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Italy: Losing the moral compass: Innuendoes against NGOs which rescue lives in the central Mediterranean

In the absence of safe and legal routes into Europe, over recent years hundreds of thousands of refugees and migrants have travelled irregularly, at considerable risk to their own lives. Rather than creating an orderly system offering safe avenues for people to reach Europe, and advocating for the respect and protection of human rights in countries where conflict, persecution and poverty are displacing people, European leaders have increasingly focussed on blocking borders and negotiating with human rights violating governments to stop them coming.

Tens of thousands of people are currently trapped in Libya, desperate to flee from there just as much as they are to reach Europe. The widespread, systematic and horrific violations and abuses against refugees and migrants in the country have been thoroughly documented by UN agencies, non-governmental organizations and journalists.¹

Embarking on the ever more perilous sea journey to Italy remains for refugees and migrants the only chance of escaping such suffering. Over 180,000 did so in 2016 and some 37,000 so far in 2017. Over 4,500 died or disappeared at sea in 2016 and approximately 900 to date in 2017.

Refugees and migrant boats - unseaworthy, unbelievably overcrowded, with no expert seafarers on board, lacking any safety equipment and with inadequate engines and insufficient petrol – are inevitably in a situation of distress at sea. As Italian coastguard officials explained to Amnesty International back in 2014, refugees and migrant boats are in distress by definition due to their being utterly unseaworthy. Distress at sea is the trigger of the obligation to render assistance under the law of the sea.²

Search and rescue activities in the central Mediterranean to prevent the death of the thousands of men, women and children who continue to depart from Libya in such

¹ http://www.ohchr.org/Documents/Countries/LY/DetainedAndDehumanised_en.pdf

<https://www.amnesty.org/en/countries/middle-east-and-north-africa/libya/report-libya/>

² Amnesty International, *Lives adrift: Refugees and migrants in peril in the central Mediterranean*, September 2014, Index: EUR 05/006/2014, p. 35; [file:///intsec.amnesty.org/data/users/edepieri/Downloads/eur050062014en%20\(3\).pdf](file:///intsec.amnesty.org/data/users/edepieri/Downloads/eur050062014en%20(3).pdf)

conditions remain indispensable and an absolute priority. However, European leaders have chosen to prioritize instead attempts at disrupting smuggling networks and cooperating with Libyan authorities to stop people coming. While EUNAVFOR MED, an EU military operation, contributes significantly to rescues in the central Mediterranean, search and rescue is not its primary purpose. Operation Triton of the EU borders agency Frontex also contributes to search and rescue efforts, but remains focussed on patrolling the area near Italy's southern sea borders.

In 2016, NGOs effectively stepped in to ensure considerably greater safety at sea in an area of the Mediterranean which would have otherwise remained largely unpatrolled.

Boats run by non-governmental organizations (NGOs) rescued 46.796 people in the central Mediterranean in 2016, out of the total 178.415.³ As of the end of March 2017, they rescued 7.632 out of 23.832, and many more in April.⁴ They did so under the coordination of the Italian coastguard Maritime Rescue Coordination Centre in Rome (MRCC Rome) and in compliance with the law of the sea.⁵ They achieved such a great success in saving lives by proactively looking out for boats in distress and staying as close as possible to where their assistance could be needed.

Europe should take pride in such an achievement by its civil society and be thankful that so many lives were saved from near certain death.

Instead, the NGOs involved have been the target of innuendoes - which remain unsubstantiated - by representatives of institutions, politicians and commentators suggesting that the very presence of their boats near Libyan territorial waters and their methods of operating encourage departures from Libya, fuelling the smuggling trade and ultimately contributing to the rising death toll at sea. Suspicions have been raised about direct contacts between the NGOs and smuggling networks. Doubts have also been cast over the source of their funds to finance search and rescue activities.

On 27 April, talking to Italian media the public prosecutor of the tribunal of Catania, Sicily, Carmelo Zuccaro, alleged that some NGOs could even be aiming to destabilize the Italian economy to take advantage from this somehow. He went on to add that while he is aware of contacts between some NGOs and smugglers, he has no evidence. The prosecutor also stated that while NGOs are extremely active, states which should provide answers are "inactive", accusing Malta in particular of failing to respond to search and rescue events.

Allegations casting doubts over the role of NGOs can be traced back to confidential Frontex documents from late 2016, later reported in a Financial Times article of December 2016. In these documents Frontex made a number of observations regarding

³ The first NGO boat dedicated to assisting refugees and migrants, MOAS, started operating in August 2014. Several more followed in the past two years: Seawatch, SOS Mediterranean, Sea Eye, MSF, Proactiva Open Arms, Life boat, Jugend Rettet, Boat refugee, Save the Children

⁴ <http://www.guardiacostiera.gov.it/en/Pages/search-and-rescue.aspx>

⁵ <http://www.guardiacostiera.gov.it/en/Documents/search-and-rescue-activity/search-and-rescue-activity-and-migratory-flows-in-central-mediterranean-sea.pdf>

the methods of operating of NGOs which it deemed to be facilitating the smugglers' activities. In particular, Frontex raised the fact that NGOs operated very close to Libyan territorial waters; that when NGOs rescues increased significantly in June 2016, this coincided with a decrease of rescues initiated through a distress call from a satellite phone aboard the refugees and migrant boats directed to the Italian coastguard; that migrants appeared to be given clear indications about the route to follow to reach an NGO boat; that the NGOs were using powerful light beams to be seen from afar; and that people rescued by NGOs appeared unwilling to cooperate with anti-smuggling investigations by law enforcement officials and the NGOs staff themselves did not collect relevant evidence from refugees and migrant boats.

The Frontex documents strongly implied (and possibly stated more clearly in redacted text, that has been removed from copies that Amnesty International has been able to obtain) that rescues were being carried out directly by NGOs with no coordination via the Italian coastguard and were therefore potentially pre-arranged between the NGOs and the smugglers. This charge has since been very publicly levelled against NGOs operating in the central Mediterranean by a number of different actors.

In February 2017 Frontex director, Fabrice Leggeri, stated in interviews that NGOs constituted a pull-factor for people in Libya and that they were not cooperating sufficiently with law enforcement agencies in combatting smuggling and trafficking.

Also in February 2017 the public prosecutor of Catania confirmed to the media that his office had opened not a criminal inquiry but rather an investigation with no suspects nor for a specific criminal conduct, but aimed at looking into the methods of operating of the many new NGOs which had recently appeared on the high seas and into their financial sources, as it suspected potential collusion with smugglers.

Italian politicians of the Movimento Cinque Stelle and Lega Nord and media commentators have subsequently questioned the role and real agenda of NGOs operating at sea.

The NGOs involved in search and rescues activities have vigorously denied all the allegations and have offered numerous elements to explain why they operate as they do and how they finance their work.

Members of the Italian parliament looking into the allegations invited the Catania public prosecutor,⁶ the admiral in charge of Operation Sophia, Enrico Credendino⁷ and a

⁶ Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione

http://documenti.camera.it/leg17/resoconti/commissioni/stenografici/html/30/indag/c30_confini/2017/03/22/indice_stenografico.0041.html

⁷ Commissione parlamentare di inchiesta sul sistema di accoglienza, di identificazione ed espulsione, nonché sulle condizioni di trattenimento dei migranti e sulle risorse pubbliche impegnate

http://www.camera.it/leg17/1058?idLegislatura=17&tipologia=audiz2&sottotipologia=audizione&anno=2017&me se=04&giorno=06&idCommissione=69&numero=0082&file=indice_stenografico

representative of one of the NGOs involved, Oscar Camps and Riccardo Gatti of Proactiva Open Arms to a number of committee hearings.⁸

In March 2017, Amnesty International met with officials of the Italian coastguard at MRCC Rome. In the past weeks the organization has also reviewed the considerable amount of information presented during the Italian parliament committee hearings, as well as official documents, available data and media reports.

In light of what emerges from these sources and based also on the organization's experience in researching and monitoring search and rescue of refugees and migrants at sea, Amnesty International is concerned that a campaign of innuendo and insinuation of criminal ties to smuggling networks - based on no evidence - is putting at risk crucial life-saving activities carried out by civil society organizations which have stepped in voluntarily where governments should have deployed their navies and resources to save lives.

In addition, Amnesty International considers that the denigration of NGOs which rescue people and try to ensure access to protection to refugees could lead to the further deterioration of the public debate over asylum and migration, legitimizing stigmatization, scapegoating, discrimination, and ultimately contributing to laying the grounds for human rights violations and abuses against migrants and refugees.

Amnesty International notes that the public prosecutor of Catania has repeatedly stated that he has no evidence to date that any criminal offence has been committed by the NGOs involved in search and rescue in the Mediterranean. Italian coastguard officials at MRCC Rome explained to Amnesty International that in their role of police officials at sea, they have a duty to report to prosecutors any suspicion or evidence of illegal activities. Amnesty International is not aware that any such activities have been reported by the Italian coastguard.

Support and praise for NGOs efforts in rescuing lives has been expressed, among others, by Italy's Prime Minister, Paolo Gentiloni, and by the EU High Representative for Foreign Affairs and Security Policy and Vice-President of the European Commission Federica Mogherini. Frontex has also qualified its position regarding the role of NGOs and its spokesperson stated on 27 April that Frontex never accused NGOs, but considers that it is smugglers who take advantage of them, and this represents an "involuntary consequence" of their presence at sea.

Amnesty International urges all involved, including prosecuting authorities, to engage in responsible public communication on life and death issues such as search and rescue at sea. It also calls on European leaders to ensure that adequate resources and vessels for search and rescue operations are deployed along the routes taken by refugees and

⁸ 4ª Commissione permanente (Difesa) del Senato,
<http://www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=SommComm&leg=17&id=1013335#>

migrants to ensure the greatest level of safety at sea for those fleeing Libya.

Amnesty International notes that, while the public debate is focussed on conjectures regarding the role of NGOs which continue to rescue lives at sea, European leaders continue to negotiate forms of cooperation with Libya to stop refugees and migrants from crossing the central Mediterranean. Several initiatives are ongoing in order to enable Libyan naval authorities to patrol Libyan waters, intercept refugees and migrants at sea and take them back onto Libyan soil. Last week, the Italian government delivered two patrol vessels to the Libyan coast guard, and reiterated its commitment to deliver a total of ten vessels by June 2017. This week, EU Ministers of Defence are gathering in Malta to discuss how to increase cooperation with Libya further.

Amnesty International is extremely concerned about the impact of such measures on the human rights of refugees and migrants in Libya. The organization has documented widespread and systematic arbitrary detention and torture of refugees and migrants in detention centres where they are taken after being intercepted at sea and disembarked in Libya. Men, women and children interviewed by Amnesty International have recounted how ill-treatment, rape, exploitation and extortion are rife in those centres, including in those nominally under the management of the Libyan Ministry of Interior. The organization has also documented a host of human rights abuses committed against refugees and migrants outside the detention centres, facilitated by rampant lawlessness and prevailing racism, and received reports of ill-treatment by Libyan coastguard officials on refugees and migrants.

To confront such grim situation, European governments should offer safe and legal routes into Europe for people in need of protection, and focus cooperation with Libyan authorities on measures to protect the human rights of refugees and migrants in the country – starting with an end to their arbitrary detention and ill-treatment.⁹

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⁹ <https://www.amnesty.org/en/latest/news/2017/03/the-human-cost-of-european-hypocrisy-on-libya/>