

THE LEGAL FRAMEWORK OF SEARCH AND RESCUE

Search and rescue operations in international waters are based on a clear legal framework and long-standing maritime traditions. SOS MEDITERRANEE launched its search and rescue mission in the Central Mediterranean in 2016. It is based on the legal duty to render assistance to any person found at sea in danger of being lost and to disembark them in a place of safety.



THE FOLLOWING INTERNATIONAL CONVENTIONS DEFINE THE RESCUE OBLIGATIONS AT SEA:

- International Convention for the Safety of Life at Sea (SOLAS) – 1974
- International Convention on Maritime Search and Rescue (SAR) – 1979
- United Nations Convention on the Law of the Sea – 1982
- Guidelines on the treatment of persons rescued at sea – IMO Resolution MSC.167(78) – 2004

WHAT IS ...

A RESCUE? An operation carried out to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety.¹⁵

A DISTRESS SITUATION? A situation where there is reasonable certainty that a vessel is threatened by grave and imminent danger and requires immediate assistance. A distress situation is defined by the seaworthiness of the vessel, the likelihood that it will not reach its final destination, the number of persons on board in relation to the type and condition of the vessel, the availability of fuel, water and food, the availability and capability of safety, navigation and communication equipment, the presence of persons in urgent need of medical assistance, deceased persons, pregnant women or children on board, as well as the weather and sea conditions.¹⁶

A SURVIVOR? Official term to designate the people rescued from a distress situation, regardless of their status and nationality. Aboard a rescue ship, rescued people are not considered as "migrants", "refugees" or "asylum seekers", but as "survivors".

A PLACE OF SAFETY? A place of safety is "a location where rescue operations are considered to

terminate. It is also a place where the survivors' safety of life is no longer threatened and where their basic human needs (such as food, shelter and medical needs) can be met. (...)".¹⁷ Regulation No 656/2014 of the European Parliament and of the Council adds that it should "[take] into account the protection of their fundamental rights in compliance with the principle of non-refoulement".¹⁸

A RESCUE COORDINATION CENTRE (RCC)? A centre that is responsible for the efficient organization of the search and rescue services and coordination of search and rescue operations within a search and rescue region.¹⁹

A SEARCH AND RESCUE REGION? Region of defined dimensions within which search and rescue services are provided, comprising both territorial and international waters.

TERRITORIAL WATERS? Waters extending to 12 nautical miles from the shore of a coastal state. The territorial sea is under the sovereignty of the state, although foreign ships (civilian) are allowed innocent passage.

INTERNATIONAL WATERS? Waters situated beyond 12 nautical miles from the baseline – outside the territorial waters of a state.

15. Annex to the SAR Convention, 1.3.2.
16. EU Regulation 656/2014, art.9 (f).

17. Annex to the SAR Convention, 1.3.2.
18. Regulation No 656/2014, art. 2 (12).
19. Annex to the SAR Convention, 1.3.5.

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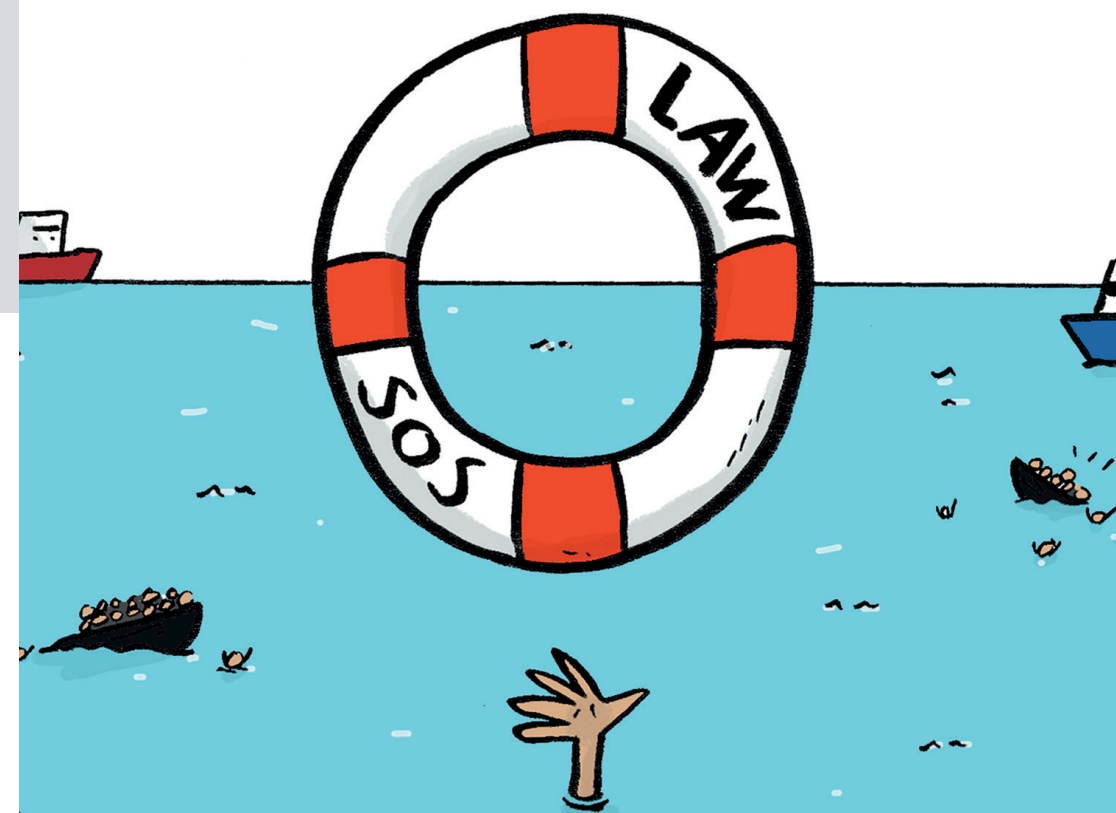
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Urge your governments to: Be humane, save lives at sea, respect the law!



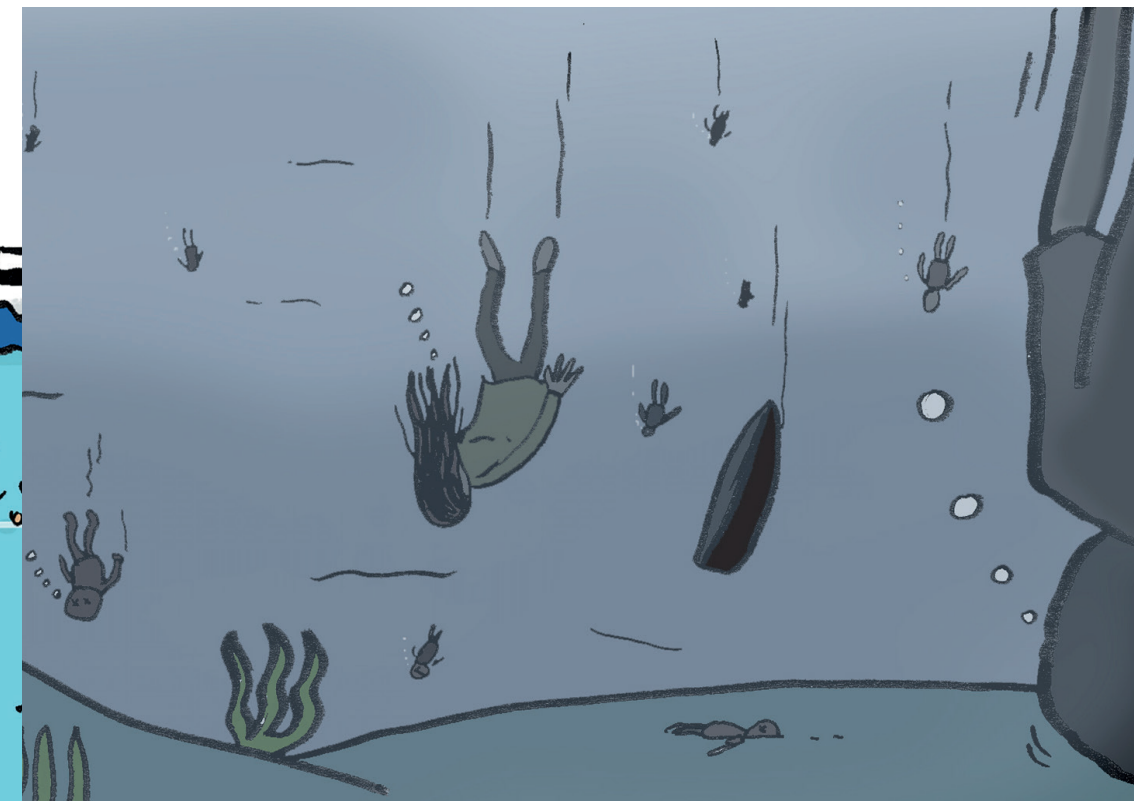
VIOLATIONS OF INTERNATIONAL LAW LEAD TO TENS OF THOUSANDS OF DEATH

In the last few years more than 20,000 people seeking safety have lost their lives trying to cross the Mediterranean from Libya on unseaworthy boats.

Given the insufficient response of the European Union and its Member States to prevent further loss of life at sea, a number of non-governmental organisations launched rescue operations in the Central Mediterranean as of 2014, saving thousands of people from drowning and bringing them to safety.

Today, European governments are actively blocking search and rescue (SAR) NGOs through administrative, political and judicial harassment campaigns, preventing the

organisations from delivering humanitarian assistance to those in need. Currently almost all NGO rescue ships are blocked from leaving European ports and people fleeing detention, torture, sexual exploitation and forced labour in Libya either drown at sea or are intercepted by the Libyan Coast Guard and unlawfully returned to these inhumane conditions. **This is in violation of the existing international law that search and rescue operations are based on.**



SOS MEDITERRANEE'S OPERATIONS HAVE ALWAYS TAKEN PLACE WITHIN THE LEGAL FRAMEWORK APPLICABLE TO RESCUE OPERATIONS AND FOLLOW INTERNATIONAL MARITIME LAW AND PRINCIPLES, SUCH AS:

The duty to render assistance: Flag states are under a duty to require shipmasters to render assistance to persons in distress at sea without delay.¹

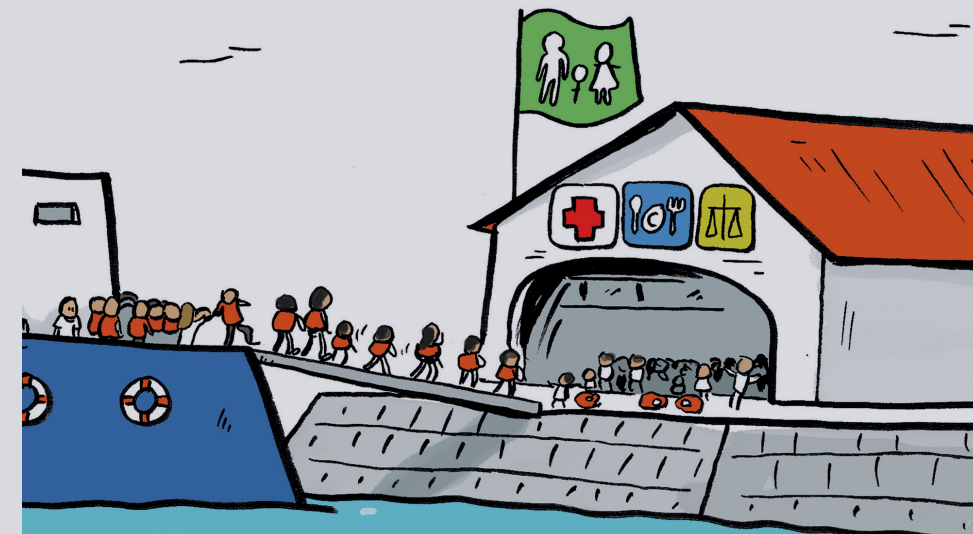
Rescuing regardless of nationality, status or circumstances: the obligation to provide assistance applies regardless of the nationality or status of the persons in distress at sea, or the circumstances in which they are found.²

Humanity: onboard the ship, after a rescue, the human dignity of the survivors must be respected³ and their immediate needs met⁴.

Swift disembarkation: survivors have to be disembarked in a place where their safety is no longer jeopardised⁵, as soon as reasonably practicable⁶ and with minimum further deviation from the ship's intended voyage⁷.

Place of safety: is defined as "a location where rescue operations are considered to terminate. It is also a place where the survivors' safety of life is no longer threatened and where their basic human needs (such as food, shelter and medical needs) can be met. (...)".⁸

Freedom of navigation in the high seas: the ships of every state have the right to sail on the high seas.⁹



1. UNCLOS Art. 98, SOLAS, Chapter V, Regulation 33-1, IMO Resolution MSC.167(78), International Convention on Salvage Art 10(1).
 2. SOLAS, Chapter V, Regulation 33.
 3. EU Regulation 656/2014, Art. 6.
 4. IMO Resolution MSC.167(78), 5.1.2.
 5. IMO Resolution MSC.167(78) 5.1.6, SAR Convention 1.3.2.
 6. SOLAS, Chapter V, Regulation 33-4.
 7. IMO Resolution MSC.167(78) 2.4, SOLAS, Chapter V, Regulation 33.
 8. Annex to the 1979 SAR Convention, 1.3.2.
 9. UNCLOS Art. 87.

WHAT SOS MEDITERRANEE IS CALLING FOR:

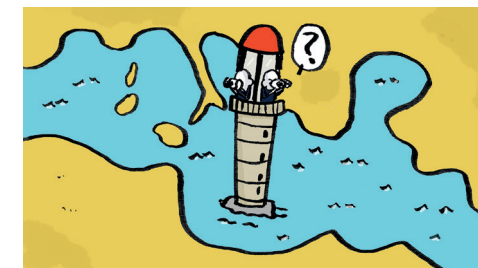


Over the past years, there has been an erosion of these legal principles. While the European Union pulled back from saving lives at sea, it simultaneously financed, trained and equipped the Libyan Coast Guard to intercept people seeking safety, returning them to a cycle of violence and abuse in Libya. As a maritime and humanitarian organisation, SOS MEDITERRANEE will not accept this and therefore calls on the European Union (EU) to:

- 1. Fight to save lives at sea** by reinforcing the search and rescue capacity in the Central Mediterranean and bring people to a place of safety in accordance with international law.

WHAT HAS HAPPENED IN THE CENTRAL MEDITERRANEAN SINCE 2014?

During the European Parliament's most recent mandate, from 2014 to 2019, the situation in the Central Mediterranean has drastically changed and the number of recorded violations of international law has increased.



2013-2014: BEGINNING AND END OF MARE NOSTRUM

In response to a large shipwreck that took place in front of the Italian island of Lampedusa, Italy launched the search and rescue operation *Mare Nostrum* on October 18th 2013, with the intention to safeguard human lives

- 2. Ensure the disembarkation of survivors in a place where they are safe**, their basic human needs are met and their fundamental rights are respected. Libya cannot be considered a place of safety. Various reports by Human Rights organisations unequivocally show the large-scale Human Rights abuses in Libya, including arbitrary detention, torture, forced labour and sexual exploitation. People intercepted by the Libyan Coast Guard cannot lawfully be returned to Libya.

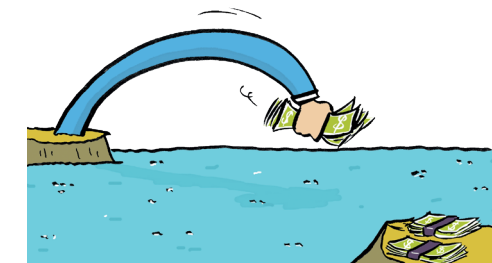
- 3. Urge EU Member States to ensure search and rescue NGOs are no longer blocked and are able to save lives.** Civic ships conduct legal search and rescue operations, but have been blocked from rescuing through administrative, political and judicial harassment campaigns.

- 4. Set up an effective, coherent and transparent disembarkation system for survivors to a place of safety**, in compliance with international law.

in the Central Mediterranean. The operation was carried out in full respect of the "duty to render assistance to any person found at sea in danger of being lost"¹⁰. As a result, more than 150,000 lives were saved. But on October 31st 2014, Italy ended the operation due to lack of support from the European Union. *Mare Nostrum* was replaced by the European border control operation *Triton*. The focus shifted from saving lives to border control. This resulted in fewer rescue ships, yet people continued to try to escape Libya. As a result, thousands of men, women and children drowned.

As citizens, in support of SOS MEDITERRANEE, call on your governments to reinforce the search and rescue capacity in the Central Mediterranean that would bring survivors to a place of safety and fight to save lives at sea!

Since February 2017: BUILDING-UP OF THE LIBYAN COAST GUARD AND LIBYAN SEARCH AND RESCUE REGION



In February 2017, European Heads of State met in Malta and signed the Malta Declaration, agreeing to train, equip and finance the Libyan Coast Guard to intercept boats at sea and bring them back to Libya. This declaration also led to the creation of the Libyan Search and Rescue Region in June

10. UNCLOS Art. 98.
 11. SAR Convention, Ch. 1.3.2.

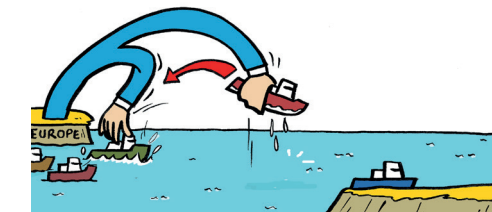
2018. According to maritime law, every coastal state has to assume responsibility over a certain maritime area off of its coast, spanning territorial and international waters. Within this designated region, the coastal state is responsible for responding and coordinating distress and helping to find a place of safety for the survivors. Since 2018, the Libyan Joint Rescue Coordination Centre (LY-JRCC) has been responsible for the coordination of search and rescue services in its designated region. Since then the number of people intercepted and unlawfully returned to Libya has skyrocketed.

Once returned to Libya, rescued people are exposed to severe Human Rights violations that have been well-documented, including torture, rape, forced labour and executions. This is contrary to the legal obligation that after a rescue, the survivors should be delivered to a "place of safety"¹¹. Libya cannot be considered a place of safety. It should also be noted that the LY-JRCC turned out to be dysfunctional and not able to carry out effective and safe rescues. **As a result, again, more people drown.**

As citizens, in support of SOS MEDITERRANEE, call on your governments to make sure that all rescued people - including those rescued by the Libyan Coast Guard - are brought to a place where they are safe!



Since 2017: ADMINISTRATIVE, POLITICAL AND JUDICIAL HARASSMENT CAMPAIGNS TARGETING CIVIC RESCUE SHIPS



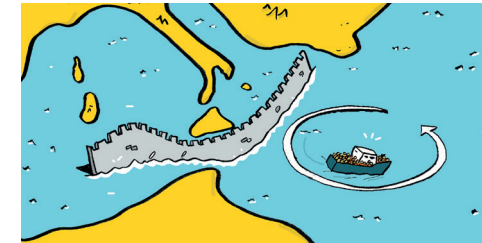
Many search and rescue NGOs were founded in 2014 and 2015 by European citizens, to fill the gap left by their governments. The organisations render assistance to those in need in full compliance with international law. However, they have been harassed by administrative, political and judicial measures, preventing the organisations from saving lives. Since 2017, several investigations have been launched against search and rescue ships and individual crew members, yet prosecutors could not prove any wrong-doing by the NGOs. Most cases ended in acquittal or were discontinued due to a lack of evidence.¹² In other instances, rescue ships, such as SOS MEDITERRANEE's Aquarius, were stripped of their flag due to political pressure.

The blocking of search and rescue NGOs is neglecting the duties and obligations of States and shipmasters to rescue people in danger at sea. As a result, fewer ships are available to assist boats in distress in the Central Mediterranean. An increasing number of people are at risk of drowning. Civil society can no longer witness and report on this humanitarian tragedy.

12. "Fundamental rights considerations: NGO ships involved in search and rescue in the Mediterranean and criminal investigations", European Agency for Fundamental Rights.
 13. IMO Resolution MSC.167(78), 6.1.3.
 14. IMO Resolution MSC.167(78), 5.2.

As citizens, in support of SOS MEDITERRANEE, call on your governments to make sure search and rescue NGOs are able to save lives again!

Since June 2018: SURVIVORS ARE STRANDED AT SEA FOR DAYS AND EVEN WEEKS



In summer 2018, Italy closed its ports to rescue ships. As a result, survivors remained stranded at sea for days - or even weeks - until a group of European States would agree to receive the people on an ad-hoc basis. This practice is not in line with the applicable international maritime conventions, which state that ships should be relieved of their responsibility of the rescue as soon as possible¹³ and should treat the survivors humanely¹⁴. Due to this practise, survivors face even further risks to their safety. It also means that the stranded ships are not able to assist other people in distress at sea in the meantime, further endangering lives of those in need of assistance.

As citizens, in support of SOS MEDITERRANEE, call on your governments to establish an effective, coherent and transparent disembarkation system to a place where all survivors will be safe!