



ITALY - A SLIPPERY SLOPE FOR HUMAN RIGHTS: THE IUVENTA CASE

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1. INTRODUCTION

In January 2021, prosecutors of the Tribunal of Trapani, Sicily, closed a nearly five year-long investigation and accused 21 people, a shipping company and two NGOs of collusion in human smuggling. Among the accused, 16 had worked on the *Iuventa*, *Vos Hestia* and *Vos Prudence* rescue ships, operated by NGOs Jugend Rettet, Save The Children International (STC), and Médecins Sans Frontières (MSF) between 2016 and 2017.

In the following weeks, it emerged that during the long investigation the police had wiretapped several journalists, their sources, and confidential communications between lawyers and defendants. The transcripts of all these conversations had been included in the investigation file, despite concerns they could constitute inadmissible evidence. The revelation raised concerns about violations of national and international laws protecting journalists' sources and communications between lawyers and their clients. As a result, the Minister of Justice opened an internal investigation.

In the first months of 2021, in separate cases, prosecutors in Catania and Ragusa also took decisions which continued to criminalize the work of civil society organizations conducting rescue missions in the Mediterranean.¹ Meanwhile, port state control and other authorities continued to misuse their administrative powers to hamper NGO rescue activities in the central Mediterranean.²

Since the end of 2016, Italy, along with other EU countries and with the backing of EU institutions, has created a hostile environment for human rights defenders and civil society organizations conducting rescue missions, aimed at deterring them from their humanitarian assistance to refugees and migrants. For Italy, the criminalization of these organizations is necessary to reduce the number of people arriving to the country through a policy of cooperation with Libya and to hide the impact such policy has on human rights.

In the past five years, EU states and institutions, led by Italy, have progressively withdrawn their naval assets from the central Mediterranean to avoid being involved in rescues and having to disembark more people in Europe. They have also trained and resourced Libyan authorities to ensure they intercept at sea as many people as possible and take them back to Libya. There, refugees and migrants are routinely exposed to arbitrary detention in inhumane conditions, unlawful killings, torture and other forms of ill-treatment, including sexual violence, forced labour and other exploitation, with total impunity. In a report published in July 2021, Amnesty International highlighted how these abuses have continued unabated in Libyan detention centres in the first half of 2021.³

These European policies have contributed to deaths at sea and unspeakable suffering in Libya. This year alone it is estimated that over 700 people have died along the central Mediterranean route as of the end of June 2021, nearly three times as many as in the same period in 2020,⁴ while some 15,000 people have been intercepted at sea and forcibly returned to Libya where they have been exposed to serious human rights violations.⁵ In her latest report on this issue, in March 2021, the CoE Commissioner for Human Rights stated "...the human rights situation in the Mediterranean region remains deplorable. I have observed a widespread unwillingness of European states to set up an adequate system of protection capable of securing at least the right to life of refugees and migrants attempting sea crossings, and ensuring that they are not exposed to serious human rights violations such as torture."⁶

In this context, NGO ships have played a vital role saving tens of thousands of lives since 2016. However, as NGOs have become more effective in rescuing people and more vocal in exposing the failures of EU institutions and member states, and as they have consistently and legitimately refused to disembark

¹ In Catania, three Médecins Sans Frontières (MSF) crew members were indicted for the alleged incorrect disposal of the *Aquarius* ship's refuse and more may be indicted in the near future; in Ragusa, prosecutors appealed a judge of preliminary hearing's acquittal of two Open Arms crew members for charges of facilitating irregular migration in relation to a rescue operation in 2018; Ragusa prosecutors also opened an investigation into a donation by the Danish shipping company Maersk Tankers to the Italian NGO Mediterraneo for the assistance the NGO offered by taking onboard the *Mare Jonio* the exhausted people the *Maersk Etienne* had rescued in August 2020, after the authorities of Malta, Tunisia and Italy had failed to offer a safe port for their disembarkation for nearly six weeks

² See for example <https://sea-watch.org/en/arbitrary-blockade-of-the-sea-watch-4/>; <https://www.msf.org/detaining-fifth-search-and-rescue-ship-five-months-condemns-people-die-sea>; and <https://reliefweb.int/report/italy/msf-partner-sea-watch-lodges-legal-appeal-release-search-and-rescue-ship-italian>

³ Amnesty International, *Libya: 'No one will look for you': Forcibly returned from sea to abusive detention in Libya*, July 2021, <https://www.amnesty.org/en/documents/mde19/4439/2021/en/>

⁴ For regularly updated figures, see https://missingmigrants.iom.int/region/mediterranean?migrant_route%5B%5D=1376, and <https://data2.unhcr.org/en/situations/mediterranean>

⁵ See <https://reliefweb.int/report/libya/unhcr-update-libya-18-june-2021-enar#:~:text=So%20far%20in%202021%2C%20some,to%20the%20calm%20sea%20conditions>

⁶ CoE Commissioner for Human rights, *A distress call for human rights. The widening gap in migrant protection in the Mediterranean*, <https://rm.coe.int/a-distress-call-for-human-rights-the-widening-gap-in-migrant-protectio/1680a1abcd>

survivors in Libya, which does not qualify as a place of safety, they have also become the target of administrative and judicial measures to restrict and block their life-saving activities.

UN and other international organizations have recognized NGOs' contributions and have called on states to refrain from criminalizing NGOs' humanitarian activities. The CoE Commissioner has warned that "Rather than recognising NGOs as key partners, filling a crucial gap left by their own disengagement, member states have persisted in an openly or tacitly hostile approach. This is leading to further reductions in rescue capacity at sea, and limits on human rights monitoring. Furthermore, such actions continue to stigmatise the work of these human rights defenders."⁷

The growing evidence that charges of facilitation of irregular migration are being misused to restrict the humanitarian activities of rescue NGOs in several EU member states led the European Commission to issue in September 2020 new guidance for the interpretation at national level of EU rules on the facilitation of unauthorized entry. The Commission clarified that "humanitarian assistance that is mandated by law cannot and must not be criminalised" and that "the criminalisation of NGOs or any other non-state actors that carry out search and rescue operations at sea, while complying with the relevant legal framework, amounts to a breach of international law, and therefore is not permitted by EU law".⁸

These appeals to stop criminalizing human rights defenders and civil society organizations conducting rescue operations are yet to be heeded. Centred around charges of facilitation of irregular entry for rescues carried out under the coordination of Italian maritime authorities, the case of the *Iuventa* is increasingly becoming a litmus test of the ability and willingness of Italian authorities to stop the misuse of criminal law to deter human rights defenders from assisting refugees and migrants at sea.

Amnesty International has criticized the misuse of charges of facilitation of irregular entry, which do not fully reflect the international definition of the crime of smuggling, to criminalize rescue NGOs, such as in the case of the *Iuventa*.⁹ Amnesty International is calling on the Italian authorities to close the case against the *Iuventa* crew and the other NGOs. In addition, Amnesty International urges Italian authorities to stop all criminalization of human rights defenders and to protect their activities, including by reforming the definition of the crime of facilitation of irregular entry. Finally, Amnesty International urges Italy and other EU member states and institutions to ensure prompt rescue missions at sea, followed by timely disembarkation in a place of safety of rescued refugees and migrants; and to suspend any cooperation with Libya on border control, and in particular any assistance facilitating the containment of people in Libya, pending a radical review of the terms of the cooperation with Libyan authorities on migration, to ensure refugees and migrants are protected from violence and abuse.¹⁰

⁷ CoE Commissioner for Human rights, A distress call for human rights. The widening gap in migrant protection in the Mediterranean, <https://rm.coe.int/a-distress-call-for-human-rights-the-widening-gap-in-migrant-protectio/1680a1abcd>

⁸ "Commission Guidance on the implementation of EU rules on definition and prevention of the facilitation of unauthorised entry, transit and residence", https://ec.europa.eu/info/files/commission-guidance-implementation-eu-rules-definition-and-prevention-facilitation-unauthorised-entry-transit-and-residence_en

⁹ Amnesty international, Europe: Punishing compassion: solidarity on trial in fortress Europe, 3 March 2020, Index number: EUR 01/1828/2020, <https://www.amnesty.org/en/documents/eur01/1828/2020/en/>

¹⁰ Amnesty International, *Libya: 'No one will look for you': Forcibly returned from sea to abusive detention in Libya*, July 2021, <https://www.amnesty.org/en/documents/mde19/4439/2021/en/>

2. THE CHARGES AGAINST THE IUVENTA CREW AND OTHER NGOS

In January 2021, Trapani prosecutors concluded a far-reaching and well-resourced investigation into the activities of civil society organizations conducting rescue operations in the Mediterranean. They laid charges of facilitation of irregular entry¹¹ against 16 people who had worked as crew members, captains or team leaders on three NGO rescue ships between September 2016 and October 2017. Four of the accused had worked on the *Iuventa*, operated at the time by the German NGO Jugend Rettet; six on the *Vos Prudence*, operated by MSF; and 11 on the *Vos Hestia*, operated by STC.¹² Prosecutors further applied aggravating circumstances, including association to commit the crime. Related charges of providing false information in public documents were laid against some of the MSF and STC accused, for allegedly omitting to state relevant information in their electronic communications with the Italian Maritime Rescue and Coordination Centre (IMRCC).

Five managers of the shipping company which owned the *Vos Hestia* and the *Vos Prudence*, Vroon Offshore Services, were also charged with alleged infringements of rules on the safety of navigation for renting the ships without adequate safety documentation for carrying passengers; and for renting them for search and rescue activities, for which no certification exists for private vessels. Moreover, the shipping company itself and the MSF's Italian chapter and STC were charged as legal entities under regulations regarding companies' responsibility. The company was charged for allegedly benefitting financially from renting the ships, and the two NGOs were charged for allegedly obtaining media visibility and an increase in participation, "including financial", by their supporters.¹³ The accused risk up to 20 years of imprisonment and millions of euros in fines.

The investigation became known to the public on 2 August 2017, when prosecutors ordered the seizure of the *Iuventa* as a measure that the authorities argued was needed to prevent further criminal conduct,¹⁴ although they stated from the outset that they believed the motives of the *Iuventa* crew to be genuinely humanitarian. The humanitarian nature of the *Iuventa* crew's motives was in fact acknowledged in the prosecutors' request of seizure and in the order of seizure of the Trapani tribunal.¹⁵ Since the start of its operations and until its seizure, the *Iuventa* rescued over 14,000 people found in distress in the Mediterranean. Albeit the crews of MSF ship *Vos Prudence* and of STC ship *Vos Hestia* were also involved in the investigation from the start, the fact that only Jugend Rettet's ship was seized turned the *Iuventa* into the symbol of the case. The *Iuventa* remains impounded in the port of Trapani.¹⁶

Italian prosecutors appear now to be pursuing harsher charges to further restrict the work of human rights defenders and civil society organizations defending the rights of migrants and refugees. Despite an initial acknowledgment of the NGOs' humanitarian motives, the fact that they have now charged the organizations themselves for an alleged intention to profit economically from the rescue operations through a supposed link between increased visibility and increased donations is nothing more than a concrete criminalization of the right to association. Such an accusation is particularly concerning as it directly targets the very essence

¹¹ Article 12 (3 a) and d)) and (3bis) Legislative decree 286/1998

¹² In June 2018, in connection with developments in the investigation, Trapani prosecutors had revealed that ten former crew members of the *Iuventa*, and 12 members of the crews of MSF and STC's ships, and Father Mussie Zerai, a Catholic priest of Eritrean origin who assisted refugees at sea for over a decade, were being investigated for facilitating irregular migration

¹³ Procura della Repubblica presso il Tribunale Ordinario di Trapani, Avviso di conclusione delle indagini preliminari e contestuale informazione di garanzia, N. 4060/16 Reg. Gen. Notizie di reato Mod. 21, Trapani, 11 Gennaio 2021, on file at Amnesty International

¹⁴ According to Italian criminal procedure, seizure requests of "crime related items" by prosecutors are not evidence of guilt. See Article 321 of the Italian code of criminal procedure.

¹⁵ The order of seizure can be accessed at https://www.questionegiustizia.it/data/doc/1412/decreto_sequestro_preventivo_iuventa.pdf. Immediately after the seizure of the *Iuventa*, the Trapani prosecutor told the media gathered at a press conference that he believed the motives of the *Iuventa* crew to be essentially humanitarian, with their only possible gain being in terms of image and donations, see: https://www.repubblica.it/cronaca/2017/08/02/news/migranti_codice_ong_in_vigore_fermata_nave_in_mare_per_controlli-172151820/. Three months earlier, in May 2017, before the Italian Senate Defence committee, Trapani prosecutors had already stated that they were excluding that NGOs had motives other than of a humanitarian nature and that they had no elements to suspect that NGOs' funding was of an illegitimate nature, see: http://leg17.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=SommmComm&leg=17&id=1022318&part=doc_dc The judge of preliminary investigations, who granted the seizure, also noted in the seizure decree that Jugend Rettet's members should not in any way be regarded as being affiliates of criminal groups operating in Libya, nor sharing neither methods nor aims with them. On file at Amnesty International.

¹⁶ Jugend Rettet's appeals to obtain the release of the *Iuventa* were rejected first by the Tribunal of Trapani in September 2017, according to which the actions of the crew went beyond what was required by a rescue in a state of necessity; and then by the Court of Cassation on 23 April 2018, according to which Jugend Rettet had not taken adequate measures to avoid a convergence of its staff's activities with those of smugglers <https://meridionews.it/articolo/72422/sequestro-iuventa-motivazioni-della-cassazione/>

of NGOs activities who are raising funds through publicising the impact of the assistance they provide to people in need as a way to raise more donations to continue their work.

The case against the *Iuventa* crew has remained largely the same since the beginning of the investigation, although the authorities have dropped the charges against six crew members. The remaining four members of the *Iuventa* crew against whom the charges still stand are suspected of having colluded with smugglers in relation to three rescue operations, one on 10 September 2016 and two on 18 June 2017. Prosecutors allege that during these rescue operations the *Iuventa* crew participated in a direct handover of refugees and migrants from the smugglers to the NGO rescue ships involved. The *Iuventa* crew has denied all accusations. A convincing computerized reconstruction of the three rescue incidents, consistent with the accused's version of what happened, has been meticulously prepared by researchers of Forensic Oceanography and Forensic Architecture at Goldsmiths (University of London), using a variety of visual, audio and other information.¹⁷ Other instances of alleged collusion with smugglers during rescues in May, July and October 2017 are imputed to the crews of the *Vos Hestia* and the *Vos Prudence*.

At the core of the prosecutors' case is the notion that the facts imputed to the accused did not constitute rescues at sea, allegedly because of the lack of the element of distress at sea, but constituted collusion in human smuggling. Prosecutors accuse NGO crews of having information about departures of refugee and migrants' boats from Libyan coasts. The information would have allowed the NGOs to position their ships in the ideal spots to locate the refugees and migrants and to be requested by the IMRCC to proceed to the rescue. Prosecutors also accuse the NGO crews of taking people on board notwithstanding their boats not being in distress; and of allowing the presumed smugglers, allegedly present during the rescue operations, to take back the boats and even to board the NGO ships without being reported to the authorities. Finally, prosecutors allege that some of the accused misrepresented the circumstances of the rescues to the IMRCC, and ultimately that the NGOs benefitted from these rescue operations by gaining more visibility and possibly more donations from supporters.

Amnesty International considers that the case against the *Iuventa* crew and other civil society organizations, which constructs the rescue at sea of refugees and migrants as human smuggling, is not in line with and ignores relevant international law and standards on the definition of human smuggling, on the safety of life at sea and the definition of distress at sea, on the rights of refugees and migrants and on the protection of human rights defenders. As a result, their prosecution constitutes a violation of the right to association and to defend human rights as well as a violation of the rights of refugees and migrants, including their right to life.

¹⁷ An investigation by Forensic Oceanography and Forensic Architecture Realised with the support of Borderline Europe, the WatchTheMed platform and Transmediale, <https://forensicarchitecture.org/investigation/the-seizure-of-the-iuventa>. The reconstruction shows how empty boats being towed by the *Iuventa* crew were not being pushed towards Libya but towards the opposite direction. This is consistent with the crew's accounts, according to which boats were sometimes pushed away during rescues involving multiple boats, to avoid collisions.

3. FACILITATION OF IRREGULAR ENTRY AND HUMANITARIAN ASSISTANCE

The prosecution in the *Iuventa* case is based on a national law that does not reflect the internationally agreed definition of human smuggling in Article 3(a) of the UN Protocol against the Smuggling of Migrants by Land, Sea and Air (the UN Smuggling Protocol), supplementing the United Nations Convention against Transnational Organized Crime.¹⁸ The way in which Italian legislation defines and punishes smuggling makes it easy to criminalize rescue NGOs. Article 12 of Italy's Immigration Act, which punishes conducts aimed at facilitating the irregular entry of a foreign national into the territory of the state, is the provision which has been used to criminalize rescue NGOs in many cases, including the case of the *Iuventa*.¹⁹ For the crime to be committed, Article 12 requires the intent to carry out the conduct described in the offence, irrespective of the motive and of whether the aim is achieved. The financial or material profiting from the facilitation of irregular entry is an aggravating circumstance, rather than a constituting element of the crime.²⁰

The Italian law departs from the internationally agreed definition of "smuggling" as contained in the UN Smuggling Protocol, adopted in 2000 and ratified by Italy. The Protocol aims to prevent and address people smuggling and, importantly, to protect the rights of people who have been smuggled (Article 2).²¹ "Smuggling of migrants" is defined as "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (Article 3). According to the UN Smuggling Protocol, therefore, for a conduct to be regarded as smuggling and to be subjected to criminalization, there must be the intention "to obtain, directly or indirectly, a financial or other material benefit" (Article 6). In line with its expressed aim of protecting the rights of smuggled migrants, the UN Smuggling Protocol prohibits the criminalization of smuggled persons themselves (Article 5). In the UN Smuggling Protocol, the express requirement that there must be a financial or other material benefit for the individual to be held criminally liable for smuggling was meant to shield family members and support groups such as NGOs from punishment.²²

The Italian law on the facilitation of irregular entry does not include the element of material benefit as essential to the crime, nor does it have a specific humanitarian exemption to shield from prosecution those assisting refugees and migrants for humanitarian reasons.²³ In the case of the *Iuventa*, prosecutors have accused of smuggling NGOs that were providing humanitarian assistance to refugees and migrants without any legal justification and without having to prove the existence of a material benefit. In fact, the far-fetched claim that NGOs benefitted from enhanced visibility possibly leading to more donations, is added as a separate charge but it does not need to be proven to seek the accused's conviction on charges of facilitation of irregular entry.

Many of the investigations and prosecutions brought against human rights defenders across the EU rely on the crime of facilitation of irregular entry, transit and stay in the territory of an EU member state. In 2002, the EU sought to harmonize member states' legislation in this area through a directive and a framework decision,

¹⁸ The text of the Protocol can be found at <https://www.refworld.org/pdfid/479dee062.pdf>

¹⁹ Article 12 (1) of Italy's Immigration Act punishes conducts aimed at facilitating the irregular entry of a foreign national in the territory of the state or of another state of which the foreign national does not have citizenship or residence. The penalty foreseen for the basic offence is imprisonment from one to five years and a fine of 15,000 EUR for each person whose entry was facilitated. Article 12 (2) of Italy's Immigration Act states that without prejudice to article 54 of the criminal code, rescue and humanitarian assistance activities carried out in Italy to help foreign nationals in need do not constitute a crime, irrespective of the circumstances of their presence on the territory. According to Article 54 of the Italian criminal code, regulating the state of necessity, one cannot be punished for having acted compelled by the necessity of saving oneself or another person from the actual danger of grave harm, as long as the danger is not of one's creation, is not otherwise avoidable and as long as the act is proportioned to the danger. Article 12 (3) provides for aggravating circumstances of the offence, for example when the entry is facilitated for five or more people, when the facilitators are three or more, and having exposed the foreign nationals to danger or having ill-treated them. The penalty for the aggravated version of the offence is imprisonment for five to 15 years and a fine of 15,000 EUR for each person whose entry is facilitated. Article 12 (3bis) provides that if two or more of the aggravating circumstances described at paragraph 3 are applicable, the punishment is increased. Article 12 (3ter) provides for harsher penalties in case the act of facilitating entry is carried out to subject the foreign nationals to sexual or other exploitation (amounting to trafficking); or is carried out to obtain a profit, even if indirectly (amounting to smuggling). In these cases, the imprisonment can be increased by one third or be doubled and the fine is of 25,000 EUR for each person whose entry was facilitated

²⁰ Italy's Immigration Act (Legislative decree 286/1998) contains provisions that constitute the implementation of the EU Facilitators' Package, which Amnesty International has critiqued in the report *Punishing Compassion: Solidarity on trial in Fortress Europe*, March 2020, <https://www.amnesty.org/en/documents/eur01/1828/2020/en/>

²¹ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, New York, 15 November 2000, see: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18

²² See reference to the Travaux Préparatoires in European Parliament's, "Fit for purpose?" 2016, p 26

²³ The Italian criminal code provides for general exemptions from criminal liability for exercising a right, fulfilling a duty, and acting in state of necessity

known as the “Facilitators’ Package,” to combat smuggling of human beings in Europe. However, Amnesty International has found that the vagueness of its provisions and the extent of the discretion left to member states in implementing them, has led to criminal proceedings and sanctions against people providing humanitarian assistance to refugees and migrants. To prevent such criminalization, Amnesty International considers that the Facilitators’ Package should be reviewed to align it with the UN Smuggling Protocol and with international human rights and refugee law. The crime of facilitation of irregular entry, transit and stay of a foreign national should be amended to include as a constitutive element a financial or other material benefit. Amnesty International is also calling for the repeal of the offence of irregular entry, in line with international law provisions recognizing that irregular entry may be the only option for many to seek protection and that people using the services of smugglers should not be punished.

To address the growing evidence of criminalization of humanitarian assistance linked to the legal ambiguities of the Facilitators’ Package, in September 2020, as part of the new Pact on Migration and Asylum, the Commission issued a new “Commission Guidance on the implementation of EU rules on definition and prevention of the facilitation of unauthorised entry, transit and residence”.²⁴

After important considerations regarding the context in which the Facilitators’ package has been implemented in recent years, the Guidance states: “... in the Commission’s view, Article 1 of the Facilitation Directive must be interpreted as follows: i) humanitarian assistance that is mandated by law cannot and must not be criminalised; ii) in particular, the criminalisation of NGOs or any other non-state actors that carry out search and rescue operations at sea, while complying with the relevant legal framework, amounts to a breach of international law, and therefore is not permitted by EU law; iii) where applicable, assessment of whether an act falls within the concept of ‘humanitarian assistance’ in Article 1(2) of the Directive – a concept that cannot be construed in a manner that would allow an act mandated by law to be criminalised – should be carried out on a case-by-case basis, taking into account all the relevant circumstances.”

The Commission Guidance concludes with a policy recommendation to member states that have not done so already, among which is Italy, to use the possibility provided for in Article 1(2) of the Facilitation Directive, which allows them to distinguish between activities carried out for the purpose of humanitarian assistance and activities that aim to facilitate irregular entry or transit, and allows for the exclusion of the former from criminalisation.

²⁴ https://ec.europa.eu/info/files/commission-guidance-implementation-eu-rules-definition-and-prevention-facilitation-unauthorised-entry-transit-and-residence_en

4. FACILITATION OF IRREGULAR ENTRY AND THE RIGHT TO LIFE AND TO SEEK ASYLUM

The prosecution in the *Iuventa* case ignores states' and shipmasters' obligations to protect life at sea and ensure access to international protection for those who may need it.

The criminalization of human rights defenders who carry out search and rescue activities at sea is inconsistent with key principles of the law of the sea, including the obligation to assist people in distress at sea.²⁵ It is a commonly accepted and longstanding maritime tradition that shipmasters have an obligation to render assistance to those in distress at sea, regardless of their nationality, status or the circumstances in which they are found. The integrity of the maritime search and rescue system depends upon it. This obligation is accepted as customary international law and has been codified in the international law of the sea.²⁶ The law of the sea further requires that states coordinate and ensure the provision of search and rescue procedures and that they operate to ensure that people rescued at sea are delivered to a place of safety.²⁷ States' attempts at preventing and hampering the rescue of refugees and migrants on the basis of immigration status violates also the prohibition against discrimination enshrined in many human rights treaties.²⁸

As Amnesty International has documented in the past, refugee and migrants' boats from Libya are in most cases in distress from the moment they depart because they are generally unseaworthy, overcrowded, they lack sufficient fuel, provisions and equipment to sail in safety, and they are not operated by trained sailors.²⁹ This interpretation of their inherent state of distress is based not only on the many cases in which boats have suddenly deflated or capsized, but also on the Italian coastguard's interpretation of distress at sea and on a relevant EU regulation.³⁰ Furthermore, because a rescue operation is not concluded until disembarkation in a place of safety, actions to prevent the disembarkation of rescued refugees and migrants in a place where they would be at risk of human rights abuses, such as in Libya, should not be subjected to prosecution and instead be deemed legitimate.

Criminalizing human rights defenders who provide life-saving assistance may place a state in breach of its obligations to protect the right to life, which is codified in multiple international instruments, notably in Article 6 of the International Covenant on Civil and Political Rights and in Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In her report on the criminalization and targeting of life-saving and protective services for people in need, the Special Rapporteur on extrajudicial, summary or arbitrary executions made some crucial remarks on the matter, noting that acts prohibiting or otherwise impeding humanitarian services violate the state's obligation to respect the right to life and that any death that may be linked to such prohibition would constitute an arbitrary deprivation of life. The Special Rapporteur also noted that both within and outside the context of armed conflict, laws and policies that seek to prevent life-saving and life-sustaining services to populations because of their ethnicity, religion, or immigration status constitute a violation of Article 6 of the International Covenant on Civil and Political Rights, stressing that "[t]he State may not fail to discharge its obligation to respect and protect the right to life, and then exacerbate and compound that failure by precluding others from undertaking activities aimed at providing that core obligation, particularly if the State's actions or inactions are driven by discriminatory motives or result in discrimination."³¹ The Special Rapporteur's remarks are especially pertinent to the criminalization of rescue NGOs and of those human rights defenders who have been helping people in distress at sea to be rescued.

²⁵ This point is also reinforced by the Human Rights Committee in General Comment 36 (para. 63)

²⁶ Article 98(1) of the 1982 UN Convention on the Law of the Sea (UNCLOS) and Regulation V/33.1 of the 1974 International Convention for the Safety of Life at Sea (SOLAS); on these obligations, see Amnesty International, *Lives Adrift: Refugees and Migrants in Peril in the Central Mediterranean*, 30 September 2014, Index: EUR 05/006/2014, <https://www.amnesty.org/en/documents/EUR05/006/2014/en/>, p 28; see also: UNHCR, *Rescue at sea, a guide to principles and practices as applied to refugees and migrants*, at <https://www.unhcr.org/uk/publications/brochures/450037d34/rescue-sea-guide-principles-practice-applied-migrants-refugees.html>

²⁷ Amnesty International, *Lives adrift: Refugees and Migrants in Peril in the Central Mediterranean*, 30 September 2014, Index: EUR 05/006/2014, <https://www.amnesty.org/en/documents/EUR05/006/2014/en/>

²⁸ For example, Article 14 of the European Convention on Human Rights

²⁹ Amnesty International, *Lives Adrift: Refugees and Migrants in Peril in the Central Mediterranean*, 30 September 2014, Index: EUR 05/006/2014, <https://www.amnesty.org/en/documents/EUR05/006/2014/en/>

³⁰ Art. 9, 2, f of Regulation (EU) No 656/2014 of the European Parliament and of the Council of 15 May 2014, establishing rules for the surveillance of the external sea borders in the context of operations coordinated by Frontex - the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, OJ L 189/93, 27 June 2014

³¹ See paras 25, 26 and 29, Report of the Special Rapporteur of the Human rights Council on extrajudicial, summary or arbitrary executions, *Saving lives is not a crime*, A/73/314, 6 August 2018, https://www.ohchr.org/Documents/Issues/Executions/A_73_42960.pdf

Amnesty International is deeply concerned that cases such as the *Iuventa's*, in which the authorities are criminalizing rescue operations at sea, risk undermining the whole search and rescue framework by establishing an arbitrary distinction between rescue operations that the authorities deem legitimate and others that they do not deem legitimate, based on political agendas. The organization is further alarmed by the move by Italian prosecutors to categorize certain behaviour of crew members in rescue operations as signs of collusion with smugglers despite these being considered by the crews as logical methods to maximize their chances to rescue lives by being as near and as visible as possible to those who may need their help – while acting under the direction of the IMRCC.

Furthermore, Article 31 of the Refugee Convention prohibits the penalization of asylum-seekers and refugees for irregular entry in the territory of a country in contravention to the right to seek and enjoy asylum enshrined in Article 14 of the Universal Declaration of Human Rights. It follows that providing humanitarian assistance to people who need to enter in a country irregularly, including in order to access protection, should also not be a criminal offence.³² Moreover, all states are bound by the principle of non-refoulement,³³ whereby nobody can be returned to a country where they would be at real risk of serious human rights violations. Criminalizing human rights defenders assisting refugees and migrants in situations in which they could be returned to or pushed back towards countries where they would be at risk could undermine the principle of non-refoulement.

³² Amnesty International, *Hungary: Crackdown on the Rights of Refugees and Migrants Continues Unabated Amidst European Commission Inaction*, 6 July 2016, <https://www.amnesty.org/en/documents/eur27/4405/2016/en/>

³³ The principle of non-refoulement is accepted as a norm of international customary law and enshrined in Article 3 of the Convention Against Torture and in Article 33 of the Refugee Convention

5. CRIMINALIZING HUMAN RIGHTS DEFENDERS OF PEOPLE ON THE MOVE: A SLIPPERY SLOPE FOR FREEDOMS AND JUSTICE

The prosecution in the *Iuventa* case is exemplary of how states' failure to protect human rights defenders and their role in society leads to their criminalization and to the erosion of human rights of many others in society.

Human rights defenders' essential role has been recognized by all states in the 1998 UN Declaration on Human Rights Defenders (A/RES/53/144). The Declaration, which articulates legally binding obligations enshrined in human rights treaties, requires states to guarantee a safe and enabling environment in which they can operate without fear of reprisals. Instead, human rights defenders, including those working for the rights of people on the move, are facing increasing challenges, inextricably linked to the treatment and migration laws and policies applied to the people whose rights they defend. While some limitations to the right to defend human rights can be justified under international human rights law, these should always be provided by law, and be necessary and proportionate to the pursuit of a legitimate aim.³⁴

Amnesty International is concerned that this threshold has not been met in the *Iuventa* case not only with regard to the accused, but also with regard to the numerous journalists and lawyers whose conversations were intercepted in the course of the investigation without them being suspected of any crime, as it emerged when the prosecution file was shared with the accused's lawyers in February 2021.

5.1 INSTITUTIONALIZING SUSPICION TO FACILITATE CRIMINALIZATION AND SILENCE HUMAN RIGHTS DEFENDERS

In the report *Punishing compassion*,³⁵ Amnesty International described how the prosecution of the *Iuventa* crew is part of a major and multi-faceted plan by Italian authorities to deter rescue NGOs from their humanitarian mission and clear the central Mediterranean for the Libyan Coast Guard to intercept people and bring them back to Libya. To start with, rescue NGOs in Italy have been subjected to a sustained smear campaign since the end of 2016, when the EU and Italy decided to prioritize the drastic reduction of the number of people arriving at their territory at all costs. In Italy, the campaign against rescue NGOs was led by anti-immigration politicians, representatives of institutions, including some prosecutors, and was amplified by several journalists and commentators.³⁶ The investigation against the *Iuventa* started in this context, when private security agents employed on the STC ship *Vos Hestia* presented their allegations about suspected criminal behaviours by the *Iuventa* crew to the Italian secret services, the head of the anti-immigration party Lega Nord, who would become Minister of Interior in June 2018, and eventually to Trapani prosecutors.³⁷

In April and May 2017, suspicions against NGOs were given a veneer of legitimacy by parliamentary inquiries. Although in parliament, the head of the Italian Coast Guard and other officials clarified that NGOs were operating in coordination with the authorities, the parliamentary inquiries offered a platform to anti-immigration politicians and representatives of institutions, to undermine rescue NGOs' reputation. Crucially, the conclusions of the parliamentary inquiries called for regulating rescue NGOs' activities.³⁸

In July 2017, the government imposed an unnecessary and dangerous code of conduct on rescue NGOs. Although the code has no legal value and is not a source of legal obligations, it has been used to criminalize rescue NGOs. While many of the requirements in the code of conduct constituted unnecessary impositions on NGOs with no demonstrable rationale that they would ensure more effective rescues, other requirements could potentially place people at risk or constitute infringements of the right to freedom of association. The

³⁴ The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, UN Commission on Human Rights, 28 September 1984, <https://www.refworld.org/docid/4672bc122.html> 18 Report of the Special Rapporteur on the situation of human rights defenders, 16 January 2018, UN Doc. A/HRC/37/51 <https://undocs.org/A/HRC/37/51>

³⁵ Amnesty International, Europe: Punishing compassion: solidarity on trial in fortress Europe, 3 March 2020, Index number: EUR 01/1828/2020, <https://www.amnesty.org/en/documents/eur01/1828/2020/en/>

³⁶ Amnesty, International, Europe: Punishing compassion: solidarity on trial in fortress Europe, 3 March 2020, Index number: EUR 01/1828/2020, <https://www.amnesty.org/en/documents/eur01/1828/2020/en/>

³⁷ Amnesty International, *Italy: Losing the moral compass: innuendoes against NGOs which rescue lives in the central Mediterranean*, 28 April 2017, Index number: EUR 30/6152/2017; see also <https://www.editorialedomani.it/fatti/linchiesta-sulle-ong-sposa-la-tesi-anti-migranti-della-lega-viki7p8h>

³⁸ Amnesty, International, Europe: Punishing compassion: solidarity on trial in fortress Europe, 3 March 2020, Index number: EUR 01/1828/2020, <https://www.amnesty.org/en/documents/eur01/1828/2020/en/>

requirements to accept armed police on board and share information with investigators represented an insurmountable ethical obstacle to signing the code for some of the NGOs, as it effectively demanded them to compromise on their neutrality, independence and impartiality. The Italian government asked NGOs to sign the code of conduct by 31 July 2017, or, as the text of the code indicates, they would be considered to be operating outside the lawful framework of rescue at sea, with potential consequences for their safety at sea.³⁹

In the *Iuventa* case, the prosecutors' charges that MSF and STC crews allegedly provided false information to the IMRCC about the circumstances of the rescue operations, and specifically that the NGO crews of MSF and STC did not report the alleged presence of smugglers during the rescue operations, nor that the alleged smugglers went on board the NGO ships and that they might have been violent towards the refugees and migrants, ignores that the NGOs crews – as human rights defenders – cannot be expected to operate as police informants and that their work is based on ethical principles which they cannot be expected to breach.

The *Iuventa* was seized by Trapani prosecutors the day after the deadline for rescue NGOs to sign the code of conduct had expired. Jugend Rettet had declined to sign. Regardless of whether the seizure was a direct response by the authorities to the NGO's decision, the government had by then chosen its course and was preparing to use administrative and legislative tools to stop NGO ships. Sooner or later, all of them would be affected, whether or not they had accepted the code of conduct.⁴⁰

With the *Iuventa* impounded, it became impossible for Jugend Rettet to pursue its humanitarian project. Both the crew and the NGO had to start devoting energies and resources towards defending themselves and trying to have the ship returned to them. The investigation had effectively achieved the authorities' goal of getting rid of this rescue NGO regardless of the future outcome of the court case. The case exemplifies how criminalizing human rights defenders can effectively silence people and organizations while they are still presumed innocent and have yet to have a chance to defend themselves.

5.2 VAST RESOURCES FACILITATE THE BROADENING OF THE CRIMINALIZATION

As acknowledged even in a Ministry of Interior statement, the investigation into the *Iuventa* case was conducted with sophisticated techniques and investigative technologies.⁴¹ The investigation was exceptionally resourced and carried out by the experts of the police investigative branch (Servizio Centrale Operativo, SCO), which is part of the Central anti-crime directorate (Direzione centrale anti-crimine), with considerable powers, including to intercept communications and plant undercover agents, to combat organized crime; as well as by officials of the General command of the Italian Coast Guard. The extent of the investigation's reach, however, emerged only recently when prosecutors formally concluded their investigating activities, formalized the charges against the accused and shared their conclusions and evidence with defence lawyers.

The *Iuventa* crew defence lawyers noted that the enormous file, consisting of about 30,000 pages, had not been indexed in the customary manner to make consultation possible for the defence.⁴² The way in which the prosecutors provided the case file and evidence to the defence is placing important obstacles to their ability to launch a proper defence.

Weeks after the defence lawyers received the case file, it emerged that the file included thousands of pages of transcripts of intercepted communications regarding several journalists and lawyers who were not part of the investigation.⁴³ The transcripts included also assessments by police officials regarding the supposed importance of certain communications, regardless their being unrelated to the events that are being

³⁹ <https://www.interno.gov.it/it/notizie/codice-condotta-ong-terzo-incontro-viminale> ; https://www.repubblica.it/cronaca/2017/07/31/news/migranti_msf_non_firma_codice_ong-172058967/

⁴⁰ See <https://iuventa10.org/> ; and <https://jugendrettet.org/en/archive>

⁴¹ <http://www.interno.gov.it/it/notizie/lampedusa-sequestrata-motonave-iuventa-ong-jugend-rettet>

⁴² See the statements of one of the lawyers of the *Iuventa* crew, Alessandro Gamberini, quoted in this regard in <https://www.internazionale.it/notizie/annalisa-camilli/2021/04/09/ong-giornalisti-procura-trapani-migranti> . For the defence, it is important to obtain the translation of the essential elements of the prosecution file in the languages of the accused. The preliminary investigations judge of Trapani has agreed the translation of 650 pages of the initial police report dated 10 June 2020 in four languages

⁴³ <https://www.editorialedomani.it/fatti/inchiesta-contro-ong-intercettati-giornalisti-porsia-scavo-mannocchi-v3gui6pm>; <http://www.vita.it/it/article/2021/04/03/giornalisti-intercettati-dalla-procura-di-trapani-la-sconfitta-dello-s/158898/>

prosecuted.⁴⁴ Soon after the revelations, the chief prosecutor of Trapani clarified that the transcripts that are not relevant will be excluded from the trial.⁴⁵

However, the broad wiretapping of journalists and lawyers' communications as well as the failure to remove irrelevant transcripts before sharing the file with the defence constitutes an important breach of the right to privacy, which may render part of the evidence inadmissible in court, and may violate international and national laws that protect the right to a fair trial.⁴⁶ The Minister of Justice opened an internal investigation, ongoing at the time of writing, to establish whether there have been procedural infringements in the collation of the evidence and in the compiling of the prosecution file.

The *Iuventa* case has also become an emblematic example of how the criminalization of the legitimate activities of human rights defenders can be the gateway towards further infringements of the rights of many others.

⁴⁴ Among the many media reports about the investigation see <https://www.editorialedomani.it/fatti/inchiesta-sulle-ong-sposa-la-tesi-anti-migranti-della-lega-vikj7p8h>

⁴⁵ <https://www.internazionale.it/notizie/annalisa-camilli/2021/04/09/ong-giornalisti-procura-trapani-migranti>

⁴⁶ See Article 6, right to a fair trial, and Article 8, right to respect for private and family life, in the European Convention on Human Rights, among other relevant international standards. See also Armando Spataro, former chief prosecutor in Turin, quoted in <https://www.internazionale.it/notizie/annalisa-camilli/2021/04/09/ong-giornalisti-procura-trapani-migranti>

6. CRIMINALIZATION OF SOLIDARITY TO REMOVE WITNESSES TO STATES' FAILURE TO RESCUE AND PROTECT PEOPLE IN THE CENTRAL MEDITERRANEAN

The measures and policies that Italy and other EU member states and institutions have put in place to avoid the arrival of people to Europe has contributed to hundreds of avoidable deaths at sea and unmeasurable suffering for people intercepted and returned to Libya. So far in 2021, over 700 people have died, nearly three times as many as in the same period in 2021. Approximately 15,000 have been returned to Libya where they were at a real risk of serious human rights abuses, including arbitrary detention in inhumane conditions.⁴⁷

Conditions in Libya for refugees and migrants remain dismal. Refugees and migrants in Libya are trapped in a cycle of serious human rights violations and abuses, including prolonged arbitrary detention and other forms of unlawful deprivation of liberty, torture and other ill-treatment, unlawful killings, rape and other sexual violence, forced labour and exploitation at the hands of state and non-state actors in a climate of near-total impunity.⁴⁸

The situation in Libya continues to require that no person rescued at sea in the central Mediterranean is disembarked there. Libya cannot be considered as a "place of safety" for disembarkation purposes, as this must be a place where people are treated humanely and offered a genuine opportunity to seek asylum. Based on relevant obligations, UNHCR continues to maintain that no one should be forcibly returned to Libya under any circumstances, and that Libya does not qualify as a place of safety for disembarkation following rescue or interception at sea.⁴⁹

While fully aware of the suffering of people returned to Libya, Italian and other EU authorities have adopted policies to secure the disembarkation in Libya of people rescued at sea. In a clear attempt to circumvent the prohibition of pushbacks, they have done so by supporting the Libyan maritime authorities to gain control of the central Mediterranean and stop the crossings. Beyond providing speedboats and training, such support has materialized in carrying out the arrangements necessary to establish a Libyan SAR region.⁵⁰ This resulted in December 2017 in the notification to the International Maritime Organization (IMO) of the establishment of a Libyan SAR region, which was acknowledged by the IMO in June 2018. The declaration of a SAR region has since enabled the Libyan authorities to coordinate rescue operations within a huge area of the central Mediterranean, including operations carried out by private actors, and has allowed other maritime authorities notified of a boat in distress to transfer to Libya the responsibility to coordinate the rescue. This is of crucial importance, as the country coordinating a rescue is also responsible for instructing the rescue vessel on where to disembark the people rescued at sea, which generally means directing it to disembark them on its own territory, unless another state voluntarily offers to use one of its ports.

Italy and Malta's cooperation with the Libyan Coast Guard to ensure interceptions and returns to Libya is implemented through practices which expose people to the risk of dying at sea, such as delayed responses to distress calls and their forwarding to the ineffective and abusive Libyan Coast Guard in order to ensure people are intercepted and returned to torture in Libya.

Criminalizing NGOs through the misuse of criminal and administrative processes contributes to removing not just vital resources to save lives at sea but also witnesses to the continuing failure of states to rescue and protect people in the central Mediterranean.

⁴⁷ For regularly updated figures, see https://missingmigrants.iom.int/region/mediterranean?migrant_route%5B%5D=1376, and <https://data2.unhcr.org/en/situations/Mediterranean>

⁴⁸ Amnesty International, *Libya: 'No one will look for you': Forcibly returned from sea to abusive detention in Libya*, July 2021, <https://www.amnesty.org/en/documents/mde19/4439/2021/en/>

⁴⁹ UNHCR Position on Returns to Libya - Update II, September 2018, paras.37-42, www.refworld.org/docid/5b8d02314.html

⁵⁰ European Commission, EU Trust Fund for Africa adopts €46 million programme to support integrated migration and border management in Libya, 28 July 2017, www.ec.europa.eu/commission/presscorner/detail/en/IP_17_2187

7. CONCLUSIONS AND RECOMMENDATIONS

The *Iuventa* crew members under investigation have not allowed themselves to be intimidated. They continue to defend the rights of refugees and migrants in all the ways they can and some of them have gone back to sea, participating in rescue missions with other groups. However, there is no denying that the criminal investigation has irreparably affected their original project. Defending themselves has taken a vast amount of their time and energy. They have lived in a limbo for nearly four years, with a possible serious criminal conviction looming over their future.

In the meantime, the central Mediterranean route remains one of the world's deadliest for refugees and migrants. European states have decided to prioritize the prevention of irregular migration over the obligation to protect the human rights of refugees and migrants. This must stop. European states must deploy sufficient state assets to avoid deaths at sea, ensure disembarkations in places of safety and suspend any cooperation with Libya which could facilitate the containment of people in that country, pending a radical review of the terms of the cooperation with Libya to ensure refugees and migrants are protected from violence and abuse.⁵¹

It is essential that rescue NGOs can pursue their life-saving activities free from hindrances, interferences, and fear of reprisals. Under international human rights law and standards, Italy is obliged to ensure that human rights defenders are free to operate in a safe and enabling environment, and that shipmasters who rescue people at sea are assisted to disembark rescued people as soon as possible in a place of safety. The misuse of criminal and administrative rules to restrict NGOs' activities is unlawful and must be brought to an end.

With regard to the criminalization of rescue NGOs, Amnesty International urges Italy to:

- Close the case against the *Iuventa* and drop all charges against the human rights defenders and the NGOs involved
- Train law enforcement officials, judges and prosecutors to recognize the role played by human rights defenders and to identify situations in which administrative and criminal procedures could unduly restrict, sanction or undermine their legitimate activities
- Implement measures to ensure that the judiciary, especially in Sicily, is aware of the new Commission Guidance. Such measures should encourage members of the judiciary to consider point ii) of the Guidance, according to which “the criminalisation of NGOs or any other non-state actors that carry out search and rescue operations at sea, while complying with the relevant legal framework, amounts to a breach of international law, and therefore is not permitted by EU law” in their decision-making regarding investigations and prosecutions
- Collect data on the prosecutions and outcomes of proceedings regarding the offence of facilitation of irregular entry, transit and stay, and on the application of the humanitarian exemption, where applicable, disaggregated by type of offence and status of the accused
- Review the offence of facilitation of irregular entry by introducing an unjust financial or other material benefit as a requirement for criminalizing the facilitation of entry, transit and stay of a foreign national in an irregular status; and/or
- Support the introduction of a mandatory and broadly defined humanitarian exemption clause, to bar prosecutions against individuals and groups who act peacefully to protect the human rights and dignity of refugees and migrants
- Urgently decriminalize the irregular entry of a foreign national and ensure that any penalty for an administrative offence of irregular entry is proportionate and in line with international standards

⁵¹ Amnesty International, *Libya: 'No one will look for you': Forcibly returned from sea to abusive detention in Libya*, July 2021, <https://www.amnesty.org/en/documents/mde19/4439/2021/en/> and Amnesty International, Ecre and Human rights Watch, *Europe: Plan of Action - Twenty steps to protect people on the move along the central Mediterranean route*, June 2021, <https://www.amnesty.org/en/documents/eur01/4289/2021/en/>

- Withdraw the code of conduct imposed on rescue NGOs, which unduly restricts their ability to save lives at sea and is used to criminalize them
- Explicitly recognize the legitimacy of human rights defenders and publicly support their work, including by carrying out public awareness campaigns and acknowledging their contribution to the advancement of human rights
- Refrain from using language that stigmatizes, abuses, disparages or discriminates against human rights defenders.

With regard to the situation in the central Mediterranean and in Libya, Amnesty International urges Italy, other EU member states and EU institutions to:

- Suspend any co-operation with Libya on migration and border control, and in particular any assistance facilitating the containment of people in Libya, pending:
 - The establishment of a due diligence, monitoring and accountability mechanism to review existing programming focusing on migration and border control, and to prevent future and address past and ongoing human rights violations at EU external, including maritime, borders resulting from such collaboration;
 - The adoption of concrete and verifiable measures by Libyan authorities to protect the rights of refugees and migrants in the country, including through the closure of all migration detention centres; the release of all those arbitrarily detained due to their migration status; the disclosure of the fate or whereabouts of refugees and migrants subjected to enforced disappearances following disembarkations or transfers from DCIM detention centres; and the ratification of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the enactment of asylum laws and the formal recognition of UNHCR;
 - A commitment that anyone rescued or intercepted at sea is disembarked in a place of safety, which cannot be Libya, including by:
 - asking the LCG and GACS to limit their SAR activities to Libyan waters, except when their vessels are most quickly able to respond to a boat in distress in international waters, and to refrain from instructing any vessel to disembark rescued persons in Libya;
 - ensuring that civilian vessels, including boats operated by NGOs, are fully able to carry out their lifesaving SAR activities, without hindrance, including in Libya's SAR region;
 - working towards the definition of operating procedures for SAR operations within the Libyan SAR region, fully aligned with international law and standards, ensuring that shipmasters rescuing people in the Libyan SAR region are promptly assisted in the identification of a place of safety for disembarkation, which cannot be Libya;
- Implement Amnesty International, Ecre and Human rights Watch's Plan of Action - Twenty steps to protect people on the move along the central Mediterranean route.⁵²

⁵² Amnesty International, ECRE and Human rights Watch, Europe: *Plan of Action - Twenty steps to protect people on the move along the central Mediterranean route*, June 2021, <https://www.amnesty.org/en/documents/eur01/4289/2021/en/>

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ITALY - A SLIPPERY SLOPE FOR HUMAN RIGHTS: THE IUVENTA CASE

Since the end of 2016, Italy, along with other EU countries and with the backing of EU institutions, has created a hostile environment for human rights defenders and civil society organizations conducting rescue missions at sea, with the aim to reduce the number of people reaching Europe in search of protection or a better life.

The criminal prosecution of the crew of the *Iuventa* - the ship of German rescue NGO Jugend Rettet – is increasingly becoming a litmus test of the ability and willingness of Italian authorities to stop the misuse of criminal law to deter human rights defenders from assisting refugees and migrants at sea.

Amnesty International is calling on the Italian authorities to close the case against the *Iuventa* crew and the other NGOs; and to stop all criminalization of human rights defenders and to protect their activities, including by reviewing the definition of the crime of facilitation of irregular entry. Finally, Amnesty International urges Italy and other EU member states and institutions to ensure prompt rescue missions at sea, followed by timely disembarkation in a place of safety of rescued refugees and migrants; and to suspend any cooperation with Libya on border control until verifiable conditions are in place to ensure refugees and migrants are protected from violence and abuse.