## I. Submitting Organisation

Sea-Watch e.V. is a non-profit organisation which conducts civil search and rescue (SAR) operations in the central Mediterranean since 2015,[[1]](#footnote-2) documents human rights violations, and with the help of monitoring aircraft[[2]](#footnote-3) reports people in distress to the responsible authorities and nearby vessels.

## ll. Comments on the General Draft

We welcome the first draft on “Enforced disappearances in the context of migration”. Based on Sea-Watch’s expertise in the central Mediterranean, we have comments and suggestions for the following parts:

### 1. Introduction

We would like to comment on §5 and insist on the gravity of the current situation in the central Mediterranean Sea. So far in 2023, more than 1.160 persons went missing or died.[[3]](#footnote-4) In comparison, the IOM counted 1,417 persons going missing or dying in the central Mediterranean overall in 2022.[[4]](#footnote-5) **2023 is so far the deadliest year in the central Mediterranean since 2017**.[[5]](#footnote-6)

### 3. Preventive Mechanisms

### c. Policies and non-criminalisation

As an affected search and rescue NGO, we would like to comment on part c) - §§25 to 28 and emphasize the current situation in the central Mediterranean. While strengthening the cooperation with the Libyan authorities, some EU member states continue to target persons on the move and SAR NGOs. Since the end of October 2022,[[6]](#footnote-7) the Italian government as guided by prime minister Giorgia Meloni has jeopardised the human rights of people on the move arriving to Italy via the central Mediterranean. Immediately after taking office, minister of the interior Matteo Piantedosi and minister for foreign affairs Antonio Tajani hindered the disembarkation of people rescued by NGO vessels by attempting to implement a so-called “selective disembarkation” mechanism, ultimately opening a diplomatic crisis with France.[[7]](#footnote-8)

On January 2nd the Decree n.1 entitled ‘Urgent provisions for the management of migration flows’, also known as the Piantedosi Decree or NGOs Decree,[[8]](#footnote-9) was enacted, setting up a new legal framework with the clear aim of reducing the presence of SAR NGOs at sea and of making their operations financially unviable through the current practice of assigning ‘distant ports’ for disembarkation - up to 4 days navigation from the standard area of operation.[[9]](#footnote-10) The real price, however, is paid by people on the move - the resulting unjustifiably prolonged navigation exposes the rescued people on board SAR NGO vessels to weather conditions, the risk of re-traumatisation as well as the possible deterioration of their already vulnerable physical and mental conditions, while also postponing access to basic rights such as medical care. Furthermore, **a decrease in the presence of NGOs in the Mediterranean will both result in more interceptions to Libya and hence, more human rights violations and to more deaths**. The law imposes a new ‘code of conduct’ for NGOs, setting rules that are either already enshrined by relevant international agreements or are illegitimate because they undermine the duty to rescue. In particular, the new law includes six conditions that NGO vessels should abide by and several administrative sanctions in case of violations, up to the confiscation of the vessel.[[10]](#footnote-11) Such penalties, assessed and imposed by the prefecture, which directly reports to the ministry of the interior, have also already been applied.[[11]](#footnote-12)

Furthermore, after the shipwreck off Cutro in Calabria on February 26th in which over 90 people lost their lives, the Italian government enacted a second decree entitled ‘Urgent provisions on legal entry flows of foreign workers and on preventing and combating irregular immigration’.[[12]](#footnote-13) With this act, the government further narrowed the access to special protections,[[13]](#footnote-14) limited the access of asylum seekers to the only “emergency reception centres” (CAS),[[14]](#footnote-15) and created a new offence for 'death or injury as a consequence of illegal immigration offences'. By doing so, the government aggravated the crime of facilitating illegalized migration[[15]](#footnote-16) with penalties of 20 to 30 years. The targets are alleged smugglers who are persecuted exclusively on the basis that they were driving the boat carrying people in distress. The criminalisation of boat drivers has already destroyed the lives of many young people who have been sentenced to up to 30 years of jail, and its further exacerbation has put more people at risk.[[16]](#footnote-17) The allegation of facilitating illegalized migration has also been used in over 20 criminal investigations against NGO activists. **The decree following the Cutro shipwreck will lead to a decrease in the number of special protection permits issued and an increase in the number of persons irregularly present on the national territory, with no rights and no prospects**.[[17]](#footnote-18)

Finally, on April 11th, the Italian minister of council declared a state of emergency on migration[[18]](#footnote-19) for the whole Italian territory for 6 months,[[19]](#footnote-20) "to provide more effective and timely responses to the management of the flows"[[20]](#footnote-21). The state of emergency has the aim of speeding up the bureaucratic process without setting calls for tenders. This administrative act makes it possible to release funds[[21]](#footnote-22) and functions which will allow the commissioner Valerio Valenti to faster manage the critical issues that have emerged with the multiplication of arrivals.[[22]](#footnote-23) Although an implementing decree is currently still missing along with a parliamentary discussion,[[23]](#footnote-24) it would lead to **increasing the hotspot system capacities and setting up faster expulsion procedures**,[[24]](#footnote-25) therefore potentially limiting the access to fundamental human rights (e.g. the right to seek asylum) and increasing the risk of collective expulsions.

In light of these three measures - the NGOs Decree, the Cutro Decree and the declaration of the state of emergency - the strategy pursued by the current Italian government in the field of migration becomes evident: **It starts at sea, by limiting the presence of SAR assets ready to render assistance to those in distress, and continues on land, by limiting access to protection status and enhancing the criminalization of people on the move**.

In parallel to these measures by the Italian government, **the German government plans to amend its Ship Safety Ordinance. The proposal would include requesting a ship safety certificate for certain small vessels, including small NGO rescue vessels.** Up until now, these were exempted from such requirements. The planned amendments would make the use of smaller ships for search and rescue purposes under the German flag significantly more difficult or impossible, and therefore drastically restrict the work of search-and-rescue organisations.[[25]](#footnote-26) A recently leaked document from the European Commission demonstrates the intention at EU level to streamline regulations for civil SAR vessels across EU countries. Sea-Watch and other civil SAR NGOs fear that this will create new obstacles and effectively hamper the rescue activities.[[26]](#footnote-27)

Given the urgency of the current situation, Sea-Watch recommends the Committee against Enforced Disappearances to reframe paragraph 28 as followed: **“***urges States parties to stop criminalising migrants…To this end, States parties should review the terminology used in certain types of legislation, such as anti-trafficking, anti-smuggling, and anti-terrorism legislation. Moreover, States must stop enacting any laws that lead to criminalising human rights defenders and their organisations or preventing them from operating.*”

### d. Non refoulement and the prohibition of pushbacks

Based on our expertise and the documentation gathered in the central Mediterranean, we would like to comment §§29-34.[[27]](#footnote-28) The EU and single member states continue to strengthen the Libyan authorities through various programs. The aim is clear: European member states delegate their duty to render assistance to boats in distress at sea to the Libyan authorities, despite being aware of the fact that people pulled back to Libya will be brought to detention centres and their human rights will be violated.[[28]](#footnote-29) So far in 2023, 7.292 people have been intercepted and forcibly returned to Libya, where their whereabouts remain unknown.[[29]](#footnote-30)

Since the European Court of Human Rights’ 2012 judgement in Hirsi Jamaa and others vs. Italy, the EU adjusted its strategy on managing its external borders in order to escape legal accountability. To avoid direct involvement, the EU and its member states established cooperation agreements with third parties based upon soft law instruments. First, the Libyan authorities received political and material support by Italy. Since February 2017 and the signing of the Italy-Libya memorandum of understanding (MoU),[[30]](#footnote-31) which was automatically renewed in February 2020 and 2023,[[31]](#footnote-32) Italy provided the so-called Libyan coastguard with logistical, technical, political and financial assistance, as well as training and the donation of assets. In July 2022, the Italian parliament’s Foreign Affairs and Defence commission approved the final resolution on Italy's funding of military missions abroad, including an **increase of the budget devoted to the so-called Libyan coastguard to EUR 1.37 million, raising the yearly budget** **to EUR 11.85 million,[[32]](#footnote-33) for a total of roughly EUR 44.5 million since 2017**.[[33]](#footnote-34)

In Libya, according to the report by the Independent Fact-Finding Mission on Libya, there is a “deep and ongoing absorption of armed groups and their leadership into State-affiliated structures and institutions”.[[34]](#footnote-35) Many of these armed groups are involved in border management practices, tasked and equipped by European actors. The report further establishes that: “crimes against humanity were committed against migrants in places of detention under the actual or nominal control of Libya’s Directorate for Combating Illegal Migration, the Libyan Coast Guard and the Stability Support Apparatus. These entities received technical, logistical and monetary support from the European Union and its member States for, inter alia, the interception and return of migrants.” **The mission also declared that the support provided by the EU and its member states has aided and abetted the commission of these crimes.**[[35]](#footnote-36)

In 2023, Italy has extended its international military mission in Libya in support to EUBAM and has declared the launching of a new mission in Libya, along with its Southern neighboring country Niger - main point passage of migrant people into Libya.[[36]](#footnote-37) Furthermore, within the framework of the EU project ‘Support to Integrated Border and Migration Management in Libya’ of December 2021, **Italy used the helicopter carrier San Giorgio to deliver a mobile and container-based Maritime Rescue Coordination Centre (MRCC) to Tripoli**.[[37]](#footnote-38) With the funding of the EU Emergency Trust Fund for Africa (EUTF), the Libyan authorities received various patrol vessels from Italy. Italy will also be responsible for training Libyan personnel to operate the MRCC.

Aside from the Italian authorities, in May 2020 the Maltese authorities also concluded a MoU with Libya.The aim is to set up two coordination centres in Tripoli and Valletta for supporting “operations against illegal migration”. The MoU is supposedly still in force.[[38]](#footnote-39)

The European Union and European member states continue to delegate their obligations to rescue to the so-called Libyan coastguard, despite the latter repeatedly acting in violation of international human rights and maritime laws, even using violence against persons in distress and civil actors.[[39]](#footnote-40) The Italian and Maltese authorities continuously refuse to deploy rescue assets, even when the so-called Libyan coastguard does not intervene, leading to persons in distress going missing at sea: **deaths that could have been prevented**.[[40]](#footnote-41)

When taking over the coordination of distress cases due to the unresponsiveness of the so-called Libyan coastguard, **the Italian and Maltese authorities tend to rely on merchant vessels that are not equipped or trained to conduct such operations**. Particularly Malta repeatedly gives illegal instructions to merchant vessels such as not to rescue[[41]](#footnote-42) or to return persons to unsafe places.[[42]](#footnote-43) Furthermore, merchant vessels often stay on scene[[43]](#footnote-44) for hours and are left alone, without any instructions.[[44]](#footnote-45) This is fuelling a practice of omission of rescues by merchant vessels to avoid incurring in such situations.

Additionally **Frontex**, operating aircraft and a drone, actively contributes to the increase in interceptions by the so-called Libyan coastguard, as demonstrated by Human Rights Watch and Border Forensics.[[45]](#footnote-46) With our own aerial monitoring documentation, we repeatedly witness how Frontex’ aerial surveillance leads to illegal interceptions at sea, even from the Maltese SAR zone.[[46]](#footnote-47)

With bilateral agreements, programs and the establishment of a Libyan Search-and-Rescue zone in 2018, the European Union and its member states have established and continue to maintain a structure in which their duty to render assistance and to disembark rescued persons in a safe place is delegated to the so-called Libyan coastguard, in full knowledge that according to international maritime and human rights law, **Libya is not a place of safety**.[[47]](#footnote-48)

Therefore, Sea-Watch would recommend the Committee to call on states to “***stop*** *indirect refoulement*” (§32). We further propose to reframe §33 in a way to have the continuous outsourcing of responsibility and of the duty to rescue by the European Union and single member states to a third state and unclear actors, such as the so-called Libyan Coast Guard, who does not act in line with international law, included in this section. In §34, we would reframe as follows: “*Pushbacks place migrants outside the protection of the law, especially when these occur in international waters make them vulnerable.*” The situation in international waters is generally leading to a lack of clear roles and remedies for persons whose rights are violated and therefore, a lack of accountability. Sea-Watch would recommend the Committee to call upon (European) “*States to comply with their duties, including the duty to render assistance and disembarkation in a place of safety, as enshrined in international maritime and human rights law*”.

### IV. The obligation to search and investigate

Sea-Watch emphasises that in the past, the sighting of dead bodies in international waters and the subsequent informing of authorities often did not lead to operations to retrieve them and investigate the causes of death.[[48]](#footnote-49) In a recent shipwreck caused by the lack of assistance by the Italian authorities, the Italian authorities sent out an “Inmarsat message” informing vessels transiting in the area to “have a sharp look out for 30 missing persons”.[[49]](#footnote-50) To our knowledge, no operation has been deployed to retrieve and identify the bodies of the 30 missing persons. Moreover, Sea-Watch would like to stress that people who go missing at sea as a result of omission of intervention by the informed competent authorities or delayed interventions represent an institutionalised practice implementing the EU externalization policy’s objective to facilitate pushbacks to Libya, which result in the disappearance of people at sea, in detention centres or at the hands of traffickers. Finally, with regard to §38 Sea-Watch recalls that investigations conducted shall not lead to further criminalisation, especially of persons in distress.[[50]](#footnote-51) Regarding §39, see below.

### VI. Training and cooperation

In this part, with reference to the above, **Sea-Watch emphasises that cooperation and training shall not lead to fuel more pushbacks**. In the central Mediterranean, training and cooperation are used to perpetrate externalisation policies.[[51]](#footnote-52) Therefore, Sea-Watch recommends the Committee to recall in §39, §§35-41, its demands enshrined in §§33, 34.

Sea-Watch stresses that pushbacks carried out by the so-called Libyan Coast Guard acting with the material, logistical, financial and intelligence support of the EU, through the support of the EU military presence at sea (Frontex and EUNAVFOR MED Irini) and the coordination of European (Italian and Maltese) Rescue Coordination Centres (even acting "on behalf of JRCC"), constitute a factual delegation of responsibilities related to search and rescue and migration to Libya. It therefore qualifies as aiding and abetting the commission of wrongful conducts by a third party, including illegal pushbacks resulting de facto in the enforced disappearance of people intercepted and forcibly returned. Striking evidence shows that disembarkation in Libya is systematically followed by arbitrary detention and abuse, where it is impossible to have information on the whereabouts of the victims.

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1. Sea-Watch currently operates the rescue vessels *Sea-Watch 5* and *Aurora*. [↑](#footnote-ref-2)
2. The aircraft *Seabird 1* and *Seabird 2* are operated together with the Swiss NGO Humanitarian Pilots Initiative (HPI). [↑](#footnote-ref-3)
3. According to IOM as of June 13th 2023, data available at: <https://missingmigrants.iom.int/region/mediterranean?region_incident=All&route=3861&year%5B%5D=11681&month=All&incident_date%5Bmin%5D=&incident_date%5Bmax%5D=>. [↑](#footnote-ref-4)
4. *Ibid*. [↑](#footnote-ref-5)
5. According to the IOM: <https://www.iom.int/news/deadliest-quarter-migrants-central-mediterranean-2017> . [↑](#footnote-ref-6)
6. For a thorough overview of criminalisation efforts before 2022, please read Sea-Watch’s previous submissions, footnote nr 28. [↑](#footnote-ref-7)
7. More information available here: <https://ecre.org/mediterranean-stand-off-over-disembarkations-of-survivors-rescued-by-civilian-search-and-rescue-operators-leaves-italian-government-on-collision-course-with-france-ngos-and-international-law/> . [↑](#footnote-ref-8)
8. The provisions of the decree, converted into lawn.15 on February 24th  see: <https://www.gazzettaufficiale.it/eli/id/2023/03/02/23G00023/sg>. [↑](#footnote-ref-9)
9. Statement: New Italian government decree will cause more deaths in the Mediterranean Sea: <https://sea-watch.org/en/statement-by-civil-rescue-organizations-new-italian-government-decree/>. [↑](#footnote-ref-10)
10. More information and complete legal analysis here: <https://www.asgi.it/wp-content/uploads/2023/03/Commento-d.l.-1.2023_def_6marzo.docx.pdf>. [↑](#footnote-ref-11)
11. Penalties were applied against the NGO vessels Geo Barents and Louise Michel which were both administratively detained for 20 days. More information available at: <https://www.infomigrants.net/en/post/47111/geo-barents-rescue-ship-detained-and-fined-failed-to-provide-information>, <https://twitter.com/MVLouiseMichel/status/1641882902462865409> . [↑](#footnote-ref-12)
12. The decree was converted into Law n. 50 on 5 May 2023: <https://www.gazzettaufficiale.it/eli/id/2023/05/05/23G00058/SG>. [↑](#footnote-ref-13)
13. Regarding the special protection, it remains only for those who have not been granted international protection but cannot be expelled or rejected because they are at risk of persecution, systematic violations of human rights, inhuman treatment or torture. However, it has been abrogated that the paragraph affirming the nature and effectiveness of the family ties of the person, their effective social integration in Italy, the duration of their stay in the national territory, as well as the existence of family, cultural or social ties with the country of origin, should be taken into account. Indeed, the new wording does not assess the well founded risk of violation of the right to private and family life as enshrined in Article 8 of the European Convention on Human Rights. In addition to the mentioned restrictions affecting the special protection, the permissions granted for ‘calamities’ and relating to ‘medical treatments’ have also been significantly constrained. None of these residency permits will any longer be convertible into work permits. More information available here <https://www.meltingpot.org/2023/05/il-contestato-dl-cutro-e-diventato-legge/>; <https://www.ilpost.it/2023/04/16/protezione-speciale-migranti--governo/?utm_source=ilpost&utm_medium=leggi_anche&utm_campaign=leggi_anche>; <https://www.avvenire.it/attualita/pagine/protezione-speciale-scheda>. [↑](#footnote-ref-14)
14. Such centres differ from the Integration Reception System (SAI), which are now reserved only for those who have been granted with a protection as already provided for in the Salvini Decree of 2018, due to the lack of services necessary to begin a path of integration and social rootedness. [↑](#footnote-ref-15)
15. [Article 12 Legislative Decree 25 July 1998, n. 286](https://www1.interno.gov.it/mininterno/site/it/sezioni/servizi/old_servizi/legislazione/immigrazione/0958_2009_08_05_art.12TUimmigrazione.html) . [↑](#footnote-ref-16)
16. Report on criminalization of migrant boat drivers in Italy. ARCI Porco Rosso Palermo/ Borderline Europe. See <https://fromseatoprison.info/>. [↑](#footnote-ref-17)
17. See <https://espresso.repubblica.it/politica/2023/05/04/news/decreto_cutro_migranti-398700489/>. [↑](#footnote-ref-18)
18. The only precedent of a state of emergency on migration dates back to 2011 during the Berlusconi government and included a plan for the distribution of refugees from North Africa in the regions. [↑](#footnote-ref-19)
19. The duration of 6 months of the state of Emergency can be renewed up to 2 years. [↑](#footnote-ref-20)
20. See <https://www.ilsole24ore.com/art/migranti-cosa-cambia-la-dichiarazione-stato-emergenza-AEUevGGD?refresh_ce>. [↑](#footnote-ref-21)
21. The current initial allocation amounts to 5 million, which may be progressively increased during the duration of the state of emergency. These funds come from the fund for national emergencies. [↑](#footnote-ref-22)
22. More than 44 thousand people arrived in Italy since the beginning of 2023, mostly from the so-called Tunisian route. According to the Italian Ministry of Interior, as of May 8th 2023, data available at: <https://www.interno.gov.it/sites/default/files/2023-05/cruscotto_statistico_giornaliero_08-05-2023.pdf>. [↑](#footnote-ref-23)
23. See <https://www.repubblica.it/cronaca/2023/04/25/news/migranti_stato_di_emergenza_gazzetta_ufficiale_commissario-397619288/>. [↑](#footnote-ref-24)
24. More in detail, the Commissioner’s functions should encompass the creation of new reception facilities without calls for tenders, facilitate the expulsion procedure strengthening the collaboration and incentives for the countries of origin, open new pre-removal centres (Centri di permanenza per I rimpatri – CPR), increase hotspot system capacity and set up faster procedures to manage the transfer of migrants within the Italian territory by being able to hire planes and ships without public tenders (e.g. from Lampedusa to the mainland). [See https://www.repubblica.it/cronaca/2023/04/16/news/migranti\_sbarchi-396423379/](https://www.repubblica.it/cronaca/2023/04/16/news/migranti_sbarchi-396423379/). [↑](#footnote-ref-25)
25. Most German organisations and vessels are affected by these amendments. See a statement by the affected German organisations (in German): <https://sea-watch.org/bundesregierung-plant-behinderung-ziviler-seenotrettung/>. [↑](#footnote-ref-26)
26. See Amnesty International, “No one will look for you”, available at: <https://www.amnesty.org/fr/wp-content/uploads/2021/07/MDE1944392021ENGLISH.pdf>, Alarm Phone, borderline-europe, Mediterranea, Sea-Watch, “Remote control” report: [https://www.eu-libya.info](https://www.eu-libya.info/). In March 2023, the Independent Fact-Finding Mission on Libya declared that “there are reasonable grounds to believe that migrants across Libya are victims of crimes against humanity”: <https://www.ohchr.org/en/hr-bodies/hrc/libya/index>. [↑](#footnote-ref-27)
27. More information available here: <https://www.hrw.org/it/news/2023/02/01/italy-reups-funding-force-migrants-back-libya>. [↑](#footnote-ref-28)
28. More information available at: <https://www.lindipendente.online/2022/07/29/litalia-approva-linvio-di-nuovi-fondi-alla-guardia-costiera-libica/>. [↑](#footnote-ref-29)
29. Moreover, in 2021 the parliament had revised the financial support given to the EUNAVFOR MED operation IRINI and the Italian military operation Mare Sicuro, further increasing the respective funding of 15 and 17 million Euro compared to 2020. More information available here: <https://www.oxfamitalia.org/aumentano-i-fondi-italiani-alla-guardia-costiera-libica/>. [↑](#footnote-ref-30)
30. These technologies consist of various communications and monitoring systems intended to help detect persons who try to cross the Mediterranean Sea. More information available here: <https://www.repubblica.it/esteri/2021/12/07/news/nave_italiana_libia-329232874/?fbclid=IwAR1V3mGgd_WZWfdWjSfBk2TV1Y1sIvtDDXJUmfUeA2VQJeUzUf70BR8F8f0>, and here: <https://digit.site36.net/2021/12/07/eu-development-aid-italy-is-gifting-more-surveillance-technology-to-the-libyan-coastguard/>. [↑](#footnote-ref-31)
31. The MoU is valid for three years: <https://www.statewatch.org/media/documents/news/2020/jun/malta-libya-mou-immigration.pdf>. [↑](#footnote-ref-32)
32. The Independent Fact-Finding Mission on Libya declared during a press conference that the support provided to Libya by the EU and EU member states aids and abets the commission of crimes against humanity: <https://media.un.org/en/asset/k1q/k1q8qjcx9x>. The ECCHR demonstrated that individuals from the EU and its member states were co-perpetrators of crimes against humanity: <https://www.ecchr.eu/fileadmin/user_upload/ECCHR_Executive_Summary_ICC_Libya.pdf>. [↑](#footnote-ref-33)
33. See: <https://www.statewatch.org/news/2023/may/european-commission-wants-common-rules-on-registration-and-certification-for-mediterranean-search-and-rescue-organisations/>. [↑](#footnote-ref-34)
34. See The case of a dead body sighted on 4 occasions in Summer 2020, Airborne Annual Report 2020, p. 18: <https://sea-watch.org/wp-content/uploads/2021/02/Airborne-Annual-Report-2020.pdf>. [↑](#footnote-ref-35)
35. See a thorough reconstruction of the case: <https://sea-watch.org/en/non-assistance-joint-statament/> [↑](#footnote-ref-36)
36. See above, regarding the criminalisation of “boat drivers” in Italy and the related report “From Sea to Prison” including extensive information and examples on the matter. [↑](#footnote-ref-37)
37. See recent investigations about the organisation ICMPD and its involvement in training of the so-called Libyan Coast Guard and Tunisan Coast Guard - although numerous cases of violence against persons in distress and NGOs were reported. Germany has provided training about the management of dead bodies at sea: <https://fragdenstaat.de/blog/2023/05/19/icmpd-die-migrations-manager/>. [↑](#footnote-ref-38)
38. More information available at: <https://comunicazioneinform.it/la-commissione-esteri-e-difesa-ha-esaminato-la-deliberazione-sulla-partecipazione-dellitalia-a-ulteriori-missioni-internazionali-e-la-relazione-sulle-missioni-internazionali-in-corso-e-sullo/> [↑](#footnote-ref-39)
39. In 2022, 24.684 people were intercepted and 32.425 in 2021, according to IOM, 12th June 2023 <https://twitter.com/iom_libya/status/1668203163466301440?s=48&t=oMUKacpPj1IMABfQInTBRw>. [↑](#footnote-ref-40)
40. In 2021, Sea-Watch submitted a report on pushback practices and their impact on the human rights of migrants in the Central Mediterranean to the UN Special Rapporteur on the Human Rights of Migrants, available at:<https://www.ohchr.org/Documents/Issues/Migration/pushback/Sea-Watch_Submission.pdf>.

In 2022, Sea-Watch submitted another report on human rights violations at international borders:

trends, prevention and accountability, available at: [https://www.ohchr.org/en/calls-for-input/2022/report-human-rights-violations-international-borders-trends-prevention-and.](https://www.ohchr.org/en/calls-for-input/2022/report-human-rights-violations-international-borders-trends-prevention-and)

[E](https://www.ohchr.org/en/calls-for-input/2022/report-human-rights-violations-international-borders-trends-prevention-and)vidence and documentation gathered by Sea-Watch through aerial monitoring operations are available in the Airborne operations Monthly Factsheets available here: <https://sea-watch.org/en/category/sea-watch-air-en/factsheets-en/> and the 2021 Airborne Annual Report available here https://sea-watch.org/en/airborne-annual\_report\_2021/. [↑](#footnote-ref-41)
41. See distress case A: <https://sea-watch.org/wp-content/uploads/2023/04/202301_02_Airborne_Monthly_Factsheet.pdf> . See also the so-called Libyan coastguard shooting at persons in distress and threatening the NGO vessel Ocean Viking: <https://twitter.com/seawatch_intl/status/1639695334057050114?s=20> <https://twitter.com/SOSMedIntl/status/1639703934691418112?s=20> . On October 25th 2022, the so-called Libyan coastguard threatened to fire upon a Sea-Watch aircraft during an illegal interception in the Maltese SAR zone, see: <https://twitter.com/seawatch_intl/status/1585254002404753414?s=20>. [↑](#footnote-ref-42)
42. See the reconstruction of the shipwreck that occurred on March 12th 2023: <https://sea-watch.org/en/non-assistance-joint-statament/>. [↑](#footnote-ref-43)
43. As an example, see the reconstruction of the return to Egypt by the MV Shimanami Queen: <https://sea-watch.org/en/nonrefoulement/> [↑](#footnote-ref-44)
44. “There is a moderate and statistically significant correlation between aerial asset flights and the number of interceptions performed by the Libyan Coast Guard. On days when the assets fly more hours over its area of operation, the Libyan Coast Guard tends to intercept more vessels.” See: <https://www.hrw.org/video-photos/interactive/2022/12/08/airborne-complicity-frontex-aerial-surveillance-enables-abuse>. [↑](#footnote-ref-45)
45. In February 2017, Italy signed a memorandum of understanding with the Libyan Government of National Accord on cooperation regarding the fight against ‘illegal immigration’ and on ‘reinforcing the security' of their borders. Even though it is not legally binding and was adopted without the formal approval of the Italian parliament, the EU endorsed the MoU in the Malta Declaration, declaring to continue to "support to efforts and initiatives from individual member states directly engaged with Libya; in this respect, the EU welcomes and is ready to support Italy in its implementation of the memorandum of understanding". [↑](#footnote-ref-46)
46. Report of the Independent Fact-Finding Mission on Libya - 27 March 2023: <https://www.ohchr.org/en/hr-bodies/hrc/libya/index> [↑](#footnote-ref-47)
47. <https://media.un.org/en/asset/k1q/k1q8qjcx9x> [↑](#footnote-ref-48)
48. For a recent example, see: <https://twitter.com/seawatch_intl/status/1653417635030130691?s=20>. [↑](#footnote-ref-49)
49. See the case with the MV Grimstad in which the persons were disembarked in Libya following the orders of the Italian MRCC: <https://twitter.com/seawatch_intl/status/1652393012398284805?s=20> or the reconstruction of the case with the MV Shimanami Queen, where persons were disembarked in Egypt following the orders of the Maltese RCC: <https://sea-watch.org/en/nonrefoulement/>. [↑](#footnote-ref-50)
50. For examples, see the summaries of the distress cases K and S: <https://sea-watch.org/wp-content/uploads/2022/09/202207_Airborne_Monthly_Factsheet.pdf> and distress cases AJ and AL: <https://sea-watch.org/wp-content/uploads/2022/11/Airborne_Monthly_Factsheet_August_2022.pdf>. [↑](#footnote-ref-51)
51. For examples, see 18. + 30.06.2022: <https://sea-watch.org/wp-content/uploads/2022/07/Airborne_Monthly_Factsheet_June-2022.pdf>; 26.07.2022: <https://sea-watch.org/wp-content/uploads/2022/09/202207_Airborne_Monthly_Factsheet.pdf>. [↑](#footnote-ref-52)