**Submission to the Special Rapporteur on the human rights of migrants**

**Human rights violations at international borders: trends, prevention and accountability**

Submitted by Sea-Watch e.V.

28th of February 2022

## 1. Submitting organization

Sea-Watch e.V. is a non-profit organization that conducts civil search and rescue operations in the Central Mediterranean since 2015,[[1]](#footnote-1) documents human rights violations, and with the help of reconnaissance aircraft,[[2]](#footnote-2) reports people in distress to the responsible authorities and any nearby vessels.

## 2. Policy developments with regards to human rights violations in the Central Mediterranean Sea

Since Sea-Watch’s last submission,[[3]](#footnote-3) no illegal European policy measures have been stopped to prevent human rights violations. In fact, the EU and single Member States continue to strengthen the Libyan authorities through various programs.[[4]](#footnote-4) The aim is clear: European Member States delegate their duty to render assistance to boats in distress at sea to the Libyan authorities, despite being aware of the fact that people pulled back to Libya will be brought to detention centres and their human rights will be violated.[[5]](#footnote-5) [[6]](#footnote-6)

Since 2012 and the Hirsi judgement, the EU adjusted its strategy of managing its external borders to escape legal accountability. To avoid direct involvement, the EU and its Member States established cooperation agreements with third parties based upon soft law instruments. In the context of southern borders and in order to ”take additional action to significantly reduce migratory flows along the Central Mediterranean route”,[[7]](#footnote-7) the Libyan authorities received political and material support by Italy. Indeed, since February 2017[[8]](#footnote-8) and the signing of the Italy-Libya Memorandum of Understanding (MoU), which was automatically renewed in February 2020, Italy provided the so-called Libyan Coast Guard with logistical, technical, political and financial assistance, as well as training and the donation of assets. **On the 15th of July 2021, the Italian parliament voted and approved the resolution authorizing the government's military missions abroad, including an increase in the funding for the so-called Libyan Coast Guard from 10 to 10.5 million Euro, making a total of 32.6 million Euro since 2017**. In addition, the parliament revised the financial support given to the EUNAVFOR MED operation IRINI and the Italian military operation Mare Sicuro, further increasing the respective funding of 15 and 17 million Euro compared to 2020.[[9]](#footnote-9)

Furthermore, within the framework of the EU project ‘Support to Integrated Border and Migration Management in Libya’ last December 2021, **Italy used the helicopter carrier San Giorgio to deliver a mobile and container-based Maritime Rescue Coordination Centre (MRCC) to Tripol**i.[[10]](#footnote-10) These technologies consist of various communication and monitoring systems intended to help detect persons who try to cross the Mediterranean Sea. With the funding of the Emergency Trust Fund for Africa (EUTF), the Libyan authorities received various patrol vessels from Italy. Italy will also be responsible for training Libyan personnel to operate the MRCC. This latest development marks the renewal of the European and Italian initiative in Libya aimed at externalizing European borders and responsibilities.[[11]](#footnote-11)

Apart from the Italian authorities, in May 2020, the Maltese authorities also concluded a MoU with Libya. The aim is to set up two coordination centres in Tripoli and Valletta for supporting “operations against illegal migration”. The MoU is supposedly still in force.[[12]](#footnote-12)

With bilateral agreements, programs and the establishment of a Libyan Search-and-Rescue zone in 2018, the European Union and its Member States have established and continue to maintain a structure in which their duty to render assistance and to disembark rescued persons in a safe place is delegated to the so-called Libyan Coast Guard, in full knowledge that according to international maritime and human rights law, **Libya is not a place of safety**.

## 3. Current practices in migration prevention and resulting human rights violations in the Central Mediterranean Sea

With regard to the human rights situation for people on the move in the Central Mediterranean Sea, nothing has changed since Sea-Watch’s last submission.[[13]](#footnote-13) In fact, the situation has worsened. **Alone in 2021, 32.425 persons were intercepted by the so-called Libyan Coast Guard[[14]](#footnote-14) and pulled back to Libya in violation of international law**.

Since the report of the UN Special Rapporteur from May 2021,[[15]](#footnote-15) the European Union and European Member States continue to externalize their duty to render assistance to the so-called Libyan Coast Guard, which mostly results in either protracted and repeated delays, or even in outright neglect of the duty to render assistance by the Italian and Maltese authorities.[[16]](#footnote-16) Despite various reports documenting the violent and irresponsible behaviour of the Libyan authorities,[[17]](#footnote-17) the EU continues to support them. In June 2021, Seabird witnessed a brutal attack by the so-called Libyan Coast Guard on 50 people in distress at sea.[[18]](#footnote-18) Even a report by the EUNAVFOR MED IRINI Operation Commander speaks of the “excessive use of physical force by LCG&N against migrants”,[[19]](#footnote-19) yet IRINI assets keep cooperating with them.[[20]](#footnote-20)

The drone operated by the European Border and Coast Guard Agency Frontex since May 2021 is a major contributor to the increase in interceptions by the so-called Libyan Coast Guard. Sea-Watch observed in numerous cases how Frontex’s asset circled over distress cases and most likely facilitated interceptions subsequently carried out by the so-called Libyan Coast Guard.[[21]](#footnote-21) With the help of freedom of information requests, it was also disclosed that Frontex exchanges information with the so-called Libyan Coast Guard via WhatsApp about boats in distress.[[22]](#footnote-22)

Additionally, merchant vessels remain a key actor in the Central Mediterranean Sea - either engaging in rescue operations,[[23]](#footnote-23) omitting to render assistance[[24]](#footnote-24) or becoming complicit in human rights violations and actively cooperating with the so-called Libyan Coast Guard for people to be brought back to Libya.[[25]](#footnote-25) Instead of considering merchant vessels as capacities for additional rescue, the competent authorities rather leave commercial ships alone in dealing with distress casesj.

At the moment, NGO vessels remain the only vessels uncompromising in terms of upholding the law in the Central Mediterranean.[[26]](#footnote-26)

In 2020, states used the pandemic to refuse to engage in sea rescue operations. In April 2020, at the beginning of the Covid-19 pandemic, both Malta and Italy declared their ports unsafe for people rescued from distress at sea and closed them.[[27]](#footnote-27) The Maltese state even organized a pushback to Libya at this time.[[28]](#footnote-28) Malta deployed tourist vessels for 37 days in order to quarantine over 400 persons outside its territorial waters.[[29]](#footnote-29) **The pandemic was thus used as another restrictive measure against people on the move.**

Since the 12th of April 2020, in practice, Italian ports have been open again for NGO vessels based on a provision adopted by the Civil Protection on the use of ships during the period of ‘health monitoring’ of migrants rescued at sea for whom no Place of Safety could be identified. Since then, t**he deployment of quarantine ships has been subject to severe criticisms due to its discriminatory nature** which represents an unacceptable violation of personal freedom. From June to October 2020, at least three persons died because of the conditions they were subjected to on board such ships.[[30]](#footnote-30) In addition, the cost-benefit analysis does not support the approach, as the system has very high operating costs which could be reduced by dismissing the ships while improving existing facilities on land.[[31]](#footnote-31) Recent journalistic investigations have demonstrated once again that the situation on board quarantine vessels remains unclear and lacking transparency for migrants as well as for Red Cross personnel.[[32]](#footnote-32) **The violations perpetrated do not involve only the personal freedoms of the persons kept on board, but also their rights to be informed about migration law and asylum procedure, to have access to legal support and to be able to seek asylum.**

Moreover, the Corona measures imposed by the Italian authorities expose persons rescued from distress at sea to further restrictions. **Both the waiting times for the assignment of a Place of Safety[[33]](#footnote-33) as well as disembarkation operations are affected by the current system based on quarantine ships**. Marked delays have been caused by logistical issues such as the lack of availability of places on quarantine vessels, the triage set up to assess if the person can be embarked, or the Covid-19 testing process. These are amongst the problems currently behind the length of disembarkation processes which do not last less than 2 days and force persons on board to sleep outside on decks while a vessel is moored in port.[[34]](#footnote-34)

## 4. Accountability for human rights violations in the Central Mediterranean Sea

**Perpetrators of human rights violations are rarely held accountable.** It is noteworthy that in 2021, a shipmaster of an Italian merchant vessel was convicted to one year’s prison in Italy for disembarking people in Libya in 2018.[[35]](#footnote-35) Furthermore, following a case of an extreme violence in the Maltese Search-and-Rescue zone, criminal investigations were opened against the so-called Libyan Coast Guard in Agrigento, Italy, for attempted shipwreck.[[36]](#footnote-36) Nevertheless, other transshipments by merchant vessels to the so-called Libyan Coast Guard, as well as thoroughly documented episodes of violence by the so-called Libyan Coast Guard, remain without legal consequences. **Most importantly, the cooperation between the EU, European Member States and Libya remains, without any accountability.**

**Frontex pursues its cooperation with the so-called Libyan Coast Guard while displaying a full lack of transparency over it.** Freedom of information requests are repeatedly denied, even when the agency is asked by European parliamentarians.[[37]](#footnote-37) In 2021, the EU Ombudswoman initiated an inquiry on Frontex on her own and requested the agency to improve its accountability in her recently published recommendations.[[38]](#footnote-38)

Several jurisdictions however have played a key role in upholding the law and underlining that Libya is not a place of safety. In Italy, several investigations against NGO activists for “aiding and abetting illegal immigration” were dismissed.[[39]](#footnote-39) However, not all were let go: **21 NGO members still face criminal charges**.[[40]](#footnote-40)

Even if the state blockade and criminalization of sea rescue[[41]](#footnote-41) has decreased in the past year, people on the move themselves continue to be severely criminalized, mostly as alleged boat drivers.[[42]](#footnote-42) **Shipwrecks on the crossing from Libya to Italy are not the responsibility of those fleeing**, but of the EU and its Member States, which continue to refuse to create safe and legal escape routes to Europe.

## 5. Conclusion

The trend of the past year 2021 regarding respect for human rights on the Central Mediterranean route is clear: the number of illegal returns by the so-called Libyan Coast Guard has almost tripled. There are neither any signs on the part of state bodies towards preventing or stopping these human rights violations, nor towards holding responsible actors accountable for grave human rights violations. Frontex refuses to shed light on its activities. **The so-called Libyan Coast Guard continues to be supported and strengthened by the EU, but also through bilateral agreements with European Member States.** Furthermore, the pandemic is used to delay disembarkation of rescued persons, who are then quarantined on cruise ships.

**Alone in 2021, 1.553 people died while attempting to cross the Central Mediterranean Sea from Libya towards Europe in order to exercise their right to asylum.**

## Appendix

## Selection of distress cases sighted in 2021 with Sea-Watch’s aircraft and vessels

**A)** 30.04.: **So-called Libyan Coast Guard beating people in distress**. On 30.04.2021, at about 8 am, our crew on board the Sea-Watch 4 spotted a white rubber boat in the Libyan SRR, around 45 nautical miles (nm)[[43]](#footnote-43) from the Libyan coast. While our crew was about to launch the rescue operation, the Libyan patrol boat 658 Fezzan arrived and ordered the Sea-Watch 4 to leave the scene. Shortly afterward, the so-called Libyan Coast Guard were observed beating the people on the move with a bullwhip during a violent interception.[[44]](#footnote-44)

**B)** 14.06., between at least 120 and 270 persons:[[45]](#footnote-45) **The merchant vessel Vos Triton transshipped persons to the so-called Libyan Coast Guard in the Libyan SAR zone**.[[46]](#footnote-46) The initiative Watch the Med - Alarm Phone received a call from a boat with around 120 people on board and immediately alerted the authorities. Seabird’s crew spotted the people adrift in the Libyan SAR zone while the merchant vessel Vos Triton, flying the flag of Gibraltar, was in the direct vicinity. Several people jumped overboard and attempted to swim towards the vessel, which then started its engine. The people were eventually rescued by the Vos Triton. Seabird left the scene. Seabird’s ground crew later observed that the merchant vessel had started to head south. Seabird’s aircrew overheard a communication on the radio between the so-called Libyan Coast Guard and the oil platform Farwah mentioning that the Vos Triton would hand over the people to the so-called Libyan Coast Guard. During the late afternoon, Seabird’s crew witnessed the so-called Libyan Coast Guard boarding the merchant vessel in order to transship the people and pull them back to Libya. Due to a lack of fuel, Seabird’s crew was obliged to leave the scene. The UNHCR and IOM confirmed later that the Vos Triton had transshipped “over 270” people to the so-called Libyan Coast Guard. The people were pulled back to Libya. Throughout the entire operation, Seabird’s crew unsuccessfully reminded the Vos Triton over the radio of its obligations to ensure that the persons would be disembarked in a place of safety, which can only be in Europe.

**C)** 16.06., 86 people: **NGO vessel left alone by the authorities, attempted pushback in the Maltese SAR zone likely coordinated by the Maltese authorities**. The people in distress had called the initiative Watch the Med - Alarm Phone, which informed the authorities. Seabird’s crew spotted the people in the Maltese SAR zone, not wearing any life vests. The Maltese authorities were called by the ground crew and replied that they were busy, though would have a look at the respective emails and get back to Sea-Watch - which they never did. When called again, the Maltese authorities stated on the phone that Seabird was “an NGO aircraft, not a RCC, [they are] not in the position to give [us] such information”. The monitoring sailing vessel Nadir was on-scene, stabilised the situation and took some of the people on board. Nadir was informed that RCC Malta was coordinating the case. According to RESQSHIP, the so-called Libyan Coast Guard arrived on-scene, requesting that Nadir hand over the people, which was refused by the NGO.[[47]](#footnote-47) The so-called Libyan Coast Guard then left the scene, came back and left again. The Italian Coast Guard ultimately transshipped the people from the Nadir and disembarked them in Lampedusa, Italy.

**D)** 23.06., 24.06., respectively with each around 20 persons: **Non-assistance by several Italian merchant vessels, lack of cooperation by European authorities, Frontex involvement, resulting in interceptions and pullbacks to Libya**. On 23.06., Moonbird’s crew spotted around 20 persons in the Libyan SAR zone. The merchant vessels Asso Ventinove and Asso Venticinque, both flying the Italian flag, were respectively 2 and 7 nm away from the people. Neither of the vessels responded to any of the attempts at communication from Moonbird’s crew on the radio. The merchant vessel Almisan, flying the Italian flag, was near the oil platform Sabratha and also remained unresponsive. Later, the oil platform Bouri informed Moonbird’s crew on the radio that they were waiting for the so-called Libyan Coast Guard to instruct one vessel to undertake the rescue, likely as the “competent” authority. The Italian authorities were informed but refused to provide any information as to which vessel would assist the persons in distress. The Italian shipping company operating the merchant vessels, Augusta Offshore S.p.A, was unaware and asked for a description of the situation in written form. When the ground crew called 2 different numbers of the Libyan authorities, either nobody answered or they could not speak English. When the Italian authorities were called again in the evening, they refused to share any information as “the boat is not in the Italian area“. On the next day, 24.06., the Italian authorities still did not provide any information and said “[they] are doing [their] job”. The position of the people coincided with the position of the orbit of a Frontex operated drone on 23.06 in the morning - before Moonbird’s crew was on-scene. This leads us to conclude that Frontex at least knew about the distress case and possibly passed the information on to the so-called Libyan Coast Guard. According to information provided by the JRCC Tripoli, the people were intercepted and pulled back to Libya.

On 24.06., Moonbird’s crew again spotted around 20 persons in the Libyan SAR zone. In terms of the closest vessels able to render assistance, Moonbird’s crew tried again to reach out to the merchant vessel Almisan, flying the Italian flag, which was 8 nm away from the people but remained unresponsive. The merchant vessel Asso Trenta, also flying the Italian flag, stated that it was engaged in an operation, while the Asso Ventinove stated that it was waiting for permission from the so-called Libyan Coast Guard, likely as the “competent” authority, to engage in a rescue operation. Both of the latter vessels were 13 nm away from the people. As the people in distress were adrift, they were at a high risk of capsizing - Moonbird’s crew therefore sent out a “mayday relay”[[48]](#footnote-48). The oil platform Bouri then informed the so-called Libyan Coast Guard. The ground crew reached out to the Italian shipping company, Augusta Offshore S.p.A, as well as to  the insurance company, but both remained unresponsive. The Italian authorities were informed via email and via phone. On the phone, the officer stated that he would “pass on to the competent authorities”. According to the Libyan authorities, the people were intercepted and pulled back to Libya.

**E)** 27.06., around 80 people: **Dangerous interception and pullback coordinated by an aircraft from the Armed Forces of Malta**. Seabird’s crew overheard via radio a source providing the so-called Libyan Coast Guard with a position in the Libyan SAR zone. We believe this source to be a Maltese aircraft, since the Maltese aircraft Mission27 was circling above the distress case. When Seabird arrived on-scene, it could spot around 80 persons in distress and monitored how the so-called Libyan Coast Guard patrol boat Ubari arrived at the position of the people in distress. However it seemed that the people resisted and refused to be intercepted. One so-called Libyan Coast Guard officer jumped overboard to swim and attached a rope to the rubber boat in order to bring it alongside the patrol boat. Ultimately all of the people were intercepted and pulled back to Libya.

F) 30.06., 63 people: **Use of violence and dangerous manoeuvres by the so-called Libyan Coast Guard in the Maltese SAR zone**. Seabird’s crew overheard a communication on the radio about a position of people in distress. When Seabird arrived in the area, a so-called Libyan Coast Guard vessel was heading at full speed towards the scene. There was a fishing vessel taking a rubber boat in distress to its side. The Maltese authorities were informed on the phone and said that they were “investigating the case”, but hung up when the ground crew reminded them about the illegality of a potential pullback. Meanwhile, the so-called Libyan Coast Guard patrol boat was on-scene. Attempting to stop the boat, the so-called Libyan Coast Guard fired shots into the water, circled the people as they were trying to flee, attempted to deploy a rope to catch the boat and also attempted to ram the boat, approaching it too fast and too close.[[49]](#footnote-49) When Seabird’s crew urged them on the radio to stop their illegal and dangerous manoeuvres, the so-called Libyan Coast Guard replied that they “had to rescue as it is bad weather tomorrow”. More than an hour after arriving on-scene, the so-called Libyan Coast Guard started to head south again, without having taken the people on board. The people arrived safely and autonomously in Lampedusa, Italy.

Following this incident, the prosecutor of Agrigento opened investigations against the so-called Libyan Coast Guard for “attempted shipwreck”.

**G)** 01.07., 30 persons: **Frontex drone likely involved, attempted interception by the so-called Libyan Coast Guard in the Maltese (!) SAR zone, rescue by a civilian vessel**. The people in distress called the initiative Watch The Med - Alarm Phone, which immediately alerted the authorities. The NGO vessel Ocean Viking, the NGO aircraft Colibri 2, as well as our aircraft Seabird, were heading towards the position. Meanwhile, Seabird’s crew observed a so-called Libyan Coast Guard patrol boat also heading at full speed in the direction of the people. The so-called Libyan Coast Guard and the NGO vessel Ocean Viking were both around 10 nm away from the people when Seabird’s crew found the people in the Maltese SAR zone. The patrol boat was later overheard urging the Ocean Viking to “change course”. Around 20 minutes later, the so-called Libyan Coast Guard patrol boat was spotted heading away from the people. Seabird’s ground crew tried on two occasions to call the Maltese authorities: the first time, the officer took the information and stated that he was “only the operator” and refused to forward the ground crew to the “duty officer” since he/she was “busy” and “currently handling other cases”. The second time, the officer tried to forward the ground crew to the duty officer but “the call didn’t go through”. Around 30 minutes later, the so-called Libyan Coast Guard and the Ocean Viking were both on-scene with the people in distress. The boat in distress was firstly near the so-called Libyan Coast Guard patrol boat, and then heading towards the Ocean Viking. In the end, the people were rescued by the NGO vessel Ocean Viking and disembarked in Augusta on 09th-10th of July.

Through a monitoring of Frontex’s drone’s track, we have to assume that Frontex’s drone was involved in the attempted pullback. When the ground crew called Libyan authorities in the morning, the Libyan officers shared two positions which they had received “one hour ago”. One of these positions coincided with a position around which Frontex was orbiting and where the people may have been. Hence we have strong reasons to believe that Frontex again attempted to coordinate a pullback to Libya.

**H)** 30.07., around 20 persons, **Illegal interception and pullback by the so-called Libyan Coast Guard in the Maltese (!) SAR zone, likely coordinated by Frontex, NGO vessel in the vicinity not informed.**[[50]](#footnote-50) Seabird’s crew spotted the illegal interception of around 20 persons in the Maltese (!) SAR zone by the so-called Libyan Coast Guard, which already had around 50 persons on its deck. As well as the monitoring aircraft Seabird, the rescue vessel Sea-Watch 3 also had a visual on the interception and was the closest vessel with rescue capacity, though was never informed by any authority. The Frontex drone was on-scene with the distress case three times before the interception. We must then assume that Frontex coordinated the interception.

**i)** 01.08., around 88 persons: **Likely involvement of an asset from the EUNAVFOR MED Operation Irini in an interception, pullback to Libya by the so-called Libyan Coast Guard**. The so-called Libyan Coast Guard informed Seabird’s ground crew  
that they had received the position of a boat in distress. Later, the people in distress called the initiative Watch The Med - Alarm Phone, which informed the authorities and Sea-Watch’s Airborne operations. When the ground crew monitored the track of the EUNAVFOR MED aircraft Seagull on open sources, it appeared to have been at the scene of the people in distress shortly before Seabird. Seabird’s crew spotted the people in distress and observed that the rubber boat was deflating. The so-called Libyan Coast Guard patrol boat 648 was approaching with around 20 persons already on board. The people were intercepted and pulled back to Libya.

**J)** 27.08., 34 persons, 5 missing: **Capsized boat, merchant vessels unresponsive, illegal transshipment of rescued persons to the so-called Libyan Coast Guard by a merchant vessel, pullback to Libya**.[[51]](#footnote-51) Moonbird’s crew found a wooden boat that had capsized, with around 20 persons sitting on the hull and several persons wearing lifevests in the water. The crew immediately sent out a mayday relay on the radio.The closest merchant vessels in the vicinity, Asso Venticinque and Asso Trenta, both flying the Italian flag, as well as the oil platform Sabratha, were unresponsive. A Turkish military aircraft informed Moonbird’s crew via radio that the Maltese RCC was informed about the situation. One and a half hours after the first sighting, a so-called Libyan Coast Guard patrol boat, already with around 150 persons on its deck, was heading to the position, and ordered the merchant vessel Asso Venticinque to proceed to the people in distress. While the so-called Libyan Coast Guard were intercepting the people, under observation by Asso Venticinque, Moonbird’s crew noticed that many more people were still in the water. The Asso Venticinque changed course towards these people, but asked the so-called Libyan Coast Guard to take them on board. The Asso Venticinque then launched a RHIB in order to rescue 2 persons in the water, and confirmed that they would be disembarked in Italy. The so-called Libyan Coast Guard requested to take the people, for the purposes of family reunification. Via radio, the merchant vessel confirmed to us that the transshipment of the 2 rescued people would happen due to an alleged need for “medical assistance”. The vessel handed these people over to the so-called Libyan Coast Guard, despite reminders by Seabird’s crew about the illegality of this action. The Asso Venticinque informed via the radio that it was “in contact with the Italian MRCC”, likely regarding this whole operation. The so-called Libyan Coast Guard also declared via radio that the intercepted people had reported that 5 persons were still missing. The persons could not be found despite an extensive search by Seabird’s crew. 34 persons were pulled back to Libya by the so-called Libyan Coast Guard.

**K)** 02.10., 70 persons: **Rescue operation by a merchant vessel, inactivity of Italian and Maltese Rescue Coordination Centres**. The people in distress were spotted in the Libyan SAR zone. The merchant vessel Asso Ventinove, flying the Italian flag, was monitoring the situation, apparently since at least one hour. The vessel launched a rescue operation, since the boat in distress had started to sink. Meanwhile, the people had called the initiative Watch The Med - Alarm Phone, which alerted authorities and could match the boat with the one we monitored. The Italian MRCC was called by our ground crew and declared “I will explain to you again: the position is in Libyan SAR (zone), so you don’t have to call me“ and hung up, despite the fact that the vessel involved was flying the Italian flag. The related shipping company Augusta Offshore S.p.A was contacted via email stressing that the rescued persons needed to be brought to a safe place in Europe and that a return to Libya would constitute a violation of international law. Our ground crew informed the Italian MRCC about developments, where the MRCC refused to provide any information. The people were ultimately disembarked by an Italian Coast Guard patrol boat in Lampedusa.[[52]](#footnote-52)

**L)** 07.11., 384 persons: **Overloaded boat in distress, unresponsiveness of several merchant vessels on the radio and the Joint Rescue Coordination Centre Tripoli on the phone, so-called Libyan Coast Guard circling the people**. Seabird’s crew spotted the people in the Libyan SAR zone. The boat was a double-decker and the people were therefore in severe danger of capsizing. The merchant vessel Vos Triton, flying the flag of Gibraltar, and the oil platform Farwah were both unresponsive to Seabird’s crew on the radio. The ground crew called the Libyan authorities on 13 different numbers. Nobody answered on 8 numbers. 3 numbers did not work. For 2 numbers, the persons could not speak English, and an exchange was impossible. The Italian and Maltese authorities were informed about the Libyan unresponsiveness via email. Two hours after Seabird’s first sighting, the fishing vessel El Hancha, flying the Tunisian flag, and the merchant vessel Deep Discoverer, flying the flag of the Bahamas, were unresponsive to Seabird’s calls on the radio. One hour later, the Deep Discoverer was in the vicinity and said it could not render assistance, since the vessel was “engaged in diving operations”. The merchant vessel Maridive 601, flying the flag of Belize, was unresponsive to Seabird’s calls. The Deep Discoverer then informed Seabird’s crew that a Tunisian Navy Officer was on board and that therefore the merchant vessel would report the people in distress to the Tunisian Navy. One hour and 30 minutes later, the so-called Libyan Coast Guard were circling around the people with a patrol boat at the boundary to the Maltese SAR zone. In the evening, the people also called the initiative Watch The Med - Alarm Phone, who were able to match the case with this boat. Seabird’s crew were able to spot the people a further time in the Maltese SAR zone. Ultimately, the 384 persons arrived in Lampedusa, Italy.

**M)** 16.11., 99 persons and 10 dead bodies: **Joint rescue efforts by civil actors, 10 dead bodies recovered due to delay and lack of state intervention and rescue capacities, involvement of Frontex drone**. The people on board called the initiative Watch The Med - Alarm Phone, which then informed the authorities. Afterwards, Seabird’s crew spotted the wooden boat and informed the authorities. The civil rescue vessel Geo Barents was also in the area and sent out a mayday relay on behalf of the people in distress. The boat was listing strongly to one side and only a few people were wearing life jackets. The Geo Barents acknowledged the distress call and changed course towards the position. After having been able to take 99 persons safely on board, the crew had to recover 10 dead bodies from the lower deck of the wooden boat, who had died from suffocation. According to its track, Frontex’s drone had been orbiting the position of the boat between the sighting of Seabird and the rescue operation by Geo Barents.

**N)** 18.-20.11., 70 persons: **Non-assistance by authorities of a distress case for at least two days, Italian and Maltese RCCs uncooperative**. Seabird’s crew spotted the boat first on the 18th of November in the Libyan SAR zone and informed the authorities. The people on board the boat in distress also called the initiative Watch The Med - Alarm Phone, which also informed the authorities, updating them several times with new positions of the boat. In the meantime, the boat passed the boundary to the Maltese SAR zone. Seabird’s crew were able to spot the boat again two days later on the 20th November, whereupon the crew sent out a mayday relay. After further phone calls between the ground crew and the Italian and Maltese RCCs, the authorities were not willing to provide any information about the two day old case. The boat was later rescued by the Italian Coast Guard and disembarked in Lampedusa, Italy. Authorities had knowledge about the distress case for at least 2 days, did not send any rescue capacities and thus knowingly accepted the danger to the lives of the people on board.

1. Sea-Watch currently operates two sea rescue vessels, the Sea-Watch 3 and the Sea-Watch 4. [↑](#footnote-ref-1)
2. The aircraft Seabird and Seabird 2 are operated together with the Swiss non-profit organisation Humanitarian Pilots Initiative (HPI). [↑](#footnote-ref-2)
3. Sea-Watch submitted a report on push-back practices and their impact on the human rights of migrants in the Central Mediterranean on 29.01.2021, available at: <https://www.ohchr.org/Documents/Issues/Migration/pushback/Sea-Watch_Submission.pdf>. [↑](#footnote-ref-3)
4. See „Remote control“ report published by Alarm Phone, borderline-europe, Mediterranea, Sea-Watch: <https://www.eu-libya.info>. [↑](#footnote-ref-4)
5. See Amnesty International report „No one will look for you“: <https://www.amnesty.org/fr/wp-content/uploads/2021/07/MDE1944392021ENGLISH.pdf>. [↑](#footnote-ref-5)
6. In October 2021, the Fact-Finding Mission on Libya even declared that the violence perpetruated against migrants may amount to crimes against humanity: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27595&LangID=E>. [↑](#footnote-ref-6)
7. European Council (2017). Malta declaration by the members of the European Council on the external aspects of migration: addressing the Central Mediterranean route: <https://reliefweb.int/report/libya/malta-declaration-members-european-council-external-aspects-migration-addressing>. [↑](#footnote-ref-7)
8. In February 2017, Italy signed a Memorandum of Understanding (MoU) with the Libyan Government of National Accord on cooperation on the fight against ‘illegal immigration’ and on ‘reinforcing the security' of their borders. Even though the 2017 MoU is not legally binding and was adopted without the formal approval of the Italian parliament, the EU endorsed the MoU in the Malta Declaration, declaring to continue to "support to efforts and initiatives from individual Member States directly engaged with Libya; in this respect, the EU welcomes and is ready to support Italy in its implementation of the Memorandum of Understanding signed on 2 February 2017 by the Italian Authorities and Chairman of the Presidential Council al-Serraj". [↑](#footnote-ref-8)
9. <https://www.oxfamitalia.org/aumentano-i-fondi-italiani-alla-guardia-costiera-libica/> [↑](#footnote-ref-9)
10. <https://www.repubblica.it/esteri/2021/12/07/news/nave_italiana_libia-329232874/?fbclid=IwAR1V3mGgd_WZWfdWjSfBk2TV1Y1sIvtDDXJUmfUeA2VQJeUzUf70BR8F8f0>. [↑](#footnote-ref-10)
11. <https://digit.site36.net/2021/12/07/eu-development-aid-italy-is-gifting-more-surveillance-technology-to-the-libyan-coastguard/> [↑](#footnote-ref-11)
12. The MoU is valid for three years: <https://www.statewatch.org/media/documents/news/2020/jun/malta-libya-mou-immigration.pdf>. See Sea-Watch’s last submission for more information about the EU-Libya cooperation: <https://www.ohchr.org/Documents/Issues/Migration/pushback/Sea-Watch_Submission.pdf>. [↑](#footnote-ref-12)
13. Sea-Watch submitted a report on push-back practices and their impact on the human rights of migrants in the Central Mediterranean on 29.01.2021, available at: <https://www.ohchr.org/Documents/Issues/Migration/pushback/Sea-Watch_Submission.pdf>. [↑](#footnote-ref-13)
14. <https://twitter.com/IOM_Libya/status/1478370201385283590> [↑](#footnote-ref-14)
15. Special Rapporteur on the human rights of migrants. Report on means to address the human rights impact of pushbacks of migrants on land and at sea. A/HRC/47/30, 12/05/2021: <https://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/Pushback-practices.aspx>. [↑](#footnote-ref-15)
16. See in the appendix, case N. [↑](#footnote-ref-16)
17. Towards NGOs as well as towards people in distress. See in the appendix, cases A, E, F, and on the following link for threats against the crews of the Sea-Watch 3 and Sea-Watch 4: <https://twitter.com/seawatch_intl/status/1420001290374074371>, <https://twitter.com/seawatch_intl/status/1461436158639067148?s=20&t=ANI02-kBMXabUletNIXo-A,>. [↑](#footnote-ref-17)
18. See in the appendix, case F. Video footage available here: <https://sea-watch.org/en/libyan_coast_guard_shots_fired/>. [↑](#footnote-ref-18)
19. “Libyan Coast Guard and Navy monitoring / Four months report August - November 2021” from the EUNAVFOR MED IRINI Operation Commander: <https://s3.documentcloud.org/documents/21185907/libyan-coast-guard-and-navy-monitoring-four-months-report-august-november-2021.pdf>. [↑](#footnote-ref-19)
20. See in the appendix, case i. [↑](#footnote-ref-20)
21. See in the appendix, especially case H. “Frontex drone complicity in human rights violations”, from page 9 onwards: <https://sea-watch.org/wp-content/uploads/2021/08/Airborne_Factsheet_June-2021.pdf>; further incidents with Frontex invovelment: <https://sea-watch.org/wp-content/uploads/2021/05/Frontex-Factsheet_Airborne_Sea-Watch_May-2021.pdf>. [↑](#footnote-ref-21)
22. <https://digit.site36.net/2021/10/08/whatsapp-to-libya-how-frontex-uses-a-trick-to-circumvent-international-law/>; <https://fragdenstaat.de/anfrage/whatsapp-nachrichten-an-die-libysche-kustenwache/>. [↑](#footnote-ref-22)
23. See as an example in the appendix, case K. [↑](#footnote-ref-23)
24. See in the appendix, cases D and L. [↑](#footnote-ref-24)
25. See in the appendix, cases B and J. [↑](#footnote-ref-25)
26. See in the appendix, cases C, G and M. [↑](#footnote-ref-26)
27. <https://www.theguardian.com/world/2020/apr/08/italy-declares-own-ports-unsafe-to-stop-migrants-disembarking>; <https://timesofmalta.com/articles/view/malta-says-it-cannot-guarantee-migrant-rescues.784571>. [↑](#footnote-ref-27)
28. See Sea-Watch’s submission on push-back practices and their impact on the human rights of migrants in the Central Mediterranean on 29.01.2021, available at: <https://www.ohchr.org/Documents/Issues/Migration/pushback/Sea-Watch_Submission.pdf>; https://alarmphone.org/en/2020/04/16/twelve-deaths-and-a-secret-push-back-to-libya/. [↑](#footnote-ref-28)
29. A consitutional application was filed against the Maltese government: <https://newsbook.com.mt/en/asylum-seekers-held-in-floating-prison-sue-government-for-breach-of-rights/>. [↑](#footnote-ref-29)
30. Bilel Ben Masoud, a 22-year-old of Tunisian origin, drowned at the beginning of June after jumping from the quarantine ship Moby Zazà, anchored in front of Porto Empedocle. Abdallah Said, a minor from Somalia suffering from tuberculosis, died on 15 September 2020 at Cannizzaro Hospital in Catania after his condition worsened during confinement on the quarantine ship Azzurra, moored in the port of Augusta: <https://www.isiciliani.it/un-minorenne-somalo-muore-a-catania-nella-totale-indifferenza/#.YAXsQMVKirf>. Abou Diakite, a minor from the Ivory Coast, died in a hospital in Palermo after disembarking from the quarantine ship Allegra: <https://palermo.repubblica.it/cronaca/2020/10/20/news/morte_di_un_ragazzo-271134315/>. [↑](#footnote-ref-30)
31. Critical issues in the quarantine-ship system for migrants: analysis and requests: <https://www.borderlinesicilia.it/wp-content/uploads/2020/12/CRITICAL-ISSUES-IN-THE-QUARANTINE-SHIP-SYSTEM-FOR-MIGRANTS-ANALYSIS-AND-REQUESTS.pdf>. [↑](#footnote-ref-31)
32. Regarding the link between quarantine ships and accelerated procedures for repatriation: <https://www.micromega.net/diritti-umani-migranti/> and <https://www.micromega.net/navi-quarantena-rimpatri/>. On the conditions on board: <https://www.micromega.net/immigrazione-navi-quarantena-inchiesta/>; <https://www.micromega.net/navi-quarantena-migranti-rivolte/>; <https://www.micromega.net/navi-quarantena-migranti-psicologo/>. Regarding sexual harassment: <https://www.micromega.net/molestie-navi-quarantena/>. [↑](#footnote-ref-32)
33. Lately, the Italian authorities assigned a Place of Destination (POD) rather than a Place of Safety (POS) to NGO vessels as required by the international law and remarked upon also by the Italian Supreme Court in the Carola Rackete case issued on the 16th of January 2020. The assignment of POD shows that the Italian Rescue Coordination Centre does not consider the rescue operations as Search-and-Rescue events but as law enforcement cases linked to violations of the migration law: [https://www.a-dif.org/2022/01/26/di-zona-sar-si-puo-morire-ed-e-strage-ogni-giorno/#:~:text=Si muore anche per ipotermia,migranti in un porto sicuro%E2%80%9D](https://www.a-dif.org/2022/01/26/di-zona-sar-si-puo-morire-ed-e-strage-ogni-giorno/#:~:text=Si muore anche per ipotermia,migranti in un porto sicuro%E2%80%9D.). [↑](#footnote-ref-33)
34. For instance the disembakation of the Sea-Watch 4, Augusta 26-28 November 2021: <https://www.fanpage.it/politica/sea-watch-a-fanpage-it-ritardi-nello-sbarco-a-bordo-ancora-300-persone-al-freddo-anche-neonati/>. [↑](#footnote-ref-34)
35. <https://www.infomigrants.net/en/post/35764/ship-captain-sentenced-to-prison-for-returning-migrants-to-libya>; <https://www.asgi.it/notizie/libia-condanna-respingimento/> [↑](#footnote-ref-35)
36. <https://www.theguardian.com/global-development/2021/jul/05/italy-to-investigate-libyan-coastguard-for-attempted-shipwreck-of-migrant-boat> [↑](#footnote-ref-36)
37. <https://twitter.com/Tineke_Strik/status/1494349614216105985?s=20&t=N1_ETDYk-s_5GzAnEiIkvw> [↑](#footnote-ref-37)
38. The EU Ombudswoman conducted an inquiry and asked Frontex to improve its accountability: <https://www.ombudsman.europa.eu/fr/news-document/en/151372>. Sea-Watch provided the EU Ombudswoman with a report on the matter: <https://www.ombudsman.europa.eu/fr/doc/correspondence/en/150091>. [↑](#footnote-ref-38)
39. On December 20th, 2021, the Court of Agrigento issued a decree accepting the request made in October 2021 by the Public Prosecutor. Since no evidence has been provided to support the charges against Rackete, the Judge for Preliminary Investigation (GIP) dismissed the case, withdrawing the accusation for aggravated aiding and abetting irregular immigration (art. 12, paragraphs 1 and 3 lett. a) T.U. imm.) and refusal to obey a warship (art. 1099 cod. nav.) in relation to the facts occurring on June 26th, 2019. Further information: <https://www.sistemapenale.it/pdf_contenuti/1642369860_2021-procura-agrigento-richiesta-archiviazione-proc-sea-watch-comandante-rackete-stamp.pdf>. A few months before, the Public Prosecutor of Agrigento requested the dismissal of other two proceedings against the activities of Search-and-Rescue NGOs. At first, in September 2021, the Court closed the proceedings against the Captain of the Sea-Watch 3, Arturo Centore, accused of the alleged crime of aiding and abetting irregular immigration regarding the disembarkation on May 19th, 2019 of 47 migrants in Lampedusa rescued at sea four days earlier. Further information: <http://www.studiogamberiniassociati.it/news/sea-watch-3-archiviato-il-procedimento-nei-confronti-di-arturo-centore-per-il-salvataggio-operato-ne.html>. Then, in October 2019, the request of dismissal was filed for the case involving the Captain and Head of Mission of the ship Mare Jonio of the NGO Mediterranea Saving Humans. The court finally accepted the request in January 2022. Among the motivations, the Judge declared that the Italian legislation 'does not provide for' any Search-and-Rescue certification for vessels which carry out monitoring and rescue activities. Further information: <https://www.avvenire.it/attualita/pagine/nuova-archiviazione-per-le-navi-di-soccorso-non-servono-patenti-per-salvare-vite-la-libia-non-e-paese-sicuro>. [↑](#footnote-ref-39)
40. A summary of the ongoing proceedings is available in the following report: <https://www.amnesty.de/sites/default/files/2021-08/Amnesty-Statement-Italien-Asyl-Seenotrettung-Iuventa-Kriminalisierung-Anklage-August-2021.pdf>. [↑](#footnote-ref-40)
41. See Sea-Watch’s previous submission for further information about criminalization. [↑](#footnote-ref-41)
42. One example is detailed here: <https://www.borderlinesicilia.it/de/news-de/ein-junge-aus-dem-tschad-hinter-gittern-ist-das-gerechtigkeit/>; a thorough report on this topic by ARCI Porco Rosso, Alarm Phone, in cooperation with Borderline Sicilia and borderline-europe: <https://fromseatoprison.info>. [↑](#footnote-ref-42)
43. Nautical Miles is the unit of measurement used at sea. 1 nautical mile is equal to 1,852 kilometers. [↑](#footnote-ref-43)
44. <https://twitter.com/seawatch_intl/status/1388171810315902976> [↑](#footnote-ref-44)
45. There are discrepancies in the numbers provided. The initiative Watch The Med - Alarm Phone reported 200 persons, while our crew estimated more than 120 persons on the deck (excluding others below the deck). The IOM and UNHCR mentioned 270 persons in their press release. [↑](#footnote-ref-45)
46. Thorough summary and footage is available at: <https://sea-watch.org/en/shipping-company-vroon-complicit-in-forced-return/>; <https://www.youtube.com/watch?v=M0oWJIkRQTA&t=1270s>. [↑](#footnote-ref-46)
47. <https://twitter.com/resqship_int/status/1405132874555215879?s=20&t=6uSxDYlMykOvrXOLBFrz-Q> [↑](#footnote-ref-47)
48. A “mayday relay” is an emergency procedure which provides information about a boat in distress via maritime or aerial radio, requesting any asset in the vicinity to assist. [↑](#footnote-ref-48)
49. <https://sea-watch.org/en/libyan_coast_guard_shots_fired/> [↑](#footnote-ref-49)
50. <https://twitter.com/seawatch_intl/status/1421401857839206402?s=20&t=eUHJakntqMkRSJRDxDiC4A> [↑](#footnote-ref-50)
51. <https://twitter.com/seawatch_intl/status/1418640572391333891> [↑](#footnote-ref-51)
52. <https://twitter.com/seawatch_intl/status/1445029888310890506?s=20&t=ANI02-kBMXabUletNIXo-A> [↑](#footnote-ref-52)