

FORENSIC OCEANOGRAPHY **BLAMING THE RESCUERS**

Criminalising solidarity, re-enforcing deterrence

A report by Forensic Oceanography (Charles Heller and Lorenzo Pezzani), affiliated to the Forensic Architecture agency, Goldsmiths, University of London, June 2017

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EXECUTIVE SUMMARY

Aiming to deter migrants from crossing the Mediterranean, the EU and its member states pulled back from rescue at sea at the end of 2014, leading to record numbers of deaths. Non-governmental organisations (NGOs) were forced to deploy their own rescue missions in a desperate attempt to fill this gap and reduce casualties. Today, NGOs are under attack, wrongly accused of ‘colluding with smugglers’, ‘constituting a pull-factor’ and ultimately endangering migrants. This report refutes these accusations through empirical analysis. It is written to avert a looming catastrophe: if NGOs are forced to stop or reduce their operations, many more lives will be lost to the sea.

It has been two years since more than 1,200 people perished at sea in the 12 and 18 April 2015 shipwrecks – the largest to have been documented in recent Mediterranean history. These deaths, as we demonstrated in the report *Death by Rescue* published last year,¹ were the result of the termination of the Italian Mare Nostrum operation, which had patrolled close to the Libyan coast to rescue migrants in distress. The end of Mare Nostrum left a gap in Search and Rescue (SAR) capabilities that was meant to deter migrants and instead led to a staggering increase in deaths at sea in early 2015. In the wake of this harrowing loss of life, even the President of the European Commission, Jean-Claude Juncker, was obliged to admit that “it was a serious mistake to bring the Mare Nostrum operation to an end. It cost human lives”.²

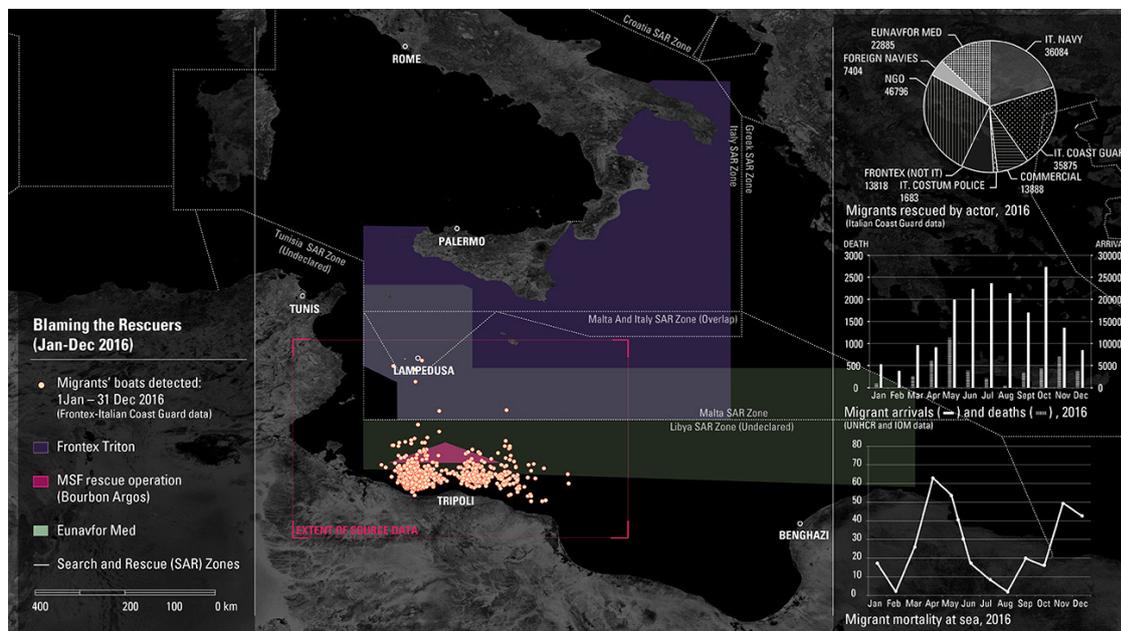
Today, proactive Search and Rescue (SAR), which has come to be mainly operated by NGOs, is once again under attack.³ Despite their crucial life-saving role, SAR NGOs have in recent months become the object of a de-legitimisation and criminalisation campaign that has not only involved Frontex – the European Border and Coast Guard Agency, high-level politicians, and the media, but has also led to the opening of several exploratory inquiries by prosecutors in Italy.

Part of this campaign has taken the form of heinous accusations against SAR NGOs, in particular that they are “colluding with smugglers” for their own profit.⁴ Despite having

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- 1 Charles Heller and Lorenzo Pezzani, “Death by Rescue: The Lethal Effects of the EU’s Policies of Non-Assistance”, 18 April 2016, deathbyrescue.org (last accessed 12 April 2016).
 - 2 European Commission, “Speech by President Jean-Claude Juncker in the European Parliament debate on the conclusions of the Special European Council on 23 April 2015: ‘Tackling the migration crisis’”, 29 April 2015, http://europa.eu/rapid/press-release_SPEECH-15-4896_en.htm (last accessed 12 April 2016).
 - 3 We define as “proactive” those operations that have Search and Rescue (SAR) activities as their main operational goal and which as a result deploy their vessels towards the areas where migrants encounter situations of distress and actively look out for them. Currently, all of the state-operated missions in the Central Mediterranean have security-oriented goals, ranging from border control to anti-smuggling activities, and engage in SAR operations only when called upon by the competent authorities.
 - 4 We will reconstruct in detail the origins and overall scope of these accusations in the section titled “Toxic Narrative”. The accusation of collusion with smugglers was originally formulated by a small Dutch think-tank, GEFIRA, and was later taken up again in a *Financial Times* article, which, as admitted by the newspaper, had “overstated” some claims found in a Frontex report. See: Duncan Robinson, “EU border force flags concerns over charities’ interaction with migrant smugglers”, *Financial Times*, 15 December 2016, <https://www.ft.com/>

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been central in creating a climate of mistrust and in spreading what we have called a “toxic narrative”, several aspects of this attack have proven baseless or have already been effectively refuted and therefore won’t be analysed in detail here.⁵ The core of our report focuses instead on a subtler and yet no less grave accusation which was initially formulated by Frontex and has revolved around the alleged effects of proactive SAR on the dynamics of migration across the sea.



Map and figures of the situation in the central Mediterranean between January and December 2016. Within the considered timeframe: migrants were rescued increasingly close to Libyan shores, as shown by Frontex and Coast Guard data; Frontex’s Triton operational area and EUNAVFOR MED’s operations area remained unchanged; Search and Rescue NGOs deployed a maximum of 12 vessels, and became the largest SAR operator in the central Mediterranean; crossings were comparable to 2014 and 2015 over most of the year, apart for the months of October and November which saw far more crossings than in previous years; deaths reached a record high and mortality rates peaked in Spring and Autumn. Credit: Forensic Oceanography. GIS analysis: Rossana Padeletti. Design: Samaneh Moafi.

The main underlying claims of this argument can be summarized as follows: SAR NGOs are (1) constituting a “pull-factor” leading to more migrants attempting the dangerous crossing; (2) “unintentionally helping criminals” by encouraging smugglers to use even

[content/3e6b6450-c1f7-11e6-9bca-2b93a6856354](https://www.senato.it/static/bgt/listasommcomm/0/4/s/17/index.html) (last accessed 12 May 2017).

- 5 NGOs have themselves responded to these accusations in parliamentary hearings (videos and transcripts can be found here: <https://www.senato.it/static/bgt/listasommcomm/0/4/s/17/index.html> - April and May 2017 hearings), with online articles (particularly useful a FAQ on Search and Rescue in the Mediterranean by Médecins Sans Frontières: “Le domande più frequenti sulle nostre operazioni di ricerca e soccorso nel Mediterraneo”, 27 March 2017, <http://www.medicisenzafrontiere.it/notizie/news/le-domande-pi%C3%B9-frequenti-sulle-nostre-operazioni-di-ricerca-e-soccorso-nel-mediterraneo>, last accessed 12 May 2017) and in numerous press conferences. Several articles have gathered the main rebuttal points against this toxic narrative. See in particular: Annalisa Camilli, “Perché le ong che salvano vite nel Mediterraneo sono sotto attacco”, *Internazionale*, <http://www.internazionale.it/notizie/annalisa-camilli/2017/04/22/ong-criminalizzazione-mediterraneo> (last accessed 12 May 2017) and Francesco Floris e Lorenzo Bagnoli, “Accuse alle Ong: cosa c’è di falso o di sviante”, *Open Migration*, 10 May 2017, <http://openmigration.org/analisi/accuse-alle-ong-cosa-ce-di-falso-o-di-sviante/> (last accessed 12 May 2017).

poorer quality boats and more dangerous tactics; (3) in turn making the crossing more dangerous for migrants.⁶ This line of criticism is almost identical to that previously levied against Mare Nostrum and which we have already refuted in *Death by Rescue*.⁷ Yet, the increasing danger of crossing in the central Mediterranean is a fact, as both the rise of the number of deaths – from 2,892 in 2015 to 4,581 in 2016 – and of the mortality rate – from 184 in 2015 to 25 in 2016 – testify.⁸ These worrying developments demand a serious evaluation in and of themselves.

The following report relies on new findings generated through extensive interviews with state officials, SAR NGOs and migrants, as well as newly accessed official reports, analysis by investigative journalists specialising in smuggling networks in Libya, statistical analysis and cartographic methods. It has been produced by *Forensic Oceanography* – a research team based within the Forensic Architecture agency at Goldsmiths (University of London) that specialises in the use of forensic techniques and cartography to reconstruct the conditions that lead to deaths at sea.

By untangling the threads of the multiple processes and actors that have shaped the dynamics of migration across the sea between 2015 and 2016, we assess the accusations formulated against SAR NGOs and demonstrate they rest on biased analysis and spurious causality links.

1. SAR NGOs operating close to Libyan territorial waters constitute a “pull-factor” leading to more migrants attempting the dangerous crossing

Our analysis suggests that SAR NGOs were not the main driver of increasing arrivals over 2016. We demonstrate that the increasing crossings registered along the Central Mediterranean route in 2016 are consistent with the increase in crossings along the route by African migrants between 2014-2015, a period in which the presence of SAR NGOs was still limited. This was partly recognised by Frontex, which, summarizing the trends observed over 2016, noted that:

“the Central Mediterranean saw the highest number of migrant arrivals ever recorded from sub-Saharan, West Africa and the Horn of Africa (181,459 migrants, increase of 18% compared with 2015). This trend, *which is consistent with previous year-on-year increases*, shows that the Central Mediterranean has become the main route for African migrants to the EU and it is very likely to remain so for the foreseeable future.”⁹

– Frontex, 2017 Annual Risk Analysis report

6 Frontex, *2017 Annual Risk Analysis*, 15 February 2017, p. 32 http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf (last accessed 12 May 2017).

7 Charles Heller and Lorenzo Pezzani, “Death by Rescue: The Lethal Effects of the EU’s Policies of Non-Assistance”, 18 April 2016, deathbyrescue.org (last accessed 12 April 2016).

8 IOM data for deaths, available on the web portal dedicated to the Mediterranean <http://missingmigrants.iom.int/mediterranean> (last accessed 12 May 2017). The mortality rate is our own calculation based on IOM data for deaths and UNHCR data for arrivals, available at <http://data2.unhcr.org/en/situations/mediterranean> (last accessed 12 May 2017).

9 Frontex, *2017 Annual Risk Analysis*, 15 February 2017, p. 20, our italic. http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf (last accessed 12 May 2017).

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The discrepancy between the temporality of the increased crossings from Libya by African migrants and the deployment of SAR NGOs suggests that no direct causal link can be established between these two phenomena. This is also demonstrated by the fact that along the western Mediterranean route from Morocco, a 46% increase was registered from 2015 to 2016, in the absence of any SAR NGO assets. Our analysis shows instead that worsening economic and political crises that affect several regions across the African continent, including the turmoil raging in Libya, have played a major role in driving the numbers of migrants crossing up. Faced with the horrendous situation in Libya, migrants have little choice but to attempt the sea crossing, with or without proactive SAR. This was clearly demonstrated by the analysis in our report *Death by Rescue*,¹⁰ which showed that the termination of the Mare Nostrum operation did not lead to less crossings being registered in early 2015, only to more deaths.

2. NGOs are unintentionally helping criminals by encouraging smugglers to use even poorer quality boats and more dangerous tactics

Our analysis acknowledges the downward spiral in the practices of smugglers and conditions of crossing over 2015 and 2016. These include: the increasing use of bad quality rubber boats instead of the more solid wooden boats; the provision of less fuel, food and water; an increase of departures in more difficult weather conditions; and an ever higher degree of overloading. However, we argue that SAR NGOs *responded to and were not the cause of* these evolving practices that had instead been spurred by other processes and actors predating SAR NGOs intervention. At the heart of the continuous degradation of the conditions of crossing since 2013, has been the violent and chaotic situation of Libya. At the end of 2015, a new model of militia-led smuggling emerged, which contributed to several of the shifts mentioned above. The EU's anti-smuggling operation, EUNAVFOR MED also had an important impact on smugglers' tactics, as recorded in its own internal reports. By interdicting and destroying the vessels used by smugglers, it contributed to the shift from larger wooden vessels to cheap and less stable rubber boats. As EUNAVFOR MED noted:

"(...) smugglers can no longer recover [wooden] smuggling vessels on the High seas, effectively rendering them a less economic option for the smuggling business and thereby hampering it."¹¹

– EUNAVFOR MED, Six Monthly Report, January 2016

These tactical shifts were noted at the end of 2015 and in the first months of 2016, when the presence of SAR NGOs was limited, which further confirms that the NGO activities were not their cause. Finally, under pressure from the EU, the Libyan Coast Guard (LCG) increasingly intercepted migrant boats as they left the Libyan coast in 2016. As the LCG repeatedly exercised violence in the process, at times leading boats to capsize, this contributed to increasing the danger of crossing and to heighten the shifts in smuggler tactics. The presence of NGOs, which were directed by the Italian Coast

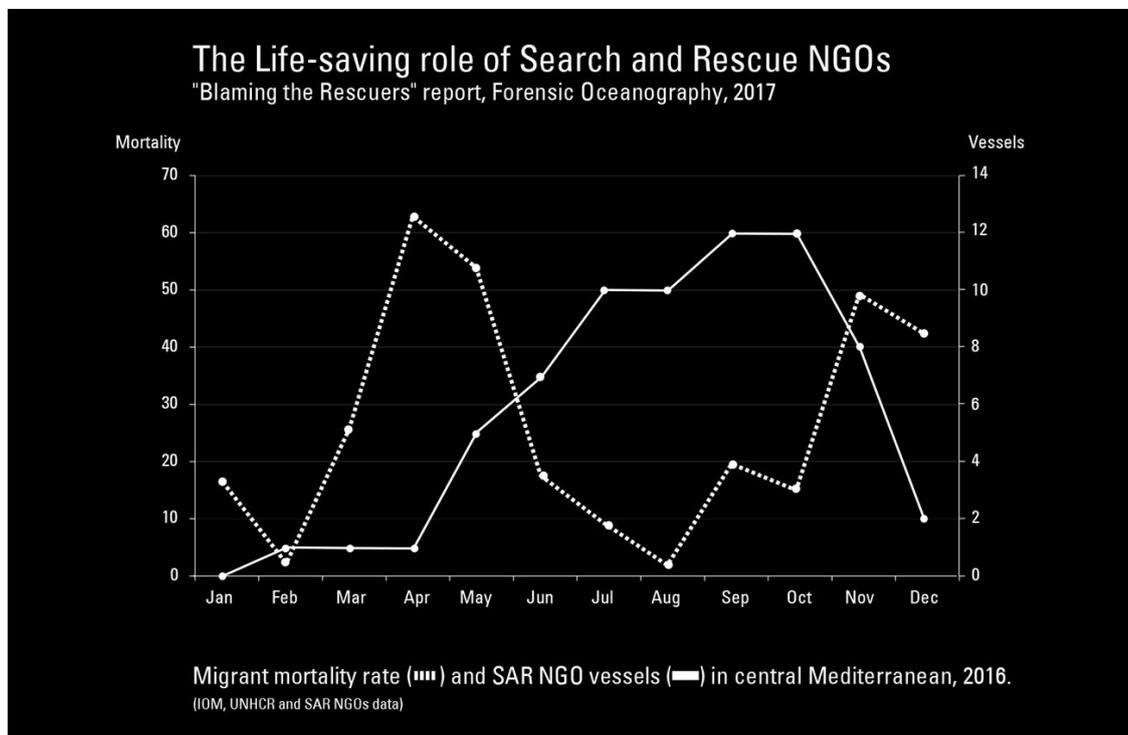
10 Charles Heller and Lorenzo Pezzani, "Death by Rescue: The Lethal Effects of the EU's Policies of Non-Assistance", 18 April 2016, deathbyrescue.org (last accessed 12 April 2016).

11 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June – 31 December 2015*, 28 January 2016, p. 7. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

Guard closer to the Libyan coast so as to avert situations of imminent distress, was a response to these trends, which may in turn have contributed to *consolidating* specific shifts in smugglers’ practices – such as no longer providing migrants with a satellite phone – but was not the cause of the worsening conditions of crossing.

3. NGOs are making the crossing more dangerous for migrants despite their intentions

We demonstrate that while 2016 was the deadliest year on record for Mediterranean crossings¹² despite having seen the highest number of SAR NGOs operating, thus pointing to an apparent paradox, closer analysis shows the life-saving role of these NGOs. The migrant mortality rate had risen in early 2016 before NGO SAR assets returned to the central Mediterranean following their winter break, and declined in parallel to their redeployment. The mortality rate rose again only when SAR NGOs’ presence decreased at the end of the autumn. There is thus a striking negative correlation between the decreasing mortality rate and the rising number of SAR NGO vessels, which shows that the latter made the crossing safer.¹³



Monthly migrant mortality rates for 2016 (based on IOM and UNHCR data) and number of deployed SAR NGO vessels, showing a striking negative correlation. Credit: Forensic Oceanography. Statistical analysis: Gian-Andrea Monsch, Researcher at Fors, University of Lausanne, Switzerland. Design: Samaneh Moafi.

12 The number of deaths rose to a record high of 4,581, and the mortality rate too rose to 2.5 from 1.83 in 2015.

13 The statistical analysis of the data conducted by Gian-Andrea Monsch, Researcher at Fors, University of Lausanne, Switzerland, shows that there is a strong negative correlation (-.314 Pearson’s R) between the number of SAR NGO vessels and the migrant mortality rate. However, this correlation is not statistically significant, meaning that there is a 32% propensity that we cannot reproduce this correlation in other years. While the result is only reliable for the year 2016, the analysis of the data for 2015 has also shown a strong negative correlation (-.532 Pearson’s R), which is borderline significant (below the 10% benchmark).

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Our empirical analysis thus allows us to counter the allegations put forward to delegitimise SAR NGOs, and demonstrates that the accusations have been founded on biased analysis. This has singled out SAR NGOs from a broader web of interactions, rather than analysing the multiple actors who, together, shape the dynamics and conditions of maritime crossings. While the analysis of the effects of these processes and actors on the conditions of crossing have been widely available, they have never been mentioned in relation to the arguments of those attacking SAR NGOs, thereby reinforcing the toxic narrative against them.

We conclude by demonstrating that the toxic narrative against SAR NGOs has served to reinforce a number of strategic effects with regards to EU migration policies. It has allowed state actors mobilising these arguments to divert public attention from their own responsibilities and failures – such as the continuing SAR gap that has made SAR NGOs essential in the first place, and the effects of the EU’s anti-smuggling operations which have contributed to making the crossing more dangerous but failed to stop the smuggling business. In turn, the de-legitimation and criminalisation of proactive SAR is in continuity with prior policies – such as the ending of Mare Nostrum – which have attempted to deter migrants by making the crossing more difficult, with the only effect of leading to thousands of deaths. Moreover, in the face of the alleged failure of humanitarian responses, actors attacking SAR NGOs have systematically proposed other “real” solutions which invariably involve cooperating with dictatorial regimes at the EU’s periphery to stem crossings. In particular, the EU is increasingly relying on cooperation with the Libyan Coast Guard, whose interventions have led to repeated loss of life. Considering the condition of migrants in Libya today, preventing migrants from departing from Libyan territory amounts to complicity with arbitrary detention, torture, sexual violence, forced labour and trafficking.¹⁴ Finally, these attacks against SAR NGOs participate in a wider attempt to criminalise solidarity towards migrants and refugees, which endangers the possibility of EU citizens standing in solidarity and exercising civilian oversight at the EU’s frontiers to contest their deadly effects.



Rescued migrants on the deck of the *Jugend Rettet* during the Easter Weekend 2017 operations. Despite a nominal capacity of no more than 100 people, the *Jugend Rettet* had to take on board hundreds of people to make up for the absence of state-led SAR assets. Credit: Giulia Bertoluzzi.

14 Office of the United Nations High Commissioner for Human Rights, “*Detained and dehumanised*” Report on human rights abuses against migrants in Libya, 13 December 2016, p. 19-20, www.ohchr.org/Documents/Countries/LY/DetainedAndDehumanised_en.pdf (last accessed 12 May 2017).

SAR NGOs demonstrated once again their crucial role this year over the Easter weekend, the second anniversary of the April 2015 shipwrecks, when they took the lead in the rescue of more than 9,000 migrants. While states have not taken up the task of proactive SAR, without the live-saving presence of SAR NGOs, many of the migrants would have died in a tragic repetition of the events of 2015. The work of SAR NGOs thus remains as necessary as ever. Should the ongoing de-legitimisation and criminalisation campaign force them to stop or scale down their activities, there is a real risk that many more lives will be lost in the Mediterranean. The right to solidarity must thus be defended.

As long as migrants are forced to resort to smugglers for lack of legal pathways, proactive Search and Rescue at sea will be a humanitarian necessity – whether it is operated by states or NGOs. Only a fundamental re-orientation of the EU’s migration policies to grant legal and safe passage may bring the smuggling business, the daily reality of thousands of migrants’ in distress and the need to rescue them to an end.

INTRODUCTION

It has been two years since more than 1,200 people perished at sea in the 12th and 18th of April 2015 shipwrecks – the largest to have been documented in recent Mediterranean history. These deaths, as we demonstrated in the *Death by Rescue* report published last year, were the result of the termination of the Italian *Mare Nostrum* (MN) operation, which had patrolled close to the Libyan coast to rescue migrants in distress.¹⁵ The end of *Mare Nostrum* left a huge gap in Search and Rescue (SAR) capabilities that, partially filled by ill-equipped merchant vessels, led to a staggering increase in deaths at sea in early 2015. Despite these consequences and the recognition that ending *Mare Nostrum* was a “serious mistake”,¹⁶ no proactive state-led SAR operation was launched as a response, and the SAR gap was progressively filled by SAR NGOs.

Today the SAR activities courageously undertaken by NGOs are under attack.¹⁷ Despite their crucial life-saving role, SAR NGOs have in recent months become the object of a de-legitimisation and criminalisation campaign that has not only involved Frontex, the European Border and Coast Guard Agency, high-level politicians, and the media, but has also led to the opening of several exploratory inquiries by prosecutors in Italy. While some of the most heinous aspects of these attacks have proven baseless or have already been effectively refuted,¹⁸ the core of our report focuses on a subtler and yet no less grave line of criticism that was initially formulated by Frontex and that revolves around the alleged effect of proactive SAR on the dynamics of migration across the sea. The main lines of this argument can be summarized as follows: SAR NGOs are (1) constituting a “pull-factor” leading to more migrants attempting the dangerous crossing; (2) “unintentionally helping criminals” by encouraging smugglers to use even

15 Charles Heller and Lorenzo Pezzani, “Death by Rescue: The Lethal Effects of the EU’s Policies of Non-Assistance”, 18 April 2016, deathbyrescue.org (last accessed 12 April 2016).

16 European Commission, “Speech by President Jean-Claude Juncker in the European Parliament debate on the conclusions of the Special European Council on 23 April 2015: ‘Tackling the migration crisis’”, 29 April 2015, http://europa.eu/rapid/press-release_SPEECH-15-4896_en.html (last accessed 12 April 2016).

17 We define as “proactive” those operations that have Search and Rescue (SAR) activities as their main operational goal and which as a result deploy their vessels towards the areas where migrants encounter situations of distress and actively look out for them. Currently, all of the state-operated missions in the Central Mediterranean have security-oriented goals, ranging from border control to anti-smuggling activities, and engage in SAR operations only when called upon by the competent authorities.

18 NGOs have themselves responded to these accusations in parliamentary hearings (videos and transcripts can be found here: <https://www.senato.it/static/bgt/listasommcomm/0/4/s/17/index.html> - April and May 2017 hearings), with online articles (particularly useful a FAQ on Search and Rescue in the Mediterranean by Médecins Sans Frontières: “Le domande più frequenti sulle nostre operazioni di ricerca e soccorso nel Mediterraneo”, 27 March 2017, <http://www.medicisenzafrontiere.it/notizie/news/le-domande-pi%C3%B9-frequenti-sulle-nostre-operazioni-di-ricerca-e-soccorso-nel-mediterraneo>, last accessed 12 May 2017) and in numerous press conferences. Several articles have gathered the main rebuttal points against this toxic narrative. See in particular: Annalisa Camilli, “Perché le ong che salvano vite nel Mediterraneo sono sotto attacco”, *Internazionale*, <http://www.internazionale.it/notizie/annalisa-camilli/2017/04/22/ong-criminalizzazione-mediterraneo> (last accessed 12 May 2017) and Francesco Floris e Lorenzo Bagnoli, “Accuse alle Ong: cosa c’è di falso o di sviante”, *Open Migration*, 10 May 2017, <http://openmigration.org/analisi/accuse-alle-ong-cosa-e-di-falso-o-di-sviante/> (last accessed 12 May 2017).

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poorer quality boats and more dangerous tactics; (3) in turn making the crossing more dangerous for migrants.¹⁹ Our report analyses of the dynamics of migration across the sea between 2015 and 2016 to assess these claims. Our focus is justified on the one hand, by the gravity of these accusations given the Agency's prominent institutional role; on the other, we consider the increase in the danger of crossing a worrying development that demands a serious evaluation in and of itself. By untangling the threads of the multiple processes and actors that have shaped these dynamics we demonstrate the accusations formulated against SAR NGOs rest on biased analysis and spurious causality links.

ABOUT THE REPORT

The following report relies on new findings generated through extensive interviews with state officials, SAR NGOs and migrants, as well as newly accessed official reports, analysis by investigative journalists specialising in smuggling networks in Libya, statistical analysis and cartographic methods. It has been produced by Forensic Oceanography – a research team based within the Forensic Architecture agency at Goldsmiths (University of London) that specialises in the use of forensic techniques and cartography to reconstruct the conditions that lead to deaths at sea.

At the core of this report, lies the analysis of the dynamics of migration across the sea between 2015 and 2016. We rely on official documents, statistics, qualitative interviews, photographs and maps to assess how the conditions and the danger of crossings has evolved, and how the main actors operating at sea (including the state-led operations of the EU and its member states at sea, Libyan officials, smugglers, SAR NGOs and migrants) have affected them. While our report does generate substantial new data, it also relies on existing analysis by official bodies and other forms of expertise. This is important to demonstrate that the analysis we are offering would have been available but has been occluded in attacks against SAR NGOs.

REPORT OUTLINE

After this introduction, in section 2, entitled “Toxic Narrative”, we offer a brief summary of the main claims put forward against SAR NGO missions by a variety of actors including media outlets with ties to the far-right, Frontex, the European Border and Coast Guard agency, Italian prosecutors and institutions, and high-level political leaders across Europe. Analysing these claims, we briefly reconstruct the spread over time and from one actor to another, as well as their overall logic. We show that this toxic narrative has created a climate of hostility towards NGOs that threatens the continuation of their operations.

In section 3, entitled “Counter Analysis”, we analyse the three main accusations against SAR NGOs our report focuses on and provide empirical evidence to critically assess them. In the subsection “Pull Factor?”, we analyse the variegated migration dynamics according to different countries of origin, demonstrating that despite the overall decrease of crossings towards Italy recorded over 2015, arrivals from several African nationalities were increasing, and the trends over 2016 only continued those already underway over 2015. Deep political and economic trends allow to account for the

19 Frontex, *2017 Annual Risk Analysis*, 15 February 2017, p. 32. http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf (last accessed 12 May 2017).

increasing crossings, not the presence of SAR NGOs. In the sub-section “Worsening Smugglers’ Tactics?”, we focus on the evolution of the EUNAVFOR MED operation and its effects on smugglers’ tactics as well as shifts that took place on Libyan territory – particularly the growing involvement of militias in smuggling activities and the increasing intervention of the Libyan Coast Guard. We demonstrate that these actors and processes, whose effects started to be felt while SAR NGOs’ presence at sea was still marginal, played a key role leading to more dangerous smugglers’ tactics. SAR NGOs responded to these shifts and were not their driving cause. Finally in the sub-section “Increasing the Danger of Crossings?”, we analyse the response of NGOs to these worsening conditions of crossing, demonstrating that the deployment of SAR NGOs did contribute to make the crossing safer but also led to consolidate some of the shifts in the practices of smugglers. By untangling the threads of the multiple processes and actors that have shaped the dynamics of maritime crossings we demonstrate the accusations formulated against SAR NGOs rest on biased analysis and spurious causality links.

Finally, in the “Conclusions” section, we summarily rebut the claims against SAR NGOs. While they are based on deeply flawed analysis, we show the toxic narrative they have fuelled has nonetheless served to reinforce a number of strategic effects with regards to EU migration policies. It has allowed state actors mobilising these arguments to divert public attention from their own responsibilities and failures; the de-legitimisation and criminalisation of proactive SAR is in continuity with prior policies – such as the ending of Mare Nostrum – which have targeted SAR activities to make the crossing more difficult in the aim of deterring migrants; finally this toxic narrative has also served to legitimise policies of cooperation with dictatorial regimes at the EU’s periphery to stem crossings. While SAR NGOs cannot in and of themselves be a sufficient response to the deaths of migrants at sea as long as insufficient legal pathways for migration exist, the fate of migrants would be even worse without them. We illustrate the life-saving role they continue to have through the central role they played in the rescue of more than 9,000 migrants over the Easter weekend this year. We argue that in the face of the horrendous death toll that is the product of the EU policies of closure, the right to solidarity at sea must be asserted.

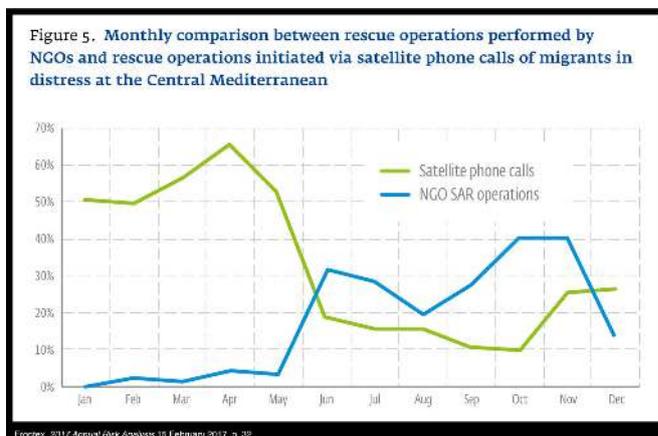
TOXIC NARRATIVE

The argument blaming NGOs operating SAR in the Mediterranean for enabling the arrival of illegalised migrants on European shores had been until recently confined to the conspirationist discourse of small groups, often with ties to the far-right. On 15 November 2016 for example, GEFIRA, a Dutch-based think-tank, published an article with the self-explanatory title: “Caught in the act: NGOs deal in migrant smuggling” in which it accused NGOs of being “part of the human smuggling network”.²⁰ On 5 December 2016 the same organisation published another article titled: “NGOs are smuggling immigrants into Europe on an industrial scale”, arguing that NGO SAR operations amounted to an “illegal human traffic operation”.²¹ The article, which as the previous one was quickly picked up in several xenophobic news outlets, was accompanied by the release of a video monitoring the activities of SAR NGOs through AIS vessel tracking data.

These spurious arguments however remained confined to the limited audience of these groups until the publication of an article in the *Financial Times* on 15 December 2016.²² The piece was based on “confidential reports” by Frontex, the European Border and Coast Guard Agency, which according to the journalists accused the NGOs of “colluding” with smugglers (see Annex).²³ The article mentioned a particular incident that the agency considered to be “the first reported case where the criminal networks directly approached an EU vessel and smuggled the migrants directly into Europe using the NGO vessel”, a claim we will assess within this report. It further reported the agency deploring that “the number of rescues triggered by a distress signal fell from roughly two-thirds of all incidents this summer to barely one in 10 in October (...). This drop-off coincided with a jump in the number of rescues carried out by NGOs in the central Mediterranean.” Despite a partial retraction that forced the *Financial Times* to admit that it had “overstated” its accusations,²⁴ Frontex would consolidate its critique of SAR NGOs in subsequent publications in early February 2017.²⁵

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- 20 GEFIRA, “Caught in the act: NGOs deal in migrant smuggling”, 9 November 2016, <https://gefira.org/en/2016/11/15/caught-in-the-act-ngos-deal-in-migrant-smuggling> (last accessed 12 May 2017). For a brief account of how this article has circulated across several xenophobic news outlets see: Costanza Hermanin, “Perché la questione delle ONG nel Mediterraneo sembra una fake news architettata da siti esteri”, *Huffington Post*, 18 May 2017, <http://www.huffingtonpost.it/costanza-hermanin/perche-la-questione-delle-ong-nel-mediterraneo-sembra-una-fake-n> (last accessed 18 May 2017).
- 21 GEFIRA, “NGOs are smuggling immigrants into Europe on an industrial scale”, 5 December 2016, <https://gefira.org/en/2016/12/04/ngos-are-smuggling-immigrants-into-europe-on-an-industrial-scale> (last accessed 12 May 2017). A video showing a similar AIS-based visualisation and containing a comparable attack against SAR NGOs later became viral in the Italian media. For an analysis and critique of this video see: Leonardo Bianchi, “La verità sul video ‘La verità sui migranti’”, *Vice News*, 14 March 2017, <https://www.vice.com/it/article/analisi-video-verita-sui-migranti-luca-donadel> (last accessed 12 May 2017).
- 22 Duncan Robinson, “EU border force flags concerns over charities’ interaction with migrant smugglers”, *Financial Times*, 15 December 2016, <https://www.ft.com/content/3e6b6450-c1f7-11e6-9bca-2b93a6856354> (last accessed 12 May 2017).
- 23 These reports have since been released through the work of investigative journalist Zack Campbell and at our own request (see Annex).
- 24 “Correction: Charities in the Mediterranean”, *Financial Times*, 22 December 2016, <https://www.ft.com/content/eae123e2-c840-11e6-9043-7e34c07b46ef> (last accessed 12 May 2017).
- 25 Frontex, *2017 Annual Risk Analysis*, 15 February 2017, <http://frontex.europa.eu/assets/Publications/>

On 15 February 2017, Frontex published its annual Risk Analysis Report, in which it made publicly accessible several of the claims that had been echoed by the Financial Times.²⁶ It is useful to detail the way the agency’s argument is formulated. With regards to the central Mediterranean, Frontex notes in its annual report that “important changes were observed on this migratory route in 2016”. However, of the many evolutions that the agency might have mentioned based on the reports available to it and that we will discuss in more detail further on, Frontex focuses on one – the role of NGOs in SAR activities. It first observes the decrease in satellite phone calls to the Italian Coast Guard Maritime Rescue Coordination Centre in Rome to trigger rescue operations, which makes detecting and rescuing migrants more difficult and may result in vessels not being rescued. It then implicitly draws a “parallel” between this decrease and the increasing presence of SAR NGOs,²⁷ suggesting a correlation – also shown in the graph reproduced below - without actually demonstrating one.



Graph showing the monthly rate of vessels rescued in response to a satellite phone call and the rate of rescue performed by SAR NGO.

Frontex’s report then continues to draw a second “parallel”: “NGO presence and activities close to, and occasionally within, the 12-mile Libyan territorial waters nearly doubled compared with the previous year, totalling 15 NGO assets (14 maritime and 1 aerial). In parallel, the overall number of incidents increased dramatically”.²⁸

[Risk Analysis/Annual Risk Analysis 2017.pdf](#) (last accessed 12 May 2017).

26 Frontex, *2017 Annual Risk Analysis*, 15 February 2017, http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf (last accessed 12 May 2017). Let us recall that according to its mission of coordinating European border management, the first task that the agency mentions in its own summary is that of “monitoring migratory flows and carrying out risk analysis regarding all aspects of integrated border management.” In turn, Frontex describes its Risk Analysis reports as produced in the “pursuit of factual exactness, truth and exhaustive analysis”, through the processing of “information from diverse sources”, which is further “systematised” into an analytical product so that Frontex may “form a reliable basis for its operational activities.” Ibid., p. 2.

27 “During 2015, and the first months of 2016, smuggling groups instructed migrants to make satellite phone calls to the Maritime Rescue Coordination Centre (MRCC) in Rome to initiate targeted rescues on the high seas. SAR operations were mainly undertaken by Italian law-enforcement, EUNAVFOR Med or Frontex vessels with NGO vessels involved in less than 5% of the incidents. As shown in Figure 5, more than half of all rescue operations were initiated in this manner. From June until October 2016, however, the pattern was reversed. Satellite phone calls to MRCC Rome decreased sharply to 10% and NGO rescue operations rose significantly to more than 40% of all incidents.” Frontex, *2017 Annual Risk Analysis*, 15 February 2017, p. 32, http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf (last accessed 12 May 2017).

28 Frontex, *2017 Annual Risk Analysis*, 15 February 2017, p. 32, http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf (last accessed 12 May 2017).

Frontex then generalises its critique of SAR to all actors operating close to the Libyan coast, without however discussing in detail their respective operations and impact. “Libyan-based smugglers (...) heavily relied on the International Convention for the Safety of Life at Sea (SOLAS), and associated SAR as well as humanitarian assistance efforts, turning it into a distinct tactical advantage. (...) Dangerous crossings on unseaworthy and overloaded vessels were organised with the main purpose of being detected by EUNAVFOR Med/Frontex and NGO vessels”.²⁹

The section of the report concludes that:

“Apparently, all parties involved in SAR operations in the Central Mediterranean unintentionally help criminals achieve their objectives at minimum cost, strengthen their business model by increasing the chances of success. Migrants and refugees – encouraged by the stories of those who had successfully made it in the past – attempt the dangerous crossing since they are aware of and rely on humanitarian assistance to reach the EU.”³⁰

We should underline how similar the argument formulated by Frontex here is to that it repeated, time and again, against Mare Nostrum in 2014 and that contributed to delegitimizing and ultimately terminating the operation, with the dramatic consequences documented in our *Death by Rescue* report.³¹

We can see here at work in an exemplary way Frontex’s analytical and narrative strategy. First, it focuses on a single actor, SAR NGOs, isolating them from the web of interactions with other actors which together shape the dynamics of migration across the sea, and establishes parallels between their activities and trends relating to migration and smuggling. Second, it generalises its criticism of the “unintended consequences” of SAR to “all parties involved in SAR operations”. However, because of its previous singling out of SAR NGOs, and because NGOs have become the primary SAR actor in the central Mediterranean, they emerge as the main target of the criticism.

Based on these spurious correlations, Frontex has constructed a narrative which can be summarised in three main claims regarding SAR at sea, of which SAR NGOs are the main target:

(1) SAR NGOs constitute a “pull-factor” leading to more migrants attempting the dangerous crossing

29 Frontex, *2017 Annual Risk Analysis*, 15 February 2017, p. 32, http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf (last accessed 12 May 2017).

30 Frontex, *2017 Annual Risk Analysis*, 15 February 2017, p. 32, http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf (last accessed 12 May 2017).

31 “I’m afraid of saying that it has been a pull factor but obviously the smugglers have abused of the proximity of the operation to the Libyan coast to, on the one hand to put more people on the sea, with the assumption that they will be rescued very soon, and this also made it cheaper for them, as I said, because they put and they are putting less fuel, less food, less water on the vessel, which at the same time also increases the risk for the migrants.” Frontex’s executive director, Gil Arias, answer to the Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament on 4 September 2014. European Parliament, Hearing of the Committee on Civil Liberties, Justice and Home Affairs (LIBE), 4 September 2014, <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20140904-0930-COMMITTEE-LIBE> (last accessed 18 January 2016).”

(2) SAR NGOs “unintentionally help criminals” by encouraging smugglers to use even poorer quality boats and more dangerous tactics

(3) SAR NGOs in turn are making the crossing more dangerous for migrants

The broad contours of this narrative were put forward again and again by Frontex Director Fabrice Leggeri in different forums, such as in his interview with the German Newspaper *Die Welt* on 27 February.³² Through repetition, it has spread like a virus across media and policy circles.³³ Considering the credibility the Agency enjoys thanks to its institutional role and its advisory function to EU Member States, its attacks and allusions have surreptitiously created a climate of mistrust that has raised heinous doubts about the NGOs’ activities, generated hostility, and made further attacks possible.

Being the main point of disembarkation for migrants rescued in the central Mediterranean, Italy has unsurprisingly been the epicentre of this debate and where it took on the most heinous tone.³⁴ In addition to being fought out in the media, it also unfolded in legal and political institutions – inquiries were launched by public prosecutors as well as by two different commissions within the Italian parliament. Only two days after the release of Frontex’s Risk Analysis Report, on 17 February Carmelo Zuccaro, public prosecutor in Catania (Sicily), announced that his office had launched an “exploratory inquiry” – i.e., not a formal investigation – to scrutinise the activities of SAR NGOs. Echoing the conspirationist positions expressed in the GEFIRA article and video, Zuccaro later justified his decision using the “objective fact” that NGOs are constituting a “safe corridor” that grants migrants an “anomalous access” to Italian territory,³⁵ in order to “destabilise the Italian economy”.³⁶ He also lamented that the involvement of NGOs in SAR operations was hindering anti-smuggling judicial activities.³⁷ As such, the ongoing inquiry aims at uncovering:

32 Manuel Bewarder and Lisa Walter, “Rettungseinsätze vor Libyen müssen auf den Prüfstand”, *Die Welt*, 27 February 2017, <https://www.welt.de/politik/deutschland/article162394787/Rettungseinsaetze-vor-Libyen-muessen-auf-den-Pruefstand.html> (last accessed 12 May 2017).

33 See for example the strategic note of the European Commission, which takes up these same arguments: European Commission, *Strategic note “Irregular Migration via the Central Mediterranean*, 2 February 2017, https://ec.europa.eu/epsc/publications/strategic-notes/irregular-migration-central-mediterranean_en (last accessed 12 May 2017).

34 For an overview of how this toxic narrative has operated, especially in the Italian media, see: P. Barretta, G. Milazzo, D. Pascali, V. Brigida, M. Chichi, *Navigare a vista. Il racconto delle operazioni di ricerca e soccorso di migranti nel Mediterraneo centrale*, Osservatorio di Pavia-Associazione Carta di Roma-Cospe, May 2017, <https://www.cartadiroma.org/wp-content/uploads/2017/05/REPORT-SAR-EMBARGATO-FINO-A-11.45-DEL-295.pdf>, (last accessed 30 May 2017).

35 Comitato parlamentare di controllo sull’attuazione dell’Accordo di Schengen, di vigilanza sull’attività di Europol, di controllo e vigilanza in materia di immigrazione, “Audizione del procuratore della Repubblica presso il tribunale di Catania, dottor Carmelo Zuccaro”, 22 March 2017, p. 30, http://www.camera.it/leg17/1079?idLegislatura=17&tipologia=indag&sottotipologia=c30_confini&anno=2017&mese=03&giorno=22&idCommissione=30&numero=0041&file=indice_stenografico (last accessed 12 May 2017).

36 Alessandro Sala, “Migranti, il procuratore di Catania: ‘Ong forse finanziate dai trafficanti’”, *Corriere della Sera*, 27 April 2017, http://www.corriere.it/cronache/17_aprile_27/migranti-procuratore-catania-ong-forse-finanziate-trafficienti-87d5ae3c-2b26-11e7-9442-4fba01914cee.shtml (last accessed 12 May 2017).”

37 Comitato parlamentare di controllo sull’attuazione dell’Accordo di Schengen, di vigilanza sull’attività di Europol, di controllo e vigilanza in materia di immigrazione, “Audizione del procuratore della

“who is behind all these humanitarian organisations that have proliferated in recent years, where all the money they have is coming from, and, above all, what game they are playing”³⁸

– Carmelo Zuccaro, public prosecutor in Catania

Despite specifying that none of the elements in his possession constitute evidence that can be used in a judicial process, on 23 April 2017 Zuccaro told *La Stampa* that:

“We have proofs that there are direct contacts between some of the NGOs and traffickers in Libya: telephone calls from Libya to certain NGOs, floodlights lighting up the way to the boats of these organisations, ships that suddenly cut their transponder (allowing for their localization) are proven facts”³⁹

– Carmelo Zuccaro, public prosecutor in Catania

As we will discuss later these allegations are at best dubious, either because they have not been confirmed by any factual element, or simply because they involve practices that are normal in the context of SAR activities at sea (such as SAR vessels turning on their floodlights at night to establish a visual contact with migrants’ boats). However, on the basis of these claims, he has contributed to spreading serious doubts on the behaviour of nongovernmental actors conducting SAR operations at sea, and threatened that “as soon as the occasion would present itself”⁴⁰ he would open a criminal investigation into SAR NGOs for facilitating illegal immigration.

The opening of Zuccaro’s inquiry was followed by at least three other Italian Prosecutors Offices - Palermo, Cagliari and Trapani. While they are ongoing, these inquiries into the actions of civilian actors involved in the rescue of migrants at sea bring us back to a dark phase prior to *Mare Nostrum* when assistance to migrants in distress at sea by non-state actors was heavily criminalised. While all the most well-known legal cases of this period – such as the one involving the humanitarian ship *Cap Anamur* in 2004 and the one targeting 7 Tunisian fishermen in 2007 – ended with acquit-

Repubblica presso il tribunale di Catania, dottor Carmelo Zuccaro”, 22 March 2017, p. 15, http://www.camera.it/leg17/1079?idLegislatura=17&tipologia=indag&sottotipologia=c30_confini&anno=2017&mese=03&giorno=22&idCommissione=30&numero=0041&file=indice_stenografico (last accessed 12 May 2017).

38 Francesco Viviano, Alessandra Ziniti, “Contatti con scafisti, indagine sulle Ong”, *La Repubblica*, 17 February 2017, <http://ricerca.repubblica.it/repubblica/archivio/repubblica/2017/02/17/contatti-con-scafisti-indagine-sulle-ong15.html> (last accessed 12 May 2017).

39 Fabio Albanese, “Abbiamo le prove dei contatti tra scafisti e alcuni soccorritori”, *La Stampa*, <http://www.lastampa.it/2017/04/23/italia/cronache/abbiamo-le-prove-dei-contatti-tra-scafisti-e-alcuni-soccorritori-3fCnqLKVWRHBVUiygHv65K/pagina.html> (last accessed 12 May 2017).

40 “The question I ask myself is the following: despite the fact that we don’t have any evidence that they are seeking private profits, nor that this is likely to be the case, are they nevertheless guilty of the crime of [facilitating illegal immigration]? This is why I’m telling you that at the first occasion I will open a criminal investigation on this.” Comitato parlamentare di controllo sull’attuazione dell’Accordo di Schengen, di vigilanza sull’attività di Europol, di controllo e vigilanza in materia di immigrazione, “Audizione del procuratore della Repubblica presso il tribunale di Catania, dottor Carmelo Zuccaro”, 22 March 2017, p. 30, http://www.camera.it/leg17/1079?idLegislatura=17&tipologia=indag&sottotipologia=c30_confini&anno=2017&mese=03&giorno=22&idCommissione=30&numero=0041&file=indice_stenografico (last accessed 12 May 2017).

tals, they had the extremely dangerous effects of making non-state actors reluctant to rescue people in distress at sea, thus leading to repeated cases of non-assistance.⁴¹

A second crucial forum for the debate around SAR NGOs' activities in Italy have been the inquiries by two different parliamentary commissions. Both the so-called Schengen commission of the Chamber of Deputies and the Defence commission of the Senate have launched in late March and early April 2017 a series of public hearings with the aim of inquiring into these allegations and understanding the unfolding situation in the central Mediterranean. While the hearings have included representatives of all actors operating in the Central Mediterranean, and thus offered the opportunity for SAR NGOs to defend themselves against accusations, they also operated as an echo chamber for the accusations of the prosecutors investigating SAR NGOs and other state agencies. The findings of the Defence Commission of the Senate were published on 16 May 2017. While the Commission concluded that no evidence of collusion with smugglers had emerged,⁴² it also lamented the opening of a "privately-run humanitarian channel". To reassert state control over these matters, it called for SAR NGOs to be put under greater scrutiny, come under the full command of the Italian Maritime Rescue and Coordination Center (MRCC), and for police to travel aboard NGO vessels or be able to board them at every rescue.⁴³

With the conjoined accusations by Frontex and the Italian Prosecutors and the echo these have received in the parliamentary hearings, the toxic narrative against SAR NGOs spread like a trail of powder across leading national newspaper and other mainstream media, but has also been picked up by key political and institutional figures not only in Italy, but also in Belgium and Austria.⁴⁴ While formulated each time in slightly different terms, the broad contours of this attack have been remarkably similar and have relied on a quite simple rhetorical strategy of de-contextualisation and omission.

First of all, statements criticising SAR NGOs have repeatedly shrouded their presence in the Mediterranean in a veil of mystery. The "sudden proliferation" of SAR NGOs described by Zuccaro,⁴⁵ the "NGO madness" evoked by the Austrian Foreign Ministry

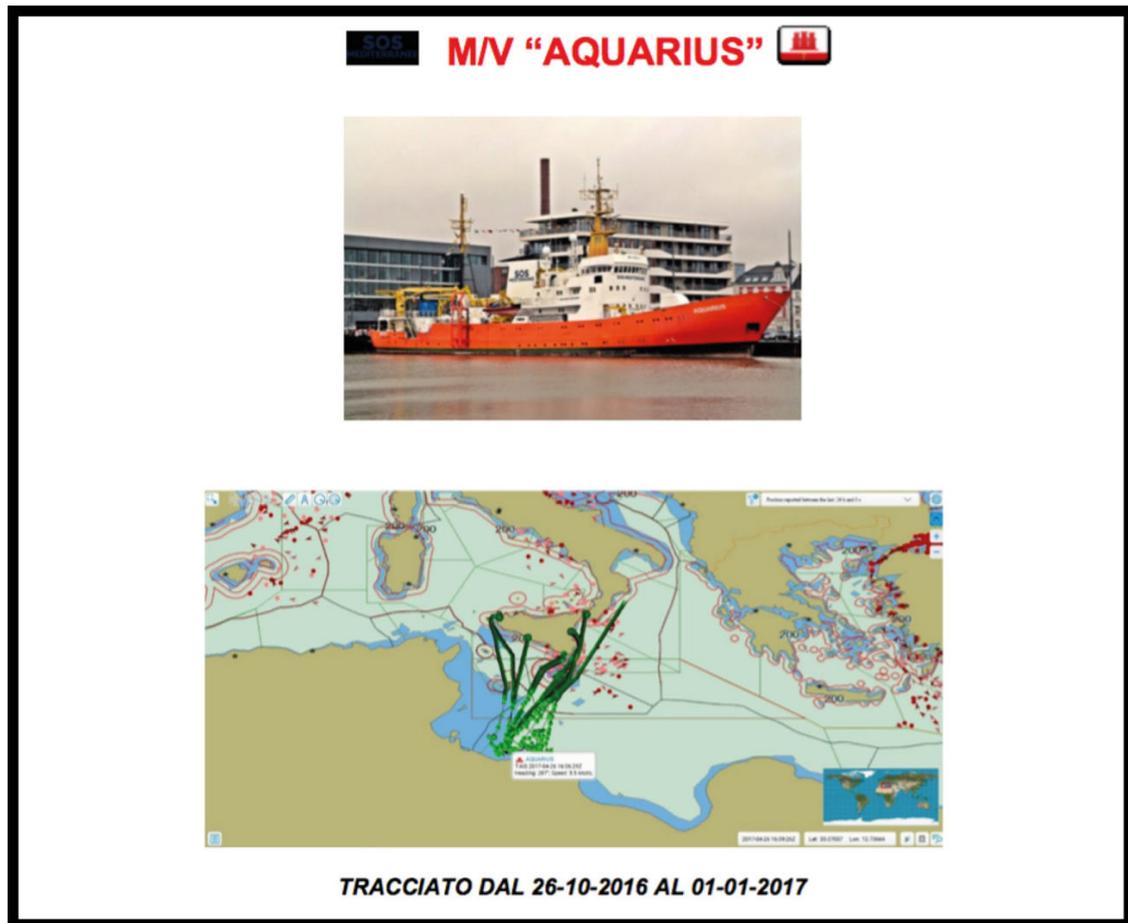
41 See our 2012 "Report on the Left-to-die Boat" for a concrete example of the negative repercussions of criminalization of rescue: <http://www.forensic-architecture.org/wp-content/uploads/2014/05/FO-report.pdf> (last accessed 12 May 2017).

42 Alessandra Ziniti, "Migranti, commissione Difesa: stop a corridoi umanitari delle Ong", *La Repubblica*, 16 May 2017, http://www.repubblica.it/cronaca/2017/05/16/news/migranti_commissione_difesa_stop_a_corridoi_ong-165587838/ (last accessed 18 May 2017).

43 Crispian Balmer, "Italian commission says more controls needed on aid groups rescuing migrants", *Reuters*, 16 May 2017, <http://uk.reuters.com/article/uk-europe-migrants-italy-idUKKCN18C2DC> (last accessed 18 May 2017). For the full document of the Senate, see: Senato della Repubblica, 4^a Commissione permanente (Difesa), "Documento conclusivo approvato dalla commissione sull'indagine conoscitiva sul contributo dei militari italiani al controllo dei flussi migratori nel mediterraneo e sull'impatto della attività delle organizzazioni non governative", 16 May 2017, https://www.senato.it/application/xmanager/projects/leg17/attachments/dossier/file_internets/000/002/115/Documento_conclusivo_bozza_.pdf (last accessed 18 May 2017).

44 Among the wide and ever-expanding list we can mention: the Vice President of the Italian Chamber of Deputies Luigi Di Maio; the MEP and leader of the Northern League party in Italy Matteo Salvini; the Vice President of the Italian Senate Maurizio Gasparri; the Austrian Foreign Ministry Sebastian Kurz; and the member of the Belgian Parliament and Secretary of State for Asylum and Migration Theo Francken.

45 Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione, "Audizione del procuratore della



AIS tracks of NGO ships contained in the final document produced by the Defence commission of the Italian Senate.

during official talks with Frontex,⁴⁶ and the “paradox” that their becoming the largest SAR operator in 2016 would constitute according to Frontex director Leggeri⁴⁷ are all examples of this. However, as we will discuss in more detail in the next section, the reasons that spurred a rising number of NGOs to dedicate themselves to SAR activities over the last two years are in no way hidden or dubious. The launch of their operations was a direct response to the EU and its member states’ decision to cut back state-led SAR in late 2014 and to the tragic consequences – extensively documented in our last report – of this decision that materialised in the first months 2015. It is the absence of those very institutions that now criticize NGOs, such as Frontex, in the area close to the Libyan coast, that has led the former to start their SAR operations.

Secondly, de-contextualisation and strategic omission in statements criticising SAR

Repubblica presso il tribunale di Catania, dottor Carmelo Zuccaro”, 22 March 2017, p. 10, http://www.camera.it/leg17/1079?idLegislatura=17&tipologia=indag&sottotipologia=c30_confini&anno=2017&mese=03&giorno=22&idCommissione=30&numero=0041&file=indice_stenografico (last accessed 12 May 2017).

46 “‘NGO-Wahnsinn’: Kurz kritisiert Retter im Mittelmeer”, *ORF.at*, 24 March 2017, <http://orf.at/stories/2384683/> (last accessed 12 May 2017).

47 Senato della Repubblica, 4^a Commissione permanente (Difesa), “Resoconto sommario n. 220 del 12/04/2017”, 12 April 2017, <https://www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=Som-mComm&leg=17&id=1013350> (last accessed 12 May 2017).

TOXIC NARRATIVE

NGOs allow for the recombination of otherwise truthful pieces of information into a spurious argument. It is for example undeniable that NGOs have become the largest SAR operator in the central Mediterranean, conducting 28% of all rescues in 2016, all the while we have witnessed worsening conditions of crossing leading to record numbers of deaths at sea. However, as we will demonstrate in this report, the temporal coincidence of these phenomena in no way proves that they were causally related – and on the contrary we will demonstrate that SAR NGOs *responded* to the increasingly dangerous conditions of crossing caused by other actors and played instead a crucial life-saving role.

Despite corrections and partial retractions, the toxic narrative that is produced through such omissions and recombinations has a number of extremely worrying effects which are still unfolding and to which we will return in more details in the conclusive section to our report.

COUNTER ANALYSIS

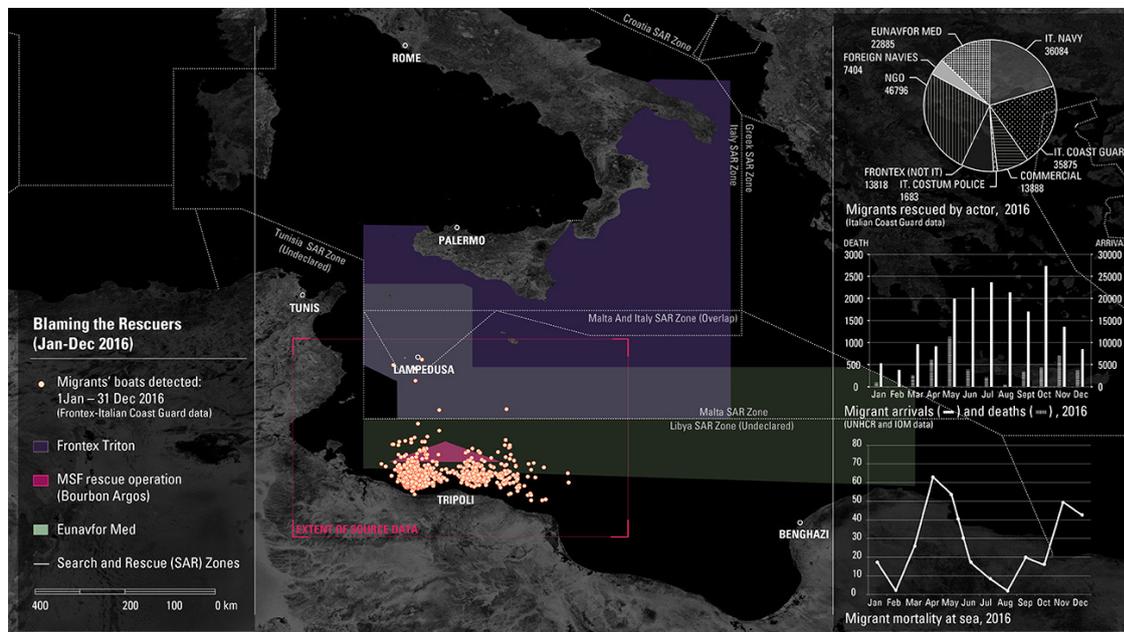
While several aspects of the attacks alluded to above have proven baseless or have already been effectively refuted by others,⁴⁸ we will mainly focus on the underlying claims put forward by Frontex that the presence of the NGOs would be the cause of an increase in both the numbers and danger of crossings.⁴⁹ Our focus is justified on the one hand, by the gravity of these accusations given the Agency’s prominent institutional role; on the other, we consider the increase in the mortality rate a worrying development that demands a serious evaluation in and of itself, so as to assess which actors, practices and processes are responsible for it and how one may in turn make the crossing safe(r).

In what follows we will not dispute the reality of several key trends highlighted by Frontex and other actors, such as: the increasing crossings of the central Mediterranean – which have risen from 153,842 in 2015 to 181,436 in 2016;⁵⁰ the worsening conditions of crossing exemplified by the overloading of rubber boats that increased from an average of 103 people per boat in 2015 to 122 in 2016;⁵¹ and the rise both in the number of deaths – from 2,892 in 2015 to 4,581 in 2016 - and in the mortality rate – from 1.84 in 2015 to 2.5 in 2016.⁵² What we will challenge, however, is the way

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- 48 NGOs have themselves responded to these accusations in parliamentary hearings (videos and transcripts can be found here: <https://www.senato.it/static/bgt/listasommcomm/0/4/s/17/index.html> - April and May 2017 sessions), with online articles (particularly useful a FAQ on Search and Rescue in the Mediterranean by Médecins Sans Frontières: “Le domande più frequenti sulle nostre operazioni di ricerca e soccorso nel Mediterraneo”, 27 March 2017, <http://www.medicisenzafrontiere.it/notizie/news/le-domande-pi%C3%B9-frequenti-sulle-nostre-operazioni-di-ricerca-e-soccorso-nel-mediterraneo>, last accessed 12 May 2017) and in numerous press conferences. Several articles have gathered the main rebuttal points against this toxic narrative. See in particular: Annalisa Camilli, “Perché le ong che salvano vite nel Mediterraneo sono sotto attacco”, *Internazionale*, <http://www.internazionale.it/notizie/annalisa-camilli/2017/04/22/ong-criminalizzazione-mediterraneo> (last accessed 12 May 2017) and Francesco Floris e Lorenzo Bagnoli, “Accuse alle Ong: cosa c’è di falso o di sviante”, *Open Migration*, 10 May 2017, <http://openmigration.org/analisi/accuse-alle-ong-cosa-ce-di-falso-o-di-sviante/> (last accessed 12 May 2017).
- 49 While, as we have described in the previous section, this line of argument was initially put forward by Frontex, it was later appropriated also by Carmelo Zuccaro, the public prosecutor in Catania who has opened a fact-finding mission on SAR NGOs activities. See: Comitato parlamentare di controllo sull’attuazione dell’Accordo di Schengen, di vigilanza sull’attività di Europol, di controllo e vigilanza in materia di immigrazione, “Audizione del procuratore della Repubblica presso il tribunale di Catania, dottor Carmelo Zuccaro”, 22 March 2017, p. 12-13, http://www.camera.it/leg17/1079?idLegislatura=17&tipologia=indag&sottotipologia=c30_confini&anno=2017&mese=03&giorno=22&idCommissione=30&numero=0041&file=indice_stenografico (last accessed 12 May 2017).
- 50 UNHCR data, available on the web portal dedicated to the Mediterranean, <http://data2.unhcr.org/en/situations/mediterranean> (last accessed 12 May 2017).
- 51 Italian Coast Guard, *Search And Rescue Activity and Migratory flows in the Central Mediterranean sea*, 2016 yearly report, March 2017, <http://www.guardiacostiera.gov.it/en/Documents/search-and-rescue-activity/search-and-rescue-activity-and-migratory-flows-in-central-mediterranean-sea.pdf> (last accessed 12 May 2017).
- 52 IOM data for deaths, available on the web portal dedicated to the Mediterranean, <http://missingmigrants.iom.int/mediterranean> (last accessed 12 May 2017). The mortality rate is our own calculation based on IOM data for deaths and UNHCR data for arrivals. For the methodology see the statistical annex to *Death by Rescue*. Charles Heller and Lorenzo Pezzani, “Death by Rescue: The Lethal Effects of the EU’s Policies of Non-Assistance”, 18 April 2016, deathbyrescue.org (last accessed 12 April 2016).

COUNTER ANALYSIS

Frontex has claimed that (NGO) SAR activities are causally connected to these trends, all the while occluding much more important processes and actors – including the regional political and economic contexts in Africa, EU policies and operations at sea, the intervention of the Libyan Coast Guard and the organisation of smuggling in Libya. In what follows, we seek to reconnect causal chains that have been severed by Frontex’s biased analysis in order to explain the trends outlined above.



Map and figures of the situation in the central Mediterranean between January and December 2016. Within the considered timeframe: migrants were rescued increasingly close to Libyan shores, as shown by Frontex and Coast Guard data; Frontex’s Triton operational area and EUNAVFOR MED’s operations area remained unchanged; Search and Rescue NGOs deployed a maximum of 12 vessels, and became the largest SAR operator in the central Mediterranean; crossings were comparable to 2014 and 2015 over most of the year, apart for the months of October and November which saw far more crossings than in previous years; deaths reached a record high and mortality rates peaked in Spring and Autumn. Credit: Forensic Oceanography. GIS analysis: Rossana Padeletti. Design: Samaneh Moafi.

To understand both the rise in crossings and in fatalities in 2016, we must take up the analysis of the situation in the central Mediterranean where we left it upon the publication of our report *Death by Rescue* one year ago.⁵³ We noted then that following the April 2015 shipwrecks, there had been a (re-)expansion of activities at sea by both state and non-state actors. Several new humanitarian SAR NGOs missions were launched, deploying their vessels off the Libyan coast to rescue migrants in distress.⁵⁴ At the same time, we saw the partial expansion of Frontex’s Triton operation and the launching of the anti-smuggling EUNAVFOR MED operation, which have since operated as a border-control and anti-smuggling operation respectively. For the operations Triton and EUNAVFOR MED, SAR activities have always been subordinate to their security-oriented mission.

53 Charles Heller and Lorenzo Pezzani, “Death by Rescue: The Lethal Effects of the EU’s Policies of Non-Assistance”, 18 April 2016, deathbyrescue.org (last accessed 12 April 2016).

54 While only MOAS (Migrant Offshore Aid Station) had been in operation over 2014, in 2015 MSF (Médecins Sans Frontières) joined with two vessels and Sea-Watch with one. Four SAR NGO vessels were deployed in 2015.

Over most of 2015, complementarity prevailed over conflict between these two groups of actors and their distinct operational logics. A certain “division of labour” emerged, with rescues operated by NGOs allowing security-oriented actors to focus on their main tasks of surveillance, interceptions of smugglers and destruction of vessels. Both appeared to be able to fulfil their respective objectives. From a humanitarian perspective, by the end of 2015, the nongovernmental flotilla had been able to rescue more than 20,000 people, representing some 13% of all rescues. Even though 2,800 people died in the central Mediterranean between May and December 2015, the effort of all actors brought the mortality rate down to a level comparable to that recorded during *Mare Nostrum*. From a security perspective, the crossings had also slightly diminished. This allowed EUNAVFOR MED to boast in its first 6 monthly report that between January and the end of December 2015, “for the first time in 3 years, we have seen a 9% reduction in the migrant flow using the central (Mediterranean) route” in relation to the same period in 2014.⁵⁵ “This reduction,” the report explained, “is due to the improved security situation in Egypt, which is making it more difficult for migrants to cross into Libya coming from the Middle East especially Syrians, the eastern route being much safer and shorter route, and the deterrence effect provided in international waters by EUNAVFOR Med assets”.⁵⁶ EUNAVFOR MED expected this decrease to continue, noting that “this is an encouraging decrease in the flow and should continue to be driven down through EUNAVFOR MED’s continued efforts”.⁵⁷

In retrospect, we can see that the rise in crossings and deaths that unfolded over 2016 were the product of dynamics already at work in 2015 but that remained largely invisible. In what follows, we will reconstruct how these dynamics materialised over the second half of 2015 and 2016. First, we analyse the variegated migration dynamics according to different countries of origin, demonstrating that despite the overall decrease over 2015, arrivals from several nationalities were increasing, and the trends over 2016 only continued those already underway over 2015. Second, we analyse the (f)actors that influenced the shifts in smugglers’ tactics, focusing on the evolution of the EUNAVFOR MED operation and its effects, and on analysing dynamics that took place on Libyan territory – particularly the growing involvement of militias in smuggling activities and the increasing intervention of the Libyan Coast Guard. Finally, we will analyse the response of NGOs and how they affected smugglers’ tactics and the danger of crossing.

55 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.3. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

56 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.5. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

57 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.3. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

1. PULL FACTOR?

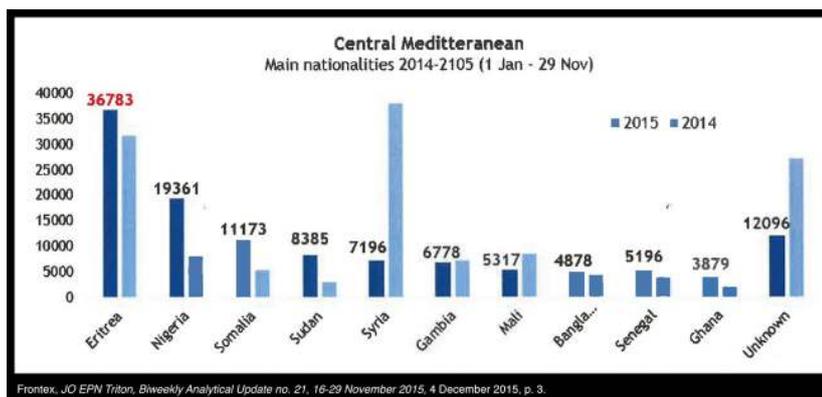
While Frontex and other actors blame NGOs for constituting a pull-factor and leading to more crossings of the central Mediterranean, in fact deeper regional economic and political dynamics were leading to increased migration to and from Libya prior to SAR NGOs’ deployment.

EUNAVFOR MED’s prognosis that the “decrease” observed over 2015 “should continue to be driven down through EUNAVFOR MED’s continued efforts” was deeply flawed. What it missed was the different dynamics affecting migrants of different countries of origin. This was perceived much more clearly by Frontex, which, in its Annual Risk Analysis report released in early 2016, noted that:

“In 2015, there were 153 946 detections of illegal border-crossing on the Central Mediterranean route, representing a 10% decrease compared to 2014. The decrease is due to a fall in Syrians (about 40 000 in 2014, but fewer than 7 500 in 2015) after a shift towards the Eastern Mediterranean route. However, the number of East and West Africans steadily increased from below 80 000 in 2014 to more than 108 000 in 2015 (+42%).”⁵⁸

– Frontex 2016 Annual Risk Analysis

In retrospect, we can see how the drop in overall numbers registered by EUNAVFOR MED over 2015 was simply due to the fact that Syrians had all but stopped crossing the central Mediterranean after the April 2015 shipwrecks and the temporary opening of the so-called Balkan route in Autumn 2015, reaching Europe along the much shorter and safer Aegean route. While 2015 registered an overall decrease of 16,000 arrivals along the central Mediterranean route compared to the previous year, the decrease in the number of Syrians using this route was around 32,500. It is therefore easy to see that crossings by migrants of other nationalities were actually already increasing over 2015.



Main nationalities arriving in Italy, 2014-2015 comparison.

In this same report, Frontex further recognises that migrants from the Horn of Africa - Eritrea, Ethiopia, Somalia and Sudan - are “driven” by regional security issues, slow

⁵⁸ Frontex, 2016 Annual Risk Analysis, 5 April 2016, p. 20. http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf (last accessed 12 May 2017).

1. PULL FACTOR?

economic development, and lack of long-term livelihood options for refugees in the region”.⁵⁹ While Eritreans had been a prominent nationality amongst arrivals in Italy for several years and increased sharply as of summer 2013, in 2015 they became the top nationality arriving to Italy, with 39,162 arrivals. In 2015, arrivals of Sudanese migrants showed one of the sharpest increases (+194%), in the context of the deteriorating situation in Darfur at the time.

Concerning West African migrants, Frontex notes that “motivation for migration may vary among individuals, but most are believed to be pushed by economic motivations”.⁶⁰ Nevertheless, for the second strongest increase over 2015 - Nigerians (+166%), Frontex notes in its December 2015 Biweekly report that “the precarious situation in North-Eastern Nigeria, with continuous attacks perpetrated by insurgents and radical Islamist groups, mainly Boko Haram, have led to the internal displacement of over 2.1 million people in Northern Nigeria. Most of the displaced people are settled in host communities and camps, but in precarious conditions, with many of them deciding to try to reach a better place to live”.⁶¹

Frontex thus perceived clearly the increase in arrivals over 2015 from different African countries and that these were driven by contexts of economic and political crisis across the continent. To understand the increasing arrivals over 2015 by several different East, Central and West African nationalities, one would need to offer a more detailed analysis of political and economic trends in each country that contributed to outwards migration, an analysis which lies beyond the scope of this research. It would also be necessary to analyse the distinct smuggling networks they resort to – an issue which we will return to, which may have either eased or added friction to migrants’ movements. For the purpose of our present analysis however, what is crucial is that the increasing migratory trends from several parts of Africa that were underway over 2015, and noted by Frontex, largely continued over 2016. While there were exceptions, in particular with a decrease in the arrivals of Eritrean nationals by nearly half,⁶² the sharp increases in arrivals from several African nationalities remained steady over 2016 especially for migrants from Nigeria, Gambia, and Ivory Coast. The number of Nigerians arriving on Italian shores increased from 22,237 in 2015 to 37,551 in 2016, making Nigerians the top nationality.

Summarizing the trends observed over 2016 in its 2017 Annual Risk Analysis report,

59 Frontex, *2016 Annual Risk Analysis*, 5 April 2016, p. 42, our italic, http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf (last accessed 12 May 2017).

60 Frontex, *2016 Annual Risk Analysis*, 5 April 2016, p. 42, http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf (last accessed 12 May 2017).

61 Frontex, JO EPN Triton, Biweekly Analytical Update, No. 22, 30 Nov-20 Dec 2015, 22 December 2015.

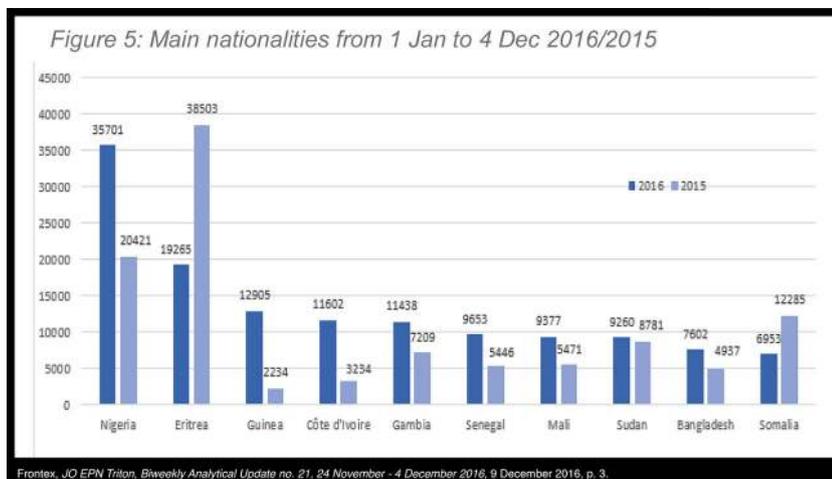
62 Eritrean arrivals decreased from 39,162 in 2015 to 20,176 in 2016 (with some of these leaving from Egypt instead of Libya). This was due to the arrest of several key figures in the smuggling networks they resorted to in Italy and elsewhere in Europe; to increasing pressure along their route, in and across Sudan in particular; and finally, to the brutal murder of fellow nationals by ISIS affiliated militias in Libya. See Frontex, *Africa-Frontex Intelligence Community Joint Report 2016*, April 2017, p. 18. http://frontex.europa.eu/assets/Publications/Risk_Analysis/AFIC/AFIC_2016.pdf (last accessed 12 May 2017); Milena Belloni, “Anything new under the sun? Analysing the shifting flow of Eritrean asylum seekers to Europe”, *Regional Mixed Migration Secretariat*, May 11 2016, <http://regionalmms.org/index.php/research-publications/feature-articles/item/2-anything-new-under-the-sun-analysing-the-shifting-flow> (last accessed 12 May 2017).

Frontex noted that:

“the Central Mediterranean saw the highest number of migrant arrivals ever recorded from sub-Saharan, West Africa and the Horn of Africa (181 459 migrants, increase of 18% compared with 2015). This trend, *which is consistent with previous year-on-year increases*, shows that the Central Mediterranean has become the main route for African migrants to the EU and it is very likely to remain so for the foreseeable future.”⁶³

– Frontex, 2017 Annual Risk Analysis report

Frontex thus itself recognises that the rising crossings in 2016 was consistent with the increase amongst migrants of different Sub-Saharan nationalities, which had begun already over 2015 - that is, prior to NGO SAR assets becoming the biggest rescue actor in the central Mediterranean.⁶⁴ The latter could thus not be the cause of the increase. It further recognises some of the regional “drivers” of migration related to economic and political crises affecting the region. The fact that NGOs were not the key driver of increased crossings from African migrants is further corroborated by the 46% increase in crossings over 2016 documented by Frontex in the Western Mediterranean, in absence of any NGO SAR assets whatsoever. “As in the case of the Central Mediterranean route, Frontex notes, most migrants were from Africa, indicating a growing pressure of illegal immigration from this continent towards the EU.”⁶⁵ While these trends and the regional dynamics that were driving them were reported by Frontex both internally and externally, they were not mentioned in relation to arguments that focused on the role of SAR NGOs allegedly constituting a pull-factor. This occlusion contributed to the toxic narrative against SAR NGOs.



Main nationalities arriving in Italy, 2015-2016 comparison.

63 Frontex, *2017 Annual Risk Analysis*, 15 February 2017, p. 20, our italic. http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf

64 In 2015, SAR NGOs deployed four vessels altogether, and rescued 13% of all people rescued.

65 Frontex, *2017 Annual Risk Analysis*, 15 February 2017, p. 20, http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf

2. WORSENING SMUGGLERS' TACTICS?

THE EFFECTS OF EUNAVFOR MED

While Frontex and other actors are blaming the NGO SAR assets' presence close to the Libyan coast for leading to a shift in smugglers' practices towards deteriorating conditions of crossing, shifting strategies were already recorded by EUNAVFOR MED over 2015, and described as a consequence of the anti-smuggling operation.

While we will argue in the next section that there were other factors influencing these shifts relating to developments on Libyan soil, in this section we focus on establishing the timing of the shifts in smuggling tactics and understanding the impact of the EUNAVFOR MED operation on them. We rely on the two EUNAVFOR MED reports that were made public by Wikileaks, the first covering the period from June to December 2015, the second from January to October 2016.⁶⁶ We further corroborated their findings through interviews with military personnel, reports from Frontex and the Italian Coast Guard, and the analysis of investigative journalists having interviewed smugglers in Libya.

EUNAVFOR MED's mission was planned as a progression through four operational phases: first, surveillance activities; second, interception and destruction of vessels used for smuggling, initially on the high seas and eventually, if a UN resolution and Libyan consent was secured, into territorial waters; a third phase involving action on Libyan land following similar approval; and finally a fourth phase of handing over control of migration from Libya to Libyan authorities.⁶⁷

As of the beginning of the operation on 22 June 2015 until the end of September 2015, the EUNAVFOR MED mission mainly focused on surveillance. The operation established “a patrol cycle predominantly located in the south west of the operating area in what was determined the area of highest migration concentration” – the so called ‘Lampedusa triangle’. [...] Throughout the summer months,” the report continues, “the first priority of the force was to establish a presence and develop an understanding of the patterns of life within the area” - analysing the “flow of migration vessels” and determining patterns and modus operandi of smugglers.⁶⁸ During this phase, only 3,078

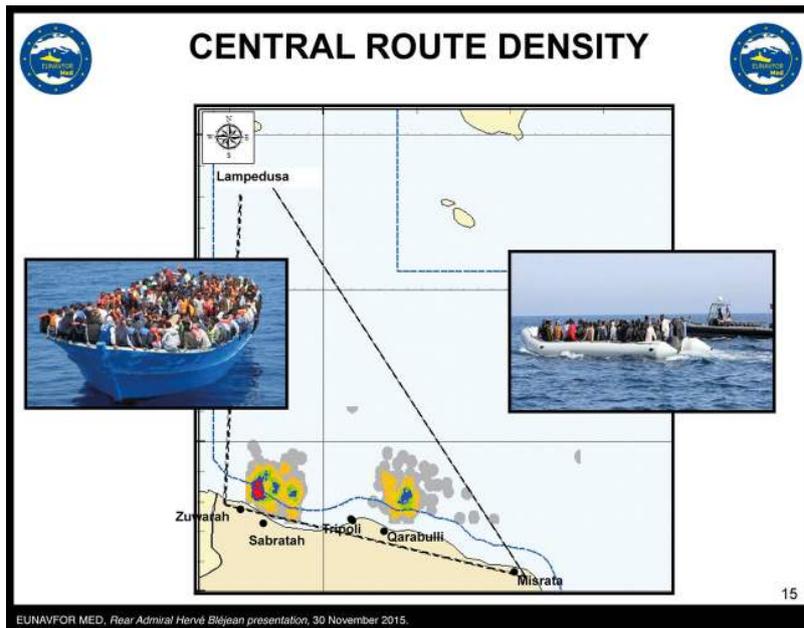
66 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017) and European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 1st of January - 31 October 2016*, 30 November 2016. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

67 See here: http://www.eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/pdf/factsheet_eunavfor_med_en.pdf (last accessed 12 May 2017).

68 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.9. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

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migrants were rescued,⁶⁹ and few boats appear to have been destroyed.⁷⁰



EUNAVFOR MED, Rear Admiral Hervé Bléjean presentation, 30 November 2015.

The figure is a table titled "ASSETS FOR PHASE 2A (HIGH SEAS)" with columns for Assets, Type, and Nationality. To the right of the table are several small images of the corresponding ships and aircraft. The number 8 is in the bottom right corner.

Assets	Type	Nationality
ITS CAVOUR	Aircraft Carrier	Italy
FGS S. HOLSTEIN / AUGSBURG	Frigate	Germany
HMS RICHMOND	Frigate	United Kingdom
BNS LEOPOLD	Frigate	Spain
ESPS CANARIAS	Frigate	France
FS COURBET	Frigate	United Kingdom
HMS ENTERPRISE	Surv. Ship	United Kingdom
SNS TRIGLAV	Patrol Vessel	Germany
FGS BERLIN	Supply Ship	Germany
LUX MERLIN III	MPRA	Spain
ESP P3 ORION	MPRA	Greece
HS TBD	AEW	France
FALCON 50M	MPRA	France

EUNAVFOR MED, Rear Admiral Hervé Bléjean presentation, 30 November 2015.

Power point slides indicating EUNAVFOR MED's assets and their areas of deployment during phase 2A (High Seas).

It is only on the 7th of October 2015 that EUNAVFOR MED moved into Phase 2A, which "saw a shift in the force's focus from intelligence gathering to interdiction of

69 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.9. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

70 The exact number is not specified in the EUNAVFOR MED report, but that only few boats were destroyed in this first phase in comparison to Phase 2A was confirmed by interviews with military sources.

Smugglers and Traffickers on the high seas, as the first active step in the disruption of [their] business model.”⁷¹ In comparison to Phase 1, the force deployed for Phase 2A was substantially augmented by Member States. “At the height of the surge, nine surface units, a submarine, three fixed wing maritime patrol aircraft, five helicopters and one tactical UAV were deployed”, before being slightly reduced again as of the end of November in line with the seasonal decrease in crossings. During this phase, “airborne surveillance was stepped up to provide a near persistent presence across the southern boundary of the Lampedusa Triangle”, which in turn allowed naval assets to be “deployed tactically to effect interdiction, boarding and subsequent detention of escort, lookout or jackal Smuggler and Trafficker craft”.⁷²

By the end of 2015, the report indicates that 8,336 migrants had been rescued, 67 migrant vessels (wooden and rubber) had been destroyed, and 46 individuals had been detained by Italian authorities and investigated for smuggling and trafficking crimes. The EUNAVFOR MED report notes that this surge in activities had important effects on smugglers’ mode of operation, which were described as “vigilant and highly adaptive, quickly implementing changes in the established Modus Operandi in accordance with perceived threats and opportunities.”

EUNAVFOR MED first had an impact on the spatial logic of smugglers. Due to the deployment of the EUNAVFOR MED assets off the Libyan coast, the 2015 report notes that:

“smugglers can no longer operate with impunity in international waters. They have to stay within Libyan Territorial Waters, as they otherwise would be apprehended by EUNAVFOR Med operation SOPHIA assets.”⁷³

– EUNAVFOR MED, Six Monthly Report 2015

Second, the interdiction on the high seas and the destruction of migrants’ boats had an important impact on the shift from the use of wooden to rubber boats by smugglers.⁷⁴

71 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.10-11. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

72 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.11. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

73 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.3. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

74 This shift from wooden to rubber boats, we should note, was not only the product of the operation’s increasing intervention. The shortage in wooden boats was noted as of the end of 2013 in the reports of investigative journalist Nancy Porsia, see her annex to our Death by rescue report, as well as in Mark Micallef, “The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya”, *Global Initiative against Transnational Organized Crime*, March 2017, p. 46. <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017). Over 2014, however, the fact that Syrians were able to pay more for crossings on wooden boats and that Italian authorities did not destroy them following rescue, thus allowing for their re-use for several trips, perpetuated their use. Over 2015 and 2016, the fact that Syrians ceased to cross through the central Mediterranean, and that following the beginning of its Phase 2A, EUNAVFOR MED began to systematically destroy intercepted vessels (and was joined in this by other operations of the Italian authorities), appears to have precipitated and consolidated this shift from wooden to rubber vessels, as was confirmed

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The 2015 report notes that:

"Wooden boats are more valuable than rubber dinghies because they can carry more people, hence more profit for smugglers and are more resilient to bad weather and can be re-used if recovered by smugglers. However, following operation SOPHIA entering into Phase 2A (High Seas), smugglers can no longer recover smuggling vessels on the High seas, effectively rendering them a less economic option for the smuggling business and thereby hampering it. Inflatable boats are used in two thirds of the cases and wooden boats in one third of the cases."⁷⁵

– EUNAVFOR MED, Six Monthly Report 2015

Third, also in their 2015 report, EUNAVFOR MED had already reported worsening conditions of crossings offered by smugglers coinciding with the beginning of the operation, without however noting any causal link. "Since the start of the operation, we have seen an evolution in smugglers Tactics, Techniques and Procedures, which has been corroborated by reporting from FRONTEX."⁷⁶ Specifically, the report noted that:

"over the past 6 months we have seen smugglers provide migrant vessels with less fuel, food and water and launch them in more difficult weather conditions."⁷⁷

– EUNAVFOR MED, Six Monthly Report 2015

What is fundamental to note here is that several of the evolutions in the practices of smugglers that are today being blamed on the nongovernmental flotilla were recorded over 2015, a period in which civilian assets were still marginal (accounting for only 13% of rescued people), and while NGO SAR assets operated mostly outside of the 24nm limit marking the Libyan contiguous zone. Instead of the NGOs, the EUNAVFOR MED

by investigative journalist Nancy Porsia through her interviews in Libya. While precise data that would allow us to account for the timing of the evolution in the ratio between types of vessels has not been released to us, the tendency has clearly been towards increasing use of rubber instead of wooden vessels.

75 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.7. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

76 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.7. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

77 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.7. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017). Frontex's Africa-Frontex Intelligence Community Joint Report 2015 also confirms this trend, attributing however to the presence of SAR vessels. "In addition, operational intelligence from JO Triton 2015 suggests that Libyan smugglers are taking advantage of rescue vessels' proximity to the shores of Libya and are overcrowding the vessels, with limited amount of fuel and water as they know that migrants will be rescued very soon. For example, in one incident a Spanish vessel participating in JO Triton 2015 was called to intervene roughly 22 nautical miles from the coast of Libya. It managed to bring to safety 112 persons that were cramped on a rubber boat. The boat was at sea for less than 12 hours with only nine 20 litre fuel containers on board. Given the engine used in this particular case this is only enough for around 12 hours of sub-maximum speed sailing, therefore nowhere sufficient to reach Italian Pelagic islands." Frontex, *Africa-Frontex Intelligence Community Joint Report 2015*, January 2016, p. 34. http://frontex.europa.eu/assets/Publications/Risk_Analysis/AFIC/AFIC_report_2015.pdf (last accessed 12 May 2017).

report attributes many of these shifts to the effects of its own operation.

It is probable that the effects of the EUNAVOR MED operation were incremental, and were heightened as the operation continued to implement Phase 2A over 2016, as described in its second six monthly report, covering the period from January to the end of October 2016. It is over this period that the destruction of vessels stepped up. While only 67 boats had been destroyed in the operation's first 6 months in 2015, in the next 10 months in 2016, this figure was multiplied fourfold to reach 269 vessels (225 rubber boats, 40 wooden boats and 4 speed boats).⁷⁸ This figure does not include the vessels destroyed by the other actors – such as the Italian Navy within its operation Mare Sicuro and other Italian assets, which are also reported to have increasingly destroyed vessels since 2015.⁷⁹ Furthermore, while Médecins Sans Frontières for example usually does not destroy vessels following SAR events, some SAR NGOs such as Sea-Watch also puncture rubber boats so as not to confuse them on their radar.⁸⁰ Military sources reported to us that between 75-80% of all intercepted vessels were destroyed over 2016.⁸¹

As EUNAVFOR MED had already indicated in its first report, the increasing destruction of vessels contributed to heighten the tactical shifts in smugglers' practices towards the use of rubber boats. By the end of February 2016, Frontex also had reported internally this shift without attributing any cause to it, other than the shortage in wooden boats:

“Thus far in 2016, inflatable dinghies (67) have been the main type of boat used to cross the Mediterranean Sea to Italy from Libya, while wooden boats were used in 2 incidents. Thus far in 2016, only ~3% of migrant vessels intercepted in the Central Mediterranean have been wooden boats, whereas in 2015 this percentage was around 25%.”⁸²

– Frontex, JO EPN Triton, Biweekly Analytical Update, no 2, 15-28 Feb, 3 March 2016, p. 3.

Over 2016, the share of vessels continued to shift towards small rubber boats, which came to be used in 70% of the SAR events, as shown by the data collected by Frontex and the Italian CG.

Because rubber boats carry less people at a time, and even more people than before sought to make the crossing in 2016, the reliance on rubber boats multiplied the number of SAR events – with 1,424 SAR events recorded by the Italian Coast Guard in 2016 against 906 in 2015. Furthermore, by the end of March 2016, Frontex had already noted

78 European External Action Service (EEAS), EUNAVFOR MED Op SOPHIA - *Six Monthly Report 1st of January - 31 October 2016*, 30 November 2016, p.11. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

79 Mark Micallef, “The Human Conveyor Belt : trends in human trafficking and smuggling in post-revolution Libya”, *Global Initiative against Transnational Organized Crime*, March 2017, p. 46. <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017).

80 Interview with Seawatch, 20 March 2017.

81 Interview with military sources wishing to remain anonymous, 6 April 2017.

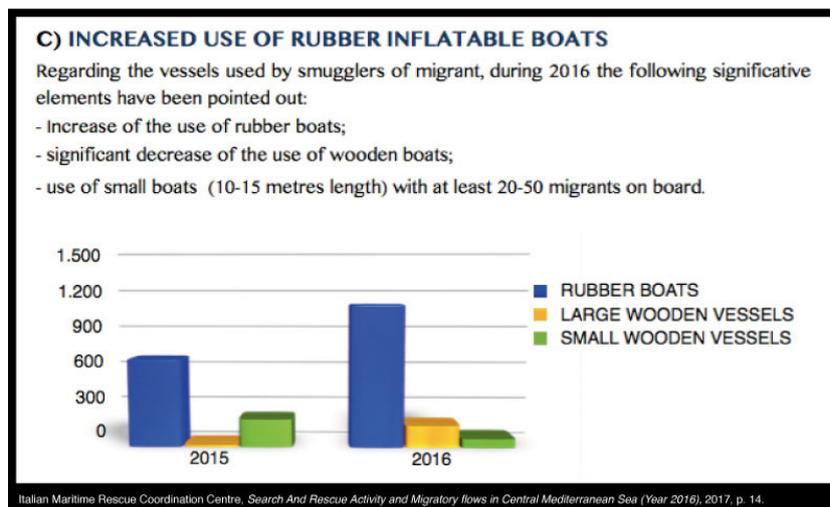
82 Frontex continued to note this trend in its Biweekly report no 4, 31 March 2016, p. 3, as well as in Biweekly report no 11, 8 July 2016, p. 3 (see Annex)

2. WORSENING SMUGGLERS' TACTICS?

the tactic of smugglers to send off several rubber boats at once:

“migrants continue to report simultaneous departures of rubber dinghies from the Libyan coast in what seems to be one solution to the lack of wooden boats. Using this approach smuggling networks are able to smuggle several hundred migrants at the same time aboard rubber dinghies”

– Frontex, JO EPN Triton, Biweekly Analytical Update, no 4, 14-27 March, 31 March 2016, p. 3



Regarding these marked tactical shifts in early 2016 - the increasing use of rubber boats and multiple simultaneous departures - it is crucial to note that they were reported by Frontex between January and March 2016. At this point in time, there was only one single NGO SAR vessel deployed (SOS Méditerranée’s Aquarius), while other SAR NGO assets had not been deployed over the winter. As such, the allegation that the presence of SAR NGOs has been the driver of these tactical shifts must be ruled out.

The evidence provided by the evaluation of EUNAVFOR MED of its own mission between 2015 and 2016, confirmed by interviews in Libya and the trends documented by the data compiled by the Italian Coast Guard and Frontex, thus demonstrates that the shifts in smugglers’ tactics registered at the end of 2015 and the beginning of 2016 cannot be attributed to NGO SAR activities since these activities were limited during these periods. Rather, EUNAVFOR MED attributes these shifts, which increased the danger of the crossing, to the effects of its own operation.

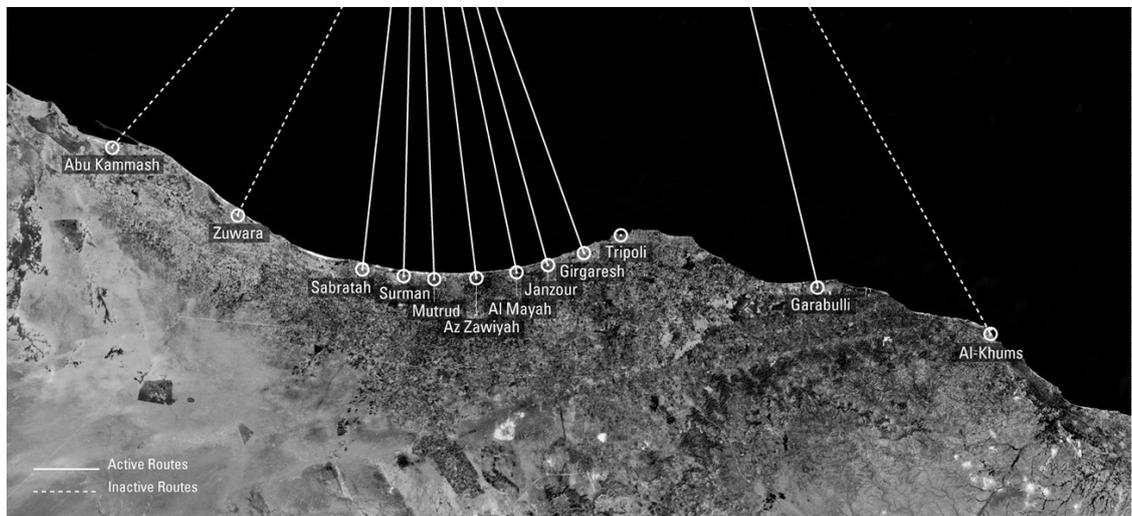
In addition to being corroborated by several sources, the effects of the operation are further consistent with the effects of past anti-smuggling operations, which systematically lead to an evolution of smuggling tactics, usually entailing more risk for migrants, while the demand for the service of smugglers remains unchanged.⁸³ While we have

83 Charles Heller, “Liquid Trajectories - Trans-Mediterranean Illegalised Boat Migration and Bordering Practices in a Time of Upheaval”, *unpublished Doctoral thesis*, 2015. <http://research.gold.ac.uk/15069/> (last accessed 12 May 2017).

identified several instances in which Frontex noted smugglers’ tactical shifts that were consistent with those recorded by EUNAVFOR MED, it is surprising that Frontex and others did not ever note that these may be even partly related to the EUNAVFOR MED operation, which seems to remain entirely outside of their field of attention. Keeping EUNAVFOR MED’s effects on smugglers’ tactics outside of the frame of analysis has allowed Frontex and others in turn to blame these shifts on SAR NGOs, fuelling the toxic narrative against them.

THE TURMOIL IN LIBYA

While we have focused on the evolution and effects of the EUNAVFOR MED operation in the preceding section, it would be simplistic to attribute to it the sole responsibility for the evolution in the practices of smugglers. EUNAVFOR MED’s reports are mostly focused on documenting the effects of its own mission so as to justify its existence, and thus do not fully account for other actors and factors, in particular dynamics taking place on Libyan soil. While the political context in Libya makes detailed fieldwork difficult, our ongoing collaboration with investigative journalist Nancy Porsia and a recent report by Mark Micallef offer uniquely informed glimpses into smugglers’ practices and the evolving context in which they operate. When possible their findings have been corroborated with analysis from other sources such as Frontex. Through this prism, we can tell the same story of evolving smuggling tactics between 2015-2016 reconstructed above, but seen from the perspective of Libyan soil. What these insights demonstrate is that the growing Libyan turmoil and the smuggling practices that were allowed to proliferate within it had a far greater impact on the deteriorating conditions of crossing than the presence of SAR NGOs.



Map of main smuggling routes along the Libyan west coast. Credit: Forensic Oceanography. Design: Samaneh Moafi. Based on an original map by Mark Micallef, “The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya”, *Global Initiative against Transnational Organized Crime*, March 2017.

As we argued in *Death by Rescue*, the downward spiral in the conditions offered by Libyan smugglers has been documented since 2013.⁸⁴ The fall of the Qaddafi regime

⁸⁴ See Nancy Porsia’s reports in Annex, Mark Micallef, “The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya”, *Global Initiative against Transnational Organized Crime*

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in 2011 led to deep changes in what had previously been a relatively stable smuggling business.⁸⁵ The political fragmentation in Libya allowed new actors to enter the smuggling market, offering lower prices but not always possessing the willingness or know-how to organise safe crossings.⁸⁶ With increasing competition, smugglers resorted to subpar navigation equipment, or to loading more migrants on board unsafe boats so as to guarantee their profit margins. The increasing number of crossings as of summer 2013 and the October 2013 shipwrecks, which led Italy to launch its Mare Nostrum operation, were the expression of these worsening crossing conditions. However, after this phase of "liberalisation" of the smuggling market which saw the rise of the "low cost" model of smuggling, Mark Micallef has identified a new phase which began to take shape at the end of 2014 and consolidated towards the end of 2015, which he calls "resource predation".⁸⁷ In this phase, militias have increasingly gained control over the migrant smuggling business, first taxing smuggling activities and then increasingly operating it themselves, considering migrants as "simply another commodity to be exploited in the broader resource predation carried out by armed groups that exercise effective control over the Libyan territory".⁸⁸ Frontex also recognises the increasing involvement of militias in smuggling networks, noting that on the Libya coast "the militia's 'commanding officer' in the region is the head of the network."⁸⁹ Now, as Porsia notes, "migrants who voluntarily left their homes to seek a better future in Europe, are taken hostage by militias which sell them to smugglers from one leg to the other across the journey".⁹⁰ In this configuration, in addition to the ebbing and flowing of state and non-state actors and their operations at sea which we have discussed above, Micallef argues that "routes, hubs, actors and modalities" of smuggling also evolve as a function of "the ebb and flow of tribal and militia relations".⁹¹ Several important evolutions took place over 2015-2016, which impacted the condition of crossing. We underline, in particular: the shift from Zuwara to Sabratha as main smuggling hub, which contributed to the fusion of the activities of smugglers and militias; secondly, the evolution of the main national groups of migrants crossing and the variegated smuggling networks they resort to; and finally, the increasing intervention of the Libyan Coast Guard.

First of all, the geography of smuggling along the coast evolved in conjunction with

Crime, March 2017, <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017).

85 Paola Monzini, Nourhan Abdel Aziz, Ferruccio Pastore, "The Changing Dynamics of Cross-border Human Smuggling and Trafficking in the Mediterranean", *Istituto Affari Internazionali (IAI)*, 2015, Rome, pp. 1-75.

86 See Nancy Porsia in annex.

87 Mark Micallef, "The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya", *Global Initiative against Transnational Organized Crime*, March 2017, p. 30 and 47, <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017).

88 Mark Micallef, "The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya", *Global Initiative against Transnational Organized Crime*, March 2017, p.VI, <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017), and Nancy Porsia in annex.

89 Frontex, *Africa-Frontex Intelligence Community Joint Report 2016*, April 2017, p. 18. http://frontex.europa.eu/assets/Publications/Risk_Analysis/AFIC/AFIC_2016.pdf (last accessed 12 May 2017).

90 See Nancy Porsia in annex.

91 Mark Micallef, "The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya", *Global Initiative against Transnational Organized Crime*, March 2017, p. 9. <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017).

the transformations of smuggling networks noted above. While since 2013 the area of Zuwara had become the main point of departure for migrants, following a tragic shipwreck in August 2015 which resulted in bodies washing ashore, smugglers were pushed out of the city by the local population.⁹² Several prominent smugglers long-established in Zuwara relocated their activities eastwards towards the area of Sabratha, which soon became the main departure hub. Sabratha however, is a highly militarised



Photos of Zuwara’s protest in August 2015 aiming to push smugglers out of the city.
Credit: Zuwara Media Center

area fragmented along multiple fault-lines.⁹³ It is here that the new model of militia control over the smuggling business achieved its fullest realisation – with a symbiosis between the experience of Zuwaran smugglers and the territorial control of Sabratha militias. As both Porsia and Micallef note, despite the struggle for power in the area, syndicates of smuggling militias soon emerged, leading to a concentration of the market into a handful of key players who were able to operate with a free hand. As a Zuwaran smuggler told Micallef in August 2016:

“Work in Sabratha is great, you can only imagine it. Imagine 30 or 40 different locations. From every location, five, six rubber boats leave (per day) and there is a location from which (large) boats leave with people from Eritrea or Syria. There is a specific location from which even 20 rubber boats leave (in a day). They all carry guns... and... nobody goes to them, it is only the people from Sabratha themselves

92 See Nancy Porsia in annex.

93 Mark Micallef, “The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya”, *Global Initiative against Transnational Organized Crime*, March 2017, p. 13 and 30. <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017). See also Nancy Porsia in annex.

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who work from there, no foreigners are allowed to work from there. To work from there is fantastic."⁹⁴

– Zuwaran smuggler interviewed by Mark Micallef, August 2016

Sabratha became a node of attraction within a web of increasingly strong transnational smuggling networks stretching to Sudan and Niger and enabling more and more intense movements of people to converge towards it.⁹⁵ Now instead of a few dozen people locked in connection houses waiting for the next leg in their journey, several hundred people could be "stocked" at any given time, according to a security source from Sabratha interviewed by Porsia.⁹⁶ This scale of human movement as a commodity illustrates the "industrial" dimension human smuggling has taken. The more the smuggling business came under the control of militias, the more migrants lost agency and control over their own fate. This evolution also contributed to worsening conditions, for in a market that increasingly depends on territorial and logistical control, as well as practices of extortion, rather than the choice and fidelity of customers, the level of service becomes less important in guaranteeing profitable transactions.⁹⁷ In addition to the impact of EUNAVFOR MED, these changing smuggling dynamics in response to endogenous factors in Libya certainly contributed to the decreasing quality of boats offered to migrants and their ever-higher degree of overloading. It is probable that these factors also contributed to the increasing tendency towards continuing departures during the dangerous winter months, a trend that was noted as "exceptional" by Frontex in early 2016 without attributing any cause to it.⁹⁸ While Sabratha is the paradigmatic example of the new fusion between smugglers and militias, it has emerged to different extents across the smuggling chain in other areas of the coast such as Garabulli, Zawiyah, Surman and deeper inside Libya.⁹⁹

Second, the changing composition of migrants discussed above has probably contributed to increasing the danger of crossing. We noted earlier the increasing prevalence of Central and Western African nationalities in 2016, while the number of Eritreans

94 Mark Micallef, "The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya", *Global Initiative against Transnational Organized Crime*, March 2017, p. 14. <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017).

95 Mark Micallef, "The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya", *Global Initiative against Transnational Organized Crime*, March 2017, p. 14. <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017). See also Nancy Porsia in annex.

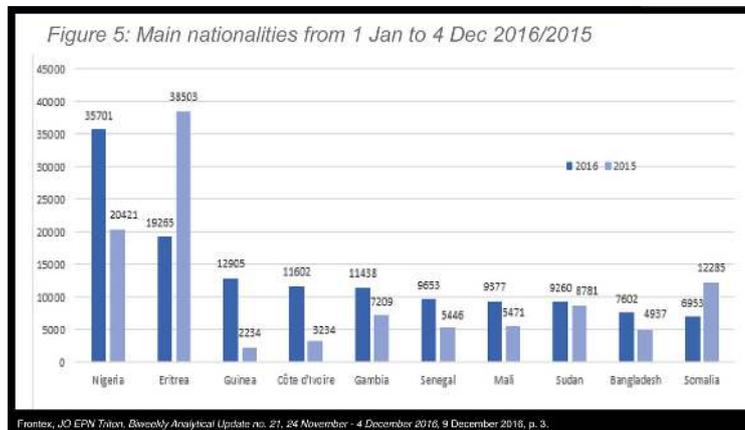
96 See Nancy Porsia in annex.

97 Mark Micallef, "The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya", *Global Initiative against Transnational Organized Crime*, March 2017, p. 47. <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017).

98 "The number of irregular migrants thus far detected in 2016 (5 610) shows a sharp increase (55%) compared to the number of irregular migrants apprehended during the same period in 2015. It is worth emphasising that this number of migrant detections is exceptional for this period of the year (this high number is usually reported in springtime)." Frontex, JO EPN Triton, Biweekly Analytical Update, no 25, 16-31 Jan, 4 February 2016, p. 2.

99 Mark Micallef, "The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya", *Global Initiative against Transnational Organized Crime*, March 2017, p. 16. <http://globalinitiative.net/wp-content/uploads/2017/03/global-initiative-human-conveyor-belt-human-smuggling-in-libya-march-2017.pdf> (last accessed 12 May 2017).

crossing the sea dropped by nearly half. However, migrants of different nationalities resort to using distinct smuggling networks, which have their respective operational modes, implying more or less danger for migrants.¹⁰⁰



Main nationalities arriving in Italy, 2015-2016 comparison.

As Porsia notes, Nigerian, Eritrean and Ethiopian brokers have set up their headquarters inside Libya and are able to control the entire passage from Sudan and Niger up to Europe, relying on Libyan smugglers for particular sections of the crossing through and from Libya. Migrants from the Horn of Africa – mainly Eritreans, Ethiopians and Somalis – seal their deals with smugglers in Sudan with local brokers and their business partners from Eritrea and Ethiopia for the whole journey to Europe.¹⁰¹ They also pay higher prices than their West African counterparts, and in certain cases the smugglers only receive actual payment once the passengers have arrived safely on European soil thanks to a payment system known as “hawala”.¹⁰² This means that migrants from the Horn of Africa have more margin of manoeuvre in exercising their limited bargaining power. For examples, they usually refuse to leave outside of the Spring and Summer months when the risk of encountering bad meteorological conditions is higher.¹⁰³ Central and Western African migrants have instead usually been recruited by smugglers in Niger, in the city of Agadez, and pay their smugglers cash for each leg of their journey up to the embarkation point, often opting for lower budget crossings. As a result, they are offered less high security standards, which translates in boats of lesser quality, travelling in the hold of vessels and being regularly sent off during the winter. While Porsia notes that over 2015 “the low cost business model for migrants’ sea crossing spread over all the embarkation points, including those in which the major smuggling players operate,” a hierarchy has continued to exist between the networks smuggling migrants from the Horn of Africa versus those smuggling migrants from Central and West Africa.¹⁰⁴ The

100 See Frontex, *Africa-Frontex Intelligence Community Joint Report 2016*, April 2017, p. 18-22. http://frontex.europa.eu/assets/Publications/Risk_Analysis/AFIC/AFIC_2016.pdf (last accessed 12 May 2017).

101 See Nancy Porsia in annex.

102 Procura della Repubblica presso il Tribunale di Palermo, Direzione Distrettuale Antimafia, “DECRETO DI FERMO DISPOSTO DAL P.M., N. 1874/2015 /DDA R.G. notizie di reato - mod. 21”, 10 April 2015.

103 Milena Belloni, “Anything new under the sun? Analysing the shifting flow of Eritrean asylum seekers to Europe”, *Regional Mixed Migration Secretariat*, May 11 2016, <http://regionalmms.org/index.php/research-publications/feature-articles/item/2-anything-new-under-the-sun-analysing-the-shifting-flow> (last accessed 12 May 2017). This characteristic can be seen clearly in the data collected by the UNHCR.

104 See Nancy Porsia in annex.

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changing composition of nationalities marking the crossing over 2016 has meant that a greater proportion of migrants went through the more dangerous networks. This certainly affected the risk of crossing even though this is difficult to verify empirically.¹⁰⁵

Third and finally, over 2016, under pressure from European authorities the Libyan Coast Guard (LCG) increased their interception of migrants upon departure, thereby leading to a rise of the volatility and danger of the crossing. Ever since the fall of the Gaddafi regime in 2011, with whom Italy had collaborated to push-back migrants intercepted at sea, the EU and its member states have been pressuring whichever authority they could speak to in Libya to clamp down on migrants.¹⁰⁶ The EU's mission EUBAM Libya has been conducting training with the LCG since 2014, and the LGC further cooperates with the EU Commission, Frontex and the EU's Seahorse project.¹⁰⁷ The European Council decided on 20 June 2016 to launch a new training program for the LGC to be implemented by EUNAVFOR MED, which considers "a capable and well-resourced Libyan Coastguard who can [...] prevent irregular migration taking place from their shores" critical to its exit strategy.¹⁰⁸ The training began on 26 October with 78 trainees on board EUNAVFOR MED assets and with teams from UNHCR as well as Frontex in charge of specific modules.¹⁰⁹ Finally, on 2 February 2017, the cooperation with Libya that Italy had sought to re-establish over the last years was formalised in a "Memorandum of Understanding" (MoU) signed between Italy and the National Reconciliation Government of Libya.¹¹⁰ While the MoU, which has at its core the fight against illegalised migration at sea and on Libya's southern border, has been officially suspended following a decision of the Tripoli Appeals Court, its implementation remains underway and several patrol boats have been recently delivered by the Italian government to the LCG.¹¹¹

As Nancy Porsia's analysis however shows, the Libyan LCG is itself as fragmented and volatile as the Libyan political landscape.¹¹² While the Libyan Coast Guard is technically made up of six sectors which should be coordinated by the national command located in the capital of Tripoli, in practice the LCG command in Tripoli has no control over the units in the Eastern area, as they report to the Parliament based in Tobruq. Even

105 The data collected by the IOM' *Missing Migrants* project on deaths at sea contains a too high proportion of "unknown" nationalities corresponding to migrants found dead so as to be able to ascertain whether nationality affects significantly the risk of death at sea.

106 Council of the European Union, European External Action Service, document 00768/13 rev4, *Draft Concept of Operations "Plus" (CONOPS PLUS) for the CSDP Mission EUBAM Libya*, Brussels, 18 April 2013.

107 Council of the European Union, European External Action Service, *EUBAM Libya Initial Mapping Report Executive Summary*, Brussels, 18 January 2017, p. 42. <http://statewatch.org/news/2017/feb/eu-eeas-libya-assessment-5616-17.pdf> (last accessed 12 May 2017).

108 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.3. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

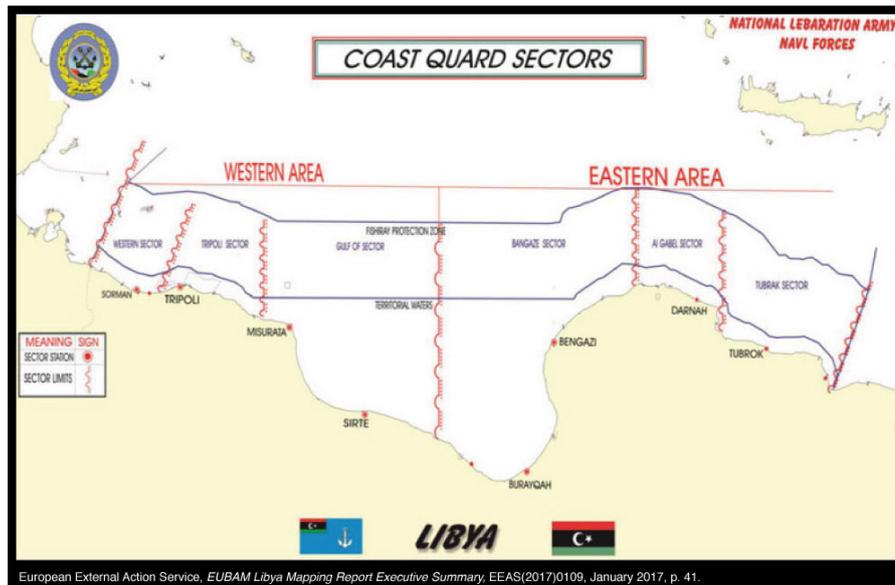
109 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 1st of January - 31 October 2016*, 30 November 2016, p.14. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

110 An English translation of the "Memorandum" is available here: <http://www.asgi.it/wp-content/uploads/2017/02/ITALY-LIBYA-MEMORANDUM-02.02.2017.pdf>.

111 The Memorandum was suspended on 22 March 2017 following a complaint filed by a group of legal experts and former politicians. See: "Tripoli court blocks Serraj's migrant deal with Italy: effect unclear", *Libya Herald*, 22 March 2017, <https://www.libyaherald.com/2017/03/22/tripoli-court-blocks-serrajs-migrant-deal-with-italy-effect-unclear/> (last accessed 12 May 2017).

112 See Nancy Porsia's report in annex.

in the Western area however the LCG command in Tripoli has little control overall and militias have come to operate Coast Guard-like functions, making it extremely difficult to differentiate actors on the ground. Despite this fragmentation of the LCG, as well as the limited vessels at its disposal, the increased pressure from the EU has resulted in a greater number of interceptions of migrants at sea in 2016. While over 2015 the LCG intervened infrequently in response to situations of distress, over 2016 the LCG units “rescued” 18,904 people off the Libyan coast according to IOM data, bringing them back to Libya where migrants are subsequently detained in extremely dire conditions.¹¹³ The delivery by the Italian government on 15 May 2017 of the first four out of ten patrol vessels will further boost the LCG capacity to intervene at sea.¹¹⁴



Map of Libyan Coast Guard sectors.

The LCG’s intervention, however, simultaneously conflicts with, and is embedded within, the smuggling business. While the LCG has sought to demonstrate its effectiveness in intercepting migrants to tap into the opportunity for EU financial and political support, units also receive payment by smugglers and militias to let boats pass, and officials may receive payment for the release from detention centres of intercepted migrants.¹¹⁵ The ambivalent role played by Libyan officials in relation to smuggling is no secret. While not referencing explicitly the LCG, Frontex has noted several times in its internal reports information it gathered of the participation of Libyan authorities in the smuggling business. For example, in its Biweekly report internally released on the 31st of March 2016, it noted that:

113 IOM, “IOM, EU Train Libyan Mediterranean Migrant Rescuers”, 6 January 2017, <https://www.iom.int/news/iom-eu-train-libyan-mediterranean-migrant-rescuers> (last accessed 12 May 2017).

114 Council of the European Union, European External Action Service, EUBAM Libya Initial Mapping Report Executive Summary, Brussels, 18 January 2017, p. 40-43. <http://statewatch.org/news/2017/feb/eu-eeas-libya-assessment-5616-17.pdf> (last accessed 12 May 2017); Ministero dell’Interno, “Minniti in Libia: fronte comune contro il traffico di migranti”, 18 May 2017, <http://www.interno.gov.it/it/notizie/minniti-libia-fronte-comune-contro-traffico-migranti> (last accessed 19 May 2017).

115 In addition to Nancy Porsia’s report in annex and Mark Micallef’s report “The Human Conveyor Belt” referred to throughout our report, as well as numerous reports from Amnesty International and Human Rights Watch, see Office of the United Nations High Commissioner for Human Rights, “Detained and dehumanised” Report on human rights abuses against migrants in Libya, 13 December 2016, p. 19-20, www.ohchr.org/Documents/Countries/LY/DetainedAndDehumanised_en.pdf (last accessed 12 May 2017).

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"Gathered information suggests that high ranking officers from different military branches are involved in the smuggling of irregular migrants from the west coast of Libya towards Italy. The information collected suggests that military officers between the ranks of Lieutenant and General are involved at different stages of smuggling people from Libya to Italy. Moreover, information regarding the identification of law enforcement officers involved in the smuggling of migrants from Libya to Italy was also obtained during the interviews."¹¹⁶

– Frontex, JO EPN Triton, Biweekly Analytical Update, no 4, 14-27 Mar, 31 March 2016, p. 3

In this sense, the LCG appear as one more actor intervening in migrant smuggling which has increased the volatility and danger of the smuggling business and SAR alike. Smugglers have adapted to the increasing activity of the LCG by carrying heavy weapons.¹¹⁷ The risk of having vessels intercepted by the LCG may have also contributed to the shift from wooden to cheaper rubber boats as well as the tactic of towing one boat by another, which we have discussed above. The LCG itself has been involved in repeated acts of violence at sea. The LCG of Zawiya, which still has several functioning patrol vessels and rigid hulled inflatable boats, has been the most active West of Tripoli, patrolling the coastline stretching from Mutrud to Sabratha. It is reported to have removed the engine of boats seeking to pass without payment, leaving the boats adrift.¹¹⁸ The Times further published a video (initially part of Ross Kemp's documentary *Libya's Migrant Hell*) showing the Zawiya CG beating migrants with a rope, while they were packed into a rubber boat during an interception.¹¹⁹ Deplorable in it self, such a practice can also lead to the boat capsizing.

Several maritime units located near Zawiya – some belonging to the LCG, others not formally LCG but patrolling near an offshore oil refinery, were implicated in incidents with SAR NGOs.¹²⁰ On 17 August 2016, MSF's vessel Bourbon Argos was attacked while it was located 24 nautical miles north of the Libyan coast. As MSF's press release at the time described, "armed men on board the speedboat fired shots toward the Bourbon Argos from a distance of 400 to 500 metres and then boarded the vessel".¹²¹ The armed men then left without harming the crew. On 9 September 2016, the crew of a speedboat belonging to the NGO Sea-Eye was also arrested by the LCG after it entered territorial waters near Zawiya.¹²² Finally, on 21 October 2016, the LCG of Zawiya

116 This same analysis is also included in Frontex, *Africa-Frontex Intelligence Community Joint Report 2016*, April 2017, p. 18. http://frontex.europa.eu/assets/Publications/Risk_Analysis/AFIC/AFIC_2016.pdf (last accessed 12 May 2017).

117 Email exchange with Mark Micallef, May 2017. See also "Libya coastguard clashes with suspected smugglers, four killed: spokesman", *Reuters*, April 6 2017, <http://www.reuters.com/article/us-eu-rope-migrants-libya-idUSKBN1781A3> (last accessed 12 May 2017).

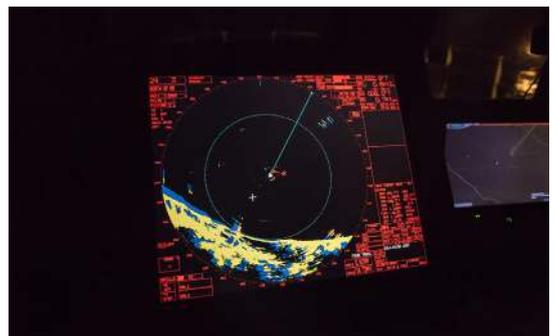
118 See Nancy Porsia in annex.

119 Bel Trew and Tom Kington, "Video shows Libyan coastguard whipping rescued migrants", *The Times*, 14 February 2017, <https://www.thetimes.co.uk/article/video-shows-libyan-coastguard-whipping-rescued-migrants-6d8g2jgz6> (last accessed 12 May 2017). See also Nancy Porsia, "The kingpin of Libya's human trafficking mafia", *TRT World*, 22 February 2017, <http://www.trtworld.com/magazine/the-kingpin-of-libyas-human-trafficking-mafia-301505> (last accessed 12 May 2017).

120 For further details on the units involved see Nancy Posria in annex.

121 Médecins Sans Frontières, "Central Mediterranean: MSF condemns attack on rescue vessel", 25 August 2016, <http://www.msf.org/en/article/central-mediterranean-msf-condemns-attack-rescue-vessel> (last accessed 12 May 2017).

122 "Libyan coast guard detains German charity rescue boat", *Deutsche Welle*, 11 September



Photographs showing the sequence of the events of the 21 October 2016 incident in which the Coast Guard of Zawiya violently interrupted a rescue operation Sea-Watch was conducting, leading to the death of at least 25 people. Credits: Christian Ditsch.

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violently interrupted a rescue operation Sea-Watch was conducting 14.5nm from the coast, boarding the overcrowded rubber boat and beating people, causing panic and a rupture in the boat. Over 150 people ended up in the water; of which Sea-Watch rescued 124 people and recovered four corpses.¹²³ This last incident exemplifies the additional risk the LCG's increasing intervention has entailed for migrants.

As we finalise this report, a new incident between the LCG and Sea-Watch occurred, which has been well documented by Sea-Watch as well as a report by Amnesty International.¹²⁴ On 10 May 2017, the Italian coastguard Maritime Rescue Coordination Centre in Rome (MRCC Rome) received a distress call from migrants navigating within the Libyan territorial waters. MRCC Rome contacted the Libyan authorities who responded that they would take over the coordination of the rescue. MRCC Rome also contacted Sea-Watch, since its vessel was in the area, and requested it to direct itself towards the boat in distress. Sea-Watch's vessel reached the passengers in distress first, with their boat now located outside Libyan territorial waters. As Sea-Watch deployed its RHIB to approach the migrants' boat, the LCG's vessel almost rammed into the Sea-Watch vessel to intimidate them. The Sea-Watch vessel retreated immediately, but could witness the LCG stopping the migrants' boat under the threat of a gun and failing to act in accordance to established safety standards. While no casualties were reported, the migrants were pulled-back back to Libya, a country where their lives are at risk and where they were brought to detention centres. This incident indicates that the destabilising intervention of the LCG is bound to increase in 2017, as the pressure and resourcing from the EU continues.

All three evolutions outlined here – the increasing involvement of militias in the smuggling business, the shift in composition of migrant nationalities, and the increasing interventions of the Libyan Coast Guard – have contributed to a downward spiral in the practices of smugglers and conditions of crossing over 2015 and 2016. The dynamics of Libyan smuggling are deeply shaped by the fragmented political landscape in Libya, which constitutes a causal factor in its own right. While difficult to measure, the influence of these trends on the increasing danger of the crossing in 2016 is undisputable. While Frontex has analysed smuggling networks in Libya, it has kept these factors out of the analysis of the causes of the deteriorating conditions of crossing offered to migrants, blaming them instead on SAR NGOs and contributing to the toxic narrative against them.

2016, <http://www.dw.com/en/libyan-coast-guard-detains-german-charity-rescue-boat/a-19542798> (last accessed 12 May 2017).

123 See Sea-Watch's detailed incident report, available at <https://ffm-online.org/wp-content/uploads/2016/10/Incident-Report-Sea-Watch-21.10.2016.pdf> (last accessed 12 May 2017).

124 Sea-Watch, "Libyan navy is risking lives of Sea-Watch crew and refugees during illegal return operation", 10 May 2017, <https://sea-watch.org/en/libyan-navy-is-putting-sea-watch-crew-and-refugees-into-danger-during-an-illegal-return-operation/> (last accessed 12 May 2017). See also Amnesty International, *Italy: Refugees and Migrants in the Central Mediterranean, Cutting the Lifelines*, 22 May 2017, <https://www.amnesty.org/download/Documents/EUR3063192017ENGLISH.pdf> (last accessed 22 May 2017).

3. INCREASING THE DANGER OF CROSSING?

By the beginning of 2016, the effects of the EUNAVFOR MED operation and the dynamics within Libya had combined to make the conditions of crossing increasingly dangerous. More people were crossing, in more boats that were less sea-worthy, in more dangerous conditions, and were in distress closer to the Libyan coast. SAR NGOs responded to this by seeking to rescue migrants closer to the Libyan coastline and helped make the crossing safer. However, in the process, they might have contributed to consolidate some of the shifts in smugglers’ tactics.

From the above, we can see that the cumulative effects of the EUNAVFOR MED operation and of the dynamics within Libya, led to marked shifts in the strategies of smugglers towards worse conditions of crossing. More people crossed in 2016, and among them were more migrants of nationalities who resorted to the more dangerous “low cost” smuggling networks. More rubber boats were used, which are less resistant to adverse meteorological conditions, but also carry less people than wooden vessels, meaning that more vessels were sent out over the year – the number of SAR events leaped from 906 in 2015 to 1,424 in 2016.¹²⁵ Smugglers also increasingly sent out many boats at once. As the Italian Coast Guard data shows, instances of more than 20 simultaneous cases of SAR occurred regularly over the summer months of 2016, with a staggering peak of 53 SAR events in one day reached on 29 August.¹²⁶ Smugglers offered less provisions, launched migrants in worse weather conditions, and packed ever more migrants on boats of decreasing quality – with an average of 122 people aboard rubber boats recorded in 2016 compared with 103 in 2015.¹²⁷ Cases with as many as 200 people aboard rubber boats were recorded. Such extreme overloading increased the risk of capsizing, which was further heightened by the fact that “the wooden planks used to reinforce the floor of the rubber dinghies are so roughly cut that, on several overcrowded boats, they broke under the migrants’ weight”, as Frontex notes in its 2016 AFIC report.¹²⁸ While death by suffocation and asphyxia were reported in previous years in instances when migrants were trapped in the hold of wooden vessels, over 2016 they were reported by NGOs even on rubber boats, with migrants being crushed by fellow passengers. While smugglers continued to seek to recover vessels and their engines for re-use¹²⁹ – a task made increasingly difficult by the interdiction operated by

125 Italian Coast Guard, *Search And Rescue Activity and Migratory flows in the Central Mediterranean sea*, 2016 yearly report, March 2017, p.2, <http://www.guardiacostiera.gov.it/en/Documents/search-and-rescue-activity/search-and-rescue-activity-and-migratory-flows-in-central-mediterranean-sea.pdf> (last accessed 12 May 2017).

126 Italian Coast Guard, *Search And Rescue Activity and Migratory flows in the Central Mediterranean sea*, 2016 yearly report, March 2017, p.5, <http://www.guardiacostiera.gov.it/en/Documents/search-and-rescue-activity/search-and-rescue-activity-and-migratory-flows-in-central-mediterranean-sea.pdf> (last accessed 12 May 2017).

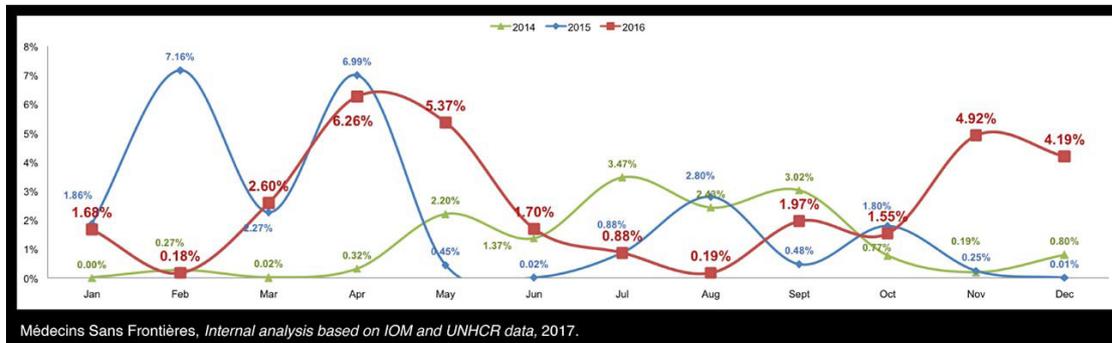
127 Italian Coast Guard, *Search And Rescue Activity and Migratory flows in the Central Mediterranean sea*, 2016 yearly report, March 2017, p.14, <http://www.guardiacostiera.gov.it/en/Documents/search-and-rescue-activity/search-and-rescue-activity-and-migratory-flows-in-central-mediterranean-sea.pdf> (last accessed 12 May 2017).

128 Frontex, *Africa-Frontex Intelligence Community Joint Report 2016*, April 2017, p. 22. http://frontex.europa.eu/assets/Publications/Risk_Analysis/AFIC/AFIC_2016.pdf (last accessed 12 May 2017).

129 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 1st of*

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EUNAVFOR MED – they also developed a new tactic noted in EUNAVFOR MED’s 2016 report: “the new modus operandi entails a skiff towing a rubber boat without an engine, which is then left adrift”.¹³⁰ This tactic proved lethal in several instances, such as the 26 May 2016 case involving the Watch The Med Alarm Phone.¹³¹ These worsening conditions of crossing find their expression in the increasing mortality rates recorded in April and May 2016, almost reaching the height of the mortality spike registered in April 2015.



Monthly analysis of migrant mortality comparing 2014, 2015, and 2016. Credit: Lucio Malvisi.

As a result, situations of acute distress – imminent death – occurred closer and closer to the Libyan shores. In its 2015 report, EUNAVFOR MED had already recognized that “with the limited supply and the degree of overloading, the migrant vessels are [to be considered in distress according to international conventions] from the moment they launch.”¹³² In its 2016 report, it noted that “the majority of migrants still die inside or very close to Libyan territorial waters”.¹³³ Similarly, in January 2016, Frontex noted an increase in incidents reported outside of the Triton operational zone, that is close to the Libyan coast.¹³⁴

These shifts naturally had a dramatic impact on SAR activities. It should be noted that the peaks in mortality recorded in April and May 2016 occurred while SAR NGO vessels were still being redeployed after their winter break.¹³⁵ There was still only one SAR NGO

January - 31 October 2016, 30 November 2016, p.3. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

130 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 1st of January - 31 October 2016*, 30 November 2016, p.7. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

131 Watch The Med Alarm Phone, “26/05: Alarm Phone called by two boats in distress in the Central Med, each with 500 travellers on board; many died after one boat capsized about 70km northeast of Zuwara, Libya”, 27 May 2016, <http://watchthemed.net/reports/view/514> (last accessed 12 May 2017).

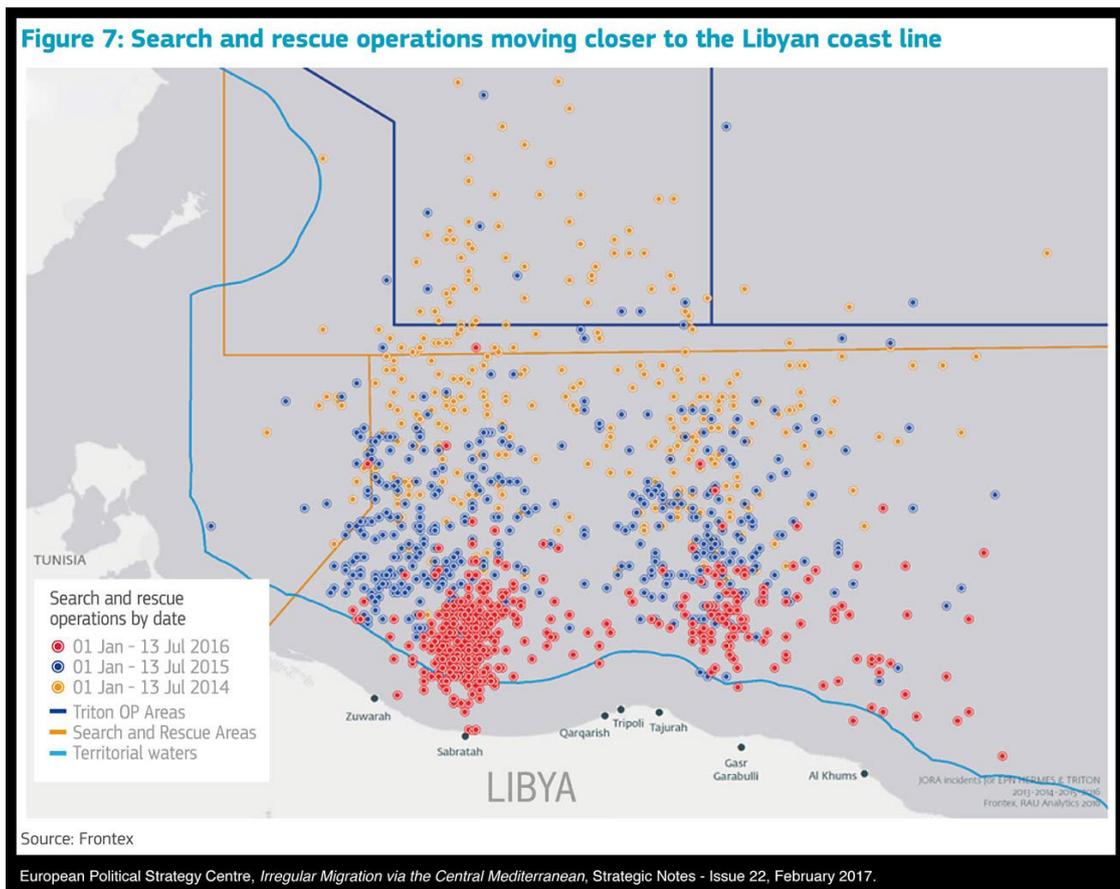
132 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016, p.7. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

133 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 1st of January - 31 October 2016*, 30 November 2016, p.6. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

134 Frontex, JO EPN Triton, Biweekly Analytical Update, no 25, 4 February 2016, p. 3.

135 2016 saw several SAR NGOs deploy new missions in the central Mediterranean. While in 2015 MOAS (Migrant Offshore Aid Station), MSF (Médecins Sans Frontières), Sea-Watch had been operating a total of four vessels, in 2016 they were joined by SOS Méditerranée, Sea-Eye, Jugend Rettet, Jugend Rettet, Life Boat, Proactiva Open Arms, Bootvluchteling and Save The Children. At the peak of SAR NGO deployment, 12 vessels were dispatched. We should note that several of the new SAR

vessel present for most of April, that of SOS Méditerranée, and only five were deployed in May. SAR NGOs accounted for a small fraction of SAR activities over these months – 4% in April and 12% in May. According to interviews conducted for this research, the assets of MSF and of Sea-Watch continued to be positioned beyond the 24nm limit when they were deployed at the end of April. MRCC Rome however increasingly directed them to intervene within the 24nm limit, where situations of imminent distress were being signalled. Over the summer, MSF’s vessels maintained their default operational zone beyond the 24nm, while Sea-Watch and other SAR NGOs increasingly intervened proactively beyond that limit in order to best respond to cases of distress closer, and at times within, Libyan territorial waters. While inter-NGO competition characteristic of humanitarian contexts may have also played a part in this trend, moving closer to the Libyan coast corresponded to a humanitarian need.



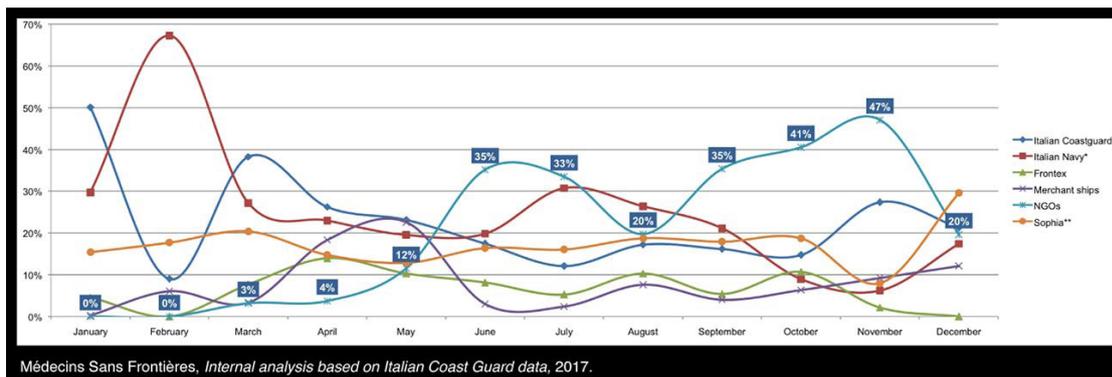
Map of SAR events between 2014-2016, showing that they grew closer to the Libyan coast.

Importantly, we can note that the mortality rate was brought down over the summer months, just as the NGO flotilla reached its peak deployment – with eleven SAR vessels – and the share of rescues operated by NGOs increased – with a peak of 35% in June. The mortality rate peaked once again in November and December when NGO SAR vessels progressively stopped their operations for the winter. Plotting the evolution of the mortality rate and that of the number of SAR NGO assets deployed at sea, we

missions deployed smaller vessels with a more limited capacity in terms of the number of people they are able to rescue.

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can observe a striking inverse correlation.¹³⁶ The importance of an increasing number of SAR assets proactively deployed to make the crossing safer is logical: only a high number of assets close to the Libyan coast could respond to the multiplication of SAR cases that was being observed in this area. In November, SAR NGO presence remained important, but encountered several adverse conditions that mitigated the capacity to avert deaths at sea. First, record crossings in October and November were observed, while these months normally see decreasing crossings as meteorological conditions worsen – a phenomenon which Frontex attributes once again to the presence of “maritime assets are patrolling close to the Libyan shore” without providing any evidence of this causal connection.¹³⁷



MSF monthly analysis of share of rescue by actor. Credit: Lucio Malvisi.

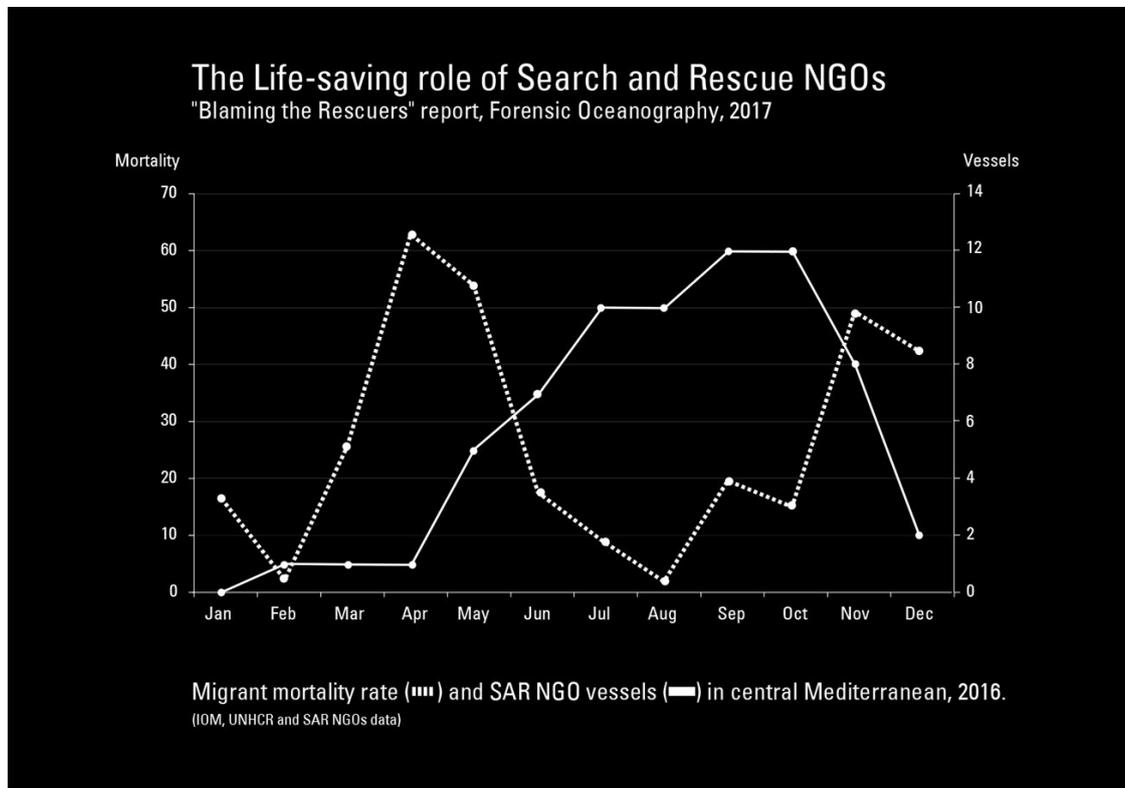
High winds were repeatedly recorder in November and several lethal incidents occurred in bad weather over the month.¹³⁸ In addition, while the number of SAR NGO

136 The statistical analysis of the data conducted by Gian-Andrea Monsch, Researcher at Fors, University of Lausanne, Switzerland, shows that there is a strong negative correlation (-.314 Pearson's R) between the number of SAR NGO vessels and the migrant mortality rate. However, this correlation is not statistically significant, meaning that there is a 32% propensity that we cannot reproduce this correlation in other years. While the result is only reliable for the year 2016, the analysis of the data for 2015 has also shown a strong negative correlation (-.532 Pearson's R), which is borderline significant (below the 10% benchmark).

137 Frontex notes that “the number of arrivals increased in October and November compared to the same months in 2015. Despite tough weather conditions during this period of the year, migrant arrivals continued unabated mainly from Libya. The smuggling networks are aware that the maritime assets are patrolling close to the Libyan shore, and for that reason they are encouraging the migrants to sail even when the sea is rough because they will be rescued soon after their departure.” Frontex, JO EPN Triton, Biweekly Analytical Update, 24 Nov-4 Dec, 4 December 2016, p.2. See Annex. This is yet one more example of Frontex singling out the presence of vessels near the coast – which are mainly those of SAR NGOs – as the cause of migration dynamics that are without a doubt more complex. We should first note that there is no reason why the presence of SAR NGOs near the coast, which had been ongoing since several months, should suddenly lead to such a sharp increase in crossings. Second, this claim completely leaves out the dynamics within the smuggling business and the changing composition of migrants’ nationalities discussed above – more migrants from West and Central African nationalities were crossing over 2016, and these tend to continue to depart over winter months. Third, this leaves out entirely the volatile political conjuncture on Libyan territory at the time. Nancy Porsia notes for example that this was a period of intense clashes for the control of the port of Zawiya, as well as intense confrontations in Tripoli, both of which may have spurred more crossings. Mark Micallef further notes the coastal road linking Tripoli to Zawiya and the west coast that had been closed since October 2015 was re-opened for most of September, October and the first part of November. This eased the transport of migrants towards the coast and may have contributed to more crossings (email exchange with Mark Micallef, May 2017).

138 See the data collected at Lampedusa airport for November 2016: <https://www.wunderground.com/>

assets decreased to seven in November, this month saw the highest share of rescue performed by SAR NGOs – 47%. This indicates that other actors must have disengaged at the time as NGOs absorbed a greater share of rescues with fewer assets; we note in particular the decreasing share of rescues operated by EUNAVFOR MED and Frontex in November. With a greater burden to carry in more adverse conditions, the activities of SAR NGOs were not able to mitigate the increasing danger of crossing in November.



Monthly migrant mortality rates for 2016 (based on IOM and UNHCR data) and number of deployed SAR NGO vessels, showing a striking negative correlation. Credit: Forensic Oceanography. Statistical analysis: Gian-Andrea Monsch, Researcher at Fors, University of Lausanne, Switzerland. Design: Samaneh Moafi.

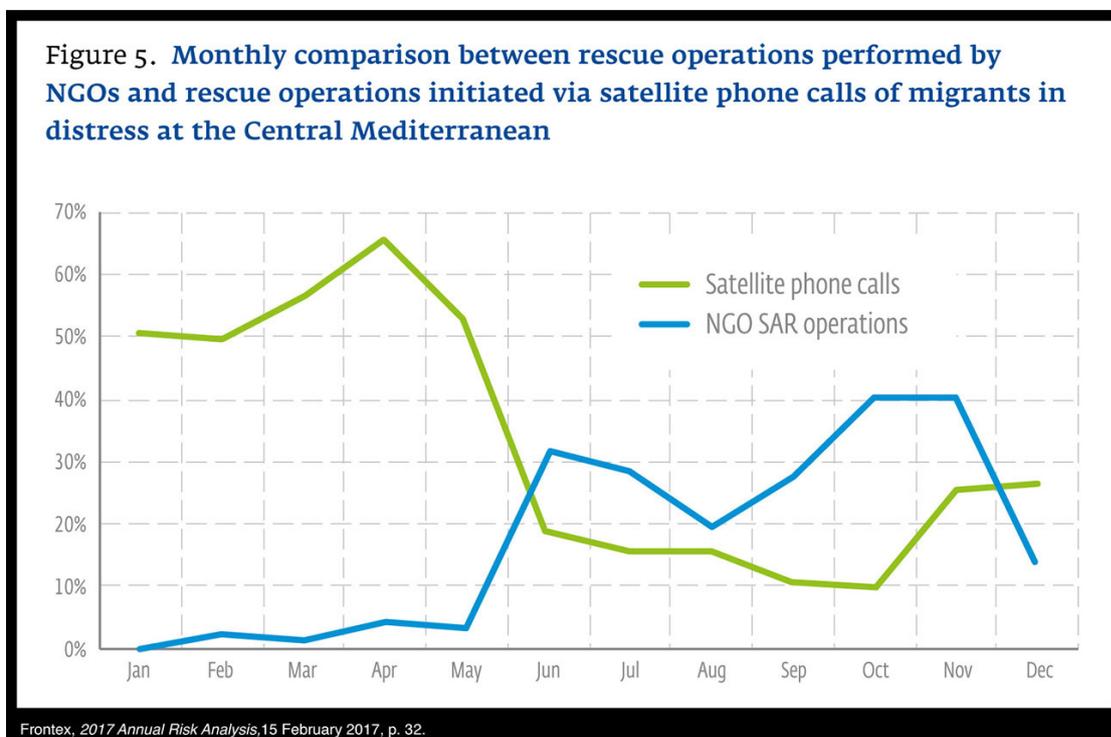
The NGO flotilla thus responded to trends in smuggling practices that had been spurred by the anti-smuggling operation, as well as endogenous dynamics in Libya, and the increasing presence of NGO SAR vessels did in fact make the crossing less dangerous. While looking at overall data for the year of 2016 may give the paradoxical impression, repeatedly pointed out in attacks against SAR NGOs, that the increase in both the mortality rate and the share of SAR operations carried out by NGOs were simultaneous, a month by month analysis reveals the positive impact these operations had in reducing the danger of the crossings. At the same time, it is probable that their presence so close to the Libyan coast further contributed to consolidate smugglers’ new practices.

We can understand why smugglers would be seeking to rely on NGOs. As the EUNAVFOR MED’s 2016 report mentions: “It could be argued that by operating so close to the

history/airport/LICD/2016/11/27/MonthlyHistory.html?req_city=Lampedusa&req_state=&req_state_name=Italy&reqdb.zip=00000&reqdb.magic=3&reqdb.wmo=16490 (last accessed 12 May 2017).

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Libyan territorial waters the NGO presence has allowed the smugglers to recover boats to the shore more easily for re-use and shorten the average rescues from 75nm to 35 and now 20nm from the Libyan shore.”¹³⁹ In addition, echoing Frontex’s analysis, the report notes the decrease in the provision of satellite phones by smugglers to migrants and attributes it to the identifiable presence of the NGO SAR vessels, noting that “this is believed to be because smugglers seem to be aware where they can reliably find rescuing assets particularly from the NGO’s who broadcast their position via the Automatic Identification System (AIS).” The use of online vessel tracking platforms to identify the location of NGO SAR assets was confirmed to Nancy Porsia by smugglers in Libya.¹⁴⁰ While it is thus probable that the presence of SAR NGOs contributed to the decreasing provision of satellite phones, this occurred in the context of the deeper trend of the worsening conditions of crossing provided within the militia-led smuggling model. The decreasing use of satellite phones, which normally allow migrants to alert the Italian Coast Guard, in turn made the deployment of SAR assets close to the Libyan coast an absolute humanitarian necessity since this became the condition to detect vessels that might otherwise have drifted or sunk unnoticed.



Graph showing the monthly rate of vessels rescued in response to a satellite phone call and the rate of rescue performed by SAR NGO.

While the practices of SAR NGOs may thus have inadvertently contributed to consolidating the shifts in smugglers’ practices, there has so far been no evidence of the criminal collaboration with smugglers alluded to by several actors, and as such, we cannot engage with these claims in details. As we mentioned in the “toxic narrative” section, Carmelo Zuccaro, public prosecutor in Catania, has claimed that “telephone

139 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 1st of January - 31 October 2016*, 30 November 2016, p.8. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

140 See Nancy Porsia in annex.

calls from Libya to certain NGOs, floodlights lighting up the way to the boats of these organisations, ships that suddenly cut their transponder (allowing for their localization) are proven facts”.¹⁴¹ Zuccaro’s claims appear to simply seek to turn standard practices which SAR actors, state and civilian alike, have been undertaking openly for years, into a suspicious practice. While NGOs such as the WatchTheMed - Alarmphone and state agencies in charge of rescue alike routinely receive distress calls via satellite phone from migrants at sea following which SAR operation are triggered, direct contact between the smugglers and SAR NGOs at sea has been firmly denied by all SAR NGOs. For what concerns the (mis-)use of floodlights, SAR vessels ordinarily turn on their lights to be able to be seen by vessels in distress in the night. Finally, it is not uncommon that the poor quality of AIS vessel tracking coverage off the coast of Libya leads to interruptions in the transmission of positions. If these are the practices Zuccaro has “proof” of, they do not involve criminal activity. In fact the claims of criminal activity have been increasingly retracted by several prosecutors as they failed to find conclusive evidence.¹⁴²

Even Frontex’ interpretation of the already mentioned incident of November 2016, which the Agency claimed to be “the first reported case where the criminal networks directly approached an EU vessel and smuggled the migrants directly into Europe using the NGO vessel”, has subsequently been revealed to be spurious.¹⁴³ In this incident, Frontex reports that according to the Italian authorities, “a small fibreglass boat in the area displaying a Libyan flag with persons pretending to be fishermen (...) approached one of the NGO vessels Minden and transferred two Libyan citizens from the small boat to the EU vessel claiming that they were migrants. The NGO vessel took them aboard and let the Libyan boat leave the area. After the debriefing activities, the migrants stated that the crew aboard the small Libyan boat were the people smugglers”. However, as investigative journalist Zach Campbell has demonstrated in his detailed reconstruction of the reported case, in all probability the reported incident involved “engine fishers” – often fishermen who as an additional lucrative activity recuperate engines from the boats from which migrants have been rescued. Regardless of their identity, what is most important is that they did not “smuggle migrants directly into Europe using the NGO vessel” but simply supported the SAR operation by pulling out of the water two people after their boat had capsized.¹⁴⁴ From the scarce elements that were put forth and our analysis of them, as has been the case for the Italian Senate’s Defence Commission, no evidence of collusion with smugglers emerges.¹⁴⁵

From the analysis above, it appears clearly that NGO SAR vessels were not the

141 Fabio Albanese, “Abbiamo le prove dei contatti tra scafisti e alcuni soccorritori”, *La Stampa*, <http://www.lastampa.it/2017/04/23/italia/cronache/abbiamo-le-prove-dei-contatti-tra-scafisti-e-alcuni-soccorritori-3fCnqLKWWRHBVUiygHv65K/pagina.html> (last accessed 12 May 2017).

142 Frances d’ Emilio, “Italian prosecutor: no NGOs-migrant smuggler links emerge”, *Associated Press*, May 2, 2017 <http://abcnews.go.com/International/wireStory/italian-prosecutor-ngos-migrant-smuggler-links-emerge-47153010> (last accessed 12 May 2017).

143 Frontex, JO EPN Triton, Biweekly Analytical Update, 24 Nov-4 Dec, 4 December 2016, p.6. See Annex.

144 Zach Campbell, “New Evidence Undermines EU Report Tying Refugee Rescue Group to Smugglers”, *The Intercept*, 2 April 2017, <https://theintercept.com/2017/04/02/new-evidence-undermines-eu-report-tying-refugee-rescue-group-to-smugglers/> (last accessed 12 May 2017).

145 Alessandra Ziniti, “Migranti, commissione Difesa: stop a corridoi umanitari delle Ong”, *La Repubblica*, 16 May 2017, http://www.repubblica.it/cronaca/2017/05/16/news/migranti_commissione_difesa_stop_a_corridoi_ong-165587838/ (last accessed 18 May 2017).

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drivers of shifts in smugglers' practices, but rather sought to respond to them. Their deployment close to the Libyan coast was made necessary by the increasingly dangerous conditions of crossing, and may have in turn consolidated some of the smugglers' new tactics – as indicated by the “parallel” developments of SAR NGO presence and the decreasing use of satellite phones. Over the period of the peak deployment of SAR NGOs however, the mortality rate was substantially reduced. Our analysis thus reveals that, contrary to the claim made by Frontex and others, SAR NGOs have made the crossing safer.

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Aiming to deter migrants from crossing the Mediterranean, the EU and its member states have pulled back from rescue at sea leading to record numbers of deaths. Non-governmental organisations were forced to deploy their own rescue missions in a desperate attempt to fill this gap and reduce casualties. Today, NGOs are under attack, wrongly accused of 'colluding with smugglers', 'constituting a pull-factor' and ultimately endangering migrants. Our report however has demonstrated the crucial life-saving role fulfilled by SAR NGOs, without which many more lives would be lost to the sea, and offered empirical analysis that disproves those accusations.

We can now summarily rebut the claims made against SAR NGOs by Frontex and other actors:

- (1) NGOs operating close to Libyan territorial waters constitute a "pull-factor" leading to more migrants attempting the dangerous crossing

Our report has demonstrated that the increased crossings recorded in 2016 were not the product of the supposed "pull-factor" constituted by SAR NGOs, but were a continuation of a trend that had already begun independently of the presence of SAR NGOs. This rise in crossings (especially of migrants from Central and Western Africa) was the product of worsening economic and political crises that affected several countries and regions across the African continent, including the chaos raging in Libya. These trends were reported by Frontex both internally and externally, but were not mentioned in relation to the agency's arguments against SAR NGOs. As the continued crossings in the wake of the termination of Mare Nostrum demonstrated, while the prospect of being saved may give hope to migrants that they will survive the perilous crossing, those stuck in Libya have little choice but to attempt it, and do so with or without dedicated SAR operations. A very similar rebuttal of the "pull-factor" argument has been made by institutional figures with no interest in defending the NGOs such as the commander in chief of the EUNAVFOR MED Mission, Admiral Credendino,¹⁴⁶ the Rear Admiral of the Italian Coast Guard Nicola Carlone,¹⁴⁷ and the Italian vice-minister for Foreign Affairs, Mario Giro, who have also stressed the need to highlight "push-factors" such as the appalling conditions in Libya and the overall situation in sub-Saharan Africa rather than simply focusing on NGOs as alleged "pull-factor".¹⁴⁸ Finally, while the empirical analysis shows that the "pull-factor" argument is flawed, it should also be highlighted

146 Senato della Repubblica, 4^a Commissione permanente (Difesa), "Resoconto sommario n. 217 del 06/04/2017", 6 April 2017, <http://www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=SommCom-m&leg=17&id=1011982> (last accessed 12 May 2017).

147 Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione, "Audizione del del Contrammiraglio Nicola Carlone, Capo del III reparto Piani e Operazioni del Comando generale del Corpo delle Capitanerie di Porto-Guardia costiera", 3 May 2017, p. 48-49, http://www.camera.it/leg17/1079?idLegislatura=17&tipologia=indag&sottotipologia=c30_confini&anno=2017&mese=05&giorno=03&idCommissione=30&numero=0044&file=indice_stenografico (last accessed 12 May 2017).

148 "Il viceministro giro: 'Basta prendersela con le Ong che salvano vite'", *Radio Popolare*, 24 April 2017, <http://www.radiopopolare.it/2017/04/mario-giro-basta-prendersela-con-le-ong-che-salvano-vite/> (last accessed 12 May 2017).

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that, regardless of its veracity, it rests on the morally questionable assumption that it would be wrong to provide migrants with a safe(r) opportunity to leave the extremely dire situation in Libya and cross the Mediterranean. Whoever invokes this argument is also implicitly legitimising the use of the prospect of death at sea as a deterrent.

(2) NGOs are unintentionally helping criminals by encouraging smugglers to use even poorer quality boats and more dangerous tactics

Our analysis shows that SAR NGOs responded to evolving smuggling practices that had been spurred by endogenous dynamics in Libya and heightened by the EU's anti-smuggling operation, EUNAVFOR MED. At the heart of the continuous degradation of the conditions of crossing since 2013, has been the violent and chaotic situation in Libya, which at the end of 2015 led to a new and more dangerous model of militia-led smuggling. The EU's anti-smuggling operation, EUNAVFOR MED had an important impact on smugglers' tactics, as recorded in its own internal reports.¹⁴⁹ By interdicting and destroying the vessels used by smugglers, it confined them to Libyan territorial waters and contributed to the shift from wooden to cheap rubber boats. That such tactical shifts were noted at the end of 2015 and in the first months of 2016, when the presence of SAR NGOs was limited, further confirms that SAR NGOs were not causing them. Finally, under pressure from the EU, the Libyan Coast Guard (LCG) has increasingly intervened to intercept migrants' boats as they left the Libyan coast over 2016. As the LCG repeatedly exercised violence in the process at times leading boats to capsize, it contributed to increasing the danger of crossing. In response to these trends, as of Spring 2016 NGO vessels were increasingly directed by the Italian Coast Guard to intervene closer to the Libyan coastline to avert situations of imminent distress. While by moving closer to the Libyan coastline, SAR NGOs may have contributed to further consolidating smugglers' new practices – such as no longer providing migrants with a satellite phone, this was the condition to rescue migrants more effectively.

(3) NGOs are making the crossing more dangerous for migrants despite their intentions

Our analysis contradicts this claim and reveals the crucial life-saving role of NGOs. While it has often been noted that 2016, the year that saw the highest number of SAR NGOs at sea, also saw a new record number of deaths (4,576) as well as a rising mortality rate in comparison to the previous year (from 1.83 to 2.46), closer analysis throughout the year tells in fact a very different story. The migrant mortality rate had risen in early 2016 before NGO SAR assets returned to the central Mediterranean following their winter break, it declined in parallel to their redeployment, and rose again only when SAR NGOs' presence decreased at the end of Autumn. There is thus a striking negative correlation between the decreasing mortality rate and the rising number of SAR NGO vessels, which however, unsurprisingly, has not been noted by those seeking to delegitimize SAR NGOs. The life saving role of SAR NGOs has been again illustrated in 2017 through their fundamental contribution to the many SAR events that occurred over the Easter weekend, which we analyse in more detail below.

Our empirical analysis thus allows to counter the allegations put forward to

149 European External Action Service (EEAS), *EUNAVFOR MED Op SOPHIA - Six Monthly Report 22 June - 31 December 2015*, 28 January 2016. Released by Wikileaks <https://wikileaks.ch/eu-military-refugees/EEAS/EEAS-2016-126.pdf> (last accessed 12 May 2017).

delegitimize SAR NGOs, and demonstrates that these accusations have been founded on biased analysis which has deliberately singled out SAR NGOs from the broader web of interactions that together shape the dynamics and conditions of maritime crossings. SAR NGOs were not the cause of increased crossings and shifting smugglers’ tactics, but were rather a fundamental civilian response to a dire situation that was not of their making. The increasing deployment of SAR NGOs succeeded in making the crossing less dangerous.

FROM TOXIC NARRATIVE TO TOXIC EFFECTS

Our analysis thus shows the flawed nature of these attacks. It also demonstrates that they are based on the omission of information that, although widely available, has not been mentioned by those attacking NGOs, thus fuelling what we have defined a toxic narrative. This narrative has had very real effects in public debates in terms of delegitimizing and criminalising SAR NGOs, but also, as exemplified by the recommendations of the Italian Senate’s Commission for a stricter regulation of SAR NGO activities, initiating an institutional process that threatens their operations.¹⁵⁰ Furthermore, the targeting of SAR NGOs has also strengthened policy directions supported by Frontex and EU member states. We can now see with more clarity these de facto effects:

Hiding the EU’s failures

The attack on SAR NGOs has served to keep out of the spotlight and justify the failure of the “solutions” that EU actors had proposed in the wake of the April 2015 shipwrecks. These measures, that were meant to reduce crossings and the deaths of migrants at sea, were the expansion of Frontex’ Triton operation, and the launching of the EU’s EUNAVFOR MED operation, which have focused respectively on border control and anti-smuggling activities. Neither of these measures have succeeded in their stated aims. Crossings have increased despite them and, as we have demonstrated, by systematically destroying the boats used by migrants, EUNAVFOR MED has even directly contributed to make the conditions of crossing offered by smugglers more dangerous. By blaming SAR NGOs for their supposed “pull-factor” effect and for the worsening conditions of crossing, NGOs have served as an easy scapegoat, which states could blame for the failure of their own policies.

Re-enforcing deterrence

By focusing on the “mysterious” presence of SAR NGOs, EU actors have also managed to mask the continuing SAR gap left by state actors in the wake of the termination of Mare Nostrum. As we have demonstrated in *Death by Rescue*, the EU and its member states pulled back from rescue at sea to enforce their policy of migration deterrence, and this retreat proved lethal.¹⁵¹ The current attack on what has become the primary actor operating SAR – NGOs – once again threatens proactive SAR. The precedent of Mare Nostrum and the recurrent claim that SAR NGOs constitute a “pull-factor”, indicates that this latest attack on proactive SAR can be understood as

¹⁵⁰ We refer to this in some more detail in the “Toxic Narrative” section.

¹⁵¹ Charles Heller and Lorenzo Pezzani, “Death by Rescue: The Lethal Effects of the EU’s Policies of Non-Assistance”, 18 April 2016, deathbyrescue.org (last accessed 12 April 2016).

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an attempt to re-impose deterrence.¹⁵² If NGOs were forced to stop or reduce their operations, there is no doubt that many more lives will be lost to the sea. Furthermore, the opening of inquiries against SAR NGOs and their possible incrimination for “facilitating illegal immigration” risks bringing us back to a period prior to *Mare Nostrum* when civilian actors involved in the rescue of migrants at sea were repeatedly criminalized. This had the extremely dangerous effect of making seafarers reluctant to rescue people in distress, leading to repeated cases of non-assistance that caused tremendous loss of life.¹⁵³ While the effects of the campaign of de-legitimation and criminalisation of SAR NGOs are still unfolding, the risk of dramatically increased loss of life looms large.

Justifying externalisation

The de-legitimation of NGO SAR activities has also allowed other “real” solutions to appear as ineluctable, such as the externalisation of border control to African states, which has received an increased boost in recent months. Asked “how can we then find a solution in the near future for the Central Mediterranean route?”, Frontex Director Fabrice Leggeri in his interview with *Die Welt* used the example of the closing of the Atlantic route to Spain, which was achieved through “cooperation with African states from which migrants’ boats were leaving”, and to which “migrants were swiftly brought back”.¹⁵⁴ This is the model Frontex has been referring to time and again, as in its 2016 Annual Risk Analysis report and it was also invoked in the European Commission’s strategic note “Irregular Migration via the Central Mediterranean” of February 2017.¹⁵⁵ What these proposals however omit is that the closure of the Atlantic route did not stop the crossings of illegalised migrants and deaths at sea overall,

152 That Frontex would be persisting in the logic of migration deterrence has also been confirmed by investigative journalist Zack Campbell. A senior European border official with close knowledge of Frontex operations and decision-making in the upper ranks of the European Union confirmed to Campbell that he still believed the spatial retreat to impose deterrence was the correct policy. “In order to not create a pull factor, we are patrolling up to the SAR area of Malta. We don’t cover Libya”, he is reported to have said, arguing that if the journey seems longer and more dangerous, refugees won’t “put their lives at risk, especially in winter, to travel all this distance to the south of Malta.” Zach Campbell, “Abandoned at Sea”, *The Intercept*, 1 April 2017, <https://theintercept.com/2017/04/01/europe-keeps-its-rescue-ships-far-from-the-coast-of-libya-where-thousands-of-refugees-have-drowned/> (last accessed 12 May 2017).

153 See our “Report on the Left-to-die Boat case” for a concrete example of the negative repercussions of the criminalization of rescue: <http://www.forensic-architecture.org/wp-content/uploads/2014/05/FO-report.pdf>

154 Manuel Bewarder and Lisa Walter, “Rettungseinsätze vor Libyen müssen auf den Prüfstand”, *Die Welt*, 27 February 2017, <https://www.welt.de/politik/deutschland/article162394787/Rettungseinsaetze-vor-Libyen-muessen-auf-den-Pruefstand.html> (last accessed 12 May 2017).

155 “Since irregular migration was effectively closed on this route, following a set of measures including cooperation with country of departure and effective implementation of a return agreement, several thousand lives have been saved.” Frontex, *2016 Annual Risk Analysis*, 5 April 2016, p. 46-47. http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf (last accessed 12 May 2017). The European Commission notes that “the drawbacks of SAR operations as they are currently carried out by European naval forces, coast guards and NGOs must be acknowledged with a view to stemming the numbers of irregular crossings. A purely humanitarian approach will not suffice to resolve the situation in the longer term.” As a result, its suggest agreements and cooperation with Libya and disembarkation of rescued migrants in third countries. European Commission, *Strategic note “Irregular Migration via the Central Mediterranean*, 2 February 2017, p. 7, https://ec.europa.eu/epsc/publications/strategic-notes/irregular-migration-central-mediterranean_en (last accessed 12 May 2017).

but rather displaced these crossings and deaths to other routes.¹⁵⁶ Furthermore, what they also neglect is the tremendous human cost of the cooperation being advocated for. Externalising migration control to “transit and origin states” in the central Mediterranean effectively means cooperating with (war) criminals, such as in Sudan and Eritrea, and relegating migrants to a country, Libya, where widespread human rights violations against migrants have been systematically documented.¹⁵⁷ In particular, the EU is increasingly relying on cooperation with the Libyan Coast Guard (LCG), the intervention of which has led to repeated loss of life. In effect, targeting SAR NGOs so as to gain control over them and enabling the LCG to pull-back migrants to Libya are both sides of the same coin.¹⁵⁸ Considering the condition of migrants in Libya today, preventing migrants from departing from Libyan territory amounts to complicity with arbitrary detention, torture, sexual violence, forced labour and trafficking.

Criminalising solidarity

In several trials that have taken place in recent months in Denmark, Greece and France, people who have hosted or helped migrants en route have been accused of trafficking or other “crimes of solidarity”.¹⁵⁹ The attacks against SAR NGOs should be understood in relation to this wider attempt of criminalisation, which does not only puts migrants’ lives and rights at risk, but also the rights of EU citizens to stand in solidarity as well as their capacity to exercise civilian oversight at the EU’s frontiers. Recognising that migrants are forced to resort to perilous means of accessing the territory of the EU as a result of the EU’s migration policies, the right to solidarity must be asserted.

SAR NGOS: FACED WITH AN IMPOSSIBLE AND YET URGENT TASK

The analysis we have provided does not leave NGOs and their SAR activities untouched and raises important questions for their continuation. Despite their best intentions, NGOs have increasingly come to be “sandwiched” between the operational logics of states and smugglers alike, and instrumentalised from both sides. Furthermore, while the NGO flotilla is not the main cause of the rise in deaths and mortality and it was instead able to reduce the mortality rate in the period of its maximum deployment, the NGO flotilla was not able to prevent the increase in the overall num-

156 Today, we find migrants of some of the same nationalities that were crossing to the Canaries risking their lives by departing from Libya.

157 Office of the United Nations High Commissioner for Human Rights, “*Detained and dehumanised*” Report on human rights abuses against migrants in Libya, 13 December 2016, p. 19-20, www.ohchr.org/Documents/Countries/LY/DetainedAndDehumanised_en.pdf (last accessed 12 May 2017).

158 This exemplified again by the recommendations contained in the report on the investigation by the Defense Commission of the Italian Senate published on 16 May 2017. In addition to recommending stricter regulation of and control over SAR NGOs, it also urges the opening of a Libyan MRCC and the cooperation with the Libyan Coast Guard. See: Senato della Repubblica, 4^a Commissione permanente (Difesa), “Documento conclusivo approvato dalla commissione sull’indagine conoscitiva sul contributo dei militari italiani al controllo dei flussi migratori nel mediterraneo e sull’impatto della attività delle organizzazioni non governative”, 16 May 2017, https://www.senato.it/application/xmanager/projects/leg17/attachments/dossier/file_internets/000/002/115/Documento_conclusivo_bozza_.pdf (last accessed 18 May 2017).

159 Nando Sigona, “Refugees, the dangerous spread of crimes of solidarity”, *Open Migration*, 16 March 2016, <http://openmigration.org/en/op-ed/the-dangerous-spread-of-crimes-of-solidarity-2/> www.ohchr.org/Documents/Countries/LY/DetainedAndDehumanised_en.pdf (last accessed 12 May 2017).

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ber of deaths either. The risk that their presence would keep reinforcing the trends we have discussed, thus resulting in effects that are the exact opposite of their humanitarian aims, is real and should not be underestimated. SAR NGOs are acutely aware of this difficult position. As the authors of an internal MSF position document “Unsafe passage” noted: “We are caught in a vicious circle because both smugglers and border guards are exploiting our presence at sea and people continue to die, despite our actions”. As such, the urgent question for SAR NGOs and civil society at large is “How will SAR NGOs manoeuvre themselves out of these unwilling complicities and break the cycle of death?” Most SAR NGOs have been aware from the beginning that their operations could not be, in and of themselves, a solution to end the dangerous crossings that are the product of the EU’s policies of exclusion. They know that as long as insufficient legal pathways for migration exist, migrants will be forced to cross the sea through precarious means, the Libyan smuggling business will continue to thrive, and deaths will continue to occur, with or without their presence. As such, several SAR NGOs have consciously used their position to demand a fundamental shift towards policies enabling the passage of migrants through safe and legal means that would make their own activities redundant.¹⁶⁰ However, as the ending of Mare Nostrum has demonstrated, the fate of migrants would be even worse without the courageous humanitarian work NGOs have undertaken while states have remained focused on border control and anti-smuggling activities. NGO’s SAR work thus remains both necessary and by definition insufficient. The question for them remains how to realise safe(r) passage in this challenging context.

EASTER WEEKEND 2017

The beginning of 2017 shows no sign of migrants’ crossings abating, or of the danger of crossing diminishing. Despite having been under constant attacks for several months, SAR NGOs have continued to play a central role in SAR efforts in the central Mediterranean, as exemplified by the events of the Easter weekend. Two years after the April 2015 shipwrecks that cost the lives of 1,200 people, April 2017 has once again seen record crossings. Between 14 and 16 April 2017, 9,262 people travelling on 55 different boats were rescued, constituting one of the largest events of concentrated SAR operations in the Mediterranean Sea in the past few years.¹⁶¹

These SAR events have highlighted the continuing absence of state-led SAR assets. “According to MRCC data”, The Guardian reported, “of the 25 ships involved in

160 See for example: Médecins Sans Frontières, “Le domande più frequenti sulle nostre operazioni di ricerca e soccorso nel Mediterraneo”, 27 March 2017, <a href=“<http://www.medicisenzafrontiere.it/notizie/news/le-domande-pi%C3%B9-frequenti-sulle-nostre-operazioni-di-ricerca-e-soccorso-nel-mediterraneo>”><http://www.medicisenzafrontiere.it/notizie/news/le-domande-pi%C3%B9-frequenti-sulle-nostre-operazioni-di-ricerca-e-soccorso-nel-mediterraneo> (last accessed 12 May 2017).

161 In a press release, the International Organization for Migration mentions 8,360 rescued migrants between 14 and 16 April 2017. See: International Organization for Migration, “Mediterranean: Nearly 9,000 Migrants Rescued in One Weekend, as Total Deaths Reach 900 in 2017”, 18 April 2017, <https://www.iom.int/news/mediterranean-nearly-9000-migrants-rescued-one-weekend-to-total-deaths-reach-900-2017> (last accessed 12 May 2017). Data we have obtained from the Italian Coast Guard, however, speaks of 9,262, probably referring to the total number of people *transported* to Italy during the Easter weekend and thus including also some who might have been rescued in the night between 13 and 14 April.

rescue operations over the Easter weekend one was operated by Frontex and one by EUNAVFOR MED. Ten belonged to NGOs, six to the Italian coastguard, six were merchant vessels, and one was an Italian navy ship.”¹⁶² While Frontex has subsequently clarified to us that some of the Italian Coast Guard assets mentioned by the Guardian article were co-financed by them and thus technically are part of its Triton operation, it also admitted that only 6 vessels of its 16 assets were deployed in an area close to where the SAR events were taking place and could thus participate in some capacity to the rescue efforts.¹⁶³ EUNAVFOR MED also confirmed to us that only one of its ships took part in the operations, as the operation’s 4 other ships were either in port or busy with other tasks.¹⁶⁴

It is in this context that NGOs have once again played a leading role in the SAR operations. As the Watch The Med-Alarm Phone network – which was in direct contact with two boats in distress and several of the NGOs operating in the area – summarized, “the NGOs ships present in the area worked at the limit of their capabilities. [...] The crew of the Migrant Offshore Aid Station (MOAS) alone rescued more than 1,500 people from 9 precarious boats, and took hundreds on board of their vessel Phoenix. The rescue vessel *Iuventa* of the NGO Jugend Rettet similarly took hundreds of people on board. Unable to navigate, they were even forced to send off a MAYDAY call on Sunday. Fortunately, they could successfully complete their SAR operation and safely return to Malta.”¹⁶⁵



Rescued migrants on the deck of the *Iuventa* of the NGO Jugend Rettet during the Easter Weekend 2017 operations. Despite a nominal capacity of no more than 100 people, the *Iuventa* had to take on board hundreds of people to make up for the absence of state-led SAR assets. Credit: Giulia Bertoluzzi.

162 Diane Taylor, “Refugees stranded for 30 hours before rescue in Mediterranean”, *The Guardian*, 21 April 2017, <https://www.theguardian.com/world/2017/apr/21/refugees-stranded-mediterranean-dinghy> (last accessed 12 May 2017).

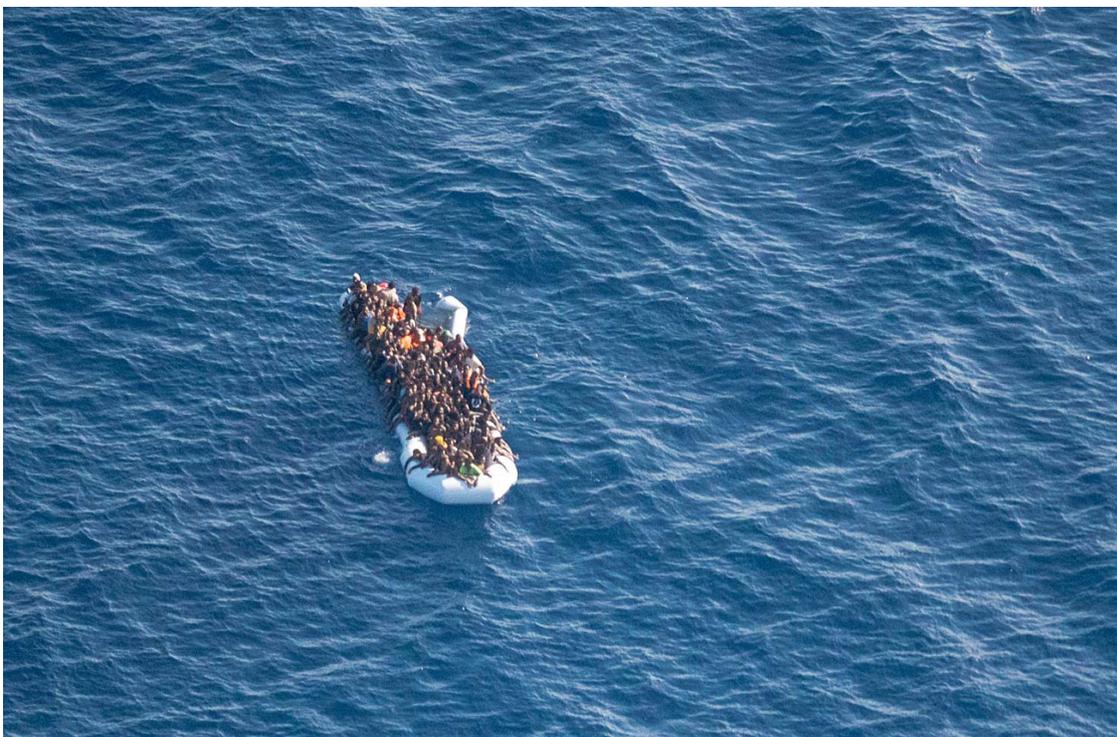
163 Data we have obtained from the Italian Coast Guard shows that only one of the Frontex assets which did not belong to the Italian Coast Guard (the *Siem Pilot*) participated in the rescue operations.

164 The German *FGS Rhein* was the only EUNAVFOR MED ship that took part in the SAR operations by rescuing 458 migrants and transferring a total of 1,186 migrants to Italy. In his hearing at the Defence Commission of the Italian Senate, admiral Credentino, Commander of the EUNAVFOR MED mission, has explained that the mission’s assets are deliberately kept far away from the operational area where SAR events usually occur so as not to become involved in them. Senato della Repubblica, 4^a Commissione permanente (Difesa), “Indagine conoscitiva sul contributo dei militari italiani al controllo dei flussi migratori nel Mediterraneo e l’impatto delle attività delle organizzazioni non governative: audizione del Comandante di EUNAVFOR MED operazione SOPHIA, amm. div. Enrico Credentino”, 6 April 2017, http://www.webtv.senato.it/4621?video_evento=3525 (last accessed 12 May 2017).

165 Alarm Phone, “Constructing a Deadly Void”, 21 April 2017, <https://alarmphone.org/en/2017/04/21/constructing-a-deadly-void/> (last accessed 12 May 2017).

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In addition to SAR NGO vessels, the newly launched NGO SAR plane Moonbird was also crucial in determining the position of several migrants' boats in distress, that might otherwise have drifted unnoticed towards a tragic fate. The Moonbird's presence is a fundamental response to the decreasing provision of satellite phones recorded over 2016, demonstrating civil society's extraordinary capacity to respond to evolving practices at sea in the aim of enabling safer passage.



Aerial photographs of the rescue operations taken by the civilian SAR aircraft Moonbird during the Easter weekend. Credit: Moonbird Airborne Operation / www.sea-watch.org, www.hpi.swiss

The events of the Easter weekend highlight the continuing absence of an adequate number of state-led SAR assets, and the crucial role of SAR NGOs in filling this gap. While the number of people crossing over Easter 2017 was comparable to that recorded in April 2015, thanks to the remarkable work of all these SAR actors, “only” 115 casualties were recorded during the 2017 Easter weekend, instead of the 1,200 recorded in the 12 and 18 April 2015 shipwrecks.



Aerial photographs of the rescue operations taken by the civilian SAR aircraft Moonbird during the Easter weekend. Credit: Moonbird Airborne Operation / www.sea-watch.org, www.hpi.swiss

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Without SAR NGOs interventions, the death toll would have been much higher. Underlining SAR NGOs' life-saving role is the strongest antidote to the toxic narrative that has been spread against them. It does however make the prospect of them having to suspend or reduce their activities all the more worrying. The work of SAR NGOs must be able to continue without being blackmailed and criminalised. In the face of the horrendous death toll that is the product of the EU's policies of closure, the right to solidarity must be asserted.

As long as migrants are forced to resort to smugglers for lack of legal pathways, proactive Search and Rescue at sea will be a humanitarian necessity – whether it is operated by states or NGOs. Only a fundamental re-orientation of the EU's migration policies to grant legal and safe passage may bring the smuggling business, the daily reality of thousands of migrants' in distress and the need to rescue them to an end.

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