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# Search and Rescue in Central Mediterranean Sea

Mission Echanges et Partenariats – Migreurop - Watch the Med - Arci

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## Introduction

This report is the result of an observation mission of search and rescue operations and bordering practices in the Canal of Sicily, that took place between the 1st of February and the 8<sup>th</sup> of June 2015. It intends to cover both realities as well as to provide a solid documentary resource for further research. This mission was made possible thanks to the cooperation between [Migreurop](#), [Arci of Messina](#) (Sicily) and [Watch the Med](#). The sending of an observer on the field, was coordinated by the French association [Echanges et Partenariats](#), which allows young activists to get involved in international solidarity projects and to share their experiences.

**Migreurop** is a network of activists and researchers aiming at informing about and denouncing the consequences of European migration policies on migrants' rights: detention, deportation, expulsion, externalisation of border controls.

It raises awareness on these subjects through investigations, analysis, mapping, lobbying, legal cases filing, the organisation of conferences and meetings, thus collaborating with journalists, photographers, legal experts and artists.

Among the founding members of the network, **l'Associazione ricreativa culturale italiana (Arci)** is the biggest Italian non-formal education association. A descendant of the antifascist movements of the last centuries, it promotes active citizenship, human rights, peace, social and cultural life

In Messina, the local group [Thomas Sankara](#), offers legal support, as well as social and cultural activities to migrant people. More specifically, the association is in charge of unaccompanied foreign minors' legal supervision and takes part in the national system of asylum seekers and refugees' protection (SPRAR).

**Watch the Med** is an online mapping platform aiming at documenting violations of migrants' rights' in the Mediterranean Sea. Collaborating with migrants, researchers, and activists' networks, it pressures authorities into respecting migrants' rights at sea.

The 18 weeks spent in Sicily allowed us to contribute to this project by collecting information online, contacting relevant Italian authorities, observing migrants' disembarkations (in Catania the 13<sup>rd</sup> of April, in Messina the 15<sup>th</sup> of April and 16<sup>th</sup> of May ), participating in the legal support of unaccompanied foreign minors in Messina, leading interviews with activists and researchers. For reasons of confidentiality, however, people whose remarks are reported in the present document are not all named.

### Context of the Mission

During the last 20 years it is estimated that more than 20 000 persons died while attempting to reach Europe among which more than 2 000 in the Mediterranean Sea from the beginning of the year 2015.<sup>1</sup> (see card in appendix 1). In 2011 in a context of particularly intense political crises in North Africa, the death of 63 persons in spite of the military presence at the surroundings of the Libyan coasts, had already alarmed defenders of migrants' rights.<sup>2</sup>

Since the beginning of 2015, the worsening political situation in Libya, Syria and the Horn of Africa, has driven thousands of people across the sea, including in winter, despite prohibitive weather conditions.

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<sup>1</sup> Joint appeal « [Bridges, not weapons!](#) », 24 th june 2015

<sup>2</sup> Interassociative press-release, « [63 migrants left to die in the Méditerrananean sea : Survivors file a complaint against the Belgian Army](#) », 23<sup>rd</sup> november 2013.

This political degradation, the influence of Libyan militias and the "Islamic State", the violent treatment of migrants in Libya but also direct threats to those responsible for rescue operations<sup>3</sup>, has led to increasing pressure and a worsening security context.

After a brief review of the legal framework in which they operate, this document lists the different actors of rescue, surveillance and control operations at sea, whose activities are characterized by a growing militarization that has serious consequences for the migrants' rights.

### The general and unconditional obligation to rescue

The United Nations Convention on the Law of the sea of 1982 (UNCLOS) provides a general and unconditional obligation to assist anyone in distress at sea for all ships in the vicinity. Article 98 of the Convention notably states that "every State shall require the master of a ship flying its flag to obey this principle, in so far as he can, without serious danger to the ship, the crew or passengers". Paragraph 2 of that article further provides that "all coastal States promote the establishment, operation and maintenance of an adequate and effective search and rescue service (...)»<sup>4</sup>.

Meanwhile, the International Convention on Maritime Search and Rescue, known as SAR Convention, adopted in Hamburg in 1979, provides the creation Search and rescue (SAR) zones, within which the states are responsible for coordinating relief efforts through coordination centers for search and rescue operations.<sup>5</sup>

However the definition of such areas is problematic especially in the Channel of Sicily where for example Maltese and Italian SAR zones overlap.

The guidelines on the treatment of persons rescued at sea, adopted in May 2004 by the Maritime Safety Committee together with the amendments to the International Conventions on Maritime Search and rescue and for the Safety of Life at Sea, provide that the State responsible for a SAR area is responsible for providing a place of safety or ensuring that such a place is provided.<sup>6</sup>

### The different actors of rescue operations at sea in Italy

#### The coastguards:

Italian coastguards represent a special corps of the Navy, placed under the responsibility of the Ministry of Environment, the territory and the sea, and the Ministry of agriculture, food and forestry policies<sup>7</sup>.

The General Command of Harbour Authorities performs the function of Italian Rescue Coordination Centre (IMRCC) and communicates with their counterparts in other countries around the Mediterranean. Fifteen Maritime Directorates act as maritime rescue sub-centers, and coordinate operations within their own territory<sup>8</sup>.

In Sicily, the local directorate is situated in Catania. These sub-centers have their own equipment. They are in charge of requesting the intervention of all maritime and air equipment from the public and private sector, for search and rescue operations.

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<sup>3</sup> Coastguards threaten by men armed with kalashnikovs, during a rescue operation, 15th of February 2015, [Watch the Med report](#), and article in « [Il Sole 24 Ore](#) » - information on [Frontex agency website](#), about the 13rd of April

<sup>4</sup> [1982 United Nation Convention on the law of the sea](#) (UNCLOS).

<sup>5</sup> [1979 International Convention on maritime search and rescue](#) (SAR Convention).

<sup>6</sup> [Résolution MSC.167\(78\)](#), paragraph 2.5.

<sup>7</sup> Coastguards's website : [Chi siamo](#).

<sup>8</sup> Coastguards' website: [Guardia Costiera, organizzazione ricerca e soccorso](#).

The coastguards have a total of 300 boats in the region spread over 113 ports and 3 naval bases: one in Catania, and two on the mainland, in Pescara ( Abruzzo ) and Sarzana (Liguria)<sup>9</sup>.

The 3rd Squadron was created in 1994 in Lampedusa, and today disposes of four motor-launches specially designed for search and rescue operations, including at least three financed by the European Union Fund for external borders, a faster patrol boat, a helicopter and an airplane<sup>10</sup>.

This equipment is specially designed for offshore rescue operations. However, the number of people these patrol boats can take on board is limited, they have no enclosed areas that would allow them to properly protect passengers and cannot face too extreme weather conditions. This was sadly demonstrated with the death of 22 people, on board these boats on the 8<sup>th</sup> of February 2015<sup>11</sup>. These four patrol boats spent seven hours of navigation before reaching the place of emergency, and 18 hours to sail back to the island of Lampedusa, while not exceeding the speed of two knots per hour. The testimony of the doctor on board of one of the patrol boats, stating that the survival blankets tended to fly away<sup>12</sup>, also illustrates the deplorable conditions of navigation. Seven people had died before rescuers arrived.



*Lampedusa's patrol boats*

Meanwhile, the control of "illegal" migration flows is also part of the coastguards' prerogatives, and this has particularly been the case since the 90's. Indeed, it is during this period that the increasing number of migrants from Albania justified the development of their means, with the involvement of ports such as Brindisi ( Puglia ), Trapani, Porto Empedocle, Licata, Gela, Pozzallo and Siracusa ( Sicily )<sup>13</sup>.

#### [Merchant shipping, an increasingly sought actor in rescue operation:](#)

According to the latest figures of the International Organisation for Migration (IOM), among the 53 000 people brought to Italy since the beginning of the year, 14 500 were rescued by merchant ships. In 2014, the figure was of more than 40 000<sup>14</sup> (42 000 according to an Amnesty International report)<sup>15</sup>, 170 000 arrivals by sea the same year.

However, these figures do not fully demonstrate the extent of merchant shipping's involvement in search and rescue operations, since many ships participate in these operations without taking people

<sup>9</sup> Coastguards' website: [Guardia Costiera, i mezzi](#).

<sup>10</sup> Interview with Alizée Dauchy, former Migreurop volunteer, member of d'Askavusa, the 20th of February 2015.

<sup>11</sup> Watch the Med, "[More than 300 people on four rubber vessels die in the Central Mediterranean Sea](#)", 14<sup>th</sup> of February 2015.

<sup>12</sup> La Repubblica, "[Lampedusa – La dottoressa a bordo della motovedetta 'ho pregato per tutto il viaggio'](#)", 10 février 2015.

<sup>13</sup> Ibidem note 8

<sup>14</sup> Number mentioned by the shipowners' unions in a [letter sent to European Union member states](#) (see footnote 17)

<sup>15</sup> Amnesty International, « [Europe sinking's shame](#) », 2015.

on board. This contribution may consist of searching for ships in distress, distributing food, waiting for the arrival of ships from the Navy, the coastguards, or the Guardia di Finanza (see p. 7). Still, if they are asked to, such vessels must often change their original route and interrupt their normal activities.

Meanwhile, when migrants do have to board merchant ships, it does imply important safety issues as testified by some migrants who sometimes, have to climb on to the ship by using a ladder.<sup>16</sup>

Furthermore, when a merchant vessel finds itself in the obligation of taking people on board, it does not always benefit from the support of a rescue ship with a medical team on board, whether it is a coastguards, a military, or a Guardia di Finanza's ship.

On the 8<sup>th</sup> of April 2015, European shipowners' associations and seafarers' associations' unions sent a letter to the national governments of the 28 Member states of the European Union. While assuming their rescue obligations pursuant to the International Law of the Sea, they regretted having to implement operations they do not have the human and material resources to carry out safely. They called for strengthening resources available for the responsible authorities including professional teams, but also for alternatives to these dangerous crossings.<sup>17</sup>



*A merchant vessel having rescued 236 people, disembarked in Messina, on the 15th of April 2015*

### [The Operation Mare Nostrum](#)

This operation now terminated, was launched by the Italian government on the 18<sup>th</sup> of October 2013 following two shipwrecks that had killed more than 600 people off the coast of the Italian island of Lampedusa<sup>18</sup>. It officially aimed at searching and rescuing people in distress at sea, while fighting against human trafficking, and performing sanitary controls<sup>19</sup>.

Implemented by the Italian Navy, it involved equipment from the latter (large amphibious ship with a hospital, two frigates, two patrol ships, two helicopters, an airplane, a coastal radar network with automatic detection system), but also from the air force (a predator aircraft, a maritime patrol aircraft and a radar), the coastguards, and the Guardia di Finanza (a radar based in Palermo and able to see over 50 miles offshore). It also had the support of a Slovenian patrol ship<sup>20</sup>.

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<sup>16</sup> Testimony of a minor collected by the author in Messina on the 27<sup>th</sup> of April 2015.

<sup>17</sup> ECSA, ETF, ICS, ITF, "[Thousand of lives will be lost in the Mediterranean unless EU governments take urgent action](#)", 8 avril 2015.

<sup>18</sup> UNHCR, « [UNHCR Concerned over ending of rescue operation in the Mediterranean](#) », 17 octobre 2014.

<sup>19</sup> [Statement of Admiral De Giorgi](#), Commander in Chief of the Italian Navy, heard the 16th of December 2015 in front of the Italian Senate's Human Rights Commission and [Italian Navy website](#).

<sup>20</sup> [Italian Navy website](#) Interviews with TI who wished to remain anonymous, the 10th of June 2015, Martina Tazzioli,

If the operation is not exempt from criticism notably because of its failures (3343 people died during its implementation according to UNHCR)<sup>21</sup>, the collection of personal data on board ships taking part in it<sup>22</sup>, the circumvention of the principle of non-refoulement (not turning away)<sup>23</sup> and the prohibition of collective expulsion<sup>24</sup>, it is believed to have saved 150,000 lives<sup>25</sup>.

### Solidarity initiatives

#### The Alarm Phone

Some activists and associations cooperating with the Watch the Med platform created an emergency self-organized hotline for migrants in distress in the Mediterranean Sea. Available 24 hours a day, 7 days a week, the Alarm Phone (AP) network operates from the five continents. It sends information received and verified to the competent authorities, intending to support the implementation of rescue operations. In case of delay or of refusal by the authorities to fulfill their rescuing obligations, the network launches political pressure, by alerting media, ship captains in the vicinity, international organizations, religious authorities, and online supporters' networks<sup>26</sup>.

#### The Migrants Offshore Aid Station (MOAS)<sup>27</sup>

Based in Malta and already active in 2014 in the Mediterranean Sea, this NGO has undertaken since the 2<sup>nd</sup> of May, 2015, a six months search and rescue operation. Its 40-meter long ship, the "Phoenix", is equipped with two semi-rigid boats and two drones. This year the organization Doctors without Borders (MSF) is participating in the project with a team of five people on board.<sup>28</sup>

In addition, MSF chartered two other boats, the "Bourbon Argos" and the "Dignity" respectively operational since the 9<sup>th</sup> of May and the 13<sup>rd</sup> of June. Both NGOs now collaborate with the AP to exchange information when one of their vessels is the vicinity of people who contacted the hotline.

#### The Sea watch Project<sup>29</sup>:

The ship chartered by the actors of this project, meanwhile, aims at identifying ships in distress at sea and reporting their information to relevant authorities as well as to the AP team. It does not aim to proceed to rescue, but to make distress situations known. This vessel has been in the Mediterranean since the 14<sup>th</sup> of June 14, 2015.

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researcher at the Goldsmiths University of London, the 20<sup>th</sup> of March 2015, and Marzia Trovato, former EP Migreurop volunteer, the 15<sup>th</sup> of March 2015

<sup>21</sup> Ibidem note 18

<sup>22</sup> Interviews with TI who wished to remain anonymous, the 10<sup>th</sup> of June 2015, Martina Tazzioli, researcher at the Goldsmiths University of London, the 20<sup>th</sup> of March 2015, and Marzia Trovato, former EP Migreurop-volunteer, the 15<sup>th</sup> of March 2015.

<sup>23</sup> [FFM online's article](#) evoking interception of migrants' boats by Tunisian and Libyan coast guards, aiming at transporting them back towards Northern African Coasts, under Italian Navy Commands.

<sup>24</sup> ECHR's judgement, 23<sup>rd</sup> of February 2012, [Hirsi Jamaa and others v. Italy](#) (Application n°27765/09).

<sup>25</sup> Ibidem note 18

<sup>26</sup> [Alarm Phone](#) page on Watch the Med website as well as <http://alarmphone.org/en/about/>.

<sup>27</sup> [Migrants Offshore Aid Station](#).

<sup>28</sup> [Doctors Without Borders' website](#)

<sup>29</sup> [Sea Watch](#).

Actors of surveillance and control at sea:

### The Guardia di Finanza

This corps depends on the Italian Ministry of Economy and Finance. It is part of the Army. It is responsible for border controls, the controls of migration flows, the fight against organized and cross-border crime<sup>30</sup>.

Its role is to coordinate the "control of illegal migration at sea", implemented by the Navy, the Police and the coastguards<sup>31</sup>. As part of this mission, it conducts patrols which, according to the article 33 of UNCLOS<sup>32</sup>, should be limited to the Italian Contiguous Zone (24 nautical miles). It has aerospace resources and at least a radar in Palermo, able to see 50 miles offshore<sup>33</sup>.

Pursuant to section 12 of the law of the 6<sup>th</sup> of March 1998, No. 4038, paragraph 7, the Guardia di Finanza's main mission is to find "smugglers"<sup>34</sup>.

However these patrol operations are relatively frequently held beyond the contiguous zone, as shown for example, by the operation of the 2<sup>nd</sup> of May 2015, during which we learn that the Guardia di Finanza's patrol boat, Paolini that came to rescue 116 people 28 nautical miles away from Libya, was actually leading control operations in international waters<sup>35</sup>. This also seems to have been the case of the "Monte Sperone" the 14<sup>th</sup> of May<sup>36</sup>.

The responsibility of the Guardia di Finanza in coordinating the operations of control of migration flows, is confirmed by its close cooperation with Frontex, particularly in the context of the Operation Triton of Frontex.

### Frontex:

Founded in 2004 and headquartered in Warsaw, the role of the European Agency for the Management of Operational Cooperation at the External Borders of the Member states of the European Union is to control the arrivals of persons at the borders of the Union through the pooling of member state's monitoring means: border guards, military equipment, advanced technologies (radars, satellites, drones in the future).

It coordinates and implements surveillance and control operations, at sea, on the air and on the land. Its naval patrols are held in the territorial waters of European Union's Member states, but also in those of neighboring states or in international waters. Based on information gathered among migrants during these operations (age, country of nationality, background and motivations of the trip)<sup>37</sup>, it mounts occasional joint operations in specific areas, such as Operation Triton, which will be more specifically analyzed in the following paragraph of the present document.

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<sup>30</sup> Guardia di Finanza's website [Compiti istituzionali](#).

<sup>31</sup> Guardia di Finanza's website [immigrazione clandestina](#).

<sup>32</sup> Ibidem, note 4.

<sup>33</sup> Interview of the 20<sup>th</sup> of March 2015 with Martina Tazzioli, researcher at the Goldsmiths University.

<sup>34</sup> [European Migration Network: Practical response to irregular Migration](#).

<sup>35</sup> Giornale di Sicilia, "[Agrigento – soccorso gommoni con 116 persone al largo della Libia](#)", 2<sup>nd</sup> of May 2015.

<sup>36</sup> First on line, "[Soccorsi 900 migranti nel canale di Sicilia](#)" et Il Cittadino di Messina, "[Il pattugliatore Monte Sperone della Guardia di Finanza in soccorso a 900 migranti](#)", 14<sup>th</sup> of May 2015.

<sup>37</sup> Article 11 of the Agency's mandate.

The expertise of many human rights' activists, notably those involved in the Frontex campaign<sup>38</sup>, has demonstrated the incompatibility of Frontex's mandate with the respect of migrants' fundamental rights, incompatibility recognized by the co-chair Advisory Committee Frontex itself<sup>39</sup>.

At sea, Frontex 's mandate enables it to intercept ships before they reach the territorial waters of the European Union, to disembark migrants in so-called third countries<sup>40</sup>, to send back a boat that would have reached the territorial waters of a Member state<sup>41</sup>. As part of these procedures no guarantee is provided as to the verification of international protection needs of those concerned, the possibility to apply for asylum, or the respect of the principle of non-refoulement pursuant to the article 33 of the Geneva Convention of 1951 relating to the Status of Refugees<sup>42</sup> ( see below) .

On 16 January, Fabrice Leggeri, became Executive Director of the Agency. He succeeded to Gil Arias Fernandez, who had himself replaced Ilkka Laitinen, in early 2014. Since August 2014, Mr. Leggeri was at the head of the division on illegal immigration, within the French Ministry of Interior. He also contributed to the drafting of Frontex's creation document.

## Operation Triton

### Means and objectives of the operation:

Since the 1st of November 2014, Frontex's joint operation Triton is implemented. It aims at monitoring and controlling "irregular" migration and cross-border crime, and extends over the areas previously covered by Hermès operation (south of Sicily, Lampedusa and Pantelleria) and Aeneas (Calabrian and Puglian coasts) also coordinated by the agency<sup>43</sup>.

As part of the Operation Triton, Frontex operates under the command of the Italian Ministry of Interior, in cooperation with the Guardia di Finanza and the coastguards<sup>44</sup>.

The operating decisions are taken by the air and naval task force Coordination center of the Guardia di Finanza at Pratica di Mare near Rome, where the official representatives of other States participating in the operation are also present.

By the time it was launched, it involved 65 officers and 12 military vehicles (two airplanes, a helicopter, two offshore patrol ships , six coastal patrol boats and a flagship ), provided by Italy, Malta and Iceland.

Its financial and material means were three times lower than those of Mare Nostrum: 2.93 millions euros a month instead of 9, which resulted in a reduction of military and human resources. Above all, it could only operate within a radius of 30 nautical miles from the Italian coasts, which is equivalent to the Italian territorial waters and a part of Italy and Malta's SAR areas<sup>45</sup>.

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<sup>38</sup> Frontex, « [The mandate of Frontex is incompatible with Human Rights](#) », May 2014 and Migreurop, information brief n° 3-2éd. « [Frontex : the armed wing of EU's migration policies](#) », March 2014.

<sup>39</sup> Stefan Kessler, JRS Europe, Discussion paper for LIBE, Committee meeting 27.06.2013

<sup>40</sup> Article 10 of «Regulation of interceptions» .

<sup>41</sup> Article 6 2 b of « Regulation on Interceptions» .

<sup>42</sup> [Convention and Protocol relating to the status of refugees](#), 1951.

<sup>43</sup> Europaforum.lu, « [L'UE lance l'opération "Triton" en Méditerranée pour renforcer les frontières extérieures et venir en aide à l'Italie pour faire face à l'afflux de migrants sur ses côtes, tandis que Rome annonce la fin de "Mare Nostrum"](#) », 1<sup>er</sup> novembre 2014.

<sup>44</sup> Ibidem, note 38.

<sup>45</sup> Lapluma.net, « [Triton 2 : Bruxelles et Rome contre les migrants](#) », 22 février 2015.

## Debate about Operation Triton

This territorial limit was officially decided from fear that the European naval presence would encourage more migrants to attempt the crossing of the Mediterranean, "pull factor", that Mare Nostrum operations' critics never ceased to underline. However, as confirmed by the Professor François Crépeau, United Nations Special Rapporteur on Human Rights of Migrants, these people continued to take the sea, regardless of the end of Mare Nostrum, because of violence or a difficult economic situation in their country of residence on the one hand, the closure of legal channels to EU territory on the other hand.<sup>46</sup>

Furthermore, the ships involved in operation Triton, in order to respect the international Law of the sea, regularly participated in SAR operations beyond this area.

In a letter of the 9<sup>th</sup> of December addressed to Giovanni Pinto, Central Director of Immigration and Border Police in Italy, Klaus Roesler, Director of the Operating Division of Frontex, asked the IMRCC to stop ordering ships taking part in the operation Triton to intervene beyond 30 nautical miles from the Italian coast, thus demonstrating the primacy of control over the rescue of persons.

According to the article published on the 10<sup>th</sup> of December on EurActiv website, summarizing the letter, Klaus Roesler went on explaining that Frontex did not consider a SAR call as constituting in itself a sufficient justification for launching a SAR operation. He recommended to undertake first investigation and verification operations which would not justify the use of an ocean patrol ship<sup>47</sup>.

In the event of an emergency operation being found necessary near the Libyan coast, the Director recommended to the IMRCC to refer to the nearest Rescue Coordination Centre. Klaus Roesler then stated that the instructions given to vessels operating within Triton to go out of their area of intervention should no longer be followed.

It is because of this kind of speech that some NGOs feared a return to the common practice of "refoulement at sea", that is to say the fact of sending ships in distress back to their starting point, before the surrender of people on board to the authorities of the concerned country, or even the simple refusal to operate the rescue. This fear, which then appeared to be justified, is at the origin of the launch of the "Push-back Frontex" campaign led by Africa Europe Interact, Borderline Europe and FFM<sup>48</sup>.

The extension of operation Triton's territorial mandate was one of the most widely heard claims in recent weeks in response to the increasing number of shipwrecks. It was initially refused at the European Council of the 23<sup>rd</sup> of April 2015, its President, Donald Tusk having stated it would be useless since Frontex facilities were already obliged by the Law of the Sea, to intervene in case of distress, including on the high seas, beyond its official area of intervention<sup>49</sup>. Yet in a press release dated of 26<sup>th</sup> of May 2015, the Agency announced the territorial extension of the operation Triton 138 nautical miles south of Sicily, with the deployment of one more aircraft, three more ocean patrol ships, one more helicopter, four additional debriefing teams (to gather information on migration routes used for

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<sup>46</sup> Rainews, "[ONU: Chiudere i confini è impossibile. Rafforza solo i trafficanti di esseri umani](#)", 18 juin 2015, see also François Crépeau's [report](#) in front of the United Nation General Assembly the 8th of May 2015.

<sup>47</sup> Euractiv, « [Triton : Frontex a Italia, troppi interventi fuori area](#) », 10 décembre 2014.

<sup>48</sup> Afrique-Europe-Interact, Appel « [Push-Back Frontex!](#) » and « [Massiver protest gegen rösler \(photos & aufruf\)](#) », 22 of April 2015.

<sup>49</sup> Europaforum.lu, « [Le Conseil européen extraordinaire décide de tripler les moyens de l'opération de surveillance des frontières maritimes Triton et envisage une action pour détruire préventivement les embarcations utilisées par les passeurs en Libye](#) », 23rd of April 2015.

the Agency's "risk analysis"<sup>50</sup>), and four additional screening's teams (for the identification of individual interviews)<sup>51</sup>. These new resources will be used during "seasonal peaks."<sup>52</sup>.

On the 15<sup>th</sup> of May 2014, the Parliament and the Council of the European Union had adopted a regulation that allowed units participating in Frontex joints operations to intercept boats they suspected to be used for "illegal transport of migrants " including on the high sea<sup>53</sup>. This raises the question of the link between this regulation and the official territorial mandate of Triton. However the distinction between a control operation and a rescue one is not always obvious, since the boats used to transport migrants are often in poor condition.

The words of Captain Valsson, captain on board of the Icelandic ship " Tyr" participating in operation Triton, reported by the journalist Carine Fouteau on the 11<sup>th</sup> of February 11, 2015<sup>54</sup>, are a little confusing. He declared that the law of the sea would prohibit his intervention in the high seas in absence of SAR call. The article evokes a mission of the ship in which she was sent to check the situation of a suspected cargo, the "Zein ". The article states that the operation also requested the displacement of the Navy and of Italian coastguards. However, the Captain of the " Tyr " continues with an explanation of the practice (thus recognized) of interceptions, consisting in escorting a ship loaded with migrants who have not requested assistance, to the nearest port and in delivering the migrant to the authorities of the concerned country.

The analysis of the various Frontex senior official's speeches reveals a perpetual desire to justify themselves whether it is to policy makers responsible for its funding, or to the solidarity / humanitarian-sensitive part of public opinion.

Indeed in the section of the Agency's website devoted to the presentation of its various operations at sea, it states that its joint operations "represent the largest SAR operation in Europe"<sup>55</sup>. In a press release of the 13<sup>rd</sup> of October, 2014 , Gil Arias Fernandez, at the time Executive Director of the Agency , recalled that notwithstanding the purpose of surveillance and control of the operation borders, saving lives remained a priority<sup>56</sup>.

Moreover, the Agency often demonstrates a certain pride each time it is involved in a SAR operation, specifying the number of people saved and the proximity of Libyan coast. Thus, in a press release dated of the 4<sup>th</sup> of May 2015<sup>57</sup>, the Agency recalled having helped to save a third of the 24,000 people rescued from the beginning of the year, to which was added 5,500 people rescued during the four previous days. This time Fabrice Leggeri indicated that all ships, aircrafts and helicopters participating in the operation Triton, including new facilities granted by Member states following the Council of the European Union on 23 April contributed to this rescue.

Similarly when he announced the extension of the duration of the operation Triton, the Director said that this will allow the Agency to continue to contribute to the saving of lives<sup>58</sup>.

Finally, in view of the expected tripling of the Agency's budget within the new " Migration Agenda " of the European Commission, he declared his wish to increase aerial surveillance of the Mediterranean

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<sup>50</sup> Frontex, « [Frontex expands its joint operation Triton](#) », 26th mai 2015, and Lapluma.net, « [Triton 2 : Bruxelles et Rome contre les migrants](#) », 22nd of february 2015. (about debriefing)

<sup>51</sup> Frontexit, « [The mandate of Frontex is incompatible with Human Rights](#) », May 2014

<sup>52</sup> Ibidem note 51

<sup>53</sup> Article 7 of [Regulation n°656/2014](#) Establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of the Operational Cooperation at the External Borders of the Member states of European Union.

<sup>54</sup> Mediapart, « [A bord d'une patrouille Frontex, à la recherche de migrants en péril en Méditerranée](#) », 11 février 2015.

<sup>55</sup> Frontex website : [Sea operations](#).

<sup>56</sup> Frontex, « [More technical support needed for operation Triton](#) », 13 octobre 2014.

<sup>57</sup> Frontex, « [Enlarged Triton helping rescue migrants](#) », 4 mai 2015.

<sup>58</sup> Frontex, « [Joint operation Triton extended to the end of 2015](#) », 21 février 2015.

Sea, in order to improve search and rescue capabilities at sea. In an interview given to the British daily newspaper The Guardian on the eve of the European summit of the 23rd April 2015<sup>59</sup>, he underlined however that the Frontex mandate was not search and rescue and stated it was not desirable to extend it in that direction.

The General Command of Harbors Authorities, the Guardia di Finanza and the Navy are involved in rescue operations coordinated by the IMRCC. They are called on to do so whether or not patrolling under operation Triton. This is sometimes specified in the various General Command of Harbors Authorities's press releases.

In addition, since a few weeks ago, further foreign military equipment has been made available to the Agency for operation Triton or for other purposes; we will come back to this later on.

## The care of rescued migrants

### Legal framework

Article 33 of the Geneva Convention of 1951<sup>60</sup> relating to the Status of Refugees prohibits the refoulement of a refugee "to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group, or political opinion" In the judgment *Hirsi Jamaa and others against Italy*<sup>61</sup>, the European Court of Human Rights (ECHR) has applied this principle to the interception of ships at sea. Lastly, the prohibition against refoulement also applies to any person at risk of being subjected to torture or inhuman and degrading treatment<sup>62</sup>.

If " the right of everyone to leave any country including his own " does not prevent States from restricting access to their territory and to monitor compliance with these restrictions within their territorial waters (Article 33 of the UNCLOS above mentioned), it is however forbidden in principle to operate such controls on the high seas on board vessels flying a foreign flag (Article 88 of the convention). However, Article 110 of UNCLOS provides exceptional circumstances in which the authorities of a State may board a foreign ship (right to visit) <sup>63</sup>. Among these circumstances reasonable grounds for believing that a vessel has no nationality is frequently used by European Union's member states to justify interception operations off the Canary Islands and Central Mediterranean sea<sup>64</sup>.

### The care of migrants on board rescue vessels

The eagerness to dismantle people-smuggling networks leads to a permanent confusion between related investigation and identification of people to assess their protection needs and to determine their legal status.

Unlike the studies conducted about operation "Mare Nostrum"<sup>65</sup>, we cannot certify that such procedures have systematically taken place on board rescuing ships in the first half of 2015.

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<sup>59</sup> The Guardian, « [EU borders chief says saving migrants' lives 'shouldn't be priority' for patrols](#) », 22 avril 2015

<sup>60</sup> <http://www.unhcr.org/3b66c2aa10.html>

<sup>61</sup> Ibidem note 24

<sup>62</sup> See ECHR judgment of 20th of March 1991, [case Cruz Varas and others v. Sweden](#).

<sup>63</sup> Part VII of the [Convention of the Law of the sea of 1982](#)

<sup>64</sup> Council of Europe, Parliamentary Assembly Doc. 12628, Committee on Migration, Refugees and Population, Rapporteur: Mr Arcadio Diaz Tejera, The interception and rescue at sea of asylum seekers, refugees and irregular migrants, June 2011. [Doc 12628](#), and page « [Rights at sea](#) » of Watch the Med's website.

<sup>65</sup> Interview with TI who wished to remain anonymous, the 10th of June 2015 and Martina Tazzioli, researcher at the University

The identification of people seems to happen more often during the disembarkation, or inside the "reception" centers. However there does not seem to be any general rule. It depends on the one hand on the type of vessel used for the rescue, on the port of arrival on the other. During a disembarkation in Catania the 13<sup>rd</sup> of April, 2015, we could observe this procedure on the port at the ship's arrival: numbering of migrants, name and ages' transcription, photographs taking, quick medical check in the tents of the Red Cross. It should be noted however that normally a medical team of the Order of Malta or the Military Medical Agency (USMAF)<sup>66</sup> has already provided first aid on board.



*Numbering, then identification of people on the port of Catania, the 13<sup>rd</sup> of April 2015*

In any case, this identification procedure does not seem to happen in any case on coastguards patrol boats.

A press release from the latter dated of the 21<sup>st</sup> of April, 2015, however, explained that during an operation having led to the rescue of 446 people, who were then transferred to a military vessel (thanks to the intervention of two patrol boats), an investigation team was present on board. Similarly in an operation of the 3<sup>rd</sup> of May, 2015, we learn that the identification actually began on military, coastguards and Guardia di Finanza's vessels, while information was exchanged between the commander of the tugboat "Asso 29" and Ragusa police<sup>67</sup>.

#### Care of Migrants during disembarkation :

Here again the procedure constantly varies depending on the location and the context.

To attend a landing, one may seek official permission. This request is sent by e-mail to a specific person or to a service, for each disembarkation. These last months, these permissions appeared increasingly difficult to obtain.

In Catania for now no authorization is required to enter the harbor but it is, if you would like to talk with someone, and especially with migrants.

In Messina this authorization is required, but taking photographs and having brief discussions with some operators, behind the gates that separate the port from the street, are tolerated.

Since 2006, The United Nations High Commissioner for Refugees (UNHCR), Save the Children, the International Organization for Migration (IOM) and the Red Cross implemented the Praesidium project, funded by the European Fund for the External borders<sup>68</sup> and Italian Ministry of Interior. These

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of Goldmists, 20th of March 2015 according to who during the implementation of operation Mare Nostrum, identification of people took place at least on board the amphibious ship: prints, photographs taking. The Scientific Police was also present on board

<sup>66</sup> Italian Ministry of Health : [Attività](#).

<sup>67</sup> Meridione News, "[Recuperati almeno dieci cadaveri a largo della Libia . Tra oggi e domani 3 300 migranti tra Sicilia e Calabria](#)", 3 mai 2015.

<sup>68</sup> Representation Office of the European Commission In Italy "[La Commissione europea a fianco dell'Italia per far fronte alla](#)

organizations are responsible for the reception of migrants at the ports and in the first reception centers: providing legal information and arranging individual interviews. During these interviews information is collected on the countries of origin and transit, and on the crossing of the Mediterranean sea<sup>69</sup>. This information is then shared with the Ministry of Interior, responsible for the distribution of migrants in the various reception centers or in centers for identification and expulsion. Some information on the number, age, gender, nationality, and health condition is also delivered to journalists. These organizations are also responsible for ensuring the respect of migrants' rights during the disembarkations' procedures and within the different structures above mentioned. Based on their observations they may report any malfunction and disseminate good practices.

The IOM is responsible for identifying and informing economic migrants, victims of human trafficking, and candidates for "voluntary returns"; while the UNHCR takes care of asylum seekers and Save the Children of minors. The Red Cross is in charge of health and social care of these people, their transport by ambulance to a hospital when necessary. It supports Civil Protection, often represented by private companies that also manage the reception centers, with the distribution of food and sometimes clothes. It contributes to the link between migrants and their families, and helps to inform the latter of the presence in Italy of their relatives, or about their disappearance at sea through the Restoring Family Link network (RFL)<sup>70</sup>. Since the 20<sup>th</sup> of April, in Catania, the Caritas has joined in the distribution of food and clothes at the port<sup>71</sup>.

Within the Save the Children organization, for example, a legal advisor is in charge of identifying minors on arrival and of informing them of their rights in Italy, he/she is normally assisted by a mediator and a person responsible for data collection. These three individuals, should cover all ports of eastern Sicily, namely the ports of Catania, Messina, Pozzallo, and Augusta. But the team is not always complete. During a landing in Messina on the 15<sup>th</sup> of April, 2015 for example, only the legal advisor was present and it is the employee of the consortium of private companies " Senis Hospes Cascina Global Service " and " Consorzio Sol.Co " that managed the reception centers in Messina at the time who fulfilled this mission.

Moreover, according to our observations, the UNHCR is not always represented at the disembarkation.



*Disembarkation in Catania 13rd of April 2015, by coastguards' ship «Fiorillo»*

### The confusion of roles between the different actors at sea, the supremacy of surveillance over rescue

This period of observation notably allowed us to notice the permanent confusion of roles between the coastguards, responsible for the coordination of rescue operations, through the Italian Coordination Centre for Rescue at Sea, the Guardia di Finanza and the Navy.

[pressione migratoria su Lampedusa](#)", 19 february 2015.

<sup>69</sup> Ibidem, note 45. and Italian Ministry of Interior « [Praesidium IX](#) », 2014 et UNHCR, « [Progetto Praesidium](#) ».

<sup>70</sup> <http://www.cri.it/restoringfamilylinks>

<sup>71</sup> Caritas Catania, "[Colazione e vestiti per 194 migranti sbarcati al porto di Catania](#)", 5th of May 2015.

As we mentioned above, beyond their responsibility for rescue, coastguards also take care of the control of migration flows.

In an interview published on the 22<sup>nd</sup> of March 22, 2015 in the newspaper "Il Fatto Quotidiano" Alessio Morelli, commander on the "Dattilo" one of the coastguards' vessels, say that after rescuing, the role of the latter is that of judicial police. According to him, it is environmental legal provisions which prohibit sinking migrants' boats! The commander goes on to state that when possible, these vessels must be rendered unusable, or sequestered<sup>72</sup>. This means that if rescuing people remains coastguards' primary task, they would still in principle be competent for the destruction of boats used by traffickers, which the EU member states would like to do through the establishment of EuNavForMed mission proposed by the Council of Ministers of Defense and Foreign Affairs on the 18<sup>th</sup> of May in Brussels, which we will be analysed at greater length in the next chapter.

The coastguards' role in controlling migration flows is confirmed by their direct participation in the implementation of the operation Triton, as leaders of the operation, as well as supplier of equipment<sup>73</sup>.

Similarly, notwithstanding its main role in controlling illegal migration, some of the Guardia di Finanza's patrol boats also have a medical team on board as it was demonstrated by a rescue operation that took place the 14<sup>th</sup> of May<sup>74</sup>, during which the "Monte Sperone" intervened. Indeed medical care necessitated the intervention of a second Guardia di Finanza's patrol boat: the "Di Bartolo". It may be noted that a Navy ship was also involved in this operation, the "Espero" which also has a hospital unit on board<sup>75</sup>.

### Saving and controlling

This confusion of roles between saving lives and controlling migration flows, makes difficult the democratic control of actors who are in charge of it and leads to a dilution of responsibilities concerning migrants' rights not only to be rescued but also to receive individual legal information enabling them to benefit from legal protection adapted to their own situation. Military presence to deter them from entering the territory of the European Union does not seem compatible with the requirements of international law.

### Aftermath of the Mare Nostrum operation

Before deciding to put an end to operation Mare Nostrum, Italy had called for the establishment of a European Union-scale search and rescue operation. On the 19<sup>th</sup> of August 2014, Interior Minister Angelino Alfano's attempts to negotiate in that direction before the Commission had failed<sup>76</sup>. However, on the 27<sup>th</sup> of August, following a new meeting with the European Commissioner for Home Affairs, Cecilia Malmström, the latter had declared the establishment of Frontex Plus operation, since then retitled Triton. It was then specified that the new operation would not aim at replacing the operation Mare Nostrum but at strengthening Italian capacities to control and monitor European maritime borders, pursuant to Frontex's mandate. Moreover, if the involvement of assets used for this operation in SAR operations was expected, in order to fulfill the law of the sea's requirements, they

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<sup>72</sup> Il Fatto quotidiano, "[Non solo immigrati, ma anche barche: l'affare degli sciacalli](#)", 22 nd of March 2015.

<sup>73</sup> Ibidem, note 45.

<sup>74</sup> Ibidem, note 34.

<sup>75</sup> Italian Navy's website: [Espero](#).

<sup>76</sup> Eunews, "[UE gela l'Italia sull'immigrazione. Frontex non sostituirà Mare Nostrum, non ci sono mezzi](#)", 19 août 2014. AEDH, « [The New Operation Frontex Plus Triton, an operation with differing objectives and more limited means than the Mare Nostrum operation](#) ».

would be in any case more limited (see above). The main argument raised by Italy to end the operation Mare Nostrum was financial. Yet, the State announced at the same time a 20-year long program to renew its military assets with a budget supposed to increase year by year, for a total of 5.4 billion euros. It would be 140 million euros for 2015 alone, while the Mare Nostrum operation's estimated cost was about 90 million euros<sup>77</sup>.

During the first two months of the operation Triton, however, Mare Nostrum was in a transition phase<sup>78</sup>. That means that from January 2015, there were no more patrol operations to identify vessels in distress, contrary to what was done during the Mare Nostrum operation, which despite being a military operation, had a search and rescue (SAR) aim.

Since then, sea patrols, all aim at controlling: Maritime police, security and of course illegal immigration flow control. The recent change of responsibility for the coordination of rescue operations in Italy also had consequences for the designation of ports of disembarkation. Indeed, during the implementation of operation Mare Nostrum, Pozzallo and Augusta were the privileged ports for the arrival of large naval vessels in Sicily, the others having been used only in cases of congestion of the former<sup>79</sup>. With the end of Mare Nostrum operation, Lampedusa, Palermo, Catania, Porto Empedocle, Pozzallo, and Messina, then the ports of Calabria, Campania, and Apulia were again used<sup>80</sup>..

Despite criticism frequently made against the interruption of operation Mare Nostrum, we observed during recent weeks a significant involvement of the Italian Navy in SAR operations through its naval and air units. If this involvement could be explained during the first two months of Triton operation, with the agreement between the Ministry of Defence and the Ministry of Interior to put Italian Mare Nostrum in transition, it is now linked to other military operations or patrols within Triton operation.

In the area between Lampedusa and Tunisia, called " Mammellone " for example , it has a fishing surveillance mission, regarding vessels flying Italian flag, in the framework of maritime police operation<sup>81</sup>.

In the section of its website devoted to migration flows<sup>82</sup>., the Navy however recalls that maritime surveillance activities are one of its basic activities. In this context it conducts patrols operations particularly out of the port of Augusta. Here the website evokes police activities which become rescue operation in case of need. Since 2004, these activities took place in the framework of the "Constant operation Vigilance"<sup>83</sup>.

The confusion between the various Italian armed forces' responsibilities , leads to a certain rivalry, probably strengthened by Frontex officials' pressure on the Ministry of Interior mentioned above.

According to Admiral De Giorgi, Head of Staff of the Italian Navy, speaking before the Italian Senate's Commission on Human Rights, on the 16<sup>th</sup> of December, 2014<sup>84</sup>, while the operation Mare Nostrum was still in transitional phase, the switching from Mare Nostrum to Triton led to a decrease in the number of human lives saved but also of human traffickers' arrests and of health controls. About the latter aspect however, he explained, that the amphibious ship, a large ship with a hospital on board,

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<sup>77</sup> Il Fatto Quotidiano, "[Marina militare : si del parlamento per rinnovare la flotta. Costo: 5,4 miliardi](#)", December, 4th 2014.

<sup>78</sup> La Repubblica, "[Il capo di Stato Maggiore della Marina in Senato: "Mare Nostrum attirava i profughi? E' una sciocchezza"](#)", December , 16th 2014.

<sup>79</sup> Interview with TI who wished to remain anonymous, on the 10th of June 2015, according to her when the number of migrants was above 500, the vessels were redirected towards the peninsula.

<sup>80</sup> Interview of Simonetta Cascio, Arci Syracuse, the 3rd of May 2015.

<sup>81</sup> Italian Navy's website: Operazioni in corso > [Vigilanza pesca](#).

<sup>82</sup> Italian Navy's website Operazioni in corso > [Controllo dei flussi migratori](#).

<sup>83</sup>: Italian Navy's website Operazioni concluse > [Mare Nostrum](#).

<sup>84</sup> La Repubblica, "[Il capo di Stato Maggiore della Marina in Senato: "Mare Nostrum attirava i profughi? E' una sciocchezza"](#)", December, 16th 2014.

but also at the time of Mare Nostrum, representatives of the scientific police and the questure<sup>85</sup> continued to patrol. Meanwhile, frigates, vessels which are more resistant to high sea conditions, were no longer used (at least not within this framework). As far as it was concerned, the Navy's action regarding health care was to carry on thanks the signature of a Protocol of Intention between the Ministry of Defence and the Ministry of Health. An article published by the "Corriere della Sera"<sup>86</sup> at the end of the same month, also alluded to this partial extension of Mare Nostrum operation.

To the Minister of Interior, who deplored the maintaining of not one but three Navy ships in "advanced position", harming operation Triton patrol activities and therefore its deterrent effects towards migrants, the Defense Ministry surprisingly responded by recalling that it was only acting in accordance with its authorization to carry on with the implementation of "security and surveillance" this time avoiding using the terms "rescue" or "salvage".

Beyond the denunciation of the lack of resources allocated for rescue at sea on the one hand, the lack of legal migration path (migration policies and humanitarian evacuation) on the other hand, the complexity and length of these operations leads us to question the communication of the responsible authorities.

Indeed, on the 15<sup>th</sup> of February, 2015, not less than 20 operations have been carried out, leading to the rescue of 3800 people<sup>87</sup>. These operations often require all available means. The interviews done both with migrants and institutional operators (coastguards, IOM, Save the Children and UNHCR spokespersons) revealed their particular length, whether or not the operations are ordered quickly. An average of at least 24 hours is needed between the triggering of the alert and the arrival of migrants at the destination port, sometimes after a transfer of the travelers on different boats. The operations led on the 4<sup>th</sup> of April<sup>88</sup>, provides a good example of this length: the difficulties faced by the military ship "Bettica" led her to change routes twice, and to dock more than 24 hours after the coastguards had been alerted. The article above mentioned also explains that people had been rescued by a coastguard vessel before being transferred to the military ship. The coastguard ship was then able to transship 334 other travelers, while another coastguard ship was rescuing two other boats respectively transporting 459 and 257 people. A young man who landed on the 14<sup>th</sup> of March in Pozzallo<sup>89</sup>, told us he waited 30 minutes after having called for help, before seeing a plane flying over the boat on which he was on board. Meanwhile, the young witness explained, that while their boat was leaking, the 73 people who accompanied him, had to approach with the same boat the merchant ship that was approaching to rescue them in order to avoid the waves caused by it resulting in it capsizing as has unfortunately been the case in other situations. These people, including women and children, then climbed onto the ship using a ladder. People on board a second zodiac did the same. All were then transferred to a coast guard ship.

On the 5<sup>th</sup> of March, 2015<sup>90</sup>, a tanker rescued 210 people from a capsized boat. 50 people were missing. The coastguard vessel "Dattilo" that came to assist the tanker already had 318 people on board, rescued during a previous operation. The two boats then went in search of the missing persons. In addition to the issue raised by the difficulty of recovering the bodies, victims of the

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<sup>85</sup> Interview with TI who wished to remain anonymous, the 10<sup>th</sup> of June 2015.

<sup>86</sup> Corriere della Sera, "[Sbarchi: 8 000 immigrati al mese](#)", 28 décembre 2014.

<sup>87</sup> <http://watchthemed.net/index.php/reports/view/98>

<sup>88</sup> Il Giornale di Sicilia, "[Riprende l'esodo di disperati verso la Sicilia](#)", 7 avril 2015.

<sup>89</sup> Interview between the author, the young testimony and his tutor, the 27<sup>th</sup> of April in Messina in the framework of his international protection request's procedure and article of the Corriere di Ragusa, "[Sesto sbarco del 2015 al porto di Pozzallo con 153 migranti](#)", 16<sup>th</sup> of March 2015.

<sup>90</sup> Il Tempo, « [Sono 50 i dispersi nel naufragio del barcone](#) », 6 mars 2015.

shipwrecks, one can easily imagine the length of the journey for the people who had just been rescued and who had to remain on board during the search operation

### The strengthening of military and security policies

On several occasions in recent months, the AP team, faced coastguards' refusal to provide them with information regarding the rescue of boats in distress that it had driven to their attention. This was particularly the case on the 8<sup>th</sup> of January<sup>91</sup>, the 15<sup>th</sup> of February<sup>92</sup>, the 4<sup>th</sup><sup>93</sup>, , 10<sup>th</sup> and 16<sup>th</sup> of April<sup>94</sup>. On the 10<sup>th</sup> of April, after having been in contact with the passengers of a distress ship for more than six hours without any certainty of the occurrence of a rescue operation, the team alerted its entire network of activists and journalists, through social networks and sent an email to IMRCC urging them to launch a rescue operation. After having expressed some anger at this activist pressure and stressed out the fact that the concerned boat was in Libyan waters, the coastguards confirmed having launched a relief operation.

Following these events, on the 28<sup>th</sup> of April 28, the AP sent a letter to the Coastguards in order to improve their communication with them. It was for the activists a way to recall the importance of this exchange of information: inform people in distress they are in contact with, ensure that rescue operations are underway, and if necessary denounce situations in which it is not the case. This letter so far remains without response.

On the 13<sup>rd</sup> of April, the coastguards' external relation service issued a particularly detailed press release evoking 20 different rescue operations, providing the number of passengers, the name of the ships that took the rescue in charge, the authority under which they were operating, and whether they were or not involved in operation Triton. Yet the next day, the association Save The Children, declared having heard testimonies of people who disembarked in Reggio Calabria, explaining the sinking of their boat had caused the death of at least 400 people. Moreover, according to our information, other shipwrecks occurred in the same area that day<sup>95</sup>. A Frontex press release evoked the recovery of 11 corps, including 9 after a shipwreck<sup>96</sup>. Watch The Med is currently investigating those shipwrecks, but it is clearly established that all ships in the vicinity were called in to help.

The coastguards' lack of communication is particularly confusing since one can easily understand that accidents occur during operations of this scale. While responsibility for these accidents is certainly that of the European migration policy, which condemns thousands of people to take such risks to reach our coasts, in acting in this way, the coastguards have been failing to fulfil their obligations of transparency.

Since then, communication between the AP and the IMRCC is still difficult. The operations of the 5<sup>th</sup><sup>97</sup> and 8<sup>th</sup> of May<sup>98</sup>, are good examples of these difficulties, the latter having interrupted phone conversations or refused to confirm the occurrence of an operation, the name of the ship that had been directed to the area of distress, etc.

Another enigmatic case: that of 98 people intercepted by the Guardia di Finanza 200 miles away from the Sicilian coasts after 12 days of sailing, including 2 adrift. If the press release of the Guardia di

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<sup>91</sup> Watch the Med, "[No Italian Rescue Operation for Refugee Boat in Distress? Rescue Mission under way!](#)", 8 janvier 2015.

<sup>92</sup> Watch the Med, "[10-12 vessels in distress off the coast of Libya, 2164 people rescued](#)", 18 février 2015.

<sup>93</sup> Watch the Med, "[500 People in Distress off the coast of Libya, all rescued](#)", 5 avril 2015.

<sup>94</sup> Watch the Med, "[About 80 people in distress near the coast of Libya, all rescued](#)", 16 avril 2015.

<sup>95</sup> FFM online, "[400 Tote: Überlebende sprechen von 2 untergegangenen Booten](#)", 16 avril 2015.

<sup>96</sup> Frontex, "[Smugglers fire shots in migrant rescue operation](#)", 14 avril 2015.

<sup>97</sup> Watch the Med, "[Approximately 108 people in distress near Libya, all rescued](#)", 6 mai 2015.

<sup>98</sup> Watch the Med, "[Three vessels in distress in the Central Mediterranean Sea, all rescued](#)", 9 mai 2015.

Finanza, dated 6<sup>th</sup> of May<sup>99</sup>, and accompanied by a video, has been disseminated in some media, our requests for clarification, on the number of days at sea remain unanswered<sup>100</sup>.

Since the beginning of the year, the numerous reactions to the increasing number of migrants' arrivals by sea, and unfortunately of the number of dead are mainly of two sorts. The most significant and distressing one was that of increasing the military presence in the Mediterranean, of various forms. The second one was that of associations and more solidarity-motivated activists.

A look back at the most complex or emblematic rescue operations of recent weeks will contextualize these reactions.

On the 8<sup>th</sup> of February<sup>101</sup>, the death of 324 people who tried to reach Italy, had already strengthened criticism towards operation Triton. Indeed these people died despite the mobilization of four coastguards' patrol boats, two merchant ships and two vessels involved in operation Triton. But besides the difficulties due to the weather condition, the fact that the largest and most powerful ships available to the operation were under repair at the time of the incident, raises questions. In addition to the lack of resources, the priority given to control at the expense of search and rescue, not only highlighted by NGOs but also by the United Nations High Commissioner for Refugees, Antonio Guterres<sup>102</sup>, calls being made either in favour of extending operation Triton's mandate or of the implementation of a sort of operation Mare Nostrum on a European scale.

On the 15<sup>th</sup> of February, 2015 during a rescue operation led by the coast guards, men armed with Kalashnikovs threatened the latter in order to recover the boat on which those rescued had travelled. This event besides having sparked the excitement of the authorities, led to numerous speeches in favor of an increased military presence in the Mediterranean Sea. The newspaper articles reporting the event highlighted the fact that the coast guards were not armed, before quoting the Italian Minister for Infrastructure and Transport, Maurizio Lupi, and the President of the Council of the Ministers Matteo Renzi, evoking an "indispensable international intervention in Libya to face this tragedy"<sup>103</sup>

Gianandrea Gaiani, from the Italian online magazine analysing military news "Analisi Difesa" says the same thing, calling for a "naval blockade of the Libyan coasts" and an "assisted refoulement": this would consist of assigning to the Navy the task of escorting ships carrying "illegal" migrants to the Libyan coast<sup>104</sup>.

At the same time Italy closed its embassy in Tripoli. The "Islamic State" had taken the control of several coastal cities of Libya. A video in which jihadist were threatening Italy had been posted on social networks<sup>105</sup>.

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<sup>99</sup> Meridione News, "[Canale di Sicilia, soccorsi 98 migranti. Imbarcazione ferma da due giorni in mare](#)", et Ansa, "[Motonave imbarca acqua, soccorsi in 98](#)", 6 mai 2015.

<sup>100</sup> Phone interview of the 8th of May 2015 with representatives from the Ministry of Interior, the OIM and the UNHCR

<sup>101</sup> Watch the Med, "[More than 300 people on four rubber vessels die in the Central Mediterranean Sea](#)", 14 of February 2015.

<sup>102</sup> UNHCR, "[UNHCR calls for more robust search-and-rescue operation on Mediterranean](#)", 12 of February 2015.

<sup>103</sup> Il Sole 24 Ore, "[Scafisti armati minacciano motovedetta italiana che stava soccorrendo un barcone. Lupi: allarmante salto di qualità](#)", 15 février 2015, et Ansa, "[Emergenza a Lampedusa 800 clandestini arrivati nelle ultime ore](#)", 16 février 2015, et Watch the Med, "[10-12 vessels in distress off the coast of Libya, 2164 people rescued](#)", 18 février 2015.

<sup>104</sup> Ibidem, note 45. s

<sup>105</sup> Les Observateurs, « [L'is planifie les débarquements en Italie : 'En Libye nous sommes au sud de Rome'](#) », 16 February 2015.

One month later , in the aftermath of the terrorist attacks in Tunis, on the 18<sup>th</sup> of March, that killed 20 people at the Bardo Museum , the Italian Defence Minister , Roberta Pinotti , announced the launch of "Operation Mare Sicuro "<sup>106</sup> to strengthen surveillance and security around Libyan coasts, facing possible terrorist attacks against Italy, its territory or its ships and oil platforms<sup>107</sup>. This operation would involve a helicopter carrier, two class FREM frigates, a patrol aircraft and Predator UAVs.

It was also after the events of the 15<sup>th</sup> of February that Frontex announced the extension of its operation Triton until the end of 2015<sup>108</sup>..

On the 18<sup>th</sup> of April, 800 migrants died in the sinking of a trawler 77 miles of the Italian coast, arouses reactions of the entire international community, defense movements of human rights of citizens, policy makers. Again this dramatic accident due to clashes between a boat and a merchant ship came to rescue is attributable first and foremost to the closure of European borders .

On the 18<sup>th</sup> of April, the death of 800 travellers in the shipwreck of a trawler 77 miles off the Italian coasts<sup>109</sup> provoked huge reactions among the international community, human rights defenders, and policy makers. Once again, the first responsible for this dramatic incident due to clashes between boat people and the merchant ship coming to rescue it<sup>110</sup>, is the closure of European borders.

On the 20<sup>th</sup> of April, the Ministers of Interior of the European Union's Member States during an extraordinary meeting on the sidelines of the Foreign Affairs Council, agreed on a 10-point plan to fight against migrant smuggling in the Mediterranean Sea , that was later approved by the extraordinary European Council on the 23<sup>rd</sup> of April<sup>111</sup>. Just to summarize the measures that could have a direct impact on the evolution of maritime operations, it implied the strengthening of Frontex's joint operations Triton and Poseidon, by increasing their budget (tripling for Triton, increasing the cooperation between the Agency and the European units of judicial and police cooperation, Eurojust and Europol, the establishment a new program to accelerate the return of irregular migrants, the sending of liaison officers to collect information in departure and transit countries. It focuses on strengthening surveillance systems of both "traffickers" and "irregular migrants".

But the result we immediately observed was the sending, just after the European Council of the 23<sup>rd</sup> of April , of additional equipment by the United Kingdom, Germany, Ireland and France<sup>112</sup>. This equipment has already helped to rescue a large number of people. However it remains military equipment and their relation with Frontex and Triton operation is not clear.

As far as the UK was concerned, this contribution consisted in the arrival the following week of the aircraft carrier "Bulwark ", two patrol boats, three "Merlin" helicopters equipped with radar systems capable of identifying an element within a radius of 100 nautical miles. This equipment is expected to lead search and rescue operations in cooperation with FRONTEX and the Italian authorities but outside operation Triton<sup>113</sup>.

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<sup>106</sup> Defense News, "[Italy deploys ships to monitor Libyan coast](#)", March, 28<sup>th</sup> 2015.

<sup>107</sup> Notably those belonging to the national company ENI.

<sup>108</sup> [Joint operation Triton extended to the end of 2015](#)

<sup>109</sup> Meridione News, "[Naufragio, gli altri due scafisti sarebbero morti Jafar il grande direttore, il misterioso capo libico](#)", 24 avril 2015, et Libération, « [800 personnes sont mortes dimanche dans le naufrage en Méditerranée](#) », 21 avril 2015.

<sup>110</sup> Corriere della Sera, "[Sicilia, localizzato il relitto 'È il barcone con gli 800 morti'](#)", 19 avril 2015, et Ansa, "[Localizzato barcone del naufragio del 18 aprile. Renzi, 'Faremo di tutto per recuperare le salme'](#)", 8 mai 2015.

<sup>111</sup> Fulvio Vassallo Paleologo, « [Dopo le stragi nel Mediterraneo l'Unione Europea dichiara guerra ai migranti e inasprisce le misure di contrasto. Verso il blocco navale e l'intervento di polizia internazionale in Libia. Corridoio umanitari non vuol dire campi di raccolta nei paesi di transito. Respinti gli appelli dell'UNHCR](#) », April, 21<sup>st</sup> 2015.

<sup>112</sup> The Guardian, "[European leaders pledge to send ships in the Mediterranean to pick up migrants](#)", April, 23<sup>rd</sup> 2015.

<sup>113</sup> Ansa, "[British Royal Navy's Bulwark in South Med in a week](#)", April, 24<sup>th</sup> 2015.

Germany for its part, promised to send the frigate " Hessen " , with a radar system capable of tracking a boat at 25 nautical miles , and to take 100 people on board, and the warship "Berlin" having a hospital on board capable of treating 250 people for a period of two days. A German military source reportedly told the Agency DPA that such vessels would neither take part in operation Triton, nor in dismantling trafficking networks<sup>114</sup>. However at the time we are writing, the situation seems confused on this point.

The ship "The Eithne " sent by Ireland, the 16<sup>th</sup> of May, 2015 , seems to be acting under the same type of status, some sources even evoking its participation in "humanitarian search and rescue" operation<sup>115</sup>. Here again neither mention Frontex nor Triton are mentioned.

On the contrary, French Defense Minister stated that the frigate " Commandant Birot " sent on the 27<sup>th</sup> of April, was integrated into the Triton operation<sup>116</sup>.

Furthermore, the 18<sup>th</sup> of May 2015 , the Council of Ministers of Defense and Foreign Affairs of the European Union proposed the establishment of a military mission in the Mediterranean , called " EUNAVFOR Med" and approved the crisis management plan ' Crisis Management Concept" <sup>117</sup>; to dismantle "illegal immigrant smuggling ". This mission is said to be already funded for 12 months, up to 14 million euros but had to be approved and finalized at the Council of Foreign Ministers of 22 June 2015. It would be under the command of Admiral Enrico Italian Credendino , Centocelle within headquarters (Rome)<sup>118</sup>.

The mission would be conducted in three stages<sup>119</sup>: searching and sharing of information on trafficking networks, which should only take place in international waters; interception of traffickers' boats; sequestration and destructions of same boats. The last two phases, supposed to take place in Libyan territorial waters and implying the use of force, would require the agreement of the UN Security Council. The first phase however could take place without it. Yet one can notice that this first stage seems hardly different from the practice of the Italian police and Frontex during rescue and disembarkation of people.

Meanwhile on the 25<sup>th</sup> of May the news website Wikileaks <sup>120</sup>revealed the actual content of the European military operation plan, through two documents according to which it would indeed be aimed at destroying the boats used by migrants, through military means without any guarantee that they are not carrying migrants<sup>121</sup>.

Frontex's Director, Fabrice Leggeri, declared on the 29<sup>th</sup> of May that the Agency should collaborate with this European naval mission, in the framework of rescue operations<sup>122</sup>. According to this declaration, when these warships would carry out rescue operations, they should no longer refer to IMRCC but to Frontex to know their destination.

However before this operational plan was established, Italian coastguards seniors had stated their disagreement with this military campaign planned by European leaders, calling them to prioritize

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<sup>114</sup> DW, "[Two German navy ships in Mediterranean to save migrants in distress](#)", May, 2<sup>nd</sup> 2015.

<sup>115</sup> Irish Defence Minister's Website: "[Saturday 16 May. Deployment of Le Eithne to Mediterranean](#)", May, 16<sup>th</sup> 2015, et Irish Mirror, "[Watch dramatic moment Irish Navy save stranded migrants in Mediterranean Sea](#)", May 28<sup>th</sup> 2015.

<sup>116</sup> French Defense Minister: « [FRONTEX : la France répond à l'appel du Conseil européen](#) », April, 28<sup>th</sup> 2015.

<sup>117</sup> Fulvio Vassallo Paleologo, "[L'Unione Europea si avventura in una missione militare al di fuori della legalità e si spacca sui](#)

<sup>118</sup> La Stampa, "[Distruzione dei barconi, l'UE frena. Missione navale, la guida all'Italia](#)", May, 19<sup>th</sup> 2015.

<sup>119</sup> Fulvio Vassallo Paleologo, "[Missione navale contro gli scafisti' Italia alla guida, ma senza istruzioni](#)", May, 19<sup>th</sup> 2015.

<sup>120</sup> Wikileaks, "[EU plan for military intervention against 'refugee boats' in Libya and the Mediterranean](#)", 25<sup>th</sup> of May 2015.

<sup>121</sup> [Julian Assange](#), Wikileaks' founder interviewed by the online magazine « Dear Democracy », May, 27<sup>th</sup> 2015.

<sup>122</sup> Avvenire, "[Frontex collaborerà con i militari in Libia](#)", 29 mai 2015.

search and rescue<sup>123</sup>. As pointed out by Professor Fulvio Vassallo Paleologo in his blog<sup>124</sup>, this statement has not been diffused on Italian media. The operation was officially launched on the 22<sup>nd</sup> of June 2015, during a meeting of Foreign Ministers of the UE.<sup>125</sup>

Tunisian Prime Minister Habib Hessid's position is also worrying. Opposed to both military operations in the Mediterranean Sea, and to the reception in Tunisia of migrants from other African countries, he calls for more repatriation of migrants to their country of origine<sup>126</sup>. On the 23<sup>rd</sup> of May, within a broad offensive operation against "human smugglers", the Islamic government of Tripoli, which is not recognized by the international community, arrested 600 migrants ready to leave for Europe. The Foreign Minister of this government called for EU support to manage migration flows, as had been done before, by the government of Tobruk, meanwhile recognized by the international community, in a letter addressed to United Nations<sup>127</sup>.

### Consequences on people's rights

The emphasis on security measures described in this document may have serious consequences on the rights of people at sea and on land, in the framework of their application for legal protection in front of the Italian authorities.

If Italy, contrary to the terms of the European directive "Procedures"<sup>128</sup>, has not established any list of "safe countries", this list does exist as it can be observed through operational practice during disembarkation's procedures. A kind of "presumption of safety" seems to prevail for nationals of countries with which Italy has signed readmission agreements (Egypt, Morocco, Tunisia)<sup>129</sup>. Instead of being transferred to centers for the reception of asylum seekers, individuals identified as nationals of the said countries are more often directed to a Centre for Identification and Expulsion (CIE), or directly sent on charter flights, towards their country of origin or of transit. The priority given to the fight against illegal immigration and called for dismantling the networks of "traffickers", leads to a stronger presence of the Police and to particularly long control procedures during landings<sup>130</sup>. During a disembarkation in Catania on the 13<sup>rd</sup> of April, we witnessed the systematic body search of migrants and the control of their mobile phones, as soon as their ship had berthed.

Witnesses of Justice, pursuant Article 18 of the Unique Act on Immigration, enjoy protection and a residence permit, if they testify against the network they were victims of in front of Italian authorities and of Frontex's task force. Within this particular context, this testimony consists more often in denouncing the person who was driving the boat. Meanwhile, for those who are more likely to be considered as economic migrants this procedure is tending to become the only way to obtain the right to stay in Italy<sup>131</sup>. Organizations from the Praesidium and Frontex seem more eager to inform migrants of certain nationalities about this possible protection than about their right to seek asylum.

According to internal confidential sources from the Tribunal of Syracuse, the major reasons for arresting "smugglers" in these circumstances are to reassure public opinion and to achieve the authorities' quantitative objectives (Author's note), the "real" trafficker often remaining in Libya after having briefly taught one of the travellers how to drive the boat. Our interlocutor also told us that

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<sup>123</sup> The Guardian, "[Italian coastguards: military action will not solve Mediterranean migrant crisis](#)", May, 19th 2015.

<sup>124</sup> Ibidem note 117

<sup>125</sup> Libération, « [L'UE lance son opération navale de lutte contre les passeurs](#) », June, 22nd 2015.

<sup>126</sup> RTBF, « [Migrants en Méditerranée, la Tunisie contre toute intervention militaire](#) », May, 28th 2015.

<sup>127</sup> La Repubblica, "[Libia, in una lettera all'Onu chiesta la cooperazione Ue sull'emergenza migranti](#)", May, 20th 2015.

<sup>128</sup> Article 37 of the [European directive 2013/32/UE, June 26th 2013](#) « Procedures ».

<sup>129</sup> This impression can be deduced from interviews led with migrants' rights' activists from the region.

<sup>130</sup> Corriere di Ragusa, "[Sesto sbarco del 2015 al porto di Pozzallo con 153 migranti](#)", March, 16th 2015.

<sup>131</sup> Informations obtained through confidential interviews with activists from the region.

these "dealers" are often released some weeks later without any media publicity. Thus, one can easily infer that asylum procedure is largely compromised or at least extended for the witnesses as well as for those wrongly accused.

If, in the framework of their legal assistance services, associations such as l'Arci inform people about asylum-seeking or other types of procedures, and, if necessary, help them to make their formal request, their leaders may unfortunately arrive too late, since they don't have access to the port<sup>132</sup>.

Thus, even when activists have access to the port, they should stand at a certain distance, and are not, contrary to the organizations from the Praesidium or the civil protection, accredited to deliver written information to the migrants<sup>133</sup>.

As already mentioned, the actors of the Presidium and of the civil protection are responsible for migrants' care during their disembarkation, before their transfer to the various reception centers whose diversity of status once again renders difficult the democratic control of migrants' rights respect.

The framework of this report neither allows us to deeply analyze the numerous critics about these various types of centers, nor to evoke the positive experiences we have heard about, but it seems important to point out the prison environment of most of them, their management by private companies, that do not fulfill their obligations pursuant to the minimum standards for hosting of people in search for international protection.

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<sup>132</sup> Interview with Simonetta Cascio, Arci of Syracuse, May 2nd 2015.

<sup>133</sup> Interview with Lucia Borghi, from Borderline Sicilia, the 2<sup>nd</sup> of March 2015: in Augusta in 2014, she was denied the possibility to deliver such information.



## Conclusion

During the first semester of 2015, we cannot blame Europe and its Member States for remaining silent neither about the arrival of thousands of migrants on their territories, particularly on the Italian coast nor about their deaths at sea.

Far from showing solidarity and welcome, these policymakers have only brought to a climax the policies that composed Fortress Europe: strengthening controls and security measures, acceleration of identification and deportation procedures, dispatching of asylum seekers between Member States without taking into account the will of the concerned people and especially dismantling by force alleged trafficking networks used as scapegoats.

Supposed to put an end to the tragedies in the Mediterranean Sea, these policies are largely based on militarization which could on the contrary result in their increase, forcing those wishing to enter Europe, regardless of their motivation, to take more and more risks.

Far from clarifying the distinctions of roles between the various authorities responsible for aid, control and identification of migrants, these policies only lead to more confusion, making democratic control of them all the more difficult.

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Migreurop: [www.migreurop.org/](http://www.migreurop.org/)

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UNHCR : <http://www.unhcr.it/>

Watch the Med: <http://watchthemed.net/>

### Analyse articles and blogs

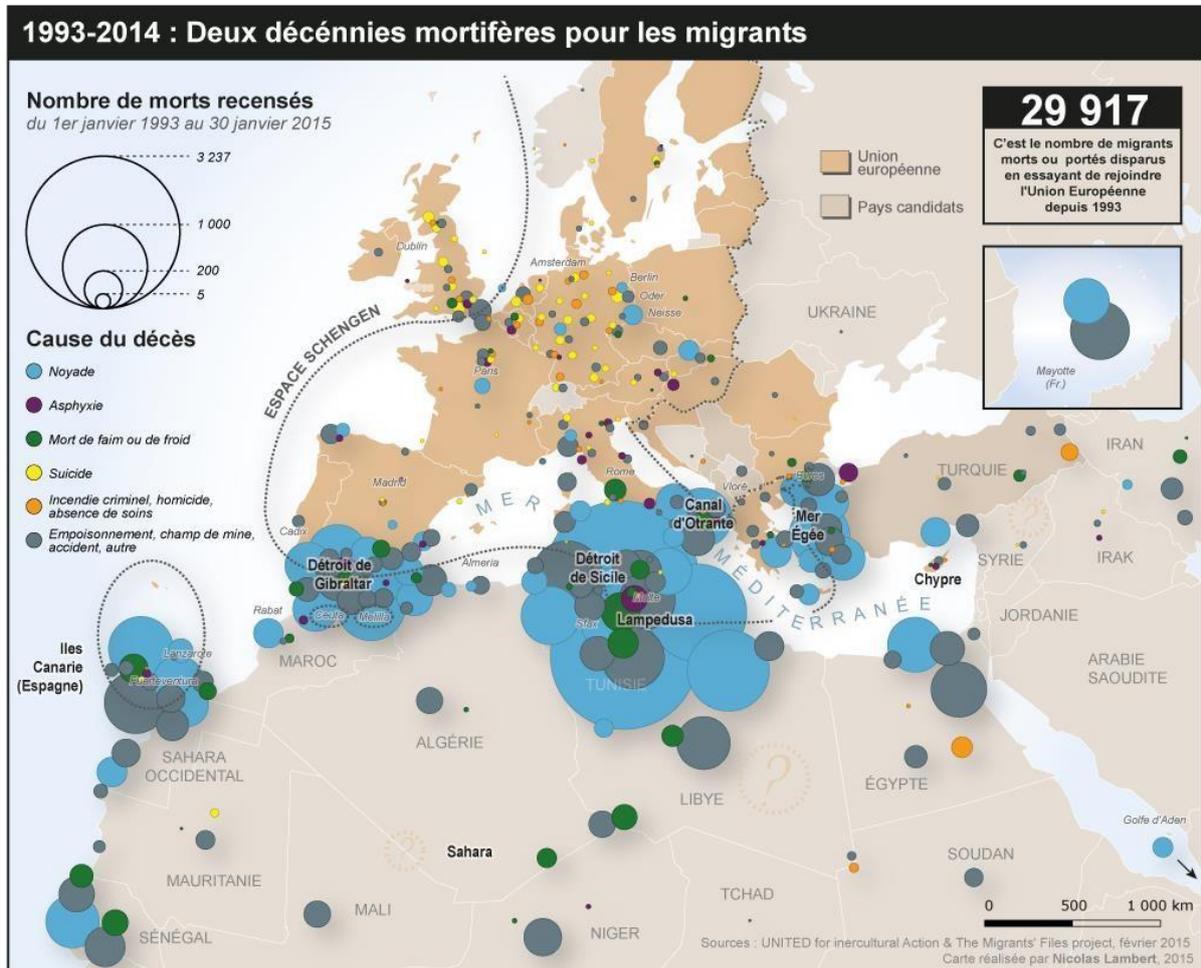
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[Blog](#) of the journalist Antonio Mazzeo

## Appendix 1

Map created by Nicolas Lambert, source: United for intercultural Actions and the Migrants' File Project-february 2015, <http://neocarto.hypotheses.org/1370>



## Appendix 2

Interviews which allowed us to collect an important part of the information included in this report ( in chronological order):

In Lampedusa, meeting with the members of Mediterranean Hope and of Askavusa's collective between the 20th et le 24th of february 2015,

In Modica, with Lucia Borghi from Borderline Sicilia asscoaition the 5th of march 2015,

By phone with avec Marzia Trovato, former EP-Migreurop volunteer within Askavusa, the 15th of march 2015 and with Martina Tazzioli, researcher Goldsmiths' University, the 20th of March 2015,

In Messina, with the journalist Antonio Mazzeo the 15<sup>th</sup> of April 2015.

In Catania, between the 22nd and the 24th of april with the members of antiracists Sicilian networks, in the aftermath of the sinking of a trawler having killed 800 people

In Syracuse, with Simonetta Cascio from the local Arci group, the 2nd of May 2015.