to get rid of witnesses, so the Greek government can seamlessly keep on doing barbaric pushbacks and actions of border brutality against the people on the move.

Unfortunately, they have succeeded. There is currently no rescue boat on the island. However, we will not leave them alone. We will stand by them until the end. This is not the end of the #FreeHumanitarians campaign, but it is the first step towards justice.

Solidarity will win.

## Notes from Trapani - unexpected twist in the case against the IUVENTA crew

*Iuventa crew*

The case against the IUVENTA crew, MSF, STC, and VROON has shifted. On February 28th, the prosecutor's office unexpectedly requested dropping the charges, potentially ending the trial and allowing for the return of confiscated goods, including the IUVENTA. The prosecution justified its "change of mind" by the lack of evidence. The cross-examination of the prosecution's main witnesses likely had a significant impact. The prosecution had to recognize that the witnesses' limited credibility and inconsistent testimony would not support a conviction! The judge will announce on 19 April whether he wants to dismiss the case or open the trial.

As long as the violence of the border regime continues, none of this can feel like a real victory. Yet, some elements of the IUVENTA case might represent small steps towards the dismantling of Fortress Europe as well as a shift in the framework of the criminalisation of solidarity with and between people on the move.

Latest news and background: [iuventa-crew.org](http://iuventa-crew.org)

**First episode:** "7 years of legal proceedings crumble in 3 months when assessing basic facts."

Thanks to the defense's meticulous and offensive work, the judge was led to consider our counter-evidence. Finally, the judge took control of the prosecution's work and ordered the disclosure of extensive Italian MRCC data, including communications and ship tracking data. We were relieved to have persuaded the judge to this extent. Analyzing the data would likely validate our claims and discredit the testimonies of the supposed eyewitnesses, along with the prosecution's assertions.

On 14 December the prosecution's main witnesses were summoned for cross-examination. Floriana Ballestra and Pietro Gallo, two employees of the security company IMI Security Service on board the VOS HESTIA, who in September 2016 denounced the IUVENTA to the authorities and right-wing politicians. We were very skeptical! Not only because our witnesses were all rejected as "not relevant," but also because it is very unusual for the prosecution to call the main witnesses at the preliminary hearing. What was the plan?

Considering what we knew about them - doubts about their credibility and one withdrawing accusations in 2019 - the prosecution's decision seemed incomprehensible to us. Yet, we hoped their court appearance might prompt the judge to dismiss the case, an outcome previously deemed unlikely.

"We are not afraid of the outcome. It can only confirm what we have been saying for years: this trial is politically motivated, it has no basis in criminal law, it should never have started!"

Indeed, the presence of "reliable and trustworthy eyewitnesses" served to isolate the IUVENTA case. These eyewitnesses, former police officers, were meant to lend legitimacy to the case. However, authorities conveniently ignored that they had been expelled from the police force for deceit, fraud, defamation, and misconduct. The police knew all this from the beginning. They tapped their phones to verify their testimonies, exposing their dishonesty and ulterior motives early on: one wanted to return to the police force, the other wanted a prestigious position in Italy's far-right Lega Nord party, as evidenced by contacts and exchanges of information with Matteo Salvini, revealing the political background. Trapani's prosecution ignored the problematic past of its witnesses to use the testimonies as a pretext for a new level of confrontation with SAR NGO's, which eventually led to the seizure of the first rescue vessel.

After the witnesses' initial refusal to appear - with the judge threatening to bring them by force - they were finally heard on 10 February. It was not only their lack of credibility that was shocking, but also the inconsistency, lack of knowledge and vagueness of their testimony, riddled with opinions, silly assumptions, and racist prejudices.

At the conclusion of 10 hours of cross-examination, the stage was set for the final phase of the preliminary hearing: the closing arguments of all parties and the judge's decision. Having heard the witnesses, it seemed inconceivable to us that the judge would come to any other conclusion than to dismiss the case! However, in a case that was initially orchestrated to target and discourage supporters of people on the move, an overtly political trial, there is still uncertainty about the future.

### **Second episode: Prosecution retracts. 7 years too late.**

The final hearings were scheduled to take place from 28 February to 2 March. On the first three days, closing statements of the prosecution, the Ministry of the Interior (joining as a civil plaintiff) and the defense lawyers were to be heard. The judge's decision was expected on the last day. The surprise was not long in coming.

The same prosecutor, who pressed charges with great conviction in early 2021 and who had been relentlessly aggressive throughout the trial, recommended the dismissal of the case due to lack of evidence and of doubts about the criminal intent of the accused as well as the release of the IUVENTA ship. They admitted that their main witnesses lacked credibility, and no reliable evidence of wrongdoing by the defendants could be found. They acknowledged that the Italian MRCC had all the necessary information and control over the operations, coordinating NGO rescue missions and disembarkation in Italy. In some passages, they even argued that there was no basis for a charge under Article 12 – aiding and abetting unauthorized immigration – since in sea rescue cases there was no irregular border crossing and all those rescued had been "duly" registered with the authorities.

Our surprise and relief at the prosecution's "change of mind" and its possible impact on the judge's decision was mixed with anger and disbelief. All the crucial and exculpatory evidence should have been dealt with seven years ago, in the investigation phase: neither this long trial nor the seizure of rescue assets can be justified by this sloppy work of the investigating authorities! This was also emphasized in Mary Lawlor's report, Special Rapporteur on the situation of human rights defenders, who sent a team member to observe the final hearings: "As the lawyers for the crew have stated, this raises serious, troubling questions about the investigative process in Italy. Surveillance and the interception of communications must only be carried out where strict conditions are met. Criminal charges should only be pressed after a thorough investigation and the collection of all available evidence. These principles were clearly not followed in this instance. And yet the shocking inadequacy of the investigation cannot fully explain how things got to this point."

In the following days the defense lawyers presented their closing statements, which went far beyond the demolition of all aspects of the indictment. It was about the "right to rescue" and the "injustice of criminalizing migration and solidarity"! The proceedings concluded with a unified motion from the defense, urging an investigation into potential misconduct or manipulation by the police or prosecution during the investigation phase.

### **Third episode?: Let's make solidarity a threat again!**

At this stage, and pending the judge's final decision, the prosecutor's recommendation to close the case cannot be considered a victory. The smear campaign against the civil fleet and the reinforcement of a narrative linking migration and sea rescue to criminality have been far too successful.

Its consequences are irreversible. As stated by Mary Lawlor, from the beginning, the case against the IUVENTA-crew "has borne all the hallmarks of the criminalization of solidarity: designed not only to put an end to their activities, but to denigrate those same activities in the eyes of the public. (...) As I have previously said, whether openly stated or not, restricting the space for solidarity with migrants has been a policy of successive Italian administrations. Combined with a lack of support for search and rescue by the EU more broadly, as well as a clampdown on migration and asylum in the EU in general, it has contributed to making the Central Mediterranean the world's deadliest migration route."

According to the IOM over 10,000 individuals have lost their lives in the Central Mediterranean since the IUVENTA was seized in the summer of 2017. Additionally, more than 200.000 people have been forcibly returned to Libya. Each of these tragedies could have been prevented, and the IUVENTA could have played a crucial role in saving lives – if only it had not been seized.

Furthermore, as expressed by Kathrin Schmidt, IUVENTA defendant, after the prosecution's request, "Today was an important step towards the decriminalization of sea-rescue. However, let's be clear that unlike the IUVENTA trial, the struggle for freedom of movement is not even remotely coming to an end. People on the move continue facing systematic repression and mass incarceration. Nobody is free until everyone is free!" New strategies obstructing NGOs work, new agreements deteriorating the right to asylum or the increased borders' militarisation are clear indicators that European states are moving forward into the war against people on the move.

Despite the fact that the IUVENTA case, even if it is finally closed, cannot be considered a victory, we believe it is necessary to highlight some elements that, in their political and legal aspects, can contribute to the fight against the European border regime. The recognition of the right to solidarity by the court in Trapani could set a precedent for prioritizing the rights of migration against the protection of borders by states.

Different from prosecution, the defense teams seek more than just acknowledgment of the lack of evidence for a crime; they demand full recognition that the alleged crime never occurred. They argue that beyond the specifics of the events, the entry of rescued individuals into Italy should be deemed legal under all circumstances. The defense's final conclusions emphasized the necessity of recognizing that neither migration nor rescuing people on the move can be considered criminal acts. The possibility that Trapani's judgment contains elements along these lines contributes to all ongoing efforts to abolish European and Italian laws that allow the criminalisation of solidarity with and between people on the move.

Solidarity is our response to their border regimes.

## Amplifying voices

### Report of CommemorActions

**CommemorAction** is a blended word encompassing both commemoration and action. It emphasizes both the commitment to remembering those who died or disappeared in their pursuit of freedom of movement and the demand for justice.

On February 6, 2014 more than 200 people left from the Moroccan coast and tried to reach Tarajal beach, in the Spanish enclave of Ceuta, by swimming. The Guardia Civil deployed anti-riot equipment to stop them from arriving on "Spanish land," and the Moroccan military present did not help the people who were drowning in front of them. Fifteen bodies were found on the Spanish side, dozens of others disappeared, the survivors were pushed back, and some died on the Moroccan side.

Against this background every year at 6th of February decentralized CommemorActions take place in many cities in Africa and Europe: to mourn the dead and to protest against the responsible EU border regime.

On and around 6th of February 2024, the 10th anniversary of the Tarajal massacre, CommemorActions were held in 55 cities in 17 different countries. <https://commemoraction.net/photos-and-videos/2024-feb6/>

Pictures of the events: <https://commemoraction.net/photos-and-videos/2024-feb6/>

### Human Rights Defenders' Campaign: First steps towards a safe evacuation from Libya

Refugees in Libya and the supporting alliance held a two-day event on first steps towards a campaign for safe evacuation from Libya on January 26-27, 2024 in Bologna.

The kick-off event in Bologna for the evacuation of the 221 Human Rights Defenders from Libya saw participation by many actors from various contexts, including the refugees and migrants movement Refugees in Libya and Alliance with Refugees in Libya; representatives from the Libyan and European civil society, sea rescue organizations, and From The Sea To The City; lawyers (ECCHR, ASGI); investigative journalists; the Mayor of Bologna Matteo Lepore; and award-winning director Matteo Garrone, who participated virtually. Together we discussed possibilities of evacuation by

analyzing and finding common aspects among our projects and modeling new infrastructures for freedom of movement.

The testimonies of activists of Refugees in Libya who had survived the torture and inhumane conditions in Libya animated the conference, its workshops and public assemblies, which saw a constant presence and interaction of almost 100 people.

The presence of the founder of Belaady, the Libyan Foundation for Human Rights that supports people on the move, overturned the stereotypical imagery of a country only represented by the so-called Libyan Coast Guard, militias, or human traffickers. Similarly a documentary film denouncing the conditions of refugees in detention camps, shot by a Libyan activist collective, provided further proof of the other face of Libyan society.

In the evening session on the 26th, Activists of Refugees in Libya opened the Public Assembly and recounted their horrifying experiences in Libya and their struggles to defend their human rights. These first contributions were followed by a stimulating discussion with inputs and interventions from a wide spectrum of organizations and networks to answer the main question of how to evacuate the 221 Human Rights Defenders from Libya.

In a series of five workshops main topics and challenges were discussed in a great composition of participants, including: a new support hotline from Refugees in Libya, investigations and strategic litigation, and networking “from sea to the cities,” the concept of a mobile exhibition and with overview of struggles on the Mediterranean. New ideas were developed for a transnational process to develop concrete plans for evacuations and to continue to amplify the voices of refugees in Libya all over Europe.

The full report of the event in Bologna can be found here: <https://www.refugeesinlibya.org/post/human-rights-defenders-campaign>

## Mobilisations

### Joint Statement: Italy's obstruction of search and rescue activities is endangering people's lives

Friday, February 23, 2024

*Joint statement by NGOs involved in search and rescue activities in the Central Mediterranean*

**In light of the increasing death toll in the Central Mediterranean since early 2023, coinciding with the adoption of a new law by Italian authorities and the systematic assignment of distant ports to humanitarian rescue ships, we call on the Italian government to bring an immediate halt to the obstruction of our lifesaving activities at sea.**

Over the past year, search and rescue NGOs have repeatedly warned about the risk of mounting dead in the Central Mediterranean following the implementation of a new set of rules by Italian authorities which specifically target and hinder their search and rescue activities at sea. With more than 2,500 men, women and children reported dead or missing on this particular migration route in 2023 – the deadliest year since 2017 – and at least 155 deaths already this year,<sup>1</sup> all rescue capacities are urgently needed.

One year ago, on 24 February 2023, the Italian parliament converted Decree-Law 01/2023 into Law 15/2023. This law is a clear strategy by authorities to reduce the presence of NGO ships at sea, to limit their capacity to carry out rescues, and to prevent arrivals on Italian shores at all costs.

This deliberate obstruction of the lifesaving activities of NGOs takes place in an environment in which search and rescue capacity at sea is already grossly inadequate. As well as violating international and European laws, this political game worsens the rescue gap and has disastrous consequences, making the Central Mediterranean – already one of the world's deadliest migration routes – even more perilous. The first anniversary of the 26 February shipwreck near

the Calabrian town of Cutro, in which at least 94 people lost their lives just a few hundred meters from the Italian shores a year ago, is a bleak reminder of this tragic reality.

### **Inhumane Dilemmas**

The law stipulates, among other rules, that NGO rescue ships should head immediately to a port following a rescue, forcing them to ignore other boats in distress in the area. This directly contradicts the captain's duty to rescue people in distress at sea, as stipulated under international maritime law. NGOs which disobey the Italian rules face a fine of up to €10,000 and the prospect of their ship being detained for at least 20 days and potentially confiscated by the authorities.

*"In many cases, we must choose between complying with the Italian regulation while knowing we might leave behind people at risk of drowning, or fulfilling our legal duty to carry out rescues, and subsequently facing fines, detention and the possible confiscation of our ships. The detention of rescue ships only exacerbates the void in the Central Mediterranean and the dangers for people attempting the sea crossing,"* alert the organization signatories.

### **Hundreds of Days Lost at Sea**

Since February 2023, nine NGO rescue ships have been detained by Italian authorities on 16 occasions,<sup>2</sup> amounting to more than 300 days of being kept from the sea and prevented from assisting people in distress.

The detrimental impact of the law is compounded by the Italian government's practice of assigning distant ports in the north of Italy to the larger NGO vessels for disembarking rescued people. These ports can be up to 1,600 km and five days' navigation from the rescue location. Again this practice is in breach of international maritime law, which requires people to be brought to a place of safety "as soon as is reasonably practicable."

In 2023, NGO rescue ships were forced to travel more than 150,500 extra km to reach distant ports – equivalent to traveling more than three and a half times around the world, and translating into at least 374 unnecessary days of navigation, compared with disembarkation in closer available ports in Sicily and Lampedusa.<sup>3</sup>

*"This represents hundreds of days spent away from the search and rescue area and where people's lives are at risk,"* denounce the organization signatories.<sup>4</sup> *"As well as keeping NGO ships from the sea, this practice also causes unjustified delays for rescued people who need to access vital medical assistance and protection services on land."*

### **A Heavy Price**

While humanitarian search and rescue activities at sea are increasingly obstructed year by year, the real price is paid by the people seeking safety in Europe. Meanwhile, the Libyan coast guard continues to conduct illegal interceptions and forced returns to Libya with the support of the EU and its member states, notably Italy and Malta.

*"The widescale exploitation and violence faced by people on the move in Libya have been extensively documented and could amount to 'crimes against humanity' according to the UN.<sup>5</sup> By cooperating with Libya to enable interceptions at sea, Italy and the EU are making themselves complicit in further abuses against migrants, asylum seekers and refugees,"<sup>6</sup>* say the organization signatories. Just a few days ago, the Italian supreme court confirmed that Libya cannot be considered a place of safety and returning people there is a crime.<sup>7</sup>

To prevent the Central Mediterranean becoming yet a larger graveyard, we call on:

- Italian authorities to immediately stop obstructing NGO search and rescue activities, and to protect the fundamental rights of people in distress at sea by ensuring that NGO ships can assist boats in distress without restriction and that people rescued at sea can disembark in the closest possible safe port, as enshrined in international maritime law;
- Italian and European authorities to foster effective cooperation with NGO rescue ships and deploy dedicated search and rescue vessels in the Central Mediterranean in order to prevent further loss of life at sea;
- The EU and its member states to halt all material and financial support to the Libyan coast guard and governments responsible for serious human rights violations.

## Solidarity with El Hiblu 3

At the end of last year, the Attorney General kept the accusation of “terrorism” in the bill of indictment against the El Hiblu 3 (see our Reports in Echoes No. 10). Subsequently, two initial court hearings took place in Valetta in March 2024. While taking into consideration the pleas of the prosecution and defense, a new judge must decide if and which charges she will admit for prosecution in a jury. One main argument by the lawyers is that all the accused offenses took place outside of the territorial waters of Malta and thus happened outside Maltese jurisdiction.

In December 2023, in a similar case in Greece, a court in Chania acquitted the accused refugees as all the alleged criminal offenses took place in international waters and thus outside Greek jurisdiction. And in a recent, groundbreaking decision the Italian Court of Cassation upheld the criminal conviction of a captain of a merchant vessel, who rescued 101 migrants and turned them over to Libya. Both court decisions should make clear that the charges against El Hiblu 3 have to be dropped immediately. There is no legal or moral basis to continue to prosecute the three young men. The next court session will take place on May 30 in Valetta, where the judge has the chance to finally end this “travesty of justice” (Amnesty International) and the unbearable limbo that Abdalla, Amara and Kader are withstanding.

Coalition for the El Hiblu 3

## United against racism and fascism - Now more than ever!

We'll Come United invites all to an anti-racist conference from April 26 to 28, 2024 in Frankfurt. The huge, Germany-wide protests against the extreme right impressively show that millions of people stand against Nazis and racist politics. At the same time, the Ampel-government is carrying out an unprecedented policy of deportation and exclusion. Basic rights of asylum seekers are thrown overboard on a daily basis.

This makes it all the more important that the perspectives of anti-racist and self-organized groups are loud and visible. Our resistance is directed against the ongoing restrictions and brutalization! We stand in solidarity with the unbroken migration movements, which have proven stronger than ever in the past years.

We want to create a powerful transnational space on podiums and in workshops: for exchange and empowerment in everyday struggles and for concrete strategies and mobilizations in 2024. Together we will discuss struggles against deportation, camps and immigration authorities, the strengthening of solidarity structures along the migration routes and the backgrounds of flight and migration.

We oppose deportations with our solidarity on a wider scale.  
No border lasts forever.

Freedom of movement and equal rights for all.  
Contact: [mail@welcome-united.org](mailto:mail@welcome-united.org)