

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Italy: Refugees and migrants in the central Mediterranean, cutting the lifelines**

Amnesty International is deeply concerned that Italian authorities may be attempting to circumvent their obligation to protect people fleeing widespread and systematic human rights violations and abuses in Libya by facilitating the interception of refugees and migrant boats by Libyan authorities in the central Mediterranean.

On 10 May 2017 a request for assistance from a refugees and migrant boat to the Italian coastguard resulted in a Libyan coastguard vessel intercepting the boat in distress in international waters and returning up to 500 people to face illegal detention, torture, rape, inhuman and degrading treatment and other grave abuses in Libya.

The incident represented an extremely worrying departure from the procedures so far applied to search and rescue operations of refugees and migrants in the central Mediterranean. These, in the last few years, have been coordinated by the Italian coastguard and navy, assisted at times by other EU navies, the EU border agency Frontex, the EU military operation EUNAVFORMED SOPHIA, as well as merchant vessels and, particularly since 2016, non-governmental organizations' vessels, leading to hundreds of thousands of people being safely disembarked in Italy.

As anti-immigration voices have grown stronger and increasingly hostile towards men, women and children trying to reach Europe through perilous journeys, European leaders have put in place measures to close all EU borders and significantly limit access to European territory.

In order to reduce in particular sea crossings from Libya towards Italy, EU leaders have engaged in multi-lateral and bilateral efforts to foster cooperation with Libyan authorities to stem departures from Libyan shores, despite continuous warnings that such cooperation would trap refugees and migrants in Libya and expose them to serious human rights violations. In mid-2016 the EU started a training programme for Libyan coastguard officials. At least 90 Libyan officials completed their training since then.

In addition, Italy has stepped up its involvement in Libya in the context of EU efforts to stabilize the country and strengthen the internationally recognized government of al-Sarraj. The two countries signed a bilateral Memorandum of Understanding in January 2017,

committing to increase cooperation to tackle irregular migration. 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.

Within this framework, Italy agreed, among several other measures, to return to Libya 10 coastguard speedboats which had initially been donated to Italy during Col. Gaddafi's rule. Four of these were delivered to Libyan authorities as of May 2017, while the rest are expected to be delivered in June 2017. The speedboats would constitute a very significant strengthening of the Libyan coastguard capacity to patrol territorial waters and also the high seas beyond.

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 much dependent on the success of broader institution-building efforts. A stable national authority was essential to establishing and adequately servicing a SAR zone.

The intervention of the Libyan coastguard on 10 May could be a sign that political pressure from the Italian government, at the forefront of efforts to stop refugees and migrants from escaping Libya, is coming to bear on search and rescue activities, even at the cost of exposing vulnerable people to serious human rights violations and failing to ensure the maximum level of protection of their life at sea.

### **The 10 May incident: refugees and migrants pulled-back to Libya from international waters**

In the early morning of 10 May 2017 the Italian coastguard Maritime Rescue Coordination Centre in Rome (MRCC Rome) received a call for help from refugees and migrants on a boat in Libyan territorial waters. The boat was wooden and extremely overcrowded, carrying, according to initial estimates, approximately 300 people (later reports will put the number to nearly 500). As required by the law of the sea, MRCC Rome contacted the Libyan authorities who responded that they would be coordinating the rescue. MRCC Rome also contacted the Sea-Watch 2, the vessel of the German non-governmental organization (NGO) Sea-Watch, which was in the area, and requested it to direct itself towards the boat in distress. By the time the Sea-Watch 2 sighted the boat in distress, the latter was in international waters.<sup>1</sup>

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<sup>1</sup> See Sea-Watch's detailed account, including their video footage at:

<https://sea-watch.org/en/libyan-navy-is-putting-sea-watch-crew-and-refugees-into-danger-during-an-illegal-return-operation/>

<https://sea-watch.org/en/pm-sea-watch-demands-independent-investigation-of-the-illegal-return-of-an-overcrowded-wooden-boat/>

As the Sea-Watch 2 had just lowered its rescue boat in the water to approach the boat in distress (it is normal procedure during rescues to approach the boat in distress with a small rescue boat to prevent the boat in distress from capsizing), the Sea-Watch 2 master was informed by the Italian coast guard that a Libyan coastguard boat which was approaching had “on scene command” of the rescue operation. According to representatives of the NGO Sea-Watch, the Sea-Watch 2 tried to contact the Libyan coastguard boat to offer assistance in the rescue. The Libyan coastguard boat did not respond on any of the radio channels tried by the Sea-Watch 2 and proceeded instead to cut the way of the Sea-Watch 2 at high speed and chase its rescue boat, which was at that moment just starting to approach the refugees and migrant boat. The Sea-Watch 2 rescue boat retreated immediately. According to the Sea-Watch 2 master, the high-speed manoeuvre by the Libyan coast guard vessel endangered both its own and the Sea-Watch 2’s crew. The scene was filmed by a German reporter for Spiegel TV, who was on board the Libyan coastguard boat.<sup>2</sup> Video footage is also available from the Sea-Watch 2 on the NGO’s website.<sup>3</sup>

The Libyan coastguard vessel then proceeded to stop the refugees and migrant boat. As can be seen in the video by the Spiegel TV reporter, the Libyan coastguard captain threatened the refugees and migrants with a gun and then proceeded to take over the boat in distress. The Libyan officials transferred some of the refugees and migrants onto their vessel. A few 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.

In addition to complying with the practical guidelines contained in the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual, after years of working on search and rescue operations in the specific context of rescuing refugees and migrants in the central Mediterranean, a good practice has been developed by professional rescue crews to prevent panic and capsizing and ensure that rescues are carried out as safely as possible.<sup>4</sup> On the basis of the available video footage of the rescue and of the account given by the NGO Sea-Watch, the interception and rescue was carried out by the Libyan coastguard in a manner which put the refugees and migrants at grave risk of falling into the water and drowning.

The Libyan vessel approached the 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. The Libyan coastguard did not lower a small

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<sup>2</sup> Available at: [www.youtube.com/watch?v=Do2r-epvPpc&feature=youtu.be](http://www.youtube.com/watch?v=Do2r-epvPpc&feature=youtu.be)

<sup>3</sup> See above, at footnote 1

<sup>4</sup> All aeronautical and maritime search and rescue activities are minutely regulated through practical guidelines contained in the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual, which is published by the International Maritime Organization and the International Civil Aviation Organization and is based on relevant international conventions.

lifeboat into the water – which is standard practice 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. The Libyan coastguard did not distribute life-jackets, nor attempted to create a calm environment to carry out the rescue in optimal safety conditions – which is also standard practice in these situations. On the contrary, the captain threatened the refugees and migrants with a gun as he shouted at them to stop. The Libyan coastguard also did not attempt at identifying any particularly vulnerable cases in need of emergency medical help among the refugees and migrants, also standard practice during this type of rescue operations. Furthermore, only some of the refugees and migrants were transferred onto the Libyan vessel, while a large number remained in the overcrowded and unseaworthy wooden boat. Even though the Sea-Watch 2 was nearby ready to render assistance, for example to provide those being rescued with life-jackets, the Libyan coastguard did not avail itself of that extra resource and did not communicate at all with the Sea-Watch 2. The “on scene command” captain of a rescue operation is required by rescue procedures to ensure communication among all vessels at the scene.

The refugees and migrants intercepted at sea were subsequently disembarked in the Abu Sita Naval base in Tripoli. There is conflicting information regarding the overall number of people who were on board and those accounted for at disembarkation, however, according to IOM, 497 people were disembarked in Tripoli and transferred to detention centres.

As well documented by UN agencies and several human rights non-governmental organizations, including Amnesty International, grave human rights violations and abuses are systematic in Libyan detention centres. With few exceptions, refugees and migrants returned to Libya are sent to detention centres where they are indefinitely detained and subjected to serious abuses including 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. There is no judicial oversight of these detention centres nor recourse to a remedy for those detained since abuses are committed with absolute impunity.

### **Amnesty International's concerns**

Amnesty International has repeatedly warned EU leaders that their cooperation with Libyan authorities – and particularly cooperation enhancing 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. 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.

Following the European Court of Human Rights judgment in the case of Hirsi, in which Italy was found to be in violation of the European Human Rights Convention for having returned refugees to face the risk of torture in Libya, Amnesty International is concerned that Italy is circumventing its obligations by resorting to cooperation with Libyan authorities.<sup>5</sup>

Despite such warnings, European leaders have continued deepening their cooperation with Libyan authorities responsible for border control, in the absence of any guarantees that 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, as well as the creation of an asylum system in the country.

The 10 May incident may well have marked an acceleration in the process of outsourcing to Libyan authorities the interception of refugees and migrant boats in the central Mediterranean to prevent them from reaching European soil. Amnesty International is concerned that a change in the practices by Italian authorities coordinating search and rescue operations may be the result of political pressure to ensure that Libyan officials are resourced and empowered to intercept refugees and migrant boats as near as possible to Libyan coasts, so that disembarkation takes place in Libya, allowing Italy – and the EU – to circumvent their international obligations to rescue lives and offer protection to those who need it.

Amnesty International's understanding of relations between the Italian and Libyan coastguard to date is that MRCC Rome would always inform Libyan authorities in case a SAR operation required entering Libyan territorial waters as a measure of good practice, although the law of the sea would allow for the safe passage of boats engaged in a rescue operation even without the consent of relevant state authorities. Furthermore, the Italian coastguard would resort to Libyan authorities to carry out a search and rescue attempt only in life or death cases, if there was no other choice, even in Libyan territorial waters.

Amnesty International is deeply concerned that the 10 May interception constitutes the first implementation of a new policy to resort to the Libyan coastguard more often and even in international waters, excluding non-governmental organizations' vessels from search and rescue operations or potentially even requiring them to operate under the coordination of Libyan authorities.

Such developments would lead to refugees and migrants being disembarked in Libya to face human rights violations and abuses. Refugees and migrants would also be put at grave risk of losing their lives at sea in the course of ill-executed search and rescue operations, during which firearms could be used against them and crews of vessels offering to assist. Amnesty International notes past reported cases of unlawful use of force by Libyan coastguard officials against refugees and migrants intercepted at sea and NGO

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<sup>5</sup> See Italy: 'Historic' European Court judgment upholds migrants' rights at [www.amnesty.org/en/latest/news/2012/02/italy-historic-european-court-judgment-upholds-migrants-rights/](http://www.amnesty.org/en/latest/news/2012/02/italy-historic-european-court-judgment-upholds-migrants-rights/)

vessels.<sup>6</sup> In relation to the 10 May incident, Amnesty International regards the decision of the Libyan coastguard captain to extract a hand-gun and point it towards refugees and migrants as unnecessary and dangerous, and a violation of relevant international standards.

Amnesty International is worried that great efforts and resources by the EU and Italy are being put into trapping refugees and migrants in Libya while no pressure is being brought to bear on Libyan authorities to take concrete steps towards protecting the human rights of refugees and migrants in Libya.

Amnesty International is also worried that there could be a side-lining of non-governmental organizations vessels which have made themselves available to rescue lives in a professional and cooperative manner and whose positive contribution towards ensuring safety at sea has been recognized by the Italian coastguard and Navy, notwithstanding an ongoing baseless smear campaign against them by a number of Italian MPs and representatives of institutions.<sup>7</sup>

### **Amnesty International's recommendations**

In light of the concerns articulated above, Amnesty International makes the following recommendations to EU and Libyan authorities:

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, 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.

EU governments and institutions should ensure that any further **training and provision of resources to Libyan authorities, including the coastguard, is conditional** upon Libyan authorities taking concrete and verifiable steps towards creating a protection system in Libya (including by ending automatic detention of migrants; ratifying the Refugee convention; recognizing UNHCR and allowing access to all detention places to humanitarian agencies).

As EU Member States continue to train the Libyan coastguard and are delivering patrol vessels to Libyan authorities, they must set up a strong system to **monitor and evaluate the human rights impact of such cooperation**, in relation to the use made of the skills and

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<sup>6</sup> See for example the incident regarding a Medics sans Frontieres boat in August 2016: [www.msf.org/en/article/central-mediterranean-msf-condemns-attack-rescue-vessel](http://www.msf.org/en/article/central-mediterranean-msf-condemns-attack-rescue-vessel)

<sup>7</sup> See Italy: Losing the moral compass: Innuendoes against NGOs which rescue lives in the central Mediterranean, April 2017, at [www.amnesty.org/en/documents/eur30/6152/2017/en/](http://www.amnesty.org/en/documents/eur30/6152/2017/en/)

means provided to Libyan authorities, and an accountability system in cases of breaches of international law and standards.

For as long as Libya remains unsafe for refugees and migrants, EU maritime rescue centres (in the vast majority of cases, MRCC Rome) should rely and **call upon the Libyan coastguard only as a last resort** when strictly necessary to preserve life and there are no other vessels available to assist boats in distress, and only within Libyan territorial waters. All disembarkations of refugees and migrants should happen in full compliance with international law at a place of safety where those in need of protection can access asylum.

Libyan authorities should expressly acknowledge and accept that the law of the seas allows for **safe passage to rescue** people in distress at sea within the territorial waters of a country. Such passage should not require authorization because necessary to rescue lives.

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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