



Sea-Watch.org

Airborne

Annual Report

2022

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Introduction

In 2022, 105,131¹ people arrived to Italy by sea, mainly from Tunisia and Libya. In Malta, however, the arrivals were only 444² people. In order to fully put these arrival figures into perspective, the mortality figures as well as numbers of illegal returns (pullbacks) committed by the *Tunisian* and the so-called *Libyan Coast Guard* in the central Mediterranean Sea must also always be considered.

In 2022, the so-called *Libyan Coast Guard* intercepted 24,684³ people at sea on their way to Europe, and the *Tunisian Coast Guard* 38,372,⁴ sometimes even from the Maltese Search and Rescue (SAR) zone - pulling them back to Libya and Tunisia respectively. These forced and illegal returns are enacted on behalf of the EU. The European Union and its member states work to externalize European borders, enabling these coastguard actors through funding, equipment and political legitimacy, towards their ultimate goal of preventing mi-

gration to Europe. However, neither Tunisia nor Libya are safe places for persons rescued from distress at sea. **The absence of safe and legal routes to Europe has for years resulted in thousands of people losing their lives while attempting to cross the Mediterranean. In 2022, 1,417 people drowned on the central Mediterranean route.**⁵

Our aerial monitoring flights, which are conducted together with the Swiss NGO *Humanitarian Pilots Initiative* (HPI), were unlawfully restricted by Libyan authorities for over 10 months in 2022. In March 2022, we were prohibited from entering the Libyan Flight Information Region (FIR) for the first time, with the statement that we needed prior permission to enter (PPR). Our aircraft fly in uncontrolled international airspace over international waters, where Libya has no sovereignty to require said entry permission.⁶ During the ban, we continued our flights over the

¹ UNHCR: <https://data2.unhcr.org/en/situations/mediterranean/location/5205>.

² UNHCR: <https://www.unhcr.org/mt/figures-at-a-glance>. The relatively low number of arrivals in Malta can be explained, among other things, by the active non-assistance to boats in distress on the part of the Maltese Rescue Coordination Center (RCC), whereby boats on the central Mediterranean route inevitably pass through the Maltese SAR zone and are thus under Maltese responsibility.

³ IOM: https://twitter.com/IOM_Libya/status/1610263422125461505.

⁴ FTDES: <https://ftdes.net/statistiques-migration-2022/>.

⁵ IOM, Missing Migrants Project: https://missingmigrants.iom.int/region/mediterranean?region_incident=All&route=3861&year%5B%5D=10121&month=All&incident_date%5Bmin%5D=&incident_date%5Bmax%5D=.

Maltese SAR zone. In January 2023 - after a 10 month forced pause - we then finally managed to resume our monitoring flights over the Libyan SAR zone.

Our presence and documentation activities over the Libyan SAR zone are urgently needed.

Besides the high number of illegal pullbacks undertaken by the so-called *Libyan Coast Guard*, most of the shipwrecks which occur also take place there. With our monitoring aircraft, we spot boats in distress and then inform the responsible authorities as well as ships in the vicinity. We push for rescues to be carried out and for people to reach a safe port in Europe, in compliance with international law. Furthermore, we contribute to documenting and making visible the human rights violations committed against persons on the move which take place every day in the central Mediterranean.

With our aerial operations in 2022, we had to observe again how the so-called *Libyan Coast Guard* intercepts people on the high seas, even in European areas of responsibility, and returns them to Libya in violation of international law. We also observe how the European border and coast guard agency *Frontex* enables them

to do so and serves as aerial asset for the so-called *Libyan Coast Guard*. We documented how the Maltese *Rescue Coordination Centre* (RCC) illegally instructs merchant vessels to disregard their duties to render assistance, or to bring rescued people to Egypt, even though safe European ports would have been closer.

While civilian actors are further restricted by state repression, **the isolation of the European Union and its member states is being expanded.**

From 2018 to 2021, *Frontex* more than doubled its flight time in the central Mediterranean from 1,396 to 2,869 hours. With the help of its 'Heron 1' drone, which *Frontex* has operated jointly with the *Armed Forces of Malta* since May 2021, the agency also managed to expand its presence in the Libyan SAR zone once again. In a report, *Human Rights Watch* and *Border Forensics* conclude that "[...] there is a moderate and statistically significant correlation between [*Frontex*] aerial asset flights and the number of interceptions performed by the *Libyan Coast Guard*. On days when the assets fly more hours over their area of operation, the *Libyan Coast Guard* tends to intercept more vessels."⁶

In November 2022, together with the *European Center for Constitutional and*

Human Rights (ECCHR), we filed a communication to the Office of the Prosecutor of the *International Criminal Court* (ICC).⁸ Using data collected by our monitoring aircraft, we are exposing multiple cases of how European support has enabled crimes against humanity concerning people on the move, who are systematically intercepted at sea by the so-called *Libyan Coast Guard* and returned to Libya in violation of international law. The ICC has been called upon to investigate the individual criminal liability of high-level European decision-makers inside this system. This includes politicians in Italy and Malta, officials from the Italian and Maltese coastguard bodies, as well as the deci-

sion-makers and personnel of *Frontex*, *EUNAVFOR MED* and the *European External Action Service* (EEAS). **There are persons with names who are responsible for the crimes committed in the central Mediterranean. It is long past time to hold them accountable!**

The *Independent Fact-Finding Mission on Libya* confirms in its latest final report from March 2023 that crimes against humanity are committed, amongst others, by the so-called *Libyan Coast Guard* against people on the move. The mission also declared that the support provided by the EU and its member states has aided and abetted the commission of these crimes.⁹

6 Scientific Service, German Parliament: <https://www.bundestag.de/resource/blob/905042/9c57b80506fdddaa3821d4c0a1b9bd0a/WD-2-039-22-pdf-data.pdf>.

7 Human Rights Watch, *Border Forensics*: <https://www.hrw.org/video-photos/interactive/2022/12/08/airborne-complicity-frontex-aerial-surveillance-enables-abuse>.

8 ECCHR: <https://www.ecchr.eu/en/press-release/das-abfangen-auf-see-von-gefluechteten-und-migranten-und-deren-rueckfuehrung-nach-libyen-sind-ein-verbrechen-gegen-die-menschlichkeit/>.

9 OHCHR: <https://www.ohchr.org/en/hr-bodies/hrc/libya/index>; <https://media.un.org/en/asset/k1q/k1q8qjcx9x>.

Statistics

Monitoring aircraft: *Seabird 1, Seabird 2 and Seabird 3*¹⁰

83 monitoring flights:

40 with *Seabird 1*

26 with *Seabird 2*

17 with *Seabird 3*

A total flight time of 450 hours and 14 minutes, which is equivalent to **18 days, 18 hours and 14 minutes** in the air.

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Statistics

The numbers of boats and persons in distress are based on Airborne's own sightings only - they do not represent the total number of boats and persons that were in distress in the central Mediterranean Sea in 2022.

Airborne sighted **136 boats**:

3 in the Libyan SAR zone

133 in the Maltese SAR zone¹¹

carrying around 5.356 persons in distress.

¹⁰ *Seabird 3* is a chartered aircraft exceptionally used in October 2022 only, during the maintenance of *Seabird 1* and *Seabird 2*.

¹¹ Due to an unlawful restriction of the Libyan authorities, we were not allowed to fly over the Libyan SAR zone for 10 months in 2022.

Statistics

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Statistics



1 boat with 23 persons in distress was rescued by a merchant vessel and illegally brought to Egypt, an **unsafe place**



11 boats with around 641 persons in distress were intercepted



• **3 boats with around 132 persons** in distress were intercepted by the **Tunisian Coast Guard** and **pulled back to Tunisia**¹²



• **8 boats with around 509 persons** in distress were intercepted by the so-called **Libyan Coast Guard** and **pulled back to Libya**, mainly from the Maltese SAR zone

84 boats with around 3.840 persons in distress arrived in Europe



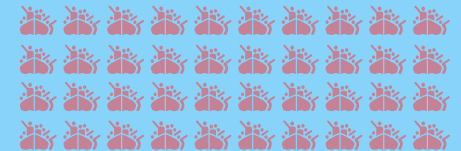
• **18 boats with 716 persons in distress** were assisted and/or rescued by 7 different **NGO vessels**



• **64 boats with around 2.995 persons in distress** were rescued by the **Italian authorities** or arrived independently to Italy¹³



• **2 boats with 129 persons in distress** were rescued by **merchant vessels**



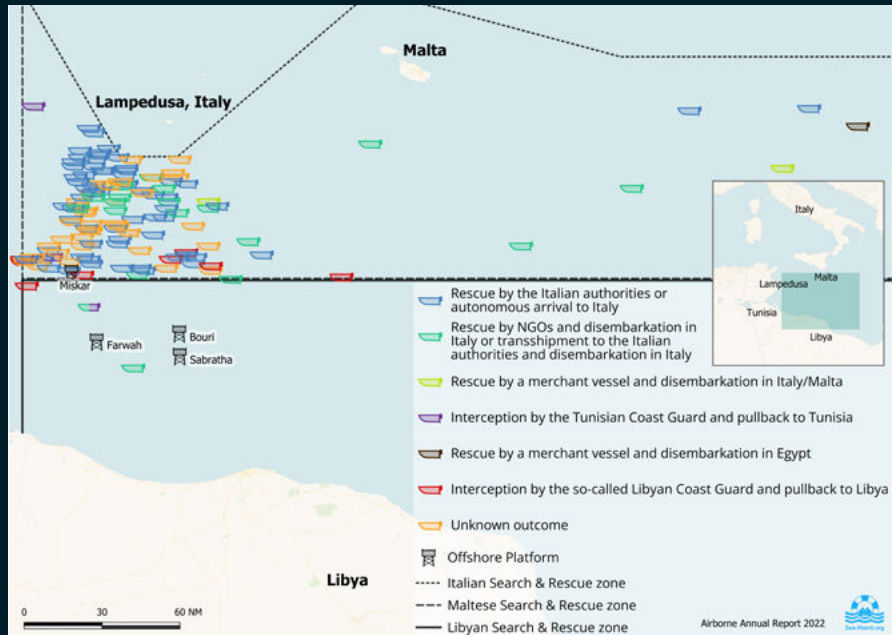
The outcomes for 40 boats with around 852 persons in distress are unknown

In 2021, 3 boats in distress sighted by *Airborne* were rescued by the Maltese authorities. **None of the boats in distress sighted in 2022 were rescued by the Maltese authorities, even though 133 out of 136 boats were spotted in the Maltese SAR zone, where the Maltese authorities were informed and should have coordinated the rescue.**¹⁴

¹² One boat was partly rescued by the NGO vessel *Louise Michel*. See the first case p.17
¹³ If our *Airborne* ground crews are able to match certain arrivals to previously spotted boats in distress, sometimes based upon information such as the type of boat or number of persons, it is not always clear how the persons disembarked in Lampedusa. In order to remain as accurate as possible, both categories are merged.

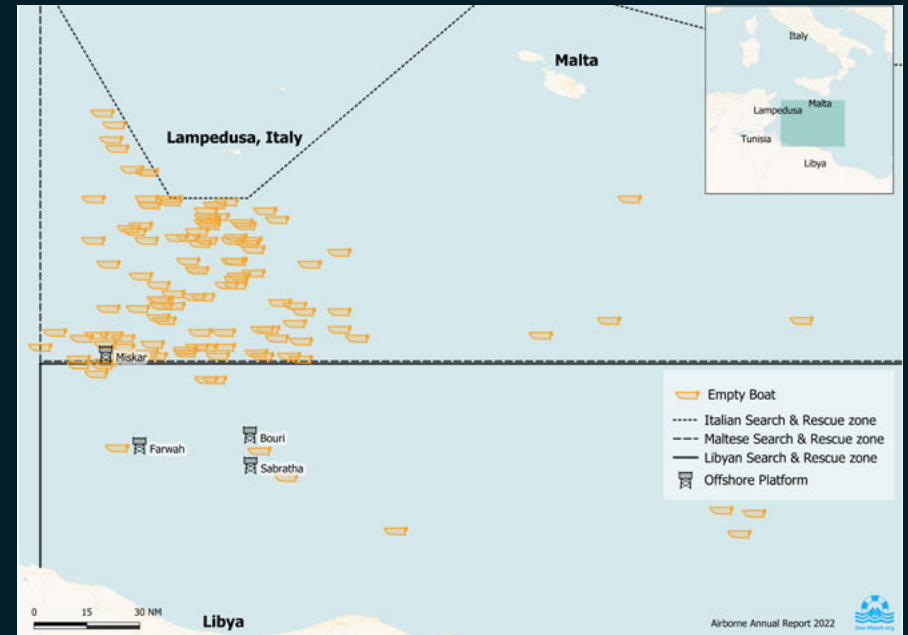
¹⁴ A *Rescue Coordination Centre* (RCC) is "a unit responsible for promoting efficient organisation of search and rescue services and for coordinating the conduct of search and rescue operations within a search and rescue region", according to the SAR Convention, 1.3.5. The Maltese RCC is therefore legally bound to coordinate rescue operations within its SAR zone.

All Boats Spotted



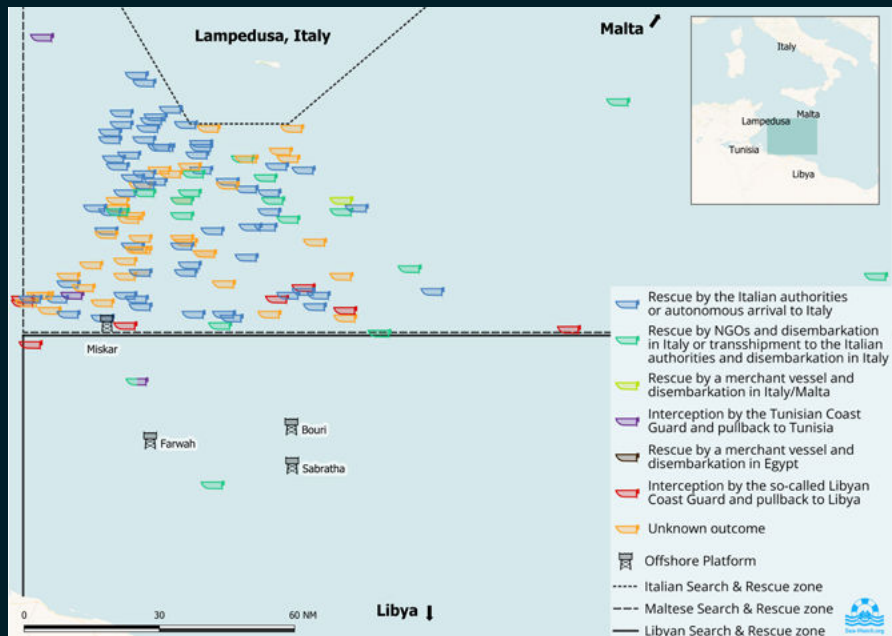
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Empty Boats Spotted



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Statistics

Airborne sighted 122 empty boats:

- 7 empty boats are the remains of rescues conducted by NGO vessels
- 21 empty boats are the remains of rescues conducted by the Italian authorities
- 5 empty boats are likely the remains of interceptions and subsequent pullbacks conducted by the so-called *Libyan Coast Guard*
- The outcomes for 89 empty boats remain unknown

Main Findings

European member states continue to withdraw from their duties and responsibilities in the central Mediterranean Sea.

- **The Maltese authorities did not conduct any rescue operations, even though 133 out of 136 boats in distress were sighted by Sea-Watch's aircraft in the Maltese SAR zone.** The Maltese authorities were immediately informed about all people in distress and hold the responsibility to coordinate safe rescue operations. Instead, Malta chose to ignore distress cases, delay rescue operations or instruct merchant vessels not to rescue.
- The aim behind this withdrawal from duty in the central Mediterranean is clear: **to open the space for systematic pullbacks by the so-called *Libyan Coast Guard* to Libya.** Although *Sea-Watch's* aircraft were operating almost exclusively in the Maltese SAR zone in 2022, the crews still had to witness violent interceptions by the so-called *Libyan Coast Guard*. At least 365 persons aboard 7 boats in distress were intercepted by the so-called *Libyan Coast Guard* from the Maltese area of responsibility for search and rescue. The so-called *Libyan Coast Guard* even threatened *Seabird 2's* crew in October 2022 within the Maltese SAR zone.
- **Frontex is a key actor for the implementation of Europe's externalisation policies.** The agency was involved in at least

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Main Findings

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23 of the cases sighted by *Airborne*, where at least 5 of these were intercepted, 4 being in international waters in the area for which Malta is responsible for coordinating safe rescue operations.

- With the withdrawal of European states and the lack of deployment of rescue assets in the central Mediterranean, together with the constant repression against NGOs including the detentions of fully equipped civil rescue vessels, **European states continuously rely on merchant vessels.** These ships are then supposed to carry out the duties states themselves fail to do. Malta in particular often orders merchant ships not to carry out rescues, but only to monitor boats in distress.¹⁵ We have documented cases in which merchant vessels have been ordered merely to hand out fuel to persons in distress,¹⁶ thus leaving people behind in an unsafe situation and violating the duty to rescue. In September 2022, 23 persons were rescued by a merchant vessel in the Maltese SAR zone and, following the order from Malta, disembarked in Egypt, in full breach of the Non-Refoulement principle.¹⁷

¹⁵ Joint Statement by Alarm Phone, Mediterranean Saving Humans, MSF and Sea-Watch: <https://sea-watch.org/en/nonrefoulement/>.

¹⁶ https://twitter.com/seawatch_intl/status/1645354661421957120?s=20.

¹⁷ The principle of non-refoulement is a fundamental principle in international human rights law. It is especially anchored in the Article 33(I) Geneva Convention, according to which contracting states shall not expel or return a person "to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion". Furthermore, according to the Article 3(I) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, No State shall "expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".

- Throughout 2022 and in comparison with 2021, trends have changed in the central Mediterranean and indeed continue to develop in 2023. **Tunisia has become an even more important state for departures attempting to cross the Mediterranean.** The *Tunisian Coast Guard* has become increasingly active, intercepting and pulling back 38,372¹⁸ persons in 2022. Still, Tunisia is not a safe place for people rescued from distress at sea. Furthermore, ever more people are tending to leave from the east of Libya. Boats departing from the east of Libya often also carry a higher number of persons, embarking on old fishing vessels. In March 2023, 30 persons drowned in that area due to the lack of deployment of state rescue assets, even though the distress situation was known to the Rescue Coordination Centres of Italy, Malta and Libya for 30 hours.¹⁹

Overall and since several years, the situation in the central Mediterranean is deteriorating. Safe and legal routes are urgently needed to end the deaths in the central Mediterranean and to ensure freedom of movement for all.

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¹⁸ FTDES: <https://ftdes.net/statistiques-migration-2022/>.

¹⁹ Joint Statement by Alarm Phone, Mediterranean Saving Humans and Sea-Watch: <https://sea-watch.org/en/non-assistance-joint-statement/>.

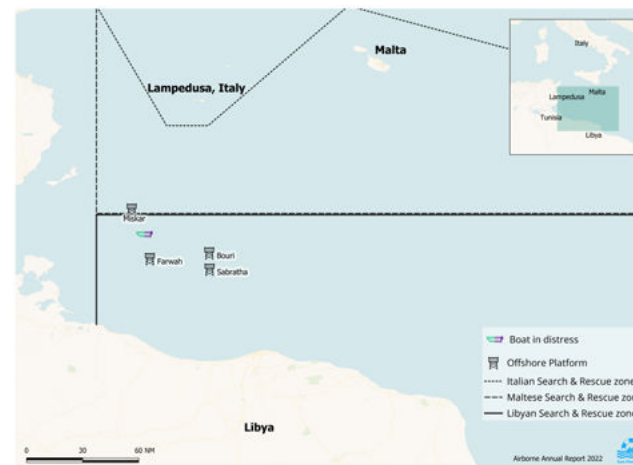
Reconstruction of Selected Boats in Distress²⁰

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²⁰ The following maps only represent the first position in which the boats in distress were sighted by Sea-Watch's aircrew.

The *Tunisian Navy* intercepts persons in distress in the Maltese SAR zone who found temporary refuge from the sea on the gas platform *Miskar*.

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On the afternoon of January 3rd 2022, *Seabird 1*'s crew spotted a double-decked wooden boat carrying around 100 persons without life vests, and informed the authorities. The aircrew tried to contact three different offshore platforms in the

vicinity in order to ask for assistance for the persons in distress - all without success. While the merchant vessel *Maridive 601* was at first also unresponsive, its company as well as the insurance company of the vessel later answered the calls. Still,

the merchant vessel did not launch a rescue operation. The civil rescue ship *Louise Michel*²¹ eventually responded to the distress call. When *Louise Michel* arrived on scene, some of the people were on the Miskar gas platform. *Louise Michel* was then able to take 31 people on board from the still drifting wooden boat. Even though the platform lies in the Maltese SAR zone, Miskar refused to communicate with the responsible Maltese authorities and ultimately allowed the *Tunisian Navy* to take the remaining people from the platform, subsequently bringing them to Tunisia on January 4th.

International maritime law requires that a rescue only ends with a disembarkation in a place of safety. Tunisia cannot be considered a safe place for people rescued from distress at sea: it does not have a national asylum system, people on the move are arbitrarily detained and certain groups, such as LGBTIQ+ persons or perceived political opponents, are criminalised and persecuted. Furthermore, there exists the risk of chain deportations from Tunisia to neighbouring countries, such as Libya.

As visible on open source platforms, on the morning of January 4th, *Frontex's* aircraft *Osprey2* was orbiting in a position which matched with this case. We must therefore assume that *Frontex* was involved in the interception conducted by the *Tunisian Navy*.

January 3rd

15:48 UTC: *Seabird 1's* aircrew sights the persons in the Libyan SAR zone in position 34°07' North, 012°00' East. The crew reports that the situation is critical, water is entering the boat and people are waving in distress. The Maltese, Italian and Libyan authorities are informed accordingly via email at 15:59 UTC.

15:56 UTC: *Seabird 1's* aircrew tries to contact the merchant vessel *Maridive 601*, which is in the vicinity but unresponsive at first. The merchant vessel *Maridive 601* is approximately 18 nautical miles (nm)²² away from the boat in distress.

16:06 UTC: *Seabird 1's* crew tries to contact the offshore platforms in the area, *Miskar*, *Bouri*, *Farwah*. All of them are unresponsive. At the time of the incident, *Miskar* was owned by *Shell* and was flying the *Tunisian* flag.

Reconstruction of Selected Boats in Distress



The double-decked wooden boat with approximately 100 persons in distress.
Photo: Felix Weiss

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16:29 + 16:32 UTC: *Seabird 1's* ground crew tries to contact the shipping company of *Maridive 601*, unsuccessfully. However, they reach the insurance company of the *Maridive 601* who advises to send the request again in writing.

16:31 UTC: The *Miskar* platform reports to *Seabird 1* that *Maridive 601* will head to the boat in distress.

16:33 UTC: *Seabird 1* has to leave the scene and heads back to base.

16:43 UTC: *Seabird 1's* ground crew calls the shipping company operating

Maridive 601, *Maridive Radio Cairo*. The shipping company is informed and will forward the situation to their *Tunisian* office, who is responsible for the operation of *Maridive 601*. The officer says he will give the number of the *Tunisian* office to the ground crew of *Seabird 1* and asks to shortly wait. Then, the call is disconnected. No one picks up when *Seabird 1's* ground crew tries to call them back 3 times.

17:01 UTC: The civil rescue vessel *Louise Michel* confirms to the authorities and to *Seabird 1* that they will head to the boat in distress. The estimated time of arrival is around 3,5 hours.

²¹ The *Louise Michel* is operated by the collective *Louise Michel*.

²² Nautical miles is the unit of measurement used at sea. 1 nautical mile is equal to 1,852 kilometres.

19:00 UTC: The platform *Miskar* contacts *Louise Michel* via VHF and informs about the distress case.

January 4th

During the night from 3rd to 4th January, during deteriorating weather conditions, *Louise Michel* embarks 31 persons from the wooden boat onto their vessel. Around 70 people are still on the platform *Miskar*. However, *Miskar* refuses to coordinate with the RCC Malta as the responsible authority for the Maltese SAR zone.²³

Around noon, *Seabird 1* is on scene again and witnesses two *Tunisian Navy* vessels alongside the platform *Miskar*. The civil monitoring aircraft *Colibri 2*

is also on scene and documents the *Tunisian Navy* embarking the persons from the platform onto their vessel.²⁴ The people were subsequently brought to Tunisia in violation of international maritime law, which requires the disembarkation of rescued persons in a place of safety.

January 5th

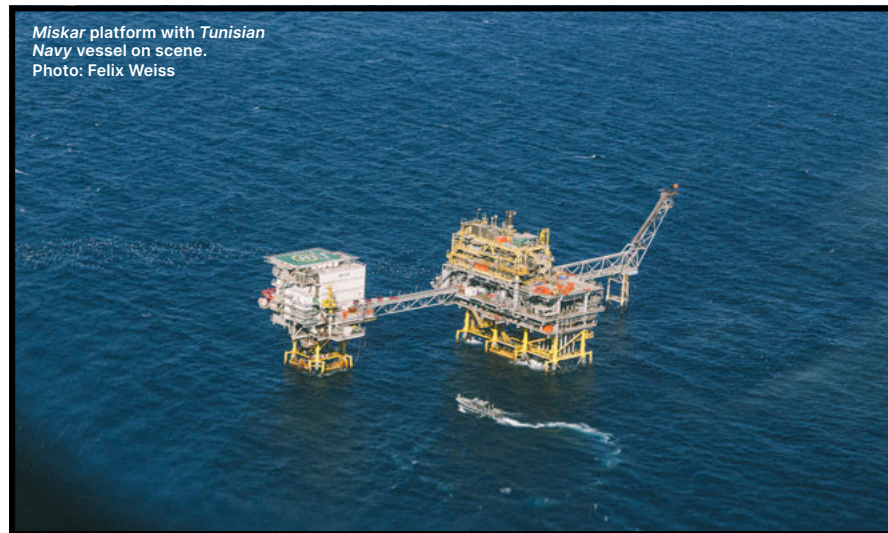
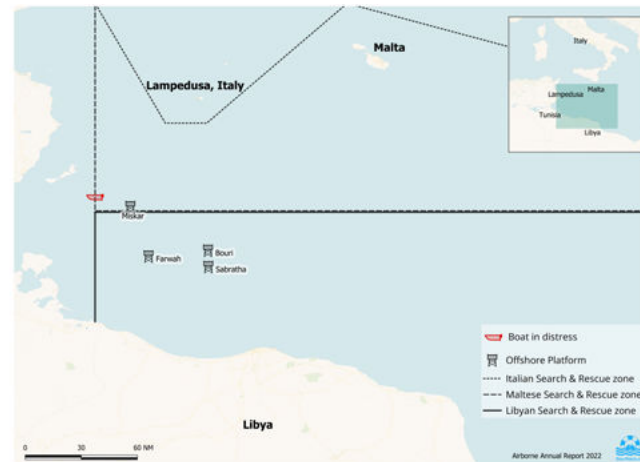
Louise Michel disembarked 31 persons in Lampedusa, Italy.

Frontex does not inform NGOs operating in the area about a distress case and likely facilitates an interception by the so-called *Libyan Coast Guard*.

Reconstruction of Selected Boats in Distress

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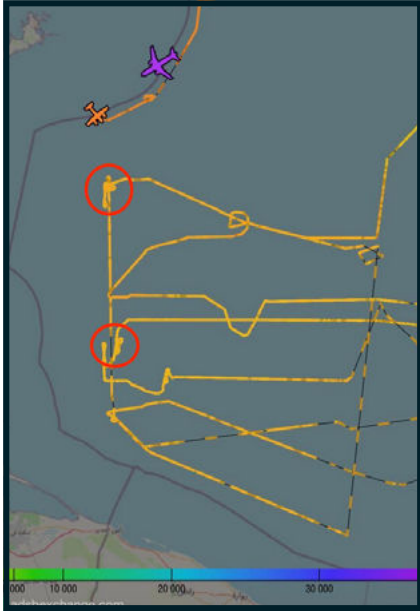
During the afternoon of June 30th 2022, exactly a year after the violent behaviour conducted by the so-called *Libyan Coast Guard* against persons in distress in the Maltese SAR area,²⁵ *Seabird's* crew sighted the so-called *Libyan Coast Guard* patrol boat *Zawiyah* pursuing a boat

in distress with around 100 persons on board in the Maltese SAR zone. *Seabird 1's* crew reminded the so-called *Libyan Coast Guard* via radio that they were in the Maltese SAR zone and therefore had no authority in the area. No one responded. The so-called *Libyan Coast Guard*

²³ <https://twitter.com/MVLouiseMichel/status/1478277514153836553?s=20>.

²⁴ The *Colibri 2* is operated by the NGO *Pilotes Volontaires*: <https://fb.watch/bFTXGHucSk/>.

²⁵ <https://sea-watch.org/wp-content/uploads/2022/05/Airborne-Annual-Report-2021.pdf>, pp.18-19.



The yellow line is the flight track of the Frontex drone, the orange is the flight track of Seabird 2. The red circles indicate where Frontex has circled over the distress case. Source: adsbexchange.com.

deployed a RHIB,²⁶ that they however did not use to intercept the persons. Instead, they drove the vessel around in circles at high speed, close to the boat in distress. Even after the interception, the RHIB kept driving in circles. *Seabird 1*'s crew then observed the so-called *Libyan Coast Guard* inspecting the empty wooden boat and burning it. The people were pulled back to Libya.

This boat in distress matches with previous orbits from a *Frontex* drone in the Libyan SAR zone, in the early morning and at noon. **It is therefore likely that Frontex again coordinated a pullback to Libya.** On that day, the NGO vessel *Ocean Viking*²⁷ as

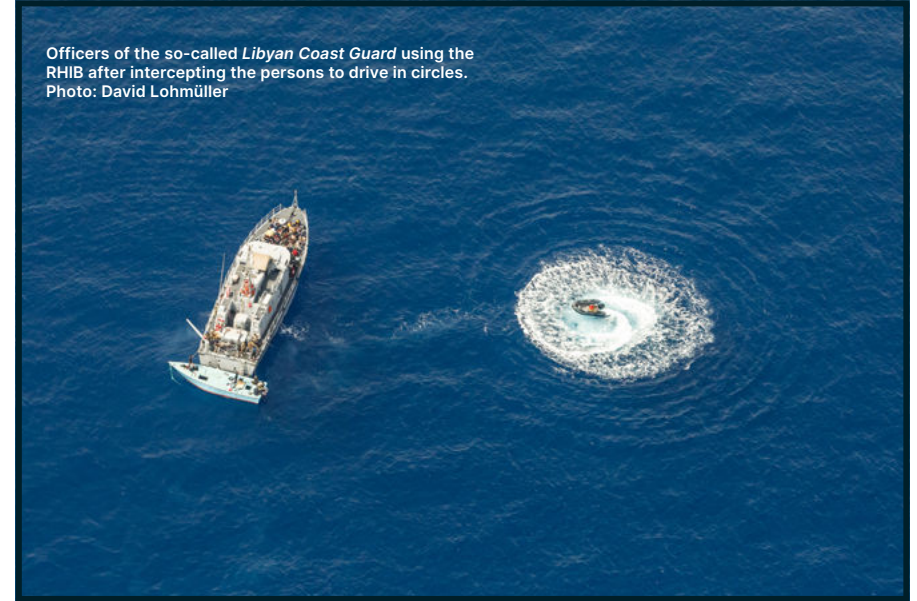
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So-called *Libyan Coast Guard* pursuing a boat with around 100 persons in distress. Photo: David Lohmüller

²⁶ A rigid inflatable boat is a fast, lightweight and stable boat usually used by the military for operations at sea.
²⁷ The *Ocean Viking* is operated by the NGO SOS MEDITERRANEE.

Reconstruction of Selected Boats in Distress



Officers of the so-called *Libyan Coast Guard* using the RHIB after intercepting the persons to drive in circles. Photo: David Lohmüller

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well as merchant vessels were also operating in the area. We have to assume that no one was informed about the existence of the persons in distress.

~05:19 UTC + ~10:45 UTC: *Seabird 1*'s ground crew notices orbits of *Frontex*'s *Heron* drone AS2132 in the Libyan SAR zone, first in position 33°45' North, 011°35' East, then in position 34°16' North, 011°33' East. The orbits may be proof of the existence of a boat in distress.

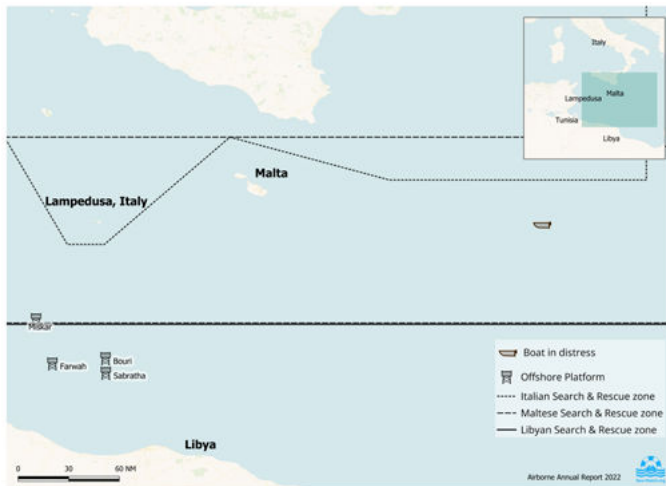
13:45 UTC: *Seabird 1*'s crew sights around 100 persons in distress in the Maltese SAR area, in position 34°29'

North, 011°30' East. The so-called *Libyan Coast Guard* patrol boat *Zawiyah* is already witnessed heading towards the boat.

14:02 to 14:17 UTC: The interception is almost finished.²⁸

²⁸ https://twitter.com/seawatch_intl/status/1545045292235444225?s=20.

Malta does not assist a boat in distress over several days and instructs a merchant vessel to disembark persons in Egypt rather than in a European safe port.²⁹



On September 22nd, the NGO vessel *Geo Barents*³⁰ informed the relevant authorities about a boat in distress in the Maltese SAR zone. The Initiative *Watch The Med – Alarm*

Phone had been in contact with the persons in distress and received updated positions which they forwarded to the authorities accordingly.

²⁹ Joint Statement by *Alarm Phone*, *Mediterranea Saving Humans* and *Sea-Watch*: <https://sea-watch.org/en/nonrefoulement/>.

³⁰ The *Geo Barents* is operated by the organisation *Médecins Sans Frontières*.

Seabird 2 was able to find the persons in distress during the early morning of September 23rd. When the ground crew of *Seabird 2* called the RCC Malta, they confirmed that they would coordinate the case, without being willing to share any further information. On the evening of September 23rd, the merchant vessel *Hafnia Tagus* confirmed to the *Alarm Phone* that the persons in distress had been rescued but that it was not allowed to share any further information.

Only on the morning of September 26th, the NGO vessel *Geo Barents* finally received the confirmation that the merchant vessel *Shimanami Queen* had rescued the 23 persons, with *Geo Barents* being referred to the JRCC Cairo. When the ground crew of *Seabird 2* reached JRCC Cairo, they confirmed that Malta had coordinated the sending of *Shimanami Queen* to Egypt.

The Maltese RCC violated international maritime and human rights law by deciding not to deploy rescue assets, and instead instructing a merchant vessel to disembark the rescued persons in Egypt in breach of the non-refoulement principle.

September 22nd

14:24 UTC: The NGO vessel *Geo Barents* sends an email to RCC Malta and MRCC Rome, informing about the distress case.

14:43 UTC: *Alarm Phone* talks to the people in distress and receives a GPS position.

20:53 UTC: *Alarm Phone* sends an email to MRCC Rome and RCC Malta, sharing the position of the distress case again and also highlighting that there are five merchant vessels in the area and that the weather is getting worse.

21:14 to 21:37 UTC: *Alarm Phone* calls RCC Malta at least six times to ask for information about the boat in distress, unsuccessfully. *Alarm Phone* calls MRCC Rome, where the duty officer does not want to share information and hangs up.

September 23rd

00:57 UTC + 03:26 UTC: *Alarm Phone* receives an updated GPS position, the NGO vessel *Geo Barents* requests an update from RCC Malta via email.



05:57 UTC: *Seabird 2*'s ground crew calls RCC Malta: the officer confirms that they are aware of the boat in distress, and that "there is an ongoing search for them."³¹

07:01 UTC: The *Geo Barents* sends an email to RCC Malta and MRCC Rome in order to declare the search operation over due to the bad weather. The vessel is at that time 150 nm away from the last known position of the boat in distress and receives no answer from any of the other vessels in the vicinity of that position.

07:09 UTC: *Seabird 2*'s ground crew calls RCC Malta again. The officer on duty confirms Malta is coordinating the

rescue: "Right now I am not allowed to say anything but the only thing I can tell is that yes, we are coordinating the case, we are working on it". The duty officer knows that the weather is deteriorating.

07:29 UTC: *Seabird 2* spots the boat in distress in the Maltese SAR zone in position 35°29' North, 017°47' East. The merchant vessels *Gaz Serenity* and *Hafnia Tagus* are on scene.

07:41 UTC: The merchant vessel *Hafnia Tagus* confirms to *Seabird 2*'s aircrew that RCC Malta coordinates the case and that they "have been told by RCC Malta to monitor the boat." Furthermore, *Hafnia Tagus* declares that "RCC

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Reconstruction of Selected Boats in Distress

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Malta "will be sending another vessel to rescue this boat. [...] Meanwhile, we have to stay in position and keep a lookout for this boat and watch the boat."

08:20 UTC: *Seabird 2*'s ground crew calls RCC Malta, which confirms "we do receive your emails". On the question of whether a rescue will be launched, the officer replies "I cannot provide this information to you, I provide this information to competent RCC, you are an NGO, I cannot provide you that information", "Yes, we are coordinating the case, we are in contact with the merchant vessels, I can confirm, we know very well the weather situation". When the ground crew asked a last time for the estimated time of arrival of a rescue vessel, the duty officer hung up.

09:28 UTC: *Hafnia Tagus* states to *Seabird 2* "Kindly note that I have been instructed by RCC Malta not to take instructions from you, please contact RCC Malta for further communication."

10:08 UTC: *Seabird 2* spots the merchant vessels *Gaz Serenity*, *Chinagas Legend* and *Hafnia Tagus*, sheltering the boat in distress. The Merchant vessel *Shimanami Queen* alters course towards the distress position.

15:20 UTC: *Seabird 2*'s ground crew calls RCC Malta: the officer on the phone refuses again to share information: "Please understand that you are calling the rescue coordination centre, you are an NGO organisation I cannot share this information with NGOs, I can only share my intentions with my chief, the competent RCC, which you are not".

~ **17:54 to 18:02 UTC:** The merchant vessels *Hafnia Tagus*, *Gaz Serenity* and *Shimanami Queen* leave the scene of the distress case.

18:35 UTC: An officer from the merchant vessel *Hafnia Tagus* confirms to the *Alarm Phone* that the people were rescued by another vessel and that he was not allowed to share more info, referring to RCC Malta for more details.

September 24th

10:45 UTC, 17:52 UTC + 18:35 UTC: The NGO vessel *Geo Barents* tries to reach out to possible vessels and responsible shipping companies involved in the case. Malta has ordered vessels to resume their course.

September 25th

09:32 UTC: The merchant vessel

³¹ Recordings are available at: <https://sea-watch.org/en/nonrefoulement/>.

Chemroad Dita confirms to *Geo Barents* that RCC Malta asked them if they had fuel for the boat in distress, but that *Hafnia Tagus* was already on scene and therefore, RCC Malta released them.

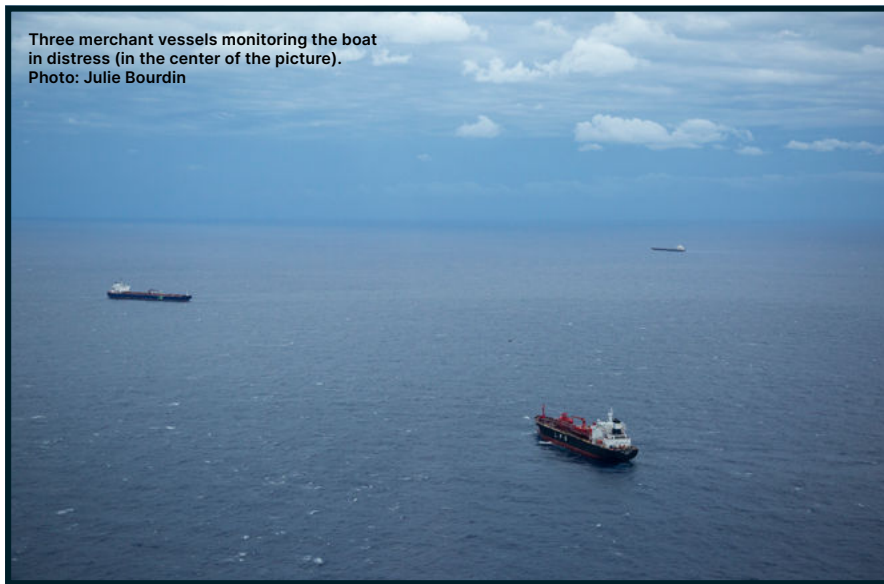
September 26th

07:15 UTC + 08:08 UTC: The NGO vessel *Geo Barents* receives confirmation from *Misuga Kaiun*, the ship manager of the *Shimanami Queen*, that the 23 people were rescued by the merchant vessel *Shimanami Queen* and is asked to contact JRCC Cairo.

10:08 UTC: *Seabird 2's* ground crew calls JRCC Cairo, which confirms that

the 23 persons rescued by *Shimanami Queen* are supposed to disembark in Port Said, Egypt: “we are aware of the case, right now we are waiting for the ship to approach Port Said, to send a Navy ship to take the people back to Egypt”. The officer of JRCC Cairo also states: “I don’t know why RCC Malta did not take the people”. JRCC Cairo confirms to *Sea-Watch* that Malta coordinated the sending of the merchant vessel *Shimanami Queen* to Egypt: “Malta took the decision.”

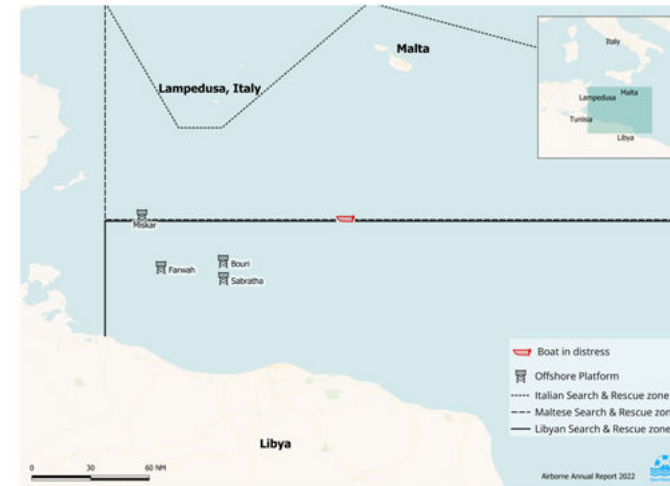
17:17 UTC + 18:38 UTC: *Seabird 2's* ground crew calls RCC Malta twice. Both times they say they are busy and that the ground crew should send an email.



Three merchant vessels monitoring the boat in distress (in the center of the picture).
Photo: Julie Bourdin

The so-called *Libyan Coast Guard* threatens *Seabird* with shooting during the monitoring of an illegal interception in the Maltese SAR zone.

Reconstruction of Selected Boats in Distress



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On 25th of October 2022, the monitoring aircraft *Seabird 3* sighted a rubber boat carrying approximately 70 people in distress. The boat's position matched positions previously repeatedly provided by *Alarm Phone* to the relevant RCCs.

Less than one hour later, the patrol boat *Fezzan* of the so-called *Libyan Coast Guard* arrived at the scene and conducted an illegal interception of the people within the Maltese area of responsibility. After the embarkation, the crew of *Fezzan* told

the still present crew of *Seabird 3* to "get out of Libyan territorial". When the so-called *Libyan Coast Guard* was reminded that they were in a European SAR area in international waters and not in Libyan territorial waters, the so-called *Libyan Coast Guard* replied: "**Leave territorial otherwise we'll shoot you. [...] Get away from Libyan territorial otherwise we'll shoot you by SAM missiles.**"³²

Seabird 3 was flying within international airspace, above the Maltese SAR zone. The incident occurred more than 80 nautical miles north of Libyan territorial waters, an area in which the so-called *Libyan Coast*

Guard has no jurisdiction over the airspace. Furthermore, within the Maltese SAR zone, Malta is responsible for coordinating distress cases and ensuring that people in distress are rescued and disembarked in a safe port.

00:20 UTC, 06:38 UTC + 09:45 UTC: *Alarm Phone* was informed about a boat in distress in the Libyan SAR zone and forwarded the information to the authorities, updating accordingly.

10:59 UTC: The ground crew of *Seabird 3* reaches JRCC Libya. JRCC Libya confirms that they have sent a patrol boat around "1 hour ago" to the position of a boat in distress.

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Reconstruction of Selected Boats in Distress

In the meantime, *Alarm Phone* receives new positions and shares them with the authorities and our aircraft.

13:05 UTC: *Seabird 3* spots the boat in distress in position 34°21' North, 013°54' East, reporting that it is a highly overcrowded rubber boat with approximately 70 people on board and without life saving equipment. The persons of concern are waving in distress. The ground crew of *Seabird 3* informs authorities at 13:27 UTC.

13:49 UTC: The so-called *Libyan Coast Guard* patrol boat *Fezzan* (658) arrives on scene within the Maltese SAR zone.

14:05 UTC: The so-called *Libyan Coast Guard* patrol boat *Fezzan* (658) asks the crew of *Seabird 3* via radio to "get out of Libyan territorial, please".

Seabird 3 replies: "*Fezzan, Fezzan*, for aircraft *Seabird*, please be informed that you are within European Search and Rescue area, you are within European Search and Rescue Area, this is not Libyan territorial waters, this is not Libyan territorial waters. Over."

Fezzan then threatens to shoot down *Seabird 3* with SAM missiles: "Leave territorial otherwise we'll shoot



So-called *Libyan Coast Guard* finishing the illegal interception of approximately 70 persons. Photo: Fiona Alihosi

you."; "Get away from Libyan territorial, otherwise we'll shoot you by SAM missiles."

14:09 UTC: Illegal interception by the so-called *Libyan Coast Guard* within the Maltese SAR zone is completed in position 34°21' North, 013°56' East. The so-called *Libyan Coast Guard* officers burn the empty rubber boat and head south again.

14:28 UTC: *Seabird 3*'s ground crew informs RCC Malta, MRCC Rome, JRCC Libya, UNHCR Malta and IOM via email about the interception witnessed within the Maltese SAR zone.

32 SAM (surface-to-air-missiles) are used to destroy aircraft from the ground.



So-called *Libyan Coast Guard* approaching the boat in distress. Photo: Fiona Alihosi

Demands

The situation in the central Mediterranean Sea is not improving. On the contrary, the year 2022 has once again shown that human rights of people on the move in the central Mediterranean do not count for European state actors and governments.

In light of the cases thoroughly presented above, it becomes clear once again that there is no alternative to the creation of safe and legal routes for people on the move, in order to put an end to the deaths in the central Mediterranean Sea and to guarantee the freedom of movement of all.

Therefore,

- **we demand the immediate ending of any policy, funding, or programme from the EU and its member states**, especially Italy and Malta, with the aim of externalising European borders and preventing migration to Europe.
- **we demand the ending of the collaborations between the Italian and the Maltese RCCs and European aerial surveillance with the Libyan authorities**, including the so-called *Libyan Coast Guard*, with the aim of externalising the duty to render assistance. Instead, they shall comply with their duties, including the duty to rescue and disembark people in a place of safety and the principle of non-refoulement. European RCCs have to deploy their own rescue assets instead of relying on merchant vessels which are often neither well enough trained nor equipped.

- **we demand the German government to act in line with its own coalition agreement**, both at national and European level. Accordingly, all direct and indirect efforts that cause and perpetuate suffering at the external(ised) borders, such as illegal returns of people on the move, must be ended. This includes, among other things, an end to participation in *Frontex* and EUNAVFOR MED operations.
- **we demand the abolition of the European border and coast-guard agency *Frontex*** as a key actor in European isolationist policies. The budget designated for *Frontex* must instead be reinvested in a European SAR programme. In the meantime, *Frontex's* executive director shall terminate *Frontex* operations in the central Mediterranean according to Article 46 of the *Frontex* Regulation.
- **we demand an urgently needed European SAR programme** which needs to be non-military, state-financed and coordinated, and must ensure the respect for maritime and human rights laws across the central Mediterranean, which means the fulfilment of the duty to render assistance to any person in distress and the subsequent disembarkation in a safe place in Europe.
- **we demand that the UNHCR and IOM comply with their mandates to protect people on the move.** Both must publicly scandalise the hostile European migration policies and the decision makers behind them, acting accordingly instead of remaining silent and being a diplomatic actor used by European states to justify their externalisation policies.

AIN'T NO BORDER HIGH ENOUGH

Sea-Watch e.V. is a non-profit organization that conducts civil search and rescue operations in the Central Mediterranean.

We demand and push for a European search and rescue program, stand up for safe and legal escape routes as well as freedom of movement for all.

