



MSF BRIEFING NOTE: TRAPPED IN AN ENDLESS CYCLE OF VIOLENCE AND ILL TREATMENT. THE HUMAN COST OF DETERRENCE POLICIES ACROSS THE CENTRAL MEDITERRANEAN ROUTE, FEBRUARY 2022

For five years, Médecins Sans Frontières (MSF) has raised the alarm about the health and humanitarian consequences of the MoU between Italy and Libya on women, men and children forced to flee across the deadly Central Mediterranean Sea¹. While Europe insists on enforcing and normalizing deterrence and externalization policies, MSF teams on board 'Geo Barents' are alarmed by the death toll rising in the Central Mediterranean, witness first-hand the dangerous and life-threatening conduct of the Libyan coastguard at sea and the tripling of forced returns to Libya where the life and limb of thousands of men, women and children are knowingly being put at risk.

MSF calls the EU and member states to:

End compliance with systematic ill treatment and *refoulement* by abolishing the dangerous agreements between Libya and Italy. Ensure timely and dignified rescue at sea and prompt disembarkation to a place of safety.

Establish transparent, independent monitoring mechanisms and accountability when human rights violations are reported within and without designated rescue areas.

Stop investing in deadly deterrence policies that perpetuate the cycle of abuse and exacerbate human suffering. Invest instead, in humanitarian corridors, family reunification, refugee resettlement, humanitarian visas and other protection pathways including for work and study.

End criminalisation of humanitarian assistance and obstructions to civil society rescue initiatives. Increase rescue activities at the Central Mediterranean, facilitate rescue operations conducted by humanitarian organisations, eliminate stand-offs at sea and designate genuinely safe places for disembarkations.

Ensure prompt medical, psychosocial, and humanitarian assistance to all survivors following disembarkation. Ensure non-discriminatory access to dignified shelter, medical care, rehabilitation, access to information and legal assistance, contact with family members and a fair asylum procedure including relocation possibilities for all survivors following disembarkation.

THE HUMAN COST OF EU POLICIES OF EXTERNALISATION AND DETERRENCE AT THE CENTRAL MEDITERRANEAN.

EU member states continue to fund and support deterrence policies instead of investing in safe passage, humanitarian corridors and protection. This policy, sanctioned and fully supported by the European Union², has contributed to the otherwise preventable loss of human lives at sea and to immeasurable suffering. At least 18,841 people have lost their lives in the Central Mediterranean since 2014³, in what has become known as the deadliest route for people fleeing for safety. More than 1,553 human lives were lost in the Central Mediterranean in 2021, marking a significant increase in those gone dead and missing compared to 2020⁴.

In November, MSF teams recovered the bodies of 10 people including 5 children from the lower deck of a rickety wooden boat. Due to pervasive fuel emissions, the MSF rescue team had to wear breathing apparatus to enter the scene. The suspected cause of death was suffocation following extended exposure to fuel fumes, lack of oxygen and overcrowding. Many people who had been on the same boat displayed signs of psychological distress and shock. In addition to losing family members and friends, many of the survivors had to remain in proximity to the deceased for

¹ See amongst others: <https://www.reuters.com/article/europe-migrants-italy-libya-idINL5N1HB3MD> and <https://www.medicisenzafrontiere.it/news-e-storie/news/stop-accordi-italia-libia/>

² https://eeas.europa.eu/headquarters/headquarters-homepage_en/19163/EU-Libya%20relations

³ https://missingmigrants.iom.int/region/mediterranean?region_incident=All&route=3861&month=All&incident_date%5Bmin%5D=&incident_date%5Bmax%5D

⁴ https://missingmigrants.iom.int/region/mediterranean?region_incident=All&route=3861&month=All&incident_date%5Bmin%5D=&incident_date%5Bmax%5D

hours. All of the 99 people including the 34 children rescued suffered from fuel inhalation, most of them were wet and presented with signs of hypothermia. Survivors reported they had been at sea for 24 hours and that some other fellow passengers had gone missing following the departure of the boat.

From June to December 2021, MSF teams rescued 1,903 people in distress in the Central Mediterranean Sea and conducted a total of 4,351 consultations. Most of the survivors originated from Sudan (12%), Ivory Coast (10%), Eritrea (8%), Egypt (7%), Bangladesh (7%), Nigeria (7%), Mali (7%), Syria (6%), Guinea-Conakry (5%) and Ethiopia (5%). Amongst the survivors, 626 were children with 519 (27%) being unaccompanied or separated children (UASC), 41 being under 5 years of age. Main morbidities⁵ included medical consequences related to the journey such as: hypothermia, dehydration, fuel intoxication and fuel burns, minor injuries, motion sickness, upper respiratory tract and skin infections.

Medical and mental health consequences related to violence and ill treatment suffered at the countries of origin and in transit, primarily Libya, were also reported by the survivors. Throughout the same period, our team on board 'Geo

"The Libyan coastguard took us on the water and brought us to prison – a state prison. There were many girls and women in there. We were completely locked in, we could not see the outside. [...]. As it was a woman's prison, the policemen, the guards, they were always raping the girls. They said: 'If you have sex with me, I will take you out of the prison [...]. Whenever we tried to escape [...] they came and beat us with their Kalashnikovs. [See] my hands, all the scars here. I have many scars on my body. They beat us with the Kalashnikov, whether you are pregnant, you have a baby or you have a child, they beat you. They said they would close the door so we cannot see the light anymore and always be locked in". Survivor from Cameroon on board Geo Barents having escaped repetitive ill treatment in Libya (2021).

Barents' cared for 29 survivors of sexual violence (SV) that reached out to our medical and mental health team for support. Although the majority of the SV survivors were adults, our team also provided care to 8 children who had suffered sexual violence. Majority of the survivors were female but almost half of the survivors (49 %) were male. SV survivors reported being subjected to forced prostitution, kidnapping and rape in Libya, human trafficking, including forced marriage and female genital mutilation in their countries of origin. In December only, and despite difficulties related to the high number of survivors on board "Geo Barents", the team conducted 5 urgent referrals for disembarkation, 3 for recent fractures related to violence and 2 pregnancies on board, while 40 ambulatory referrals were conducted for severe skin infections, follow up on fuel burns, SGBV, chronic diseases, mental health, recent and historic injuries related to violence and SRH complications. Our team had to perform 14 de-escalation mental health sessions on board especially following the stand-off at sea, waiting for a place of safety to be designated by the responsible authorities.

FORCED RETURNS TO LIBYA PUT THE LIFE AND LIMB OF PEOPLE FLEEING TOWARDS SAFETY AT RISK.

Since 2017 the EU and Italy have been providing financial, material and technical support to the Libyan coastguard to systematically intercept and pull back thousands of persons fleeing Libya in search of safety⁶. In 2021 forced returns skyrocketed with at least 32,425 people forcibly returned to Libya, almost tripling the number recorded in 2020⁷. Prior to their escape from Libya and upon their forced return, migrants are subjected to 'unlawful killings, slavery and forced labour, torture and ill-treatment, gender- based violence, arbitrary detention, extortion, and other human rights violations and abuses by state and non-state actors'⁸. The UN Fact Finding Mission in Libya has evidenced that the extensive abuses and violations committed- with the encouragement of the State- by both State and non-State actors against migrants are suggestive of crimes against humanity⁹.

⁵ See more here: van Boetzelaeer E, Fotso A, Angelova I, et al. *BMJ Open* 2022;12:e053661. doi:10.1136/bmjopen-2021-053661

⁶ https://eeas.europa.eu/headquarters/headquarters-homepage_en/19163/EU-Libya%20relations

⁷ https://twitter.com/IOM_Libya/status/1480537771697704964?cxt=HHwWiMC46crQ9ospAAAA

⁸ <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwilpaT458f1AhWLGewKHYJfBLOQFnoECAIQAQ&url=https%3A%2F%2Fwww.ohchr.org%2FDocuments%2FIssues%2FMigration%2FOHCHR-thematic-report-SAR-protection-at-sea.pdf&usq=AOvVaw15YthCXGogalHajAvfNEw>

⁹ <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27595&LangID=E>

“[After] the second crossing, in the detention centre, there was no sanitation, so dirty everywhere. [...]. Toilets are so dirty. Salty water. Water is not clean. No food. So some men tried to break the door and run away. The [guards] started shooting everybody. Because of the shooting, two men were shot dead. [...]Others were beaten severely. Guns break their heads. [...] They beat me a lot.” Survivor on board Geo Barents recounts his experience of the violence and fatal shooting in a detention center in Libya, 2021.

During its first six rescue missions at sea, our team on board “Geo Barents” witnessed four operations conducted by the Libyan Coast Guard to intercept boats in distress and forcibly return their passengers to Libya. Our teams have systematically documented

“The people here, they don’t all want to go to Europe. They just cannot stand the torture in Libya anymore. Getting out of Libya is harder than getting in. People prefer to die than being in Libya. There are secret jails in the desert where they put people when the detention centres are full. The spirit of the people is killed in Libya. I am more scared in Libya than facing the sea. I reached a level where facing the sea was better than staying in Libya.” Survivor on board Geo Barents, 2021

harrowing stories of the violence and ill treatment including death sustained in the detention centers in Libya. These forced returns are not only in breach of the principle of *non-refoulement* but are also inconsistent with existing maritime law, which

considers a rescue terminated only when people are disembarked in a place of safety, i.e. a place where the survivors’ safety of life is no longer threatened and basic human rights can be met¹⁰. Despite calls to stop returns of migrants and refugees to Libya¹¹ and indisputable evidence¹² that Libya cannot in any way be considered a place of safety, EU member states and bodies sustain their support to this policy in breach of international obligations and the EU acquis and are actively complicit to the endangerment of human lives.

WITH EU AND ITALIAN SUPPORT, THE LIBYAN COASTGUARD ENGAGES IN SYSTEMATIC MISCONDUCT AT SEA, ENDANGERING PEOPLE IN DISTRESS INCLUDING RESCUE OPERATIONS.

Despite mounting reports of violations during operations at sea no independent, impartial or thorough investigation has been conducted so far while accountability and redress for the victims remain practically inaccessible¹³. Between June and December 2021, our team on board “Geo Barents” witnessed on several occasions the Libyan Coastguard engaging in dangerous maneuvers, misconduct at sea. In June, MSF teams on board ‘Geo Barents’ while navigating international waters were threatened and instructed to leave while being accused of operating “illegally” in the area by a Libyan Coastguard patrol vessel. MSF teams have documented multiple reports from survivors on board testifying to similar dangerous practices.

“At about 3 pm, the Maltese boat that came in front of us [...]. It was through them, that they called Libya. When Libya came to rescue us, we had lost at least five people [...] The Libyan coastguard pierced the dinghy. All the people who were on the side fell into the water and died. At least 30 people. We had at least 16 children in the dinghy, 11 died. We had four babies, three died. I tell you the truth. They [the Libyan coastguard] didn’t even try to save them. There were no lifejackets. They didn’t throw anything”. Survivor on board Geo Barents recounts a fatal incident experienced while attempting the dangerous journey at the end of February 2021.

During a ‘Geo Barents’ rescue operation in December, a Libyan Coast Guard (LCG) patrol boat approached the scene without lights and at high speed without prior communicating with the crew conducting the rescue endangering our teams but also the people in distress. As MSF ribs were carrying out the rescue, the coastguard launched its own speed boat and took engine off the rubber boat.

¹⁰ Art 1.3.2. and 3.1.9 of the Annex of SAR Convention. See also IMO, ‘ Guidelines on the Treatment of Persons Rescued at Sea’, 20 May 2004, MSF.167(78), 6.12-6.18, available at: <https://www.refworld.org/docid/432acb464.html>, UNHCR sustains that refugee status determination should take place in dry land, see UNHCR ‘ Background Note on the Protection of Asylum-Seekers and Refugees Rescued at Sea’, 18 March 2002 par.23 -24 at:

<https://www.unhcr.org/protection/globalconsult/3e5f35e94/background-note-protection-asylum-seekers-refugees-rescued-sea.html>

¹¹ <https://www.unhcr.org/news/press/2021/6/60ca1d414/iom-unhcr-condemn-return-migrants-refugees-libya.html>

¹² OHCHR Fact Finding Mission in Libya, *ibidem*, October 2021

¹³ OHCHR report, *ibidem*, May 2021

In October 2021, the “Geo Barents” team witnessed the Libyan Coast Guard chasing a severely overcrowded shaky boat in distress, engaging in zig-zag maneuvers around the vessel and cutting in front of it in full speed. The dangerous conduct came to an end, close to “Geo Barents”, that effectively proceeded with the rescue of the 95 people at risk. The survivors confirmed that during the maneuvers, the Libyan Coastguard vessel had pierced the bow of their boat, coastguard staff had thrown plastic cans and ropes towards their direction instead of lifejackets, and had extended their weapons against them.

CRIMINALISATION OF HUMANITARIAN ASSISTANCE, OBSTRUCTIONS TO CIVIL SOCIETY RESCUE INITIATIVES INCLUDING DELAYS IN DESIGNATING PORTS OF SAFETY HINDER ACCESS TO NECESSARY CARE AND PROTECTION, PROLONG HUMAN SUFFERING AND REDUCE RESCUE CAPACITIES AT SEA.

Instead of facilitating and supporting the safety and work of civil society initiatives that address states’ unwillingness to drastically scale up necessary rescue operations, EU member states continue to raise obstacles to life saving activities at the Mediterranean Sea. Overall nine new legal proceedings were launched against private entities involved in SAR activities from January to June 2021 while reported stand-offs at sea increased from 22 in 2020 to 28 until the 10th of December 2021¹⁴. Beginning of July 2021, ‘Geo Barents’ was administratively detained for 25 days by the Italian Coastal authorities. Despite deficiencies been fully addressed, and while MSF supports all legitimate controls and procedures that aim at ensuring safety at sea, it challenged the legitimacy of the detention of ‘Geo Barents’ as it goes against the explicit duty to provide assistance in situations of *force majeure* as are by definition situations of boats in distress at sea¹⁵.

According to the IMO, ‘ Guidelines on the Treatment of Persons Rescued at Sea’, governments should co-operate in providing suitable places of safety, avoid disembarkation where the lives and freedoms would be threatened and ensure that no ship is subject to undue delay, or other related difficulties after assisting persons at sea¹⁶. Aside from the fact that Libya categorically cannot be considered a place of safety, the MoUs signed between Italy, Malta¹⁷ and Libya have resulted to an endless ping pong of responsibilities amongst responsible and adjacent RCCs rendering the provisions highlighted above a dead letter.

Between June and November, survivors on board Geo Barents had to wait beyond one day for a Place of Safety (PoS) to be assigned. Despite the fact that many of the rescues took place in the Maltese Search and Rescue Region, no disembarkation took place as Maltese authorities systematically refused to designate a PoS to the survivors on board the Geo Barents. Such delays in designating PoS not only hinders prompt access to care and protection, prolongs human suffering, but also reduces rescue capacities by immobilising maritime assets at sea.

Founded in 1971, Médecins Sans Frontières (MSF) is an international medical and humanitarian organization that delivers aid to people affected by armed conflicts, epidemics, natural or man-made disasters or exclusion from healthcare. MSF has been running search and rescue (SAR) activities in the Central Mediterranean since 2015, working on eight different SAR vessels (alone or in partnership with other NGOs). Our teams have saved more than 80,000 lives. In May 2021, MSF relaunched Search and Rescue (SAR) activities in the Central Mediterranean chartering its own ship, the Geo Barents, to save lives and provide emergency medical care to the rescued people, as well as make survivors voices heard from the world’s deadliest sea border.

¹⁴ <https://fra.europa.eu/en/publication/2021/december-2021-update-ngo-ships-sar-activities>

¹⁵ <https://www.msf.org/msf-requests-revocation-geo-barents-detention>

¹⁶ According to the IMO, ‘ Guidelines on the Treatment of Persons Rescued at Sea’. See at: <https://www.refworld.org/docid/432acb464.html>

¹⁷ <https://www.gov.mt/en/Government/DOI/Press%20Releases/Pages/2020/May/28/pr201016.aspx>