



Sea-Watch.org

Airborne

Annual Report

2023



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Glossary

AFM = The Armed Forces of Malta are responsible for search and rescue (SAR) activities within the Maltese search and rescue zone and are coordinated by the Maltese rescue coordination centre (RCC).

European Commission = The European Commission is the politically independent executive of the EU. It is solely responsible for drafting proposals for new European legislation and implements the decisions of the European Parliament and the Council of the EU. It is also the “Guardian of the Treaties” and is responsible for ensuring that EU law is respected by member states.

European Ombudsperson = The EU Ombudsman is an EU institution, tasked to hold the institutions, bodies and agencies of the EU to account and to promote good administration. It has no executive powers, but is nevertheless an important instrument for civil society regarding the reporting of maladministration by EU actors.

INMARSAT = An International Maritime Satellite is a satellite telecom-

munication system transmitting messages from ship-to-shore, shore-to-ship, and ship-to-ship. The system is used often by rescue coordination centers.

Interception = In this report, interception describes the practice of intentionally stopping people on the move at sea and subsequently returning them to an unsafe country, usually from which they have fled, with the aim of preventing the persons from reaching the EU.

LAAF = The Libyan Arab Armed Forces are under the command of Khalifa Haftar and mainly control the east and southern parts of Libya.

Mayday relay = “Mayday” is the standard emergency phrase used in aviation and seafaring to signal life-threatening emergency situations at sea to other assets following the communication. A mayday call binds vessels in the vicinity to provide assistance. It is usually issued on the emergency radio channel 16, which all craft are required to follow. A mayday sent on behalf of another vessel is called a mayday relay.

MoU = A Memorandum of Understanding is usually a legally non-binding agreement between two or more parties that expresses the intention or will to cooperate in a certain field.

NAVTEX = NAVTEX is an international automated direct-printing medium for the delivery of navigational and meteorological warnings and forecasts, as well as maritime safety information to ships.

Nm = 1 nautical mile equals 1,852 metres.

SAR region/zone = According to the 1979 SAR Convention, a search and rescue region is an area of defined dimensions associated with a rescue coordination centre within which search and rescue services are provided.

So-called = We use the addition “so-called” to indicate that certain actors and their behaviour or political decisions are questioned in terms of their functionality, legitimacy or legality.

TBZ = The Tariq Ben Zeyad Brigade

Sea-Watch's Airborne Department

The Airborne Annual Report 2023 provides an overview of the findings of Sea-Watch's airborne monitoring of human rights violations in the central Mediterranean Sea during 2023.¹

Together with the Swiss organization Humanitarian Pilots Initiative (HPI), Sea-Watch operates the two monitoring aircraft Seabird 1 and Seabird 2. Starting from Lampedusa, the aircraft patrol the central Mediterranean Sea between the coasts of Libya, Tunisia and Italy. In this region alone, 23,407 people drowned over the past 10 years due to non-assistance by European coastal states, backed by the European Union.² Despite this politically-caused state of emergency, the EU has not established a European search and rescue operation. Instead, the EU relies on surveillance and violent militias to forcibly hinder people fleeing torture and inhumane treatment and stop them from reaching safety.

As a civil eye, Sea-Watch's Airborne department monitors, documents and publishes these daily human rights violations as well as the associated roles of European states, the EU Border and Coast Guard Agency Frontex, the so-called Libyan coast guard and other Libyan militias. If we encounter boats in distress during our flights, we try everything to push for a rescue and subsequent disembarkation in a safe European port by the competent authorities and civil vessels in the vicinity.

Besides the two monitoring aircraft, Sea-Watch also operates two rescue vessels, the Sea-Watch 5 and the Aurora. In 2023, these two ships rescued 1,401 people from boats in distress.

¹ Sea-Watch, Airborne Annual Report 2021: <https://sea-watch.org/wp-content/uploads/2022/05/Airborne-Annual-Report-2021.pdf>; Sea-Watch, Airborne Annual Report 2022: <https://sea-watch.org/wp-content/uploads/2023/06/Airborne-Annual-Report-2022.pdf>
² IOM, Missing Migrants Project, May 2024: https://missingmigrants.iom.int/region/mediterranean?region_incident=All&route=3861&month=All&incident_date%5Bmin%5D=&incident_date%5Bmax%5D=

Seabird 1 and Seabird 2 at the airport in Lampedusa.
Photo: Suzanne De Carrasco

Airborne Annual Report 2023



Sea-Watch's Airborne Department

Political Analysis 2023: Europe's Assaults on Human Rights

2023 constitutes the deadliest year in the central Mediterranean since 2017. In this year alone, at least 2,526 people drowned in the central Mediterranean, in addition to a further 458 lives which were lost in the western Mediterranean and 171 in the eastern Mediterranean. However, these are only the official figures, the number of unreported cases is likely to be significantly higher.

The year 2023 showed a wide range of assaults on human rights and the rule of law by various European actors along all European borders. There have been numerous attempts to escalate the externalization of border controls in order to reduce illegalized border crossings through symbolic deterrence, the containment of people in third countries and illegal re-foulements. In this analysis, we will focus only on the border spaces that are connected to what is happening in our area of operation in the central Mediterranean.

Neo-fascist Policies in Italy and the EU

Besides being the deadliest year since 2017, 2023 was also the first full year of Giorgia Meloni's presidency in Italy after the neo-fascist took office on 22 October 2022. Italy, as the main country of arrival for migration to Europe by sea, is presently taking a particularly aggressive anti-migration course. However, this is only possible

with the backing of the European Union and the fact that most other member states are turning a blind eye and enjoying not being in Italy's position. In 2023, Meloni and the president of the European Commission Ursula von der Leyen, sometimes in combination with heads of states of other European countries, presented themselves as a well-oiled team and stood in unity when it came to the deprivation of rights of people on the move.

In January 2023, the Meloni government issued the so-called Piantedosi Decree 01/2023, which the Parliament later converted into Law 15/2023 in February 2023. The aim of this law is to reduce the presence of civil rescue ships at sea, restrict their rescue capacities and prevent arrivals on the Italian coast. Among other things, the law requires NGO ships to immediately head to a port after each rescue and bring the rescued persons ashore - even if they are aware of other open distress cases. Furthermore, the Italian ministry of Interior usually assigns the safe ports for the disembarkation not in nearby Sicily, but mostly in northern or eastern parts of Italy. This leads to rescued people, some of whom are in poor physical and psychological states, having to stay on board for unnecessarily long periods of time, also in difficult weather conditions, instead of reaching safe land as quickly as possible. Due to these long transits, civil rescue ships lost over 1 year of operational time at sea in 2023 alone and had to navigate 150,538 additional kilometers, equalling 3.5 times around the world.³ Italian coast guard vessels, which rescue a higher percentage of people compared to civil actors, are still allowed to bring people ashore

in the south of Italy which reveals the harassing motivation behind this action. Alleged violations of the law are punished with fines of up to 50,000 Euros, detention of the vessel for up to 60 days and eventually even confiscation of the vessel. In 2023 alone, 14 NGO vessels were detained and fined for alleged violation of the Law 15/2023. First court rulings, however, proved the unlawfulness of the detentions imposed by the Italian state.⁴

Refusal to Render Assistance Kills Thousands

The year 2023 also marked the 10th anniversary of the two October 2013 shipwrecks off Lampedusa which caused around 600 deaths. Back then, the European Commissioner for Home Affairs, Cecilia Malmström, stated: "Let's make sure that what happened in Lampedusa will be a wake up call to increase solidarity and mutual support and to prevent similar tragedies in the future." In 2023, ten years later, nothing has changed. In addition to many smaller shipwrecks, partly known, partly invisible, two larger shipwrecks together with around 750 persons losing their lives occurred close to the European mainland due to the dev-

³ SOS Humanity, Civil fleet: over a year of operation time lost, 2023: <https://sos-humanity.org/en/our-mission/change/over-a-year-of-operation-time-lost/>

⁴ Sea-Watch, March 2024: https://x.com/seawatch_intl/status/1773658850589016575; SOS Humanity, Italian court confirms suspension of detention of Humanity 1, April 2024: <https://sos-humanity.org/en/press/suspension-of-detention-confirmed/>

astating non-assistance and misconduct of European actors.

Both on 26 February, close to the Italian coastal town of Crotona, and on 14 June, off the Greek city of Pylos, Frontex and the border authorities in Italy and Greece were well aware of the boats in distress for several hours. They followed the live footage provided by the Frontex drone and airplane which flew over the boats on their screens. Despite bad weather conditions, obvious overcrowding and no life-saving equipment on board, they decided not to launch rescue operations.

Consequently, on 26 February, at least 94 persons died right off the Calabrian coast of Crotona. On 14 June, around 650 people died in the Ionian Sea, only 50 nm off the Peloponnese city Pylos.

After these shipwrecks, Frontex, the national authorities and the rescue coordination centers tried to play down their roles, lied and hid evidence. In the case of the Pylos shipwreck, the testimonies of survivors were manipulated, omitting the fact that several survivors say that it was actually the Greek coast guard intervention in trying to tow the boat that

caused the capsizing. Instead of the actual culprits in EU institutions and national authorities, 9 survivors of the dreadful shipwreck were arrested only one day after the event and accused of, among other charges, smuggling offences and intentionally causing the shipwreck. While the charges were dismissed in May 2024, these persons were not immediately set free.⁵

Frontex Complicity in Shipwrecks

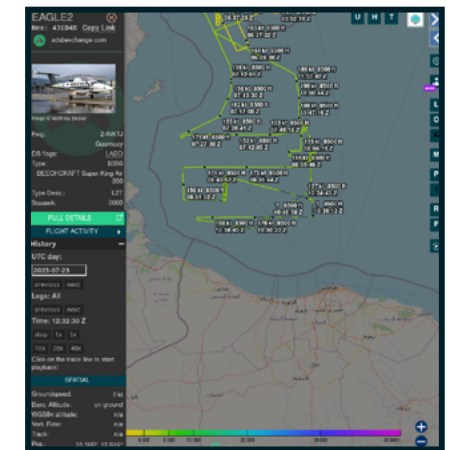
The shipwrecks fueled the discussion about the role of Frontex in distress situations. How could they not send out mayday calls despite clear distress signals?

Following the shipwreck off Pylos, the European Ombudsman launched an inquiry into Frontex's role in search and rescue operations. In February 2024, the Ombudsman concluded that Frontex has primarily a search and surveillance function in current settings, not a rescue function, which also contradicts the agency's search and rescue obligations. In fact, surveilling the sea from the air without vessels in the water allows the agency to detect boats without being bound to the duty to rescue. This is exactly the intended setup.

The Ombudsman states: “This tension between Frontex’s duty to save lives and the pressure to prevent or discourage people from attempting to cross the Mediterranean creates a challenge for Frontex in balancing its role of supporting Member States in the management of the EU’s external borders with its fundamental rights obligations.”⁶ The Ombudsman also reminds and calls on Frontex to consider terminating operations under Art. 46 of the Frontex Regulation 2019/1896, in cases of persistent violations of fundamental rights by a member state. To date, this has not happened in the Mediterranean.

With Frontex, the EU created the perfect partner in crime. With its high-tech surveillance, the agency is aware of everything that happens in the central Mediterranean. However, they have no vessels on the surface, so they can’t intervene themselves. Instead, they merely forward information to actors who have a strong interest in preventing people from safely reaching European shores. Consequently, in most cases, these actors decide not to launch rescue operations. For cases in which this leads to shipwrecks such as those off Crotona and Pylos,

Frontex and national authorities engage in a well-established theatre: they shift the blame from one to the other, refer to their operational plans and legal frameworks which apparently prevent them from rescuing lives and insist that they would have, but that their hands were tied. With this setup, impunity over kidnapping, failure to render assistance and manslaughter prevails. The EU has created a system with extreme powers which essentially operates outside the law and is virtually impossible to hold accountable.



Frontex plane tracks show orbits in several positions
Source: adsb-exchange

⁵ Legal Centre Lesvos, Pylos 9: Prosecution Following The Deadly 2023 Pylos Shipwreck, 2024: <https://legalcentrelesvos.org/litigation-of-the-legal-centre-lesvos/criminalisation/pylos-9/>

⁶ EU Ombudsman inquiry on Frontex, OI/3/2023/MHZ, July 2023: <https://www.ombudsman.europa.eu/doc/correspondence/en/182671>



When Seabird arrives on scene, we see the so-called Libyan coast guard leaving with newly intercepted people on board
Photo: Chiara Wettman



The boat was set on fire by the so-called Libyan coast guard after the interception
Photo: Chiara Wettman

Blackbox Frontex

One way of preventing people from arriving to the EU is through coordinating with external actors in order for them to recapture those who are fleeing and bring them back to torture and inhuman treatment. In order to shed light on the cooperation of Frontex and European authorities with Libyan actors, Sea-Watch and other or-

ganizations have repeatedly requested access to documents through Freedom of Information requests. Frontex usually refuses access. They argue that access to the documents would undermine the protection of the public interest,⁷ ignoring the fact that human rights violations are in fact a matter of public concern.

Freedom of Information in the EU

EU citizens and residents have the right to ask EU institutions for documents. Besides the Treaty on the Functioning of the European Union (Article 15)⁸ and the Charter of Fundamental Rights of the European Union (Article 42)⁹, Regulation (EC) No 1049/2001¹⁰ defines the duties to transparency of EU institutions towards citizens. Similar laws can be found on national levels. Freedom of Information (FOI) requests are therefore requests to EU institutions to provide access to certain documents. With only a few exceptions, EU institutions are then obliged to grant access to documents such as the minutes of meetings, e-mail exchanges or internal assessments. After receiving a request, they have to answer within 15 working days. FOI requests are an extremely important tool for citizens regarding control of EU institutions. Many important media and civil society investigations are based on documents received through FOI requests. In practice, many institutions try to circumvent their obligations to transparency by delaying deadlines or providing arguments as to why specific documents fall under the causes for exception. NGOs like ♥ FragDenStaat¹¹ ♥ provide detailed information on FOI requests and support in filing them.

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7 As falling in the scope of Art. 4, 1. a Regulation (EC) No 1049/2001, May 2001: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32001R1049>

8 Treaty on the Function of the European Union, consolidated Version, July 2016: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016ME%2FTXT>

9 Charter of Fundamental Rights of the European Union: https://www.europarl.europa.eu/charter/default_en.htm

10 Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, May 2021: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32001R1049>

11 FragDenStaat: <https://fragdenstaat.de/en/>

Following an illegal interception by the so-called Libyan coast guard in the Maltese SAR zone, presumably facilitated by Frontex on 30 July 2021, Sea-Watch tried to obtain evidence by submitting a request for access to information to Frontex. Frontex denied providing us with any of the over 73 documents, pictures and videos they identified to fall under the scope of our request. These alone include 36 documents detailing communication exchanges between Frontex and Libyan, and Italian and Maltese authorities in connection with their deployment on that day, which might give indications as to the coordination between the agency and the so-called Libyan coast guard. In order to challenge this lack of transparency, we took Frontex to the General Court of the European Union. After a hearing in October 2023, the decision by the court was published in April 2024. In its decision,¹² the court ruled that Frontex wrongfully withheld information about the existence of some of the documents we requested. It therefore partially annulled the decision by Frontex not to provide us access to them. However, all in all, the court followed the argument of Frontex and thereby provided the agency

with more incentives to deny access to requested documents in the future. Furthermore, it failed to comprehend the case in a broader political context. This decision showed once again how with Frontex, the EU has created an agency with extreme powers that seems to be impossible to hold accountable for its numerous human rights violations.¹³

This pattern hasn't changed with the new Executive Director Hans Leijten taking office on 1 March 2023. Despite continuous claims to the contrary, human rights violations and their cover-up persist. The direction in which the agency has developed over the past years is extremely concerning for any democratic actor. Moreover in early 2024, the former Executive Director Fabrice Leggeri, who drove the agency towards more human rights violations and less accountability until 2022, announced his candidacy for the European Parliament. On June 09 2024, Leggeri was elected as parliamentarian of the extreme right French Rassemblement National, which had been chaired for many years by Marine Le Pen.

Team Europe: Brokering Deals with Dictators

Another important aspect to the European assaults on human rights besides ignoring persons in distress and hindering civil rescue operations are the deals with dictators and autocrats which work to prevent people from being able to flee.

Following Tunisian President Kais Saïed's racist hate speech in February 2023, physical attacks and institutional violence against Black persons and people on the move in Tunisia escalated. The consequence was predictable: in search of a safe place, many were forced to leave the North African country. The number of arrivals in Italy increased over the course of spring and peaked due to the worsening human

rights situation in the country with a record number of arrivals on the island of Lampedusa in September 2023.

On 12 September alone, 5,000 people reached the Italian island on 112 boats. The camp system on Lampedusa, where those arriving are locked away out of sight of the local population and tourists before being transferred to the Italian mainland, was for a moment overcome. People were able to move freely and local solidarity became visible.¹⁴ The events were quickly instrumentalized by Commission President von der Leyen who immediately traveled to the island and presented herself as a fast acting president. Narratives of "being overwhelmed", "losing control" and "finally stopping the business of smugglers" were used to push through ever more hostile migration policies.



14 Joint statement of 82 human rights groups, Arrivals in Lampedusa: Solidarity and resistance in the face of Europe's reception crisis, September 2023: <https://sea-watch.org/en/arrivals-in-lampedusa-solidarity-and-resistance-in-the-face-of-europes-reception-crisis>

¹² General Court of the European Union, Judgement in the Case T-205/22 Marie Naaß vs Frontex, April 2024: <https://curia.europa.eu/juris/document/document.jsf?jsessionid=8D2E60CD58F190D287C2FD36802ABFD?text=&docid=285143&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=489548>

¹³ Sea-Watch, EU Court: Frontex wrongfully withholds evidence, April 2024: <https://sea-watch.org/en/eu-court-frontex-wrongfully-withholds-evidence/>

Together with Prime Minister Meloni, von der Leyen has presented a 10-point plan for Lampedusa that will do nothing to end the deaths in the Mediterranean or to improve reception conditions, but will merely expand Frontex's powers, increase deportations, strengthen surveillance and finally, foresee the actual implementation of the Memorandum of Understanding (MoU) between the EU and Tunisia.

The EU-Tunisia MoU was signed on 16 July 2023, after the ever more frequent use of the migration route via the Tunisian corridor to Italy. Represented by so-called "Team Europe", a conservative-neo-fascist alliance, von der Leyen, Meloni and the Dutch Prime Minister Mark Rutte promised Saïed 105 million euros in return for Tunisia preventing migration to Italy, by, among other things, strengthening the so-called Tunisian coast guard. Sea-Watch and other human rights organizations, including Amnesty International, Human Rights Watch and Tunisian civil society actors, have pointed out the human rights violations that this deal will cause from the very beginning. The deal once again illustrates the ruthlessness of the European Commission and European lead-

ers: over the days in which the handshake of "Team Europe" went through the press, hundreds of people were deported to the Tunisian border area to Libya and Algeria in the desert, under the relentless sun, without water and food, collectively expelled by Tunisian officials. Reports of deceased persons were piling up.

In September 2023, the EU Ombudsman addressed questions to the Commission regarding the respect of fundamental rights under the controversial migration deal.¹⁵ These were renewed and deepened in April 2024. Furthermore, former Council of Europe Commissioner for Human Rights Dunja Mijatović has highlighted the lack of mechanisms to safeguard human rights in the EU-Tunisia deal.¹⁶ Members of the European Parliament¹⁷ and some member states also strongly criticized the deal and expressed concerns about its compatibility with human rights. However, the criticism was often only about the fact that both the Parliament and the Council were not involved in the negotiation of the deal or that human rights monitoring mechanisms are to be included. This does not challenge the core idea of the deal,

namely migration prevention. The call for the deal to be immediately revoked was only rarely voiced.

Similar deals or the strengthening of already existing cooperation on EU isolation with the aim to hinder persons arriving in Europe followed and will follow. In June 2023, German Interior Minister Nancy Faeser, together with her French counterpart Gérald Darmanin, visited Saïed and called for closer cooperation on what is euphemistically called "border management". The German Federal Police has been supporting Tunisian border authorities in preventing migration for years, with training, equipment and millions of euros in funding. In March 2024 the EU signed an agreement with Egypt and in May 2024 with Lebanon. What seems to be forgotten is that the past has already taught us our lessons: Migration agreements, such as those between the EU and Turkey or the EU and Libya, signed out of the idea and obsession of being able to state control and manage migration, lead to extensive human rights violations against people on the move. They also mean betraying local civil society actors fighting for civil rights. People on the move have to choose routes, often with the help of smug-

glers, that are most likely to get them to their destination. If certain routes are increasingly controlled and militarized, people choose other, often more dangerous routes. The change in migration routes can also be seen in the central Mediterranean: after EU support for the so-called Libyan coast guard was greatly intensified and the numbers of illegal pullbacks to Libya multiplied as a result, more and more people started to travel to Italy via Tunisia. In addition to the severe human rights consequences of these migration agreements, it is morally unacceptable to finance autocratic regimes with EU funds.

No Qualms Meeting War Criminals

In their search for more notorious rulers to broker deals with in order to stop migration at all costs, Italian and Maltese politicians turned to the powers in eastern Libya. Previously, the EU and Italy had focussed their cooperation on the internationally recognized forces in Tripoli. In May 2023 and May 2024 however, both the Italian Prime Minister Giorgia Meloni and a Maltese delegation with ministers and representatives from the Armed Forces of Malta met with General Khalifa Haftar,^{18,19}

¹⁵ European Ombudsman, SI/5/2023/MHZ, September 2023:

<https://www.ombudsman.europa.eu/en/opening-summary/en/175102>

¹⁶ Commissioner for Human Rights, 'European states' migration co-operation with Tunisia should be subject to clear human rights safeguards, July 2023: <https://www.coe.int/it/web/commissioner/-/european-states-migration-co-operation-with-tunisia-should-be-subject-to-clear-human-rights-safeguards>

¹⁷ Euractiv, MEPs slam EU over 'grave' human rights abuses following Tunisia migrant deal, July 2023: <https://www.euractiv.com/section/migration/news/meps-slam-eu-over-grave-human-rights-abuses-following-tunisia-migrant-deal/>

¹⁸ Euractiv, Italy's Meloni in Libya to further expand cooperation on migration, May 2024:

<https://www.euractiv.com/section/politics/news/italys-meloni-in-libya-to-further-expand-cooperation-on-migration/>

¹⁹ Malta Today, Home Affairs Minister meets with Eastern Libya military leader Khalifa Haftar, May 2024:

https://www.maltatoday.com.mt/news/national/129052/home-affairs-minister-meets_with_eastern_libya_military_leader_khalifa_haftar

leader of the Tobruk-based Libyan Arab Armed Forces (LAAF). Haftar's troops have been accused of war crimes²⁰ and he himself was accused by a court in the US. His son Saddam Haftar leads the armed group Tariq Ben Zeyad (TBZ) Brigade, which is responsible for grave human rights violations and crimes which might amount to crimes against humanity committed against people on the move and Libyans. Amnesty International documented crimes such as "torture and other ill-treatment, rape and other sexual violence, hostage-taking, murder of civilians and fighters hors de combat, forced displacement and pillage".²¹

What Next?

The year 2023 was characterized by institutional policies of isolation and hostile populism. Numerous shipwrecks and violence along all European borders and beyond did not prevent European decision-makers from promoting and agreeing further deadly measures. In June 2023, after 10 years of negotiations, the EU interior ministers agreed on the reform of the Common European Asylum System (CEAS), which was finally adopted in May 2024.

What was sold as a historic success means the de facto abolition of the individual right to asylum. The asylum 'compromise' was agreed at the expense of people on the move and without any regard for losses. It will lead to more border violence, will lock people up in detention camps at the external borders, even families with children, will not allow fair asylum procedures, will declare more third countries as allegedly safe and intends to set a deportation machine running. Conservatives often claim that the deal will lead to fewer deaths in the Mediterranean. However, it does not foresee the creation of safe and legal passages or a state organized sea rescue programme. Due to the lack of mandatory and solidarity-based responsibility sharing between European member states and the retention of the principle of first entry, the practice of non-assistance for people in distress at sea by Italy and Malta will not change. On the contrary: the CEAS reform creates incentives to blatantly continue push- and pullbacks. Member states must now implement the reform at the national level within the next two years. In this way, the deprivation of rights will be turned into law.

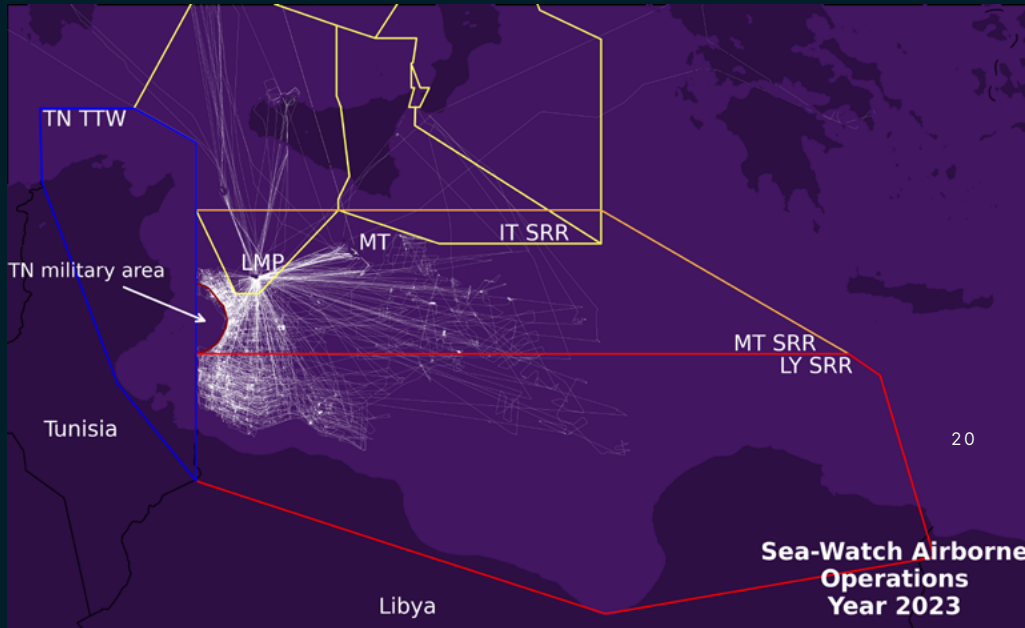
CEAS is not all, in November 2023, Italy signed an agreement with Albania regarding the disembarkation of rescued persons in the country and their subsequent detention. The extraterritorial processing of asylum claims and potential return procedures. Social democratic German Interior Minister Nancy Faeser calls it an "interesting model" and is examining legal options for outsourcing asylum procedures to third countries. Even if the various migration agreements differ in terms of their details, all of them fall under a wider externalization approach. They mostly lack clarity and accountability and leave many questions unanswered regarding their implementation and compatibility with applicable law. However, they have in common that they all take advantage of certain power dynamics between European states and less privileged European states or countries in the Global South.

There is a clear trend: the central Mediterranean, one of the main migration routes to Europe, is being fenced off on multiple levels. Walls are being built south of the Mediterranean, and if they are overcome, the next are waiting north of the Mediterranean. At the same time

²⁰ Human Rights Watch, Libya: Apparent War Crimes in Tripoli, June 2020: <https://www.hrw.org/news/2020/06/16/libya-apparent-war-crimes-tripoli>

²¹ Amnesty International, Libya: We are your masters. Rampant crimes by the Tariq ben zeyad group, December 2022: https://www.amnesty.ch/fr/pays/moyen-orient-afrique-du-nord/libye/docs/2022/commandants-groupe-arme-tariq-ben-zeyad-doivent-rendre-des-comptes/221219_libyareport.pdf

Statistics of our Airborne Operations



Seabird flight tracks 2023
Credits: Own data visualization

Total number of monitoring flights: 160

Seabird 1: 40

Seabird 2: 120

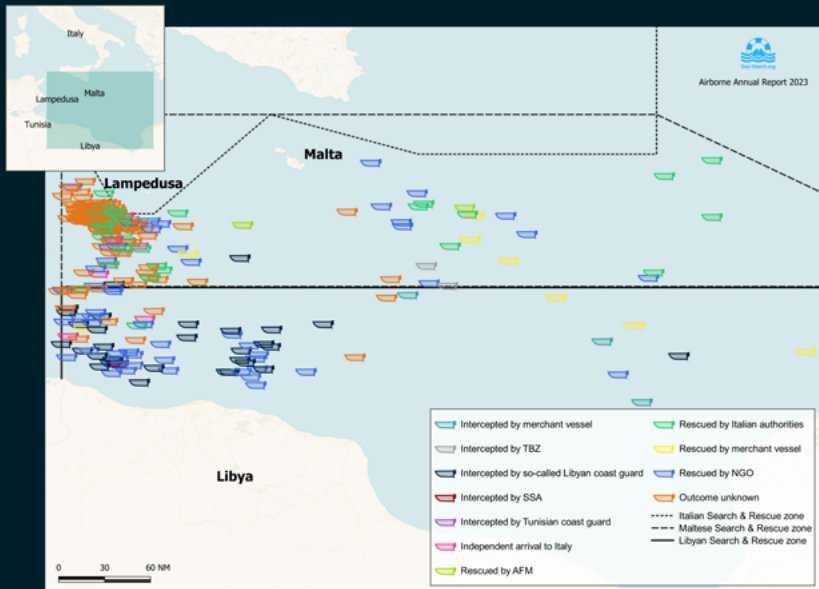
A total flight time of 962 hours and 55 minutes, which is equivalent to **40 days, 2 hours and 55 minutes** in the air.

The map on the left indicates all flight tracks of Sea-Watch's airborne operations in 2023. One can clearly see the starting point Lampedusa (LMP), where our aircraft Seabird 1 and Seabird 2 are stationed and where all flights start and end. Our main area of operation is over international waters between western Libya, Tunisia and Lampedusa. This strait is where Libya, Tunisia and Europe are closest to one another and therefore it is the most frequented migration route from the North African coast towards Europe. Fewer boats but often with many people on board leave from eastern Libya, which explains the less frequent flight tracks in this area.

In 2023, departures from Tunisia strongly increased, which meant that we needed to adapt our flights accordingly. The map therefore shows that a large number of flights took place on the Tunisian corridor, the route between Tunisia and Lampedusa. The flight pattern also shows that in comparison to the Libyan coast, we keep a much greater distance from the Tunisian coast. This is due to a military flight zone off the coast of Tunisia, which prohibits us from flying closer. As a consequence, we are usually not able to spot interceptions and other human rights violations committed by the so-called Tunisian coast guard, as they generally take place within the Tunisian territorial waters (TN TTW) or closer to the coast.

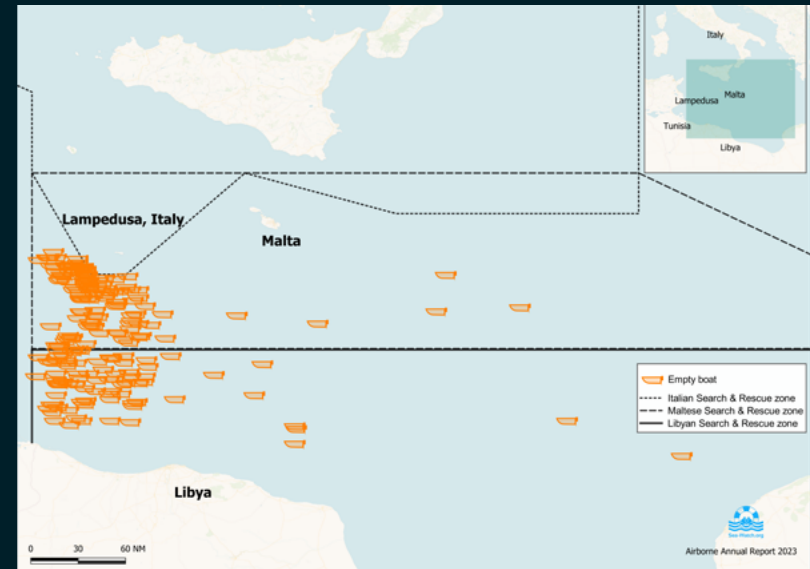
The distress cases we spot and the outcomes we monitor appear in international waters in the Libyan search and rescue zone (LY SRR) off the coast of Libya or in international waters in the Maltese search and rescue zone (MT SRR), located between the Libyan SAR zone and Lampedusa.

All Boats Spotted



22

Empty Boats Spotted



Airborne Annual Report 2023

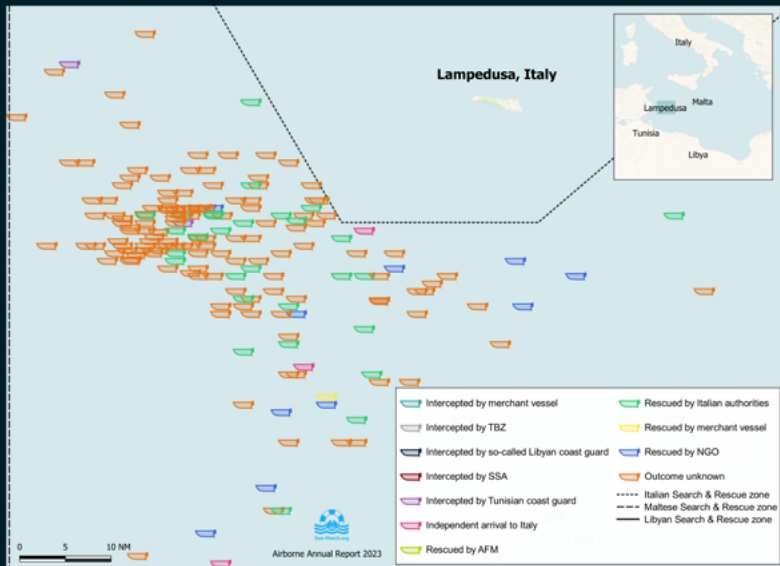
23

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 2023.

Airborne sighted 311 boats, carrying around 16,059 persons in distress

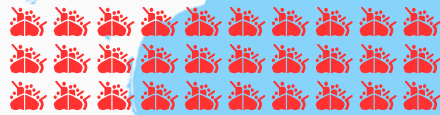
- in the Libyan SAR zone: 85 boats with approximately 4,617 persons
- in the Maltese SAR zone: 222 boats with approximately 11,442 persons
- 4 boats with an unknown number of persons, spotted from the boundary to the Tunisian military flight zone or Tunisian territorial waters

Statistics



Outcome of Spotted Boats in Distress

39 boats with around 2,441 persons were illegally intercepted and returned to unsafe places:



30 boats with around 1,535 persons were intercepted by the so-called Libyan coast guard



2 boats with around 170 persons were intercepted by the Libyan Stability Support Apparatus (SSA)



2 boats with around 550 persons were intercepted by the Libyan Tariq Ben Zeyad (TBZ) militia



2 boats with around 80 persons were intercepted by the so-called Tunisian coast guard



3 boats with around 106 persons were intercepted by merchant vessels



The outcomes for 156 boats with around 5,461 persons remain unknown. Depending on the (in)completeness of information, it is not always possible to reconstruct an outcome for the boats spotted. This can mean that the people arrived to the EU independently, were intercepted, were rescued by European state actors or were shipwrecked invisibly.

Official numbers:

Total number of arrivals to **Italy**: 157,651

Total number of arrivals in **Malta**: 380

Total number of interceptions / pullbacks to **Libya**: 17,119

Total number of interceptions / pullbacks to **Tunisia**: 79,905

Total number of persons **drowned** in the **central Mediterranean**: 2,526

116 boats with around 8,157 persons arrived in Europe:



56 boats with around 3,159 persons were rescued by NGOs



2 boats with around 76 persons were rescued by Malta

9 boat with around 347 persons were rescued by merchant vessels



44 boats with around 4,166 persons were rescued by Italy



6 boats with around 449 persons independently arrived in Italy

Main Findings

With every further effort to isolate the EU, fleeing across the central Mediterranean becomes more difficult and deadly. While at least 2,476 people drowned in 2023, tens of thousands have been deprived of their rights to seek safety and exercise their individual right to asylum in Europe. With the militarization of borders, the reassignment of so-called coast guards into border control authorities, the strengthening of Frontex, the violent deportation regime and the disregard for the rule of law, the EU and its member states are doing everything they can to prevent people on the move from reaching Europe. The central Mediterranean is being fenced off from all sides in an attempt to make arriving impossible.

In 2023, we identified 4 key findings that we want to exemplify with the help of concrete cases documented by our monitoring aircraft. If you need further information or data on specific cases for possible follow-up, please contact advocacy@sea-watch.org.

- The **European Union** shines when it comes to disregarding human rights. **Malta and Italy**, as the neighboring arrival countries on the central Mediterranean route, are systematically practicing non-assistance and delaying rescue operations, thereby undermining their duties to rescue. This once again led to the deaths of many people in distress at sea in 2023. **European member states** not bordering the Mediterranean, as well as the European Union itself, watch and welcome this behavior. People on the move themselves, as well as those in solidarity with them and other supporters of their freedom of movement, are being criminalized and defamed.

- The Border and Coast Guard Agency **Frontex** plays a key role in European isolationist policies. It serves as aerial surveillance for Libyan militias. By forwarding information to border control actors instead of pressuring for a rescue, Frontex enables the interception and return of people to Libya in violation of international law. The agency is increasingly provided with funding, equipment, personnel and legitimacy and is evolving into an uncontrollable threat to the right to life and mobility of people on the move as well as the rule of law in Europe.
- The EU and its member states are relying on **Libyan militias**, such as the so-called Libyan coast guard, the Stability Support Apparatus or the Tariq Ben Zeyad militia, to absolve themselves of responsibility and realize their aims towards fencing their territory and preventing migration. In doing so, they are cooperating with actors who violently intercept people at sea and illegally return them to Libya where they are subjected to torture, slavery and exploitation.
- **Tunisia** has become the main country of departure via the central Mediterranean route to Italy in 2023. In response, the EU and member states quickly responded by investing in border isolation on Tunisian soil with the aim of closing this route. This happened at the same time as racist violence against Black people and persecution of civil society in Tunisia increased. Yet, large sections of the route between Tunisia and Italy remain out of sight for civil actors due to the military zone off the Tunisian coast prohibiting us from flying there. State crimes against people on the move thus remain unseen.

Deaths Witnessed by our Seabird Crew

In 2023, our Seabird crew witnessed several shipwrecks, drownings of people or boats with dead people on board who died due to gas intoxication or dehydration, among other things. We don't know the names of those people, nor who they were. But we know that their deaths could have been prevented. They were left to die by European actors due to racism and ignorance. We can only speak of those deaths we learned of. For all those boats intercepted by the so-called Libyan coast guard or with unknown outcome, we have no information about the fate of individual people. To only mention some of the deaths we are aware of:

On 02 February, we spotted a boat in distress that was later rescued by Sea-Eye. While two persons on board were already dead, one person would die shortly after the rescue. (More on this on page 40)

On 11 March, our crew spotted a boat that would later capsize, killing around 30 people. Authorities have been informed about the boat 30 hours before the capsizing. (More on this on page 31)

On 01 April, our crew overheard a mayday relay for a boat in distress with people in the water. According to the mayday relay, one person was dead.

On 20 June, our crew learned about the sighting of a dead body, floating in the waters off Lampedusa.

On 23 June, our crew spotted a boat that Maltese authorities provided with fuel but refused to rescue. It was later rescued by MSF. In the meantime, however, one person went over board and remained missing. (More on this on page 33)

Our thoughts are with their loved ones. Our rage fuels our determination to continue the fight against the European border regime.

Ongoing Violations by European States

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European states use a wide range of strategies and measures in order to block migration to Europe as much as possible. On the one hand, this is done by simply refusing to provide assistance to people in distress at sea and breaching international legal obligations such as the duty to rescue. Non-assistance and delays to rescues constitute an extreme form of state border violence and repeatedly lead to the deaths and suffering of people on the move. While we have to

watch rescue coordination centers in Italy and Malta getting away with impunity, new legal restrictions and blockades are also being created and imposed on third actors involved in sea rescue, namely the civil fleet. Additionally, the EU and individual member states are pumping money into North African governments, externalizing European borders and tasking so-called coast guards and militias with preventing people from fleeing and reaching Europe.

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Main Findings

Requirements for Rescue Coordination Center

According to the 1979 SAR Convention, Chapter 1, point 5, a Rescue Coordination Center (RCC) is a unit responsible for promoting efficient organization of search and rescue services and for coordinating the conduct of search and rescue operations within a Search and Rescue Region. Chapter 2, point 2.1.9 and 2.1.10 outlines that parties having accepted responsibility to provide search and rescue services for a specified area shall use search and rescue units and other available facilities for providing assistance to a person who is, or appears to be, in distress at sea. That assistance shall be provided to any person in distress at sea, regardless of the nationality or status of such a person or the circumstances in which that person is found. The IAMSAR Manual, edition 2016, lists under point 2.3. the required capabilities of an RCC. These include, among others, 24/7 availability and the ability to communicate in English.

In addition to this, and often away from the public eye, the Italian state has been conducting an extensive criminalization campaign against people on the move for several years. People who have fled are themselves accused, amongst other things, of smuggling because they (allegedly) drove a vessel to Italy. In 2023 alone, at least 200 people were arrested on this charge. Since 2013, more than 3,200 people have been targeted.²² Italy uses this strategy as a deterrent and, above all, to divert attention from its own crimes. European and national actors have used the argument of combating so-called "smuggling networks" for years to legitimize ever more restrictive migration policies. By systematically arresting individuals upon their arrival in Italy, the state is trying to demonstrate that it is taking action against alleged smugglers who, according to its own narratives, put people on the often fatal crossing in the first place. In doing so, it distracts from the fact that the dangers and violence along migration routes are caused by state failure. Research

shows that the only way to fight smuggling is to make it needless by creating safe and legal passages.²³

Criminalization of People on the Move

The criminalization of people on the move has many different facades, but is united in the injustice of the state's perpetrator-victim reversal. Concrete examples of this are the El Hiblu 3²⁴ and Pylos 9,²⁵ but also countless other unknown cases sitting behind European bars. Civil society groups such as Captain Support²⁶ or the project From Sea to Prison²⁷ are fighting together with the accused against these protracted rights violations.

While Italy is blocking the life-saving capacities of NGO ships or ordering merchant vessels to disembark rescued persons in unsafe Libya,²⁸ Malta has been systematically ignoring its duty to rescue people in distress at sea and has instead gratefully allowed Libyan militias to conduct interceptions in its own SAR zone for years. Every boat sailing from both Libya and Tunisia towards Europe inevitably crosses the Maltese SAR zone and is therefore under

22 From Sea to Prison, Without Frontiers: The criminalization of migrant boat drivers in 2023, January 2024: <https://www.borderline-europe.de/unsere-arbeit/senza-frontiere-la-criminalizzazione-dei-cosiddetti-scafistiniel-2023?l=en>

23 Mixed Migration Center, How to break the business model of smugglers, September 2023: <https://mixedmigration.org/how-to-break-the-business-model-of-smugglers/>

24 Free the El Hiblu 3: www.elhiblu3.info

25 Free Pylos 9: <https://x.com/FreePylos9>

26 Captain Support: <https://captainsupport.net/>

27 From Sea to Prison, The Criminalization of Boat Drivers in Italy: <https://fromseatoprison.info/>

28 Sea-Watch, April 2023: https://x.com/seawatch_intl/status/1652393012398284805?s=20

Maltese responsibility. However, Malta almost invariably ignores cases of distress at sea. In 2023, only 380²⁹ people arrived in Malta by sea, whereas 157,000 people reached Italy. The RCC Malta simply does not pick up the phone or refuses to share rescue-related information with civil actors operating at sea - with which rescues could be carried out in a quicker,

safer and more efficient way. Malta also instructs merchant ships not to rescue boats in distress or refuses to assign safe ports after rescues by NGOs took place in its own SAR zone. The functionality within the framework of the applicable legal requirements (see infobox on page 29) of this so-called rescue coordination centre has long since failed.

The following cases illustrate the extent of the systematic refusal by Malta and Italy to provide assistance to persons in distress at sea.

11/12 March 2023: The Italian and Maltese authorities have once again let people die at sea due to inaction and their endless attempts to shift responsibility. A boat initially carrying 47 people was ignored by Italy and Malta for over 30 hours, resulting in 30 people losing their lives.³⁰

During the night of 10 to 11 March, 47 persons in distress, who had already been at sea for 2 days, reached out to the Alarm Phone who immediately and continuously informed the authorities about the position of the boat. Seabird's crew sighted the persons in distress in the morning within the Libyan search and rescue zone and sent out a mayday relay. The merchant vessel Basilis L acknowledged the mayday call and changed course to-

wards the distress position. When our ground crew called MRCC Rome about the distress case, they only referred to the Libyan authorities and hung up.

Towards Seabird, Basilis L shared that they were in exchange about the distress case with JRCC Libya, as instructed by MRCC Rome. To the Alarm Phone, the merchant vessel stated that it received the instructions by the Libyan authorities to monitor the situation

29 UNHCR, Malta January – December 2023: https://www.unhcr.org/mt/wp-content/uploads/sites/54/2024/02/Malta-Factsheet_2023.pdf

30 Alarm Phone, Mediterranean and Sea-Watch, Fatal Delays: 30 Lives Lost due to European Non-Assistance, March 2023: <https://sea-watch.org/en/non-assistance-joint-statement/>



Boat in distress before it capsized in the vast Mediterranean
Photo: Christian Gohdes

until the so-called Libyan coast guard arrived to return the people to Libya.

A few hours later, when still no rescue vessel was in sight, the Libyan JRCC stated to our ground crew over the phone that there was no vessel available to be sent from Benghazi, east Libya, to the persons in distress. The Italian authorities were informed about this by our crew, but again hung up. Also the Maltese authorities were neither willing to talk to our ground crew nor launch a rescue operation and also hung up. During the early evening of 11 March, around 16 hours after the initial alert to the authorities, Alarm Phone learned from the so-called Lib-

yan coast guard that MRCC Rome had taken over coordination of the case. However, rescue still did not arrive. The Alarm Phone remained in contact with the people in distress throughout the night, who were terrified and exhausted after having been at sea for three days without food and water. Ultimately, on the morning of 12 March, the boat capsized. The merchant vessel Froland was able to rescue 17 persons and take them on board. 30 persons, however, went missing and did not survive. The survivors disembarked in Pozzallo, Italy.

On 12 and 13 March the Italian authorities sent out several INMAR-

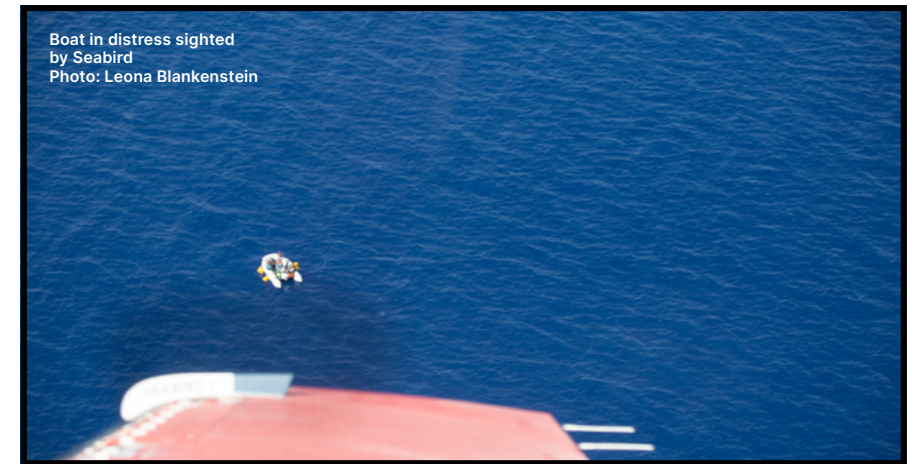
SAT messages on behalf of JRCC Libya to all vessels in the area to maintain a sharp lookout for the 30 missing persons. Sending out these messages on behalf of the Libyan JRCC once again illustrates the close cooperation between the Italian and Libyan authorities and a pretense of alleged non-responsibility on the part of Italy. Despite

the extremely challenging maritime conditions, the desperate state of the stranded boat and the continuous calls and requests from civil actors, neither the Italian, nor the Maltese or the Libyan authorities activated their resources for a rescue operation and thus deliberately decided to leave the people behind at sea, resulting in the deaths of 30 people.

22 June 2023: Malta once more only handed out fuel and water and abandoned 14 persons in distress at sea, resulting in one death.³¹

In the afternoon of 22 June 2023, 14 people on board a flimsy rubber boat sent a distress alert to the Alarm Phone. They had left Libya the day before and were adrift in the Maltese SAR zone after running out of fuel. Malta and Italy

were immediately informed about the distress case and were continuously updated throughout the night about the situation of the persons on board. However, no authority initiated a rescue operation despite the obvious urgency.



Boat in distress sighted by Seabird
Photo: Leona Blankenstein

³¹ Alarm Phone, MSF, Sea-Watch, Malta's deadly non-assistance in the central Mediterranean Sea, October 2023: <https://sea-watch.org/en/maltas-deadly-non-assistance/>

European Border and Coast Guard Agency Frontex

The European Border and Coast Guard Agency Frontex plays a major role in shaping the fates of people who try to flee towards Europe. With its high-tech aerial surveillance, the agency has a 24/7 picture of the Mediterranean Sea. From the lookout of a ship, the visual range is very limited, especially compared with the aircraft and drones of Frontex and their advanced instruments. Knowledge about positions of boats in distress is key in the vast open waters. Frontex uses this knowledge for its primary aim, which is to hinder people from arriving in Europe, no matter the cost. To do this, Frontex mostly withholds its knowledge from civil rescue vessels who would rescue the people and disembark them in a place of safety in Europe. Instead, the agency primarily forwards the information to national authorities whose objective is to prevent ar-

rivals. Libyan actors are dependent on Frontex' aerial support to intercept boats in distress, as they do not operate aerial assets themselves. Frontex thereby serves as a watchman³⁴ for Libyan militias towards recapturing those who are trying to flee. As a result of the agency's way of operating, people are forced back to torture, forced labor and exploitation. A report by Human Rights Watch and Border Forensics shows a clear correlation between Frontex airplane and drone flights and interceptions by Libyan militias. It states:

“the agency uses aerial surveillance [...] in service of interceptions, not rescues. Without the information from EU aircraft, the Libyan Coast Guard would not have the technical and operational means to intercept these boats on such a scale.”³⁵

³⁴ Klaas van Dijken, director of Lighthouse Reports, used this term in an exchange of views in the EU LIBE Committee on 18 March 2024: “Watchman is the term that was used in the US for slave catcher. Watchmen were groups of men hunting down people who escaped plantations to seek freedom, and who the watchmen would round up and return to their owner. Frontex is EU's watchman”: https://multimedia.europarl.europa.eu/en/webstreaming/committee-on-civil-liberties-justice-and-home-affairs_20240318-1430-COMMITTEE-LIBE

³⁵ HRW and Border Forensics, Airborne complicity: Frontex aerial surveillance enables abuse, December 2022: <https://www.hrw.org/video-photos/interactive/2022/12/08/airborne-complicity-frontex-aerial-surveillance-enables-abuse>

In the morning of 23 June, when the authorities had already ignored the distress alerts for around 20 hours, one person from the group went overboard in an attempt to grab a detached empty container that kept the boat above the water. He disappeared in front of their eyes as the waves swept him away.

“He went into the water, extended his hand, he grabbed the container, he wanted to come back but could not, because the waves were coming against him. Panic started onboard, the women started to scream. [...] He was going down the water, and coming back up again, and we had a hard time seeing him.”, as told by a rescued person onboard the MSF rescue vessel Geo Barents.³²

Upon being alerted about the missing person by the people on board, Alarm Phone immediately informed the Maltese and Italian authorities. Shortly after, Seabird spotted the boat in distress and sent out a mayday relay on behalf of the persons. Nearby, they spotted an Armed Forces of Malta (AFM) patrol boat only 15 nm away from the people, heading towards Malta. The Maltese vessel did neither respond to the mayday call nor to any of our radio calls. The Maltese RCC also refused to answer our phone calls several times.

³² see footnote 31
³³ see footnote 31

The merchant vessel Laconia arrived on scene and waited for instructions from the Maltese authorities for several hours. More than 28 hours after the initial distress alert, a Maltese patrol boat arrived at the distress case for the first time and released the merchant vessel from its duty to assist. Instead of complying with their obligations under maritime law, which would have been to take the 13 people on board the patrol boat and disembark them in a place of safety, Malta merely provided the dinghy with fuel and instructed it to head onwards to Italy.

“They gave us water, food, and three gallons of fuel. They told us: ‘You are 50km away from Italy. There is no need for us to help you. Continue on your own.’”, as testified by a rescued person on board the MSF rescue vessel Geo Barents.³³

According to another person on the boat, the AFM had come back a second time to provide them with additional fuel. Again, they refused the person's desperate calls to be rescued and left immediately after handing over fuel and water.

During the early morning of 24 June, more than 38 hours after the first distress call, the Geo Barents arrived alongside the distress case and took the 13 people on board their rescue vessel.

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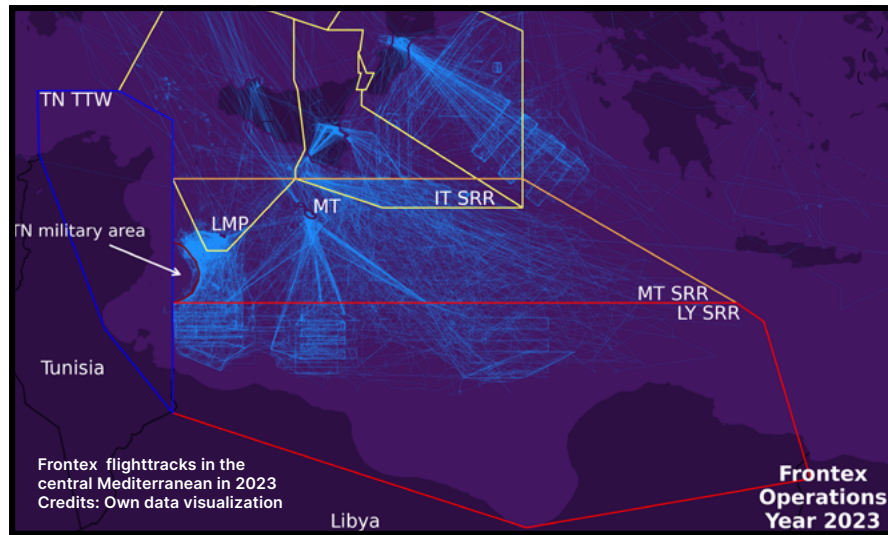
35

Ongoing Violations by European States

Airborne Annual Report 2023

Frontex is very concealed when it comes to its modus operandi. The agency's resistance to disclosing insights and data from its operations is enormous and includes circumventing democratic control mechanisms and legal obligations. Insights and conclusions on its operations therefore must be drawn from inquiries like that of the European Ombudsman,³⁶ parliamentary in-

quiries by Members of the European Parliament,³⁷ investigative work from media outlets like Lighthouse Reports³⁸ or investigations by human rights organizations like Human Rights Watch and Border Forensics. Our own observations of Frontex' operation in the central Mediterranean also form an essential part in documenting the agency's complicity in human rights violations.



Frontex does not by default inform NGO vessels about boats in distress spotted by its aerial surveillance. This leads to situations in which the crew of a rescue vessel is undertaking lookouts from the ship in order to spot boats in distress, while a Frontex aircraft flies over them, fully aware of a boat in distress just out of sight of the rescue vessel, but not informing them of it. Instead, and when in the Libyan SAR zone, Frontex relays the information to Libyan authorities, who will then conduct an illegal interception. This is, for example, what happened on 08 June 2023.

³⁶ see footnote 6

³⁷ see for example parliamentary question E-002475/2021(ASW), July 2021: https://www.europarl.europa.eu/doceo/document/E-9-2021-002475-ASW_EN.html

³⁸ Lighthouse Reports, 2,200 Frontex emails to Libya, February 2024: <https://www.lighthousereports.com/investigation/2200-frontex-emails-to-libya>

08 June 2023: Frontex drone spots boat in distress, but never informs near-by rescue vessel. Around 50 persons are intercepted by the so-called Libyan coast guard.

On the early morning of 08 June, the Frontex drone Heron was on scene of a boat in distress in the Libyan search and rescue zone. At that time, the civil rescue vessel Geo Barents of MSF was patrolling and looking out for boats in distress only 34 nm away, even heading in the direction of the distress case. They were never informed by Frontex about the boat in distress. They only learned about the boat around 1.5 hours later, when Seabird arrived on scene and informed Geo Barents about the distress case close by. At this time, their estimated time of arrival at the

distress case was 90 minutes. Unfortunately, the Libyan militias were faster. At around 08:00 am, a boat from the so-called Libyan coast guard arrived and intercepted the people in distress. The crew of Seabird and the crew of Geo Barents witnessed the interception from a distance. If Frontex had informed the Geo Barents upon the first spotting of the boat in distress instead of forwarding the information only to the Libyan authorities, these people could now be in a safe place, instead of finding themselves yet again in a system of torture and exploitation.



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In the maritime world, mayday relays are the most important navigational tool to prevent loss of life at sea. They have highest priority in radio communications and bind ships in the vicinity to provide assistance in case of emergencies. Looking at the conditions of boats with which people try to flee Libya and Tunisia and at the high death toll in the central Mediterranean Sea, it is obvious that these boats are boats in distress in immediate need of assistance (see infobox on page 39). Therefore, all vessels in the vicinity should immediately be informed so that they can provide assistance and RCCs should promptly launch a rescue operation. Unfortunately, Frontex usually refrains from taking this action. Instead, they forward the information to JRCC Libya with the result of the people being intercepted to Libya.

Frontex's arbitrary use of the recognized emergency tools can only

be described as deeply racist. The deadly consequences become obvious when looking at two of the biggest shipwrecks in 2023: In both the Pylos shipwreck and the Crotona shipwreck, with around 650 and 94 deaths respectively, Frontex did not send out mayday relays upon spotting the distress situations³⁹ even though the ships were obviously not seaworthy and could capsize at any moment. A mayday relay by Frontex could have saved the lives of these approximately 750 people. Frontex should have immediately issued a mayday relay to stress the urgency of the distress cases and to trigger a rescue operation as fast as possible.

While the two shipwrecks did not occur in our area of operation, we documented numerous cases of boats in distress in which Frontex was on scene but never sent a mayday relay, often resulting in deaths or in a later occurring shipwreck.

According to the International Convention on Maritime Search and Rescue (SAR Convention), distress is defined as “a situation wherein there is a reasonable certainty that a person, a vessel or other craft is threatened by grave and imminent danger and requires immediate assistance”.⁴⁰ The EU Regulation on surveillance of the external sea borders also gives some hints as to when to consider a situation a case of distress.⁴¹ According to it, a shipmaster must consider:

- whether the boat is seaworthy and how likely it is that it will not reach its final destination
- whether the number of persons aboard is proportionate to the type and condition of the boat
- whether necessary supplies such as fuel, water and food are available for the ongoing journey to the coast
- whether a qualified crew and captain are present on board
- whether there are people on board in urgent need of medical assistance
- whether there are any dead people aboard
- whether pregnant women or children are aboard
- how the weather and sea conditions are (including the maritime forecasts)

Since people fleeing Libya and Tunisia are usually traveling on an overloaded, unseaworthy boat without a professional crew, it is clearly a situation of distress.

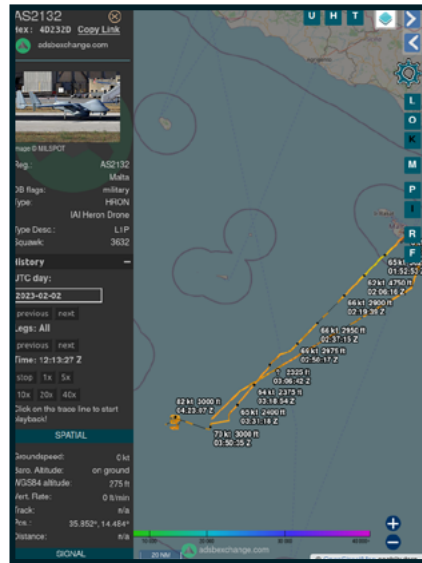
⁴⁰ International Convention on Maritime Search and Rescue, Annex 1.3.13, 1979: [https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-\(SAR\).aspx](https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-(SAR).aspx)

⁴¹ Regulation (EU) Number 656/2014 of the European Parliament and the Council of 15 May 2014: Rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, 9 Article 9 Para. 2 f), June 2014: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0656>

02 February 2023: Frontex delays mayday relay, even though people on board were about to die or were already dead.

In the early morning of 02 February, our ground crew witnessed the Frontex drone Heron on an open flight tracking platform orbiting over a certain position. We decided to launch the aircraft, as these orbits of Frontex assets often indicate boats in distress. However, since Frontex does not communicate with civil rescue organizations, we cannot know for sure until we see the situation ourselves. When Seabird arrived on scene of the orbits 2.5 hours later at around 08:00 am, Frontex was again on scene. From our aircraft, our crew spotted a metal boat with around 35 people on board, with only a few people wearing life vests. The boat was adrift and the engine was not running. Our crew immediately sent out a mayday relay for the boat in distress. Seconds later, the Frontex drone too sent a mayday relay. Our crew tried to reach out and contact the Frontex drone, but the drone never responded. It is unclear whether the drone sent a mayday relay when they first spotted the boat 2.5 hours earlier or only used this instrument when they knew that we were on scene, documenting their actions. We contacted the closest

ship in the vicinity, the merchant vessel SW Julia I. While a rescue operation for this kind of boat would have been very dangerous, the merchant vessel agreed to stand by and monitor the boat in distress. At the same time, the civil rescue vessel Sea-Eye 4 from the organization Sea-Eye diverted its course towards the boat in distress after we informed them about the position. The people on board the distress case were eventually rescued by Sea-Eye 4 in the afternoon. At the time of the rescue, two



Tracks of the Frontex drone orbiting over a position in the early morning on 02 February 2023. Source: adsb-exchange

people on board the distress case had already died. After a medical evacuation from the Sea-Eye 4, another person would later die in hospital. This case clearly shows how Frontex's assessment of distress cases from the air does not match the reality. By not sending out mayday relays, Frontex

might ignore that people on board are about to die. With this behavior, Frontex allows rescue coordination centers to follow the same path and ignore the fact that lives are in imminent danger. They can nevertheless use the position data to facilitate illegal interceptions by Libyan militias.



Libyan Actors at Sea

“The Mission found that crimes against humanity were committed against migrants in places of detention under the actual or nominal control of Libya’s Directorate for Combating Illegal Migration, the Libyan Coast Guard and the Stability Support Apparatus. These entities received technical, logistical and monetary support from the European Union and its member States for, inter alia, the interception and return of migrants.”⁴²

In March 2023, the independent UN Fact Finding Mission on Libya, tasked by the UN Human Rights Council, published its final report. The report describes the disastrous human rights situation in Libya for, among others, people on the move. It also demonstrates how European resources in the form of technical, logistical and financial support enable these actors to carry out the aforementioned grave human rights violations. EU funds have been flowing

to Libya for years for the purposes of preventing migration. We document the concrete consequences of this policy on a daily basis with our monitoring aircraft.

In addition to the provision of funding, the support from the European Union and its member states cited in the UN report also includes donations of patrol boats for the so-called Libyan coast guard by Italy. In 2022, among others, four Bigliani-class and two Corrubia-class vessels were gifted, which were previously used by the Italian Guardia di Finanza.⁴³ We regularly observe from the air how these ships are used to violently attack and intercept people on the move or threaten civil search and rescue vessels.⁴⁴ Furthermore, the so-called Libyan coast guard also receives practical training from Guardia di Finanza, for example in November 2023.⁴⁵

No Unified Actor

The cycle of violence to which many people on the move in Libya are exposed - consisting of detention, attempts to escape, interception at sea and return to camp structures, often with the use of violence and exploitation, up to a new attempt to flee - is carried out by a variety of state groups and militias.

Libyan forces, carrying out interceptions that are presented by the EU as search and rescue activities, are not a unified actor. Besides the so-called Libyan coast guard, there are several other groups involved. One of them is the state-funded militia Stability Support Apparatus (SSA) which reports to the Libyan Prime Minister and according to Amnesty International is responsible for “unlawful killings, arbitrary detentions, interception and subsequent arbitrary detention of migrants and refugees, torture, forced labour, and other shocking human rights violations and crimes under international law”.⁴⁶

According to the final report of the Panel of Experts on Libya by the UN Security Council, both the so-called Libyan coast guard and the SSA directly hand people over into arbitrary detention after disembarkation, from which they can be freed only by paying high sums of ransom: “When individual members of the Libyan Coast Guard and/or Stability Support Apparatus maritime units captured migrants at sea and returned them to shore, the detaining authorities screened the captured migrants based on gender, nationality and ethnicity in order to determine a migrant’s capacity to pay for his or her release.”⁴⁷

With our monitoring aircraft we witnessed the two following interceptions conducted by the SSA in 2023, which were closely coordinated with the so-called Libyan coast guard.

⁴² UN Human Rights Council, Report of the Independent Fact-Finding Mission on Libya, March 2023: <https://www.ohchr.org/en/press-releases/2023/03/libya-urgent-action-needed-remedy-deteriorating-human-rights-situation-un>

⁴³ Sergio Scandura, August 2022: https://x.com/scandura/status/1561450726840320000?s=46&t=VOEull-Ein_5pL0mzLwYVpw

⁴⁴ Sea-Watch, October 2023: https://x.com/seawatch_intl/status/1708461721235411414?s=46

⁴⁵ Sea-Watch, April 2024: <https://twitter.com/seawatchcrew/status/1782439795953684949>

⁴⁶ Amnesty International, Libya: Hold Stability Support Authority militia leaders to account, May 2022: <https://www.amnesty.org/en/latest/news/2022/05/libya-hold-stability-support-authority-militia-leaders-to-account/>

⁴⁷ UN Security Council, Final report of the Panel of Experts on Libya, September 2023: <https://ia902703.us.archive.org/19/items/n-2323461/N2323461.pdf>

26 April 2023: Different militias coordinate 3 interceptions in a row: the SSA and the so-called Libyan coast guard intercept 240 persons at sea, likely facilitated by Frontex.

On 26 April, our aircrew witnessed three interceptions in which both the so-called Libyan coast guard and the SSA cooperated and which were additionally likely facilitated by Frontex. Around noon, the Frontex drone orbited over a position in the Libyan search and rescue region. About 1.5 hours later, Seabird arrived in the area and found a heavily overcrowded white rubber boat with approximately 70 people on board, with people sitting on the sponsons. Shortly after, a boat from the so-called Libyan coast guard arrived on scene and intercepted the people in distress. After the interception, the patrol boat from the so-called Libyan coast guard turned towards

two other boats in distress in the same area, carrying another 70 and 100 persons respectively. Additionally, a boat from the SSA also arrived on scene. During the interception, at least four people fell into the water. It took the so-called Libyan coast guard and the SSA around 30 minutes to recover the persons from the water. The Frontex drone was on scene the entire time. In the end, the approximately 240 people on board the three boats in distress were forced back to Libya. While approximately 60 persons were transferred to the SSA boat, members of the SSA militia took over two of the distress case boats and drove them back to Libya.

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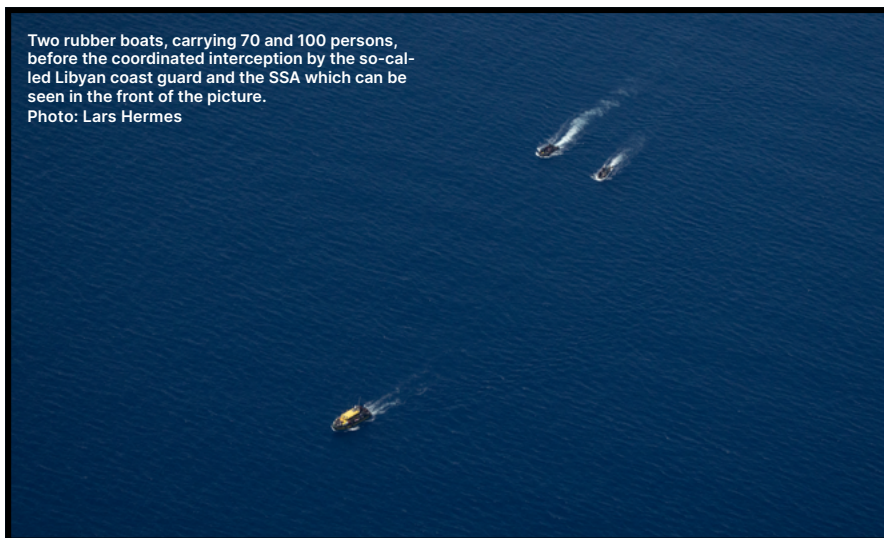
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In 2023, a new actor appears as an interception force in the central Mediterranean. In July 2023, as the first civil actor, we were able to observe a new boat belonging to the Tariq Ben Zeyad (TBZ) militia. Throughout the year, we encountered the boat named after the militia several times and documented its involvement in illegal pullbacks to Libya.

The TBZ is a militia that operates in eastern Libya and is led by Saddam Haftar, the son of the leader of the Libyan Arab Armed Forces (LAAF) General Khalifa Haftar. Severe crimes and human rights violations are committed by several groups affiliated to the LAAF. These include, among others, the TBZ which is considered one of the most powerful armed groups in the east of the country. Amnesty International reports that “TBZ fighters have been committing violations of international human rights law and international humanitarian law, some of which may constitute war crimes, with total

impunity in LAAF-controlled areas. Among them are torture and other ill-treatment, rape and other sexual violence, hostage-taking and other unlawful deprivation of liberty, murder of civilians and fighters hors de combat, forced displacement and pillage.”⁴⁸

We assume that, due to its position of power in the east of the country, the militia is at least aware of and possibly facilitates the departure of large boats with high numbers of persons on board. These kinds of boats mostly leave from the east of Libya towards Italy and thus have a longer and more dangerous journey. We were able to document several cases of the TBZ militia intercepting people at sea, dragging them back to Libya in violation of international law and (re-)imprisoning them.⁴⁹ Furthermore, there is strong reason to suspect that TBZ receives information about boats in distress from Frontex and the Armed Forces of Malta.



Two rubber boats, carrying 70 and 100 persons, before the coordinated interception by the so-called Libyan coast guard and the SSA which can be seen in the front of the picture.
Photo: Lars Hermes

⁴⁸ see footnote 21

⁴⁹ Sea-Watch, July 2023: https://x.com/seawatch_intl/status/1678432066860376067

26 July 2023: Frontex possibly facilitates illegal pullback of 300 persons from the Maltese search and rescue zone, conducted by TBZ militia.⁵⁰

At midday on 26 July 2023, Seabird sighted a large, critically overcrowded wooden boat in distress with approximately 300 people on board in the Maltese SAR zone, while simultaneously observing TBZ approaching in the direction of the boat. Seabird informed the relevant rescue coordination centers. Seabird also informed TBZ via radio that they were in the Maltese SAR zone, where Malta is responsible for coordinating rescues and subsequently disembarking people in a safe place in accordance with international law.

TBZ told Seabird that it was being coordinated by Libya and had received instructions to intercept the boat and bring the people back to Benghazi.

In the next hour our ground crew repeatedly tried to contact both the Maltese and Libyan authorities via phone.

The RCC Malta did not pick up the phone on 5 attempts. The JRCC Libya only answered the calls on one of seven numbers, but did not speak English.

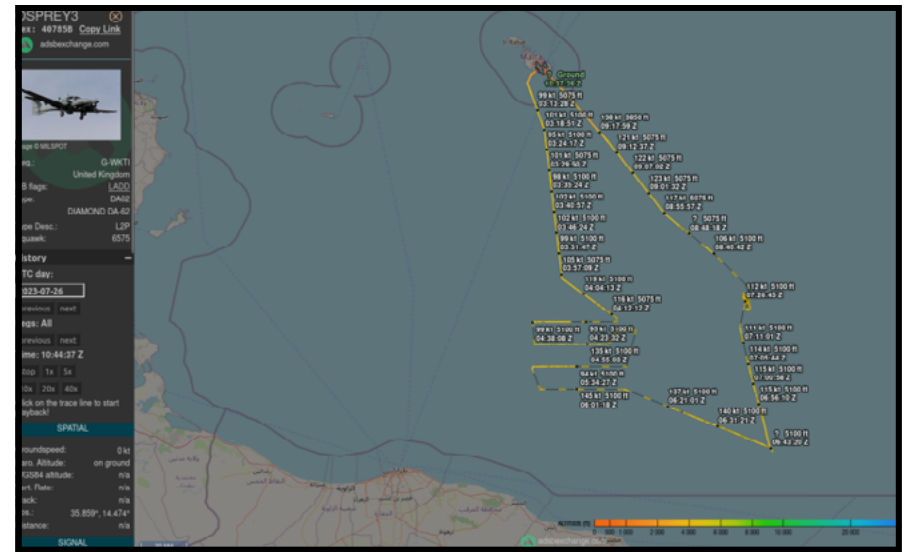
As stated on the phone to our ground crew by a Libyan government employee in Benghazi, TBZ received the information about the boat in distress from the Frontex aircraft Osprey in the morning and eventually received the approval to intercept the boat from the Maltese SAR zone by the Maltese authorities. The timestamp of the reported information transfer from Frontex matches with Frontex orbits over the position of the boat in distress.

The TBZ did not take the people on board, but instead temporarily attached the boat in distress to the ship with ropes and finally escorted it to Libya.

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Flight track of Frontex aircraft Osprey 3, orbiting over the boat in distress at 0726z
Source: adsb-exchange

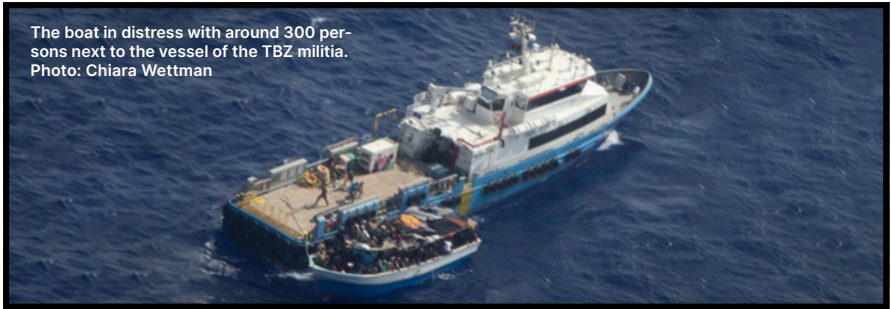


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Seabird Documentation used in Investigations
Based on our data, a major investigation into the TBZ militia was published in various international media, including Lighthouse Reports,⁵¹ Der Spiegel,⁵² Le Monde⁵³ and Al Jazeera⁵⁴ and was followed by parliamentary inquiries to both the Commission and Frontex about the role of the EU agency in TBZ interceptions.

The interception and return of people on the move is always an act of violence. In addition to the deprivation of rights and restrictions on freedom of movement, pullbacks by different Libyan actors are often carried out with the use of physical violence, such as through deliberately risky driving manoeuvres and endangering the boat in distress,⁵⁵ beatings with sticks or shooting with guns into the air or water close to people in distress.⁵⁶

Libyan Actors at Sea



The boat in distress with around 300 persons next to the vessel of the TBZ militia. Photo: Chiara Wettman

50 Sea-Watch, July 2023: https://x.com/seawatch_intl/status/1684904913543864321

51 Lighthouse Report, Frontex and the pirate ship, December 2023: <https://www.lighthousereports.com/investigation/frontex-and-the-pirate-ship/>
52 Der Spiegel, Wie eine brutale Foltermiliz zu Europas neuem Handlanger wurde (German), December 2023: <https://www.spiegel.de/ausland/migrationspolitik-im-mittelmeer-wie-eine-brutale-foltermiliz-zu-europas-neuem-handlanger-wurde-a-11cc3014-e3b8-4022-886e-7510801f5a6c>
53 Le Monde, Comment l'Europe a laissé Malte livrer en mer des migrants à une milice libyenne (French), December 2023: https://www.lemonde.fr/afrique/article/2023/12/11/comment-l-europe-a-laisse-malte-livrer-en-mer-des-migrants-a-une-milice-libyenne_6205153_3212.html
54 Al Jazeera, European powers allow shadowy Libyan group to return refugees, December 2023: <https://www.aljazeera.com/features/longform/2023/12/11/with-europes-help-a-libyan-brigade-accused-of-killings-returns-refugees>
55 Sea-Watch, September 2023: https://x.com/seawatch_intl/status/1707803433145680293?s=20
56 Sea-Watch, March 2023: https://x.com/seawatch_intl/status/1639695334057050114?s=20

Tunisia as Main Country of Departure

In 2023, Tunisia experienced significant changes as a transit and departure country for the central Mediterranean route. 97,667 people, i.e. 62% of total arrivals in Italy by sea in 2023, departed from Tunisia.⁵⁷ In the previous year, 32,371 persons, i.e. 31%, started their crossing to Italy in Tunisia. With the increase in departures from Tunisia and arrivals in Italy, the Tunisian authorities intensified their presence at sea under pressure from the EU and individual European member states. In 2023, around 80,000 people were intercepted and towed back by the Tunisian authorities.⁵⁸ The number of illegal pullbacks has more than doubled compared to the previous year 2022, when the figures were around 38,000.⁵⁹

Since September 2022, we have seen a sharp increase in iron boats on the Tunisian route. These boats are highly unstable, consisting only of two metal plates welded together. They usually carry around 30-50 people. Due to the unstable

construction, the boats can fill with water within seconds and sink immediately. Especially around the beginning of the emergence of these metal boats, there were repeated shipwrecks and deaths, even during rescues by Italian coast guard vessels.⁶⁰



Remains of an iron boat on the coast of Lampedusa.
Photo: Marina Morini

⁵⁷ UNHCR, Italy Sea Arrivals Dashboard December 2023: <https://data.unhcr.org/en/documents/details/107239>

⁵⁸ FTDES, Statistiques migration 2023: <https://ftdes.net/statistiques-migration-2023/>

⁵⁹ FTDES, Statistiques migration 2022: <https://ftdes.net/statistiques-migration-2022/>

⁶⁰ Civil MRCC, ECHOES Issue 4, January 2023: <https://civilmrcc.eu/echoes/echoes-4-struggles-along-the-tunisian-route/>

East of the Tunisian coastal town of Sfax and the Kerkennah Islands is a Tunisian military zone over which civil aircraft are prohibited from flying. The military zone covers parts of the Tunisian migration route to Italy, making it an unobservable spot for civil human rights monitoring. Our monitoring planes have no access to this area, which means that the human rights violations taking place there, in the form of mass interceptions, often through the use of physical force, are only witnessed by the people who suffer them themselves. State-committed crimes remain hidden from the wider public and enjoy impunity.

In February 2023, Tunisian President Kais Saïed gave a racist hate speech that exacerbated the already existing anti-Black racism in Tunisia. He agitated against people from sub-saharan Africa and provoked a wave of persecution in Tunisia. As a result, Tunisian authorities and sometimes individuals subjected the African diaspora to acts of violence, with people losing their housing and access

to healthcare and transportation, among other things. In addition to physical attacks, the victims are exposed to various forms of institutional violence.⁶² Tunisian authorities conducted raids in the streets, arrested Black people and collectively expelled them into desert regions on the border with Libya and Algeria. At times, several hundred people were abandoned there by Tunisian border guards and dozens have died.⁶³

Due to the danger and violence to which the Black population of Tunisia, people on the move and political opponents are exposed, many were and are forced to flee. With our monitoring aircraft, particularly during the months of March and April, we spotted a large number of boats in distress on the Tunisian corridor which had managed to escape the extensively patrolled Tunisian waters, as well as high numbers of empty, mostly iron boats close to Lampedusa which had come from Tunisia. Additionally, we witnessed two interceptions by the so-called Tunisian coast guard in the Maltese search and rescue zone.

⁶¹ Alarm Phone and Tunisian civil society actors: Interrupted sea: The illegal and violent practices of the Tunisian National Guard in the central Mediterranean, June 2024: <https://alarmphone.org/wp-content/uploads/2024/06/Interrupted-sea-EN.pdf>

⁶² Joint statement by 69 SAR organizations and migrant solidarity networks, Tunisia is neither a safe country of origin nor a place of safety for those rescued at sea, April 2023: <https://sea-watch.org/en/tunisia-is-neither-a-safe-country/>

⁶³ Lighthouse Report, Desert Dumps, May 2024: <https://www.lighthousereports.com/investigation/desert-dumps/>

09 March and 08 April 2023: So-called Tunisian coast guard intercepts boats in distress from the Maltese area of responsibility.

On 09 March, Seabird spotted the ongoing interception of an iron boat with around 30 persons on board, within the Maltese SAR zone. The so-called Tunisian coast guard used a dinghy to take the people on to its deck where there were already another 100 persons. Around midday on 08 April 2023, our aircrew sighted an iron boat with approximately 50 persons on board within the Maltese SAR zone. The so-called Tunisian coast guard had already launched a dinghy but the people in distress were trying to escape from it. When Seabird spotted the persons in distress for a second time one hour later, they were still moving with the so-called Tunisian coast guard pursuing

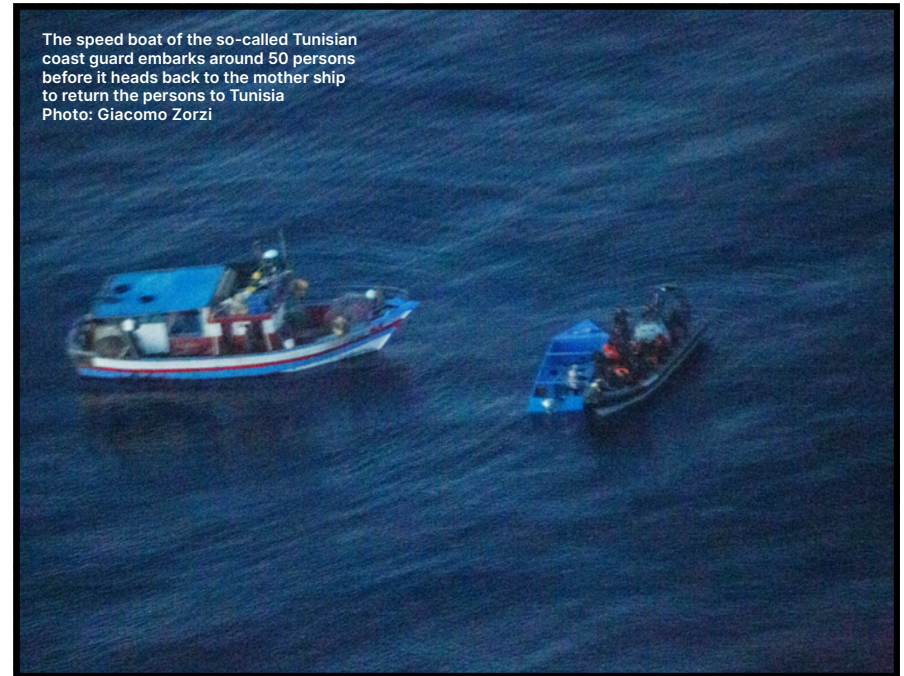
them. Another four hours later, when Seabird arrived back on scene, the people in distress were stationary with a fishing boat next to them and the so-called Tunisian coast guard vessel approaching and eventually starting to take the people on board in a dangerous maneuver, risking capsizing the boat. Our crew informed RCC Malta as the competent authority in the Maltese SAR zone as well as MRCC Rome about the interception via mail, and additionally tried to call RCC Malta, whereupon the officer on the phone immediately hung up three times. The people were taken back to Tunisia, a country that is not safe for people on the move and other marginalized groups.

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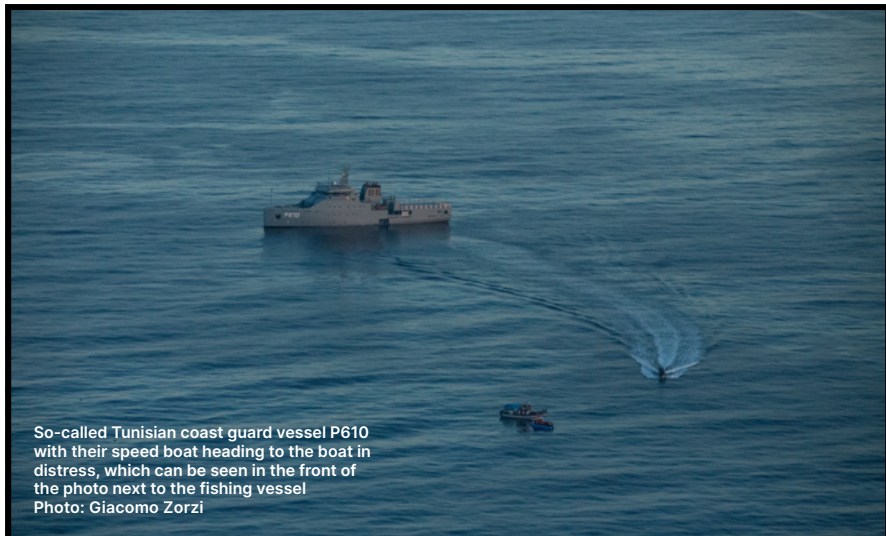
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Tunisia as Main Country of Departure



The speed boat of the so-called Tunisian coast guard embarks around 50 persons before it heads back to the mother ship to return the persons to Tunisia
Photo: Giacomo Zorzi



So-called Tunisian coast guard vessel P610 with their speed boat heading to the boat in distress, which can be seen in the front of the photo next to the fishing vessel
Photo: Giacomo Zorzi

Our Demands

Based on the above findings, we call on all involved actors to end violent border practices and respect the human rights of all people, especially those who try to flee.

- The **EU and its member states** must immediately terminate any policy, funding, or program that aims at the externalization of European borders in Tunisia, Libya and beyond as well as the prevention of migration to Europe.
- The **Italian and Maltese** authorities must immediately terminate the collaboration and information sharing with Libyan militias, including the so-called Libyan coast guard, that serves the aim of intercepting and returning people to Libya in order to prevent arrivals at European shores.
- **Malta** must immediately stop its practice of systematic non-assistance. The Maltese RCC must react to cases of distress, reported by state actors, NGOs or people in distress themselves, and immediately initiate rescue operation, as required by international law.
- **Italy** must immediately end its policies of criminalizing flight and civil sea rescue. This means revoking the Piantadosi decree, ending the policy of assigning distant ports, and stopping all attempts of criminalization of our Airborne operations. Furthermore, it must terminate any deals with and support to Libya and Tunisia in relation to migration prevention.

- **Italy** must ensure complete transparency around its SAR operations and border management, including regular, comprehensive public reporting on all maritime incidents, with a particular focus on documenting any loss of life, violence, abuse, or human rights violations at sea. The Interior Minister's decree law of 16 March 2022 must be revoked, as it undermines the public's right to information. Italy must ensure full public scrutiny and accountability of its actions in this domain.
- **Germany** must immediately end any engagement in and support of (European) externalization policies. This includes, for example, the deployment of German federal police officers in Tunisia in the context of migration prevention. Furthermore, it must support German-flagged civil rescue ships when they are subjected to attempts to obstruct them, as stipulated in the coalition agreement.
- The **EU** must abolish Frontex as a key actor in European isolationist policies. The agency proves time and again that it is unable and unwilling to act in accordance with fundamental rights obligations. Until then, the Frontex Executive Director must immediately terminate all Frontex activities in the central Mediterranean due to ongoing human rights violations, in line with Art. 46 of Regulation (EU) 2019/1896.
- The **EU** must urgently introduce a European search and rescue program. This program should be non-military, financed and coordinated by member states, and must have the sole aim of rescuing people in distress at sea in line with maritime and human rights law.
- The **EU Commission** must fulfill its task as Guardian of the Treaties and end the crisis of the rule of law along European borders. This means to hold member states accountable for violations of applicable EU law and the EU Charter of Fundamental Rights in particular.

Ending the deaths in the Mediterranean can be politically realized. We need safe and legal passages for everyone.

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.

