

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# ITALY: AVOIDABLE LOSS OF LIFE AT SEA CALLS FOR SWIFT REVIEW OF SEARCH AND RESCUE PROCEDURES AND VISA POLICIES

In the space of two weeks, two major shipwrecks claimed well over 100 lives in the Mediterranean. The first, on 26 February, occurred in Italian territorial waters, off the beach of Steccato di Cutro, southern Italy, and resulted in at least 86 deaths, including 35 children, of whom 25 under the age of 12, and dozens of missing people, who disappeared at sea when they were just metres from land and safety. The 80 survivors, like other people affected by the shipwreck, are from Afghanistan, Iran, Pakistan, Palestine, Syria and Somalia. The second shipwreck, on 11 March, happened in the Libyan search and rescue (SAR) region but during a rescue operation coordinated by Italian authorities, and resulted in some 30 people missing at sea. Only 17 people, all from Bangladesh, were rescued and later disembarked in Pozzallo, Italy. Both tragedies call into question Italy's responsibilities under international law. It is worth noting that in the days immediately preceding the latest, between 9 and 10 March, Italian authorities rescued over 1200 people in multiple operations. These successful rescues show that Italian authorities have the means and ability to uphold these same obligations.

Amnesty International is concerned that both these tragic events represent the foreseeable outcome of legislation, policies and practices introduced by successive Italian governments that have undermined the integrity of the search and rescue system. This undermining has occurred at national level by prioritising security and law enforcement concerns over rescue obligations, and at international level by prioritising cooperation with Libyan authorities to contain people in that country over the need to ensure prompt rescues and to protect people from torture and other grave violations.

Amnesty International urges Italy to ensure accountability for these shipwrecks and to provide adequate assistance to survivors, including to reach the destinations where they are most likely to be able to recover and build a new life; and to make every effort to return the bodies of the victims to their families. To avoid more tragic shipwrecks, and in order to comply with treaty obligations, Amnesty International urges Italy to review legislation, policies and practices that undermine the integrity of the search and rescue system, and to ensure that the pursuit of border control objectives stops contributing to death and suffering, either at sea or in other countries with which Italy cooperates. Italy should also create safe and regular pathways for people who are seeking protection or who wish to migrate, allowing for a significant increase in the number of regular entries.

## THE 26 FEBRUARY SHIPWRECK: JUSTICE AND ADEQUATE ASSISTANCE NEEDED

At about 04.30am local time on 26 February 2023, a wooden boat carrying about 180 people shipwrecked metres away from the beach of Steccato di Cutro, in the Italian region of Calabria. According to information provided by the Italian government,<sup>1</sup> the people had departed from Çeşme, in Türkiye, on 22 February and were transferred by smugglers on the wooden boat sometime after departure when the initial boat they were on broke down at sea. At around 22:26 on 25 February, a surveillance aircraft managed by Frontex spotted the boat at around 40nm from the Italian coast, in the Italian Search and Rescue Region. Frontex communicated the sighting to the International Coordination Centre of its Operation Themis in the Guardia di Finanza base of Pratica di Mare, Italy, and copied the message to the Italian Ministry of Interior and to the Italian Maritime Rescue Coordination Centre (MRCC). In its communication, Frontex indicated that the boat was floating well and only one person could be seen on the deck of the boat, but also that the thermal cameras onboard the airplane had given a plausible indication of the presence of people below deck,<sup>2</sup> and that there were no visible lifejackets on the ship.<sup>3</sup> According to media reports,<sup>4</sup> in the early hours of 25 February the Italian MRCC had also received information about a mayday launched from a boat coming on the same route, and had subsequently sent a distress call to all ships

<sup>1</sup> Camera dei Deputati, *Informativa urgente del Governo sulla tragica vicenda del naufragio di una imbarcazione carica di migranti al largo delle coste di Steccato di Cutro*, 7 March 2023.

<sup>2</sup> Frontex, *Statement following tragic shipwreck off Crotona*, 1 March 2023.

<sup>3</sup> La Repubblica, *Naufragio Crotona, gli allarmi ignorati. Cosa è successo: così la Guardia costiera è rimasta a guardare*, 2 March 2023, and *Naufragio di Cutro, le regole tradite*, 2 March 2023.

<sup>4</sup> The distress message from the Italian MRCC was published in *La Repubblica, Crotona, strage di migranti: 23 ore prima del naufragio partito l'allarme per una barca in difficoltà*, 1 March 2023.

navigating in the area. At about 02.20am, two speedboats of the Italian Guardia di Finanza took to the sea to search for the ship, but then at 03.30am they returned to the base, alleging that they were unable to continue the search because of the rough sea conditions. Meanwhile, a wave caused the boat to capsize. As no rescuers were present at sea at that moment and in the immediate aftermath, dozens of people fell in the turbulent waters and drowned.

Shortly after the events, the tribunal of Crotona opened a criminal investigation for facilitation of irregular entry, disaster, manslaughter and other offences and four people believed to have conducted the boat were subsequently arrested. Lawyers and civil society organizations have also filed a complaint to highlight possible failures by relevant authorities – that potentially might have intervened to rescue the people in distress at sea.<sup>5</sup> Indeed, questions remain open, particularly in relation to the reasons why the authorities did not immediately react to the available information by launching a search and rescue operation and despatching coastguard ships, designed to carry out rescues in any weather conditions, but instead intervened with two customs police speedboats usually deployed in law enforcement activities and not capable to withstand rough waters.

International law imposes obligations on states in relation to search and rescue, including to ensure arrangements for the prompt coordination of rescue operations in their area of responsibility and for the rescue of persons in distress at sea near their coasts.<sup>6</sup> Under EU law, a situation of distress is determinable in relation to a number of factors, including the seaworthiness of the vessel; the number of persons on board in relation to the type and condition of the vessel; the weather and sea conditions and forecasts; and the availability and capability of safety, navigation and communication equipment.<sup>7</sup>

While the responsibility for the 26 February shipwreck in Italian territorial waters rests with Italian authorities and must be fully investigated, Amnesty International has written to Frontex to request that it also opens an investigation regarding the adequacy of information it provided further to the boat sighting, and lack of a mayday being launched to unequivocally ensure a SAR response from the relevant authorities.

Noting that the obligation to protect the right to life is codified in multiple international instruments ratified by Italy, notably in Article 6 of the International Covenant on Civil and Political Rights and in Article 2 of the European Convention on Human Rights, Amnesty International calls on all relevant authorities to spare no efforts to shed light on the dynamics of the incident and to ensure accountability for any action or omission that might have contributed to this tragedy. The victims, their relatives and those who survived the shipwreck have a right to truth, justice and reparation.

People who survived the shipwreck also have a right to be treated with dignity and to be provided with adequate assistance. According to reports, the reception conditions offered to the survivors during the first week were utterly inadequate, before they were moved to more suitable accommodation following an outcry on the media.<sup>8</sup> Survivors and relatives of victims, who wished to have the bodies repatriated to the victims' countries of origin, had also to oppose the authorities' attempts to move the victims' coffins to another location and bury some in the cemetery of Bologna, before the government agreed to work towards their repatriation.

Amnesty International calls on the Italian government to make every effort to adequately assist people who survived the shipwreck and victims' relatives. This should include aiding efforts to repatriate the bodies of those who perished, for burial in their country of origin, as well as providing adequate assistance to people who wish to seek protection in Italy. Relevant governments should also continue to cooperate to enable survivors to be reunited with relatives residing in other European countries.

## **THE 12 MARCH SHIPWRECK: THE CONSEQUENCES OF EXTERNALIZING BORDER CONTROL**

A fundamental tenet of Italy's border control policies in recent years has been the externalisation of relevant activities to other countries, and particularly to Libya, through cooperation agreements that have not conditioned assistance upon respect for human rights. Amnesty International has recorded with dismay the decision by the Italian government to renew the Memorandum of Understanding with Libya for another three years, starting from 2 February 2023, as well as the new

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<sup>5</sup> ASGI, *Naufragio Cutro: Associazioni depositano esposto collettivo in Procura*, 9 March 2023.

<sup>6</sup> See in particular: UN Convention on the Law of the Sea, Art.98; International Convention for the Safety of Life at Sea (SOLAS Convention), Chapter V, Regulations 7 and 33, as amended; International Convention on Maritime Search and Rescue (SAR Convention), Annex, Chapters 2, 3 and 4, as amended; and IMO, Res. MSC. 167(78), Guidelines on the treatment of persons rescued at sea, adopted on 20 May 2004.

<sup>7</sup> Regulation (EU) No 656/2014 of the European Parliament and the Council of 15 May 2014, Article 9.

<sup>8</sup> *Avvenire*, *Naufragio di Cutro. Dopo le denunce sui media, tutti i sopravvissuti hanno un letto*, 7 March 2023.

commitment to provide the Libyan Coast Guard and the General Administration for Coastal Security with five new or refurbished patrol boats paid for by the European Union and its Member States.<sup>9</sup> Details were defined through the negotiation of a further Memorandum of Understanding between Italy and Libya, the text of which has not been disclosed. European institutions also confirmed an intention to keep strengthening Libyan maritime authorities, with the clear goal of having as many people as possible intercepted by Libyan coastguards and disembarked in Libya,<sup>10</sup> despite overwhelming evidence that people are subsequently subject to serious violations of their human rights.

The shipwreck of 12 March, however, provided a dramatic example of the failure of Libyan authorities to conduct or coordinate rescues in the central Mediterranean. Already at 01.28 UTC on 11 March, NGO Alarm Phone reported to the Italian and Maltese MRCCs and to the Libyan Coast Guard that they had received a distress call from a boat carrying 47 people and located in international waters, about 100nm off Libya and within Libya's Search and Rescue Region.<sup>11</sup> At 10.32 UTC, NGO aircraft Seabird 2 spotted the wooden boat – stationary in high waves and with passengers waving for help – and launched a mayday to ships in the vicinity.<sup>12</sup> A merchant vessel directed to the spot and started sheltering the boat in distress from waves, but did not conduct a rescue, reportedly because of maritime conditions.<sup>13</sup> Italian authorities did not immediately react, as they deferred any decision to the Libyan Coast Guard, responsible for coordinating rescues in the Libyan SAR Region, and reportedly instructed the merchant vessel to only follow instructions from Libyan authorities. However, at 16.51 UTC the duty officer of the Libyan Coast Guard confirmed that they were not in a position to launch speedboats to rescue the people in distress or to coordinate a rescue.<sup>14</sup> Much later – about 30 hours after the initial information about the boat in distress had reached the Italian, Maltese and Libyan rescue centres –<sup>15</sup> the Italian MRCC stepped in and coordinated the rescue, instructing three other merchant vessels to proceed towards the boat in distress. In the morning of 12 March, during the approach, the boat containing 47 people capsized and everyone onboard fell in the water. Only 17 people were rescued, with the 30 other individuals missing and presumed drowned. The Italian MRCC then instructed the shipmaster of the merchant vessel carrying the survivors to proceed towards Italy for disembarkation.

Here too, serious questions arise in relation to the reasons for the delay in launching a rescue and to the decision in this case not to deploy speedboats, which are much more suitable than merchant vessels to carry out rescues in safety. Amnesty International is concerned that the insistence of Italy and the EU on a strategy designed to ensure that Libyan authorities coordinate operations at sea and to hinder the work of NGO rescue ships, so that people are disembarked in Libya rather than in Europe, is costing lives. It is clear by now – seven years after cooperation with the Libyan Coast Guard began,<sup>16</sup> even before Italy and Libya concluded a bilateral Memorandum of Understanding in 2017 –<sup>17</sup> that the persistent failure of Libyan authorities to coordinate rescues is a systemic and persisting issue that cannot be resolved simply by providing more resources.

Even when Libyan authorities engage in maritime operations to intercept people in boats in distress, this leads to them being subject to serious human rights violations. Amnesty International is extremely concerned for the fate of the women, men and children who continue to be intercepted at sea with the assistance of Italy, by Libyan personnel trained by Italian authorities and operating on patrol boats donated by Italy and the EU. In execution of the Memorandum of Understanding of 2017, well over 100 thousand foreign nationals have been intercepted at sea by Libyan coastguards and brought back to Libya, only to be systematically subjected to prolonged arbitrary detention in appalling conditions and exposed to torture and other ill-treatment, arbitrary killings, enforced disappearances, sexual violence, forced labour and exploitation.<sup>18</sup> Amnesty International documented such patterns of violations upon disembarkation also by the Public Security Agency, a

<sup>9</sup> European Commission, *Commissioner Olivér Várhelyi attends the handover ceremony of EU-financed Search and Rescue vessels to Libya*, 6 February 2023.

<sup>10</sup> European Commission, *Migration routes: Commission proposes Action Plan for Central Mediterranean to address immediate challenges*, 21 November 2022.

<sup>11</sup> Alarm Phone, *30 people die due to non-assistance by the Italian authorities*, 12 March 2023.

<sup>12</sup> *Fatal Delays: 30 Lives Lost due to European Non-Assistance*, Joint Statement by Alarm Phone, Mediterranean Saving Humans and Sea-Watch, 14 March 2023.

<sup>13</sup> Italian Coast Guard, *Guardia Costiera: tratte in salvo 17 persone in area SAR libica*, Press release, 12 March 2023.

<sup>14</sup> *Fatal Delays: 30 Lives Lost due to European Non-Assistance*, Joint Statement by Alarm Phone, Mediterranean Saving Humans and Sea-Watch, 14 March 2023.

<sup>15</sup> A timeline of events is provided in *Fatal Delays: 30 Lives Lost due to European Non-Assistance*, Joint Statement by Alarm Phone, Mediterranean Saving Humans and Sea-Watch, 14 March 2023.

<sup>16</sup> Council Decision (CFSP) 2016/993 of 20 June 2016 amending Decision (CFSP) 2015/778 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA)

<sup>17</sup> Memorandum d'intesa sulla cooperazione nel campo dello sviluppo, del contrasto all'immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere tra lo Stato della Libia e la Repubblica Italiana, 2 February 2017.

<sup>18</sup> See, inter alia, Amnesty International, *'Between life and death': Refugees and migrants trapped in Libya's cycle of abuse*, 24 September 2020; and *'No one will look for you': Forcibly returned from sea to abusive detention in Libya*, 15 July 2021.

militia headed by Emad al-Tarabulsi, who was appointed as Libya's Acting Minister of Interior under the Tripoli-based Government of National Unity (GNU) in late 2022.<sup>19</sup> Italy and the EU, which have not conditioned their cooperation with Libya on the adoption of concrete measures to ensure respect for human rights by the Libyan authorities, share responsibility for those abuses, and therefore the onus to remedy them. Amnesty International therefore calls on Italy and the EU to suspend any form of cooperation that leads to the containment of people in Libya, and to put the protection of human rights and the fight against impunity at the core of any form of cooperation.

The same principles should inform cooperation with other countries in North Africa, such as Tunisia, a country going through a deep economic crisis and that has experienced in recent weeks a significant escalation in violent attacks against Black people following a racist speech by President Saied.<sup>20</sup> According to official data quoted in media reports, 32,101 people arrived in Italy from Tunisia in 2022 and 12,083 so far in 2023. President Saied's discriminatory and hateful remarks, on 21 February, triggered an upsurge in anti-Black violence, with groups of men attacking Black people, including migrants and asylum-seekers, while police officers have recently arrested several hundred. In this context, Amnesty International calls on the Italian government to support international diplomatic efforts to counter this escalation, rather than putting further pressure on the Tunisian authorities to stop migration. More than ever, Tunisia does not represent a place of safety for the disembarkation of people rescued in the central Mediterranean, and therefore Italian authorities should refrain from facilitating disembarkations in Tunisia.

Instead, of shifting responsibility for border control policies to third countries, Italy and other EU states should focus on forms of international cooperation capable of ensuring adequate sharing of responsibility for assisting people in need. This should encompass, in particular, the setting up of a mechanism to ensure the predictable disembarkation of people rescued in the central Mediterranean – and in particular of people rescued in the search and rescue regions of countries unable to provide a place of safety for disembarkation – and their potential relocation to other countries.

## MEASURES NEEDED TO AVOID FURTHER LOSS OF LIFE

While judicial authorities should reconstruct the dynamics of the latest shipwrecks and establish relevant responsibilities, the Italian government and parliament have a responsibility to take action to prevent similar incidents from happening again. Indeed, these represent only the latest in a long list of tragedies that have led to over 20,500 people dying or disappearing at sea in the last 10 years.<sup>21</sup>

Italian authorities should ensure that the adequate surveillance of the Mediterranean is paired with the deployment of a sufficient number of rescue vessels ready and capable to intervene in case of distress situations along the routes where most people are likely to need assistance. This could be achieved, for example, through a renegotiation of the Joint Operation Themis by Frontex. Italy and other EU States should deploy adequate resources and provide clear instructions to relevant authorities to ensure that any situation that might represent a distress case is treated as such.

Italy should also withdraw measures that hinder the work of search and rescue NGOs and increase the risk of drownings. These include two measures adopted in recent months: a “distant ports” practice, that requires NGO ships carrying refugees and migrants rescued at sea to have people disembark in ports in central and northern Italy, including in the Adriatic Sea – i.e. in ports particularly distant from the position where rescues are typically carried out; and legislation introducing a number of additional requirements for NGO rescue vessels.<sup>22</sup> Further, Italian authorities should also cease any form of criminalisation and harassment of rescue NGOs, exemplified by the recent seizure of the rescue ship *Geo Barents*, operated by the NGO *Doctors Without Borders*. NGO workers and volunteers conducting rescues are human rights defenders, and their work should be celebrated as much as the work of Italian coastguards and other officials and crews carrying out rescues.

Amnesty International notes with regret that measures adopted by the Italian government in reaction to the 26 February shipwreck, in particular through the adoption of Decree-law 10 March 2023, N. 20, have failed to address these important areas. Instead, they are largely focused on increasing penalties for people smugglers, introducing specific provisions regarding situations where the smuggling of people results in deaths and serious injuries. Amnesty International

<sup>19</sup> Amnesty International, *'No one will look for you': Forcibly returned from sea to abusive detention in Libya*, 15 July 2021.

<sup>20</sup> Amnesty International, *Tunisia: President's racist speech incites a wave of violence against Black Africans*, 10 March 2023.

<sup>21</sup> IOM, *Missing Migrants Project, Central Mediterranean route*.

<sup>22</sup> Amnesty International, *Italy: Withdraw measures that hinder the work of search and rescue NGOs and increase the risk of drownings*, 1 February 2023.

acknowledges that irregular crossings through the Mediterranean Sea often involve human rights abuses by traffickers and smugglers against people using such routes, and that these abuses must be stopped and prosecuted. At the same time, the organisation notes that these abuses have been and can be prosecuted based on existing Italian criminal legislation and that an increase in penalties is unlikely to reduce smuggling activities, while it is more likely to push smugglers into adopting different tactics to avoid detection, potentially exposing people making such journeys to even more risks.

## MEASURES NEEDED TO PREVENT RISKY IRREGULAR JOURNEYS

As long as conflicts, persecutions, environmental disasters and global inequalities continue, people will continue to need and choose to move, in search of protection or a better life. And as long as options to move safely and regularly are wanting, these movements of people will happen irregularly, including by sea, often facilitated by smugglers. In consideration of this, a more promising strategy to reduce irregular and risky maritime crossings is represented by the provision of more opportunities for safe and legal pathways made available to people seeking safety or on the move for other reasons. This approach would not only ensure that more people can reach a country without having to put their lives in the hands of unscrupulous smugglers, it would also provide an opportunity for a much more manageable reception and assistance of arriving people.

Amnesty International welcomes that Italian authorities have recently acknowledged the need to operate in this direction – including to fill labour gaps in several industries.<sup>23</sup> It notes that measures to reduce formal burdens to access and stay have been introduced in Decree-law 10 March 2023, N. 20, and that the quotas for new migrant workers authorised to enter Italy were recently increased to 82,705.<sup>24</sup> However, more profound reforms to the laws governing the entry of foreign nationals appear necessary to facilitate access to a higher number of people. Amnesty International also calls on the Italian government to increase significantly the number of humanitarian and family visas for refugees and asylum-seekers.

## CONCLUSIONS AND RECOMMENDATIONS

The 26 February and 12 March shipwrecks, which led to the death of over a hundred people, represented yet another reminder of the atrocious consequences of policies prioritising border control objectives over human lives. Official investigations by judicial authorities should shed light onto the dynamic of the incidents and potential responsibilities of relevant authorities, as survivors and victims' relatives have a right to truth, justice and reparation, as well as a right to enjoy adequate assistance.

Meanwhile, Italian authorities should spare no effort to change the laws, policies and practices that make the repetition of similar incidents not only possible, but likely. Focusing on increasing penalties for smugglers will not, by itself, lead to the needed improvements. Similarly, the continued implementation of policies of externalisation and criminalisation of rescue NGOs will produce further human rights violations, while not addressing the reasons of irregular crossings.

Instead, what is needed is an increase in the capabilities of maritime authorities to patrol and ensure effective and prompt intervention in cases of distress, the introduction of a mechanism for predictable disembarkation and relocation of people rescued at sea, and a significant expansion of opportunities for refugees, asylum-seekers and migrants to travel to Italy regularly and safely.<sup>25</sup>

To this end Amnesty International makes the following recommendations to Italian authorities:

- Cooperate with other EU states to ensure that there are sufficient and adequate resources dedicated to rescuing people at sea where shipwrecks are most likely to occur
- Cooperate fully with judicial authorities to ensure accountability for any criminally relevant action or omission that might have contributed to the 26 February and 12 March shipwrecks
- Ensure that internal investigations are conducted to review the laws, policies, procedures and decisions at all levels of all the agencies involved which might have contributed to the 26 February and 12 March shipwrecks to prevent

<sup>23</sup> La Repubblica, Il governo della destra vuole accogliere mezzo milione di lavoratori immigrati in due anni. E abolire la Bossi-Fini, 2 March 2023.

<sup>24</sup> Decreto del Presidente del Consiglio dei Ministri 29 dicembre 2022, Programmazione transitoria dei flussi d'ingresso dei lavoratori non comunitari nel territorio dello Stato per l'anno 2022.

<sup>25</sup> Amnesty International, HRW and ECRE, *Europe: Plan of Action – Twenty steps to protect people on the move along the central Mediterranean route*, 16 June 2021.

further loss of life. Such reviews should be thorough and concluded promptly and their findings shared with parliament and the public

- Ensure adequate reception and support for shipwrecks' survivors and access to asylum for those wishing to seek protection in Italy, as well as assistance to those who wish to be reunited with relatives residing in other European countries
- Cooperate with victims' families and countries of origin's authorities to ensure the repatriation of victims' remains
- Withdraw the Memorandum of Understanding of 2017 with Libya, refrain from facilitating the maritime interception and disembarkation of people in Libya, and stop any forms of cooperation with Libya that result in the containment of people in the country
- Cooperate with other EU states to create a predictable disembarkation and relocation mechanism, to ensure that all people rescued at sea are disembarked promptly in a safe port
- Withdraw the "distant ports" practice and repeal Law 24 February 2023, n. 15 (conversion into law, with modifications, of Decree-Law 2 January 2023, n. 1)
- Refrain from taking any further measures that criminalise, stigmatise or hamper the work of human rights defenders assisting people at risk, including rescue NGOs and their staff
- Provide safe and regular pathways for people seeking protection, by increasing significantly resettlement, humanitarian admissions, humanitarian, family, student or other visas
- Provide safe and regular pathways for people on the move, including by expanding opportunities for labour mobility.
- Comply with relevant recommendations made to Italy by international human rights bodies, including the Office of the High Commissioner for Human Rights of the United Nations and the Commissioner for Human Rights of the Council of Europe.

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