

# Ebbing and Flowing: The EU's Shifting Practices of (Non-)Assistance and Bordering in a Time of Crisis

CHARLES HELLER + LORENZO PEZZANI

The movements of illegalised migrants and the bordering of the Mediterranean Sea have seen momentous transformations since the beginning of the Arab uprisings in 2011.\*<sup>1</sup> The fall of the Ben Ali regime in Tunisia and the Qaddafi regime in Libya have allowed migrants to at least temporarily re-open maritime routes which had been sealed off through the collaboration between the EU and North African states. The civil war that has engulfed Syria since 2012 has in turn led to the largest exodus since the Second World War. While the majority of population movements unleashed by conflicts in the region have occurred on the southern shore of the Mediterranean, record numbers of people have sought to reach the EU by boat, and equally unprecedented numbers of deaths at sea have been recorded – 3,195 in 2014 and 3,772 in 2015 according to IOM data.<sup>2</sup> This intense and rapidly evolving movement of people across the sea but also on the EU's firm land, where migrants have collectively overcome every single barrier that states have erected in front of them, has been labelled a "migration crisis." This designation, in return, has enabled the deployment of exceptional military, humanitarian and political "solutions" (see "Keywords" in this issue). At sea we have witnessed a multiplication of actors involved in bordering and rescue practices. Border and Coast Guards have been joined by national and multinational military operations, civilian rescue missions and commercial ships and we have seen repeated shifts in their missions, operational logics, and institutional assemblages. On land, developments have been no less impressive. States have been desperately running behind migrants' turbulent movements and re-erecting border controls between EU member-states and at the EU's periphery. These newly staged bordering practices echo the changes to the EU's political and economic geography in the aftermath of the EU's "debt crisis" and the increasing polarisation between southern and northern European member-states. Rather than a "migration crisis," then, we will argue that we are witnessing the crisis of the current EU border regime.

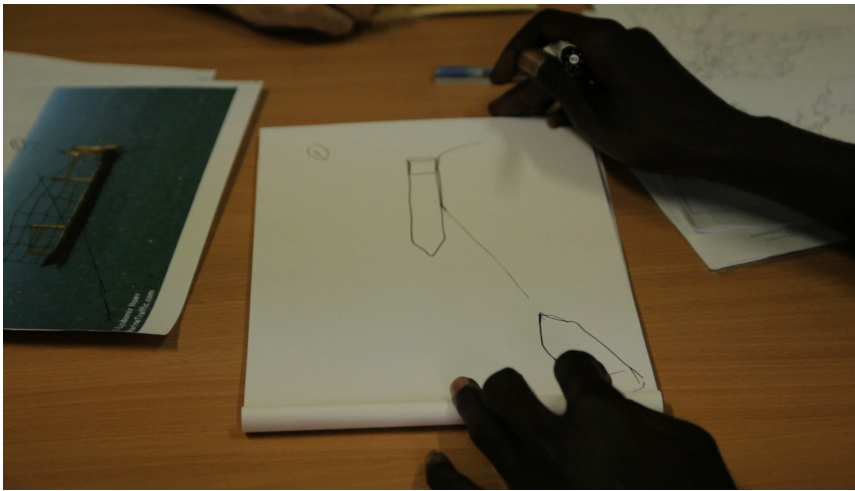
Seeking to account for these momentous changes, as we will try to do in the following pages, as well as understanding the forces and logics that have driven them, are certainly challenging tasks. We believe however that this sea-change may be condensed through a paradox: from 2011 to 2013, our research within the Forensic Oceanography project has focused on documenting incidents leading to the deaths of migrants at sea that resulted from what we have called practices of "non-assistance" (Heller and Pezzani 2014), such as the "left-to-die boat" case, in which 72 passengers were left to drift for 14 days in an area closely

**CHARLES HELLER** is a researcher and filmmaker whose work has a long-standing focus on the politics of migration. In 2015 he completed a Ph.D. in Research Architecture at Goldsmiths, University of London, where he continues to be affiliated as a Research Fellow. He is currently based in Cairo, conducting a postdoctoral research supported by the Swiss National Fund (SNF) at the Centre for Migration and Refugee Studies, American University, Cairo and the Centre d'Etudes et de Documentation Economiques, Juridiques et Sociales, Cairo. His writing has appeared in the journals *Global Media and Communication* and *Philosophy of Photography*.

**LORENZO PEZZANI** is an architect based between London and northern Italy. His work deals with the spatial politics and visual cultures of migration, with a particular focus on the geography of the ocean. He holds a PhD in Research Architecture and has taught at Goldsmiths College and at the Bartlett School of Architecture (UCL). His writing has appeared in the journals *New Geographies* and *Harvard Design Magazine*.

Together, since 2011, they co-founded the Watch-TheMed and have been working on Forensic Oceanography, a project that critically investigates the militarized border regime and the politics of migration in the Mediterranean Sea. Their collaborative work has been published in several edited volumes as well as in the journals *Cultural Studies*, *Postcolonial Studies*, and in the *Revue Européenne des Migrations Internationales*.

\* This article emerges out of our research within the ESRC supported "Precarious Trajectories" project, and in this frame we conducted field work in October 2015 in collaboration with Simon Parker, the assistance of Sabine Llewellyn and with the presence of filmmaker Laure Vermeersch. Our sustained conversation with a number of actors has further deeply informed our thinking. Since we have begun focusing on the bordering of the sea within our research "Forensic Oceanography" at the Centre for Research Architecture, Goldsmiths, University



A survivor draws the collision-course between the migrants' vessel and the King Jacob cargo ship. The wreck occurred on April, 19 2015; more than 800 people perished in the collision.

monitored by tens of military assets deployed in the context of the 2011 NATO led military intervention in Libya (Heller and Pezzani 2012).<sup>3</sup> As we write at the end of 2015 however, we are faced with a growing number of cases in which the loss of life has occurred during and partly through rescue itself. This has been the case in the April 12 and 18, 2015 shipwrecks, in which migrants' vessels capsized while commercial ships were approaching them to operate rescue. As a result, among the more than 2,900 cases of death documented in the central Mediterranean by the International Organisation for Migration (IOM) in 2015, more than 1,500 occurred during the rescue operation itself.<sup>4</sup> In our current investigations, we are thus faced with the following paradox: rescue itself, the act of seeking to prevent imminent harm, has become entangled with death, or even become its very cause.

To make sense of this paradox, our hypothesis, to state it at the outset, is the following: the practice of rescue has become more deadly as the result of a shift in smugglers' practices combined with persistent policies of non-assistance on the part of states. In order to account for this new and disturbing reality, we need to follow carefully the successive shifts in the practices of (non-)assistance and bordering that have occurred at the EU's external frontier in the last few years. In what follows, the sea – and in particular the central Mediterranean – is the centre of gravity of our analysis. We first summarise the pre-October 2013 conditions that led to structural cases of non-assistance. We then describe the break constituted by the large-scale military-humanitarian operation *Mare Nostrum* which was launched by the Italian government following two infamous shipwrecks in early October 2013 near the island of Lampedusa. Finally, we chart the rapidly evolving practices of rescue and bordering that unfolded after *Mare Nostrum* was phased out in November 2014. In particular, we elaborate, the partial privatisation of rescue that filled the gap in the state's rescue capability, and then, in the wake of the twin shipwrecks of April 2015, the unprecedented involvement of non-governmental rescue vessels and the beginning of

of London, we have benefited from the insights of numerous NGOs, in particular those taking part in the Migreurop, Boats4People and WatchTheMed networks. In addition, we have been privileged to engage with the group of scholars and activists loosely brought together by the "New key words" project that has contributed to this issue. First versions of this paper were given on the 20th of October 2015 at the Maison Suger (FMSH) in Paris, the 19th of November 2015 at MSF Switzerland in Geneva, and on the 27th of November at the Centre for Research Architecture, Goldsmiths, University of London. We thank the participants in these events for their insightful comments. The infographics in this piece have been produced by Samaneh Moafi based on GIS analysis by Rosana Padaletti.

1. We use the generic term of "migrant" to describe all people who cross state borders to reside in another country, independently of their exact motives or their possible future recognition as refugees. We use the term "illegalised migrants" following amongst others, Nicholas De Genova (2002; 2013), to highlight that illegality is a product of state law rather than an intrinsic feature of migrants. For the politics of the language of migration and mobility, see several entries of the "Keywords" in this issue, as well as Duvell 2008 and Bauder 2013.

2. <http://missingmigrants.iom.int/mediterranean>

3. See also the web page dedicated to our reconstruction of this case: <http://www.forensic-architecture.org/case/left-die-boat/>

4. We will mention in more detail some of these cases further on, and they are the object of a forthcoming report that we will publish in April 2016. Summarily, we are referring to the following cases:

- On February 8, 2015, MRCC Rome directed several vessels towards a boat in distress located 120 nautical miles (NM) from Lampedusa and 40 NM from Tripoli. When the first coastguard Coast Guard vessel reached the boats in distress after 7 hours of navigating in very difficult meteorological conditions, 7 people were already dead, but 22 people died of hypothermia after they had been rescued during the 18 hours that it took for the patrol boats to sail back to Lampedusa.

- On April 12, over 400 people died in a ship-

what is probably the largest maritime anti-trafficking military campaign since the deployment of a British Navy squadron off the coasts of West Africa in the 19th century, namely EUNAVFOR MED. In seeking to understand these successive shifts in practices of (non-)assistance and bordering at sea, we argue that it is essential to attend to the way they have been articulated with their corresponding practices on firm land within and outside the EU. Land and sea have been locked into a continuum by the Europeanization of migration policies that we describe below.

If we were to imagine a map of these evolving practices, we might use the metaphor of “flows,” not to describe the movement of migrants, as it has long been the case, but rather bordering and (non-)assistance practices themselves.<sup>5</sup> These might resemble the cyclical ebbs and flows of tides, expanding and retracting from the shoreline of coastal states across the Mediterranean, but also inward, from the shoreline into European land as well as onto the lands of EU neighbouring countries. The movements of this “mirror tide” flowing on land and sea would be related but non-synchronous. We would see recurrent patterns, but also cross-currents, in which practices of bordering and of (non-)assistance come together and apart, entering novel and surprising configurations, and constantly being stirred by migrants’ enduring and autonomous capacity to collectively move across borders. As we will try to show, it is only by attending to the “gravitational pull” exercised on this tide by, on the one hand, the sweeping geopolitical changes in North Africa and the Middle East, and on the other, the new economic and political geography that has been taking shape within the EU in the aftermath of the “debt crisis,” that we might understand the paradox described above.

## THE LEFT-TO-DIE BOAT CASE AND THE POLITICS OF NON-ASSISTANCE

In the early hours of March 27, 2011, 72 passengers embarked on a small rubber boat, hoping to reach the Italian island of Lampedusa. After less than 24 hours, they noticed they were running out of fuel, and called for rescue with their satellite phone. Although the Italian and Maltese Coast Guards, NATO forces deployed at the time for military intervention in Libya, and numerous civilian vessels moving through the central Mediterranean were informed of the position of the boat and distress of its passengers, the immigrants were left to drift for fourteen days in the NATO maritime surveillance area. As a result, only 9 of the passengers survived. 63 people were killed by the reluctance of all actors to rescue them.

The left-to-die boat case, which we have reconstructed by using remote sensing devices against the grain, and which has led to several ongoing legal cases against states involved in the military intervention in Libya, is only one of several cases of non-assistance that have occurred in the last years and needs to be understood within the particular form of sovereignty and government of the Mediterranean Sea. As we have described in more detail elsewhere (Heller and Pezzani 2014), contrary to the popular vision of the sea as a homogeneous and lawless expanse lying outside the reach of state power, maritime territories are

wreck that occurred while the OC Jaguar and Asso tug boats were directing themselves to rescue the passengers in distress. According to the survivors, the boat capsized when people on board panicked while the tug boats were approaching them.

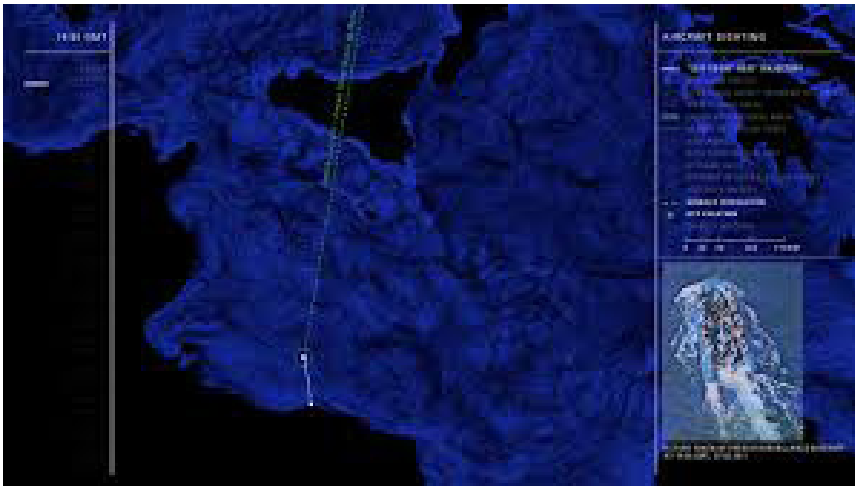
- On April 18, over 800 people died in a shipwreck that occurred while the King Jacob was directing itself to rescue the passengers in distress. According to the testimonies we have collected, the boat driver rammed into the cargo ship when the latter turned on its spot lights.

- On August 5, close to 300 people died when the Irish ship LE Niamh approached them to operate rescue. According to the survivors we have recently met, there was no particular panic on board, however the boat was taking in water and there were big waves which caused the boat to capsize.

- On August 26, 52 people were found dead in the engine section of a boat carrying 442 passengers. Here there was no shipwreck, however the fatalities were caused by asphyxiation due to the boats engine fumes in the poorly ventilated lower section of the vessel. While it is difficult to incriminate the actors who operated the rescue the Swedish Poseidon Coast Guard ship, operating under Frontex, followed by MOAS’ Phoenix, it is a fact that part of these people died *during* the several hours that the boat’s approach and the transboarding of the passengers lasted. The boat was initially detected at 7 AM, but because another boat in distress near by was given priority, the rescue operation and transboarding of passengers only began at 10.50. During these four hours people continued to die in the hold.

All these incidents occurred close to the Libyan coast, in an area that would have been covered by the assets of *Mare Nostrum* prior to the termination of the operation. Adding the casualties together, we arrive at 1574 casualties related in one form or another to the process of rescue.

5. The description of migratory movements as “flows” and the recourse to hydraulic metaphors has a long and controversial history that spans from the birth of migration studies (Ravenstein 1885) to current media tropes of migration “waves” (Papastergiadis 2000; Mezzadra 2011; Mezzadra and Neilson 2013; 209).



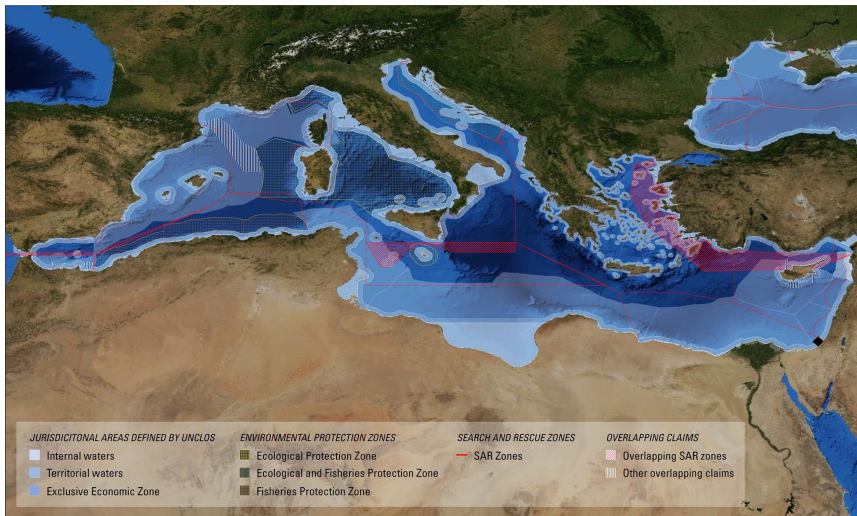
Animation of the Left-to-Die boat. (Heller and Pezzani. Liquid Traces – The Left-to-Die Boat Case. 2014)

in fact crisscrossed by variegated and at times conflicting jurisdictional regimes of “unbundled sovereignty” (Sassen 2006). This allows states to simultaneously extend their sovereign privileges through forms of mobile government and elude the responsibilities that come with it (see Steinberg 2001, Gammeltoft-Hansen and Alberts 2010:18, Suárez de Vivero 2010). For instance, the strategic mobilization of the notion of “rescue” has in several occasions allowed coastal states to justify police operations in the high seas or even within foreign territorial waters for which they would otherwise have little legal ground, thus *de facto* extending their sovereign capabilities through their patrols.<sup>6</sup> Conversely, for several years, the Mediterranean coastal states have been involved in diplomatic scuffles over their respective obligations to assist migrants distressed at sea. One of the most notorious and longstanding conflicts has been between Italy and Malta, which have repeatedly attempted to pass onto each other the burden of rescue, basing their claims on the different versions of the International Convention on Maritime Search and Rescue (SAR) to which they each are signatories (Gammeltoft-Hansen and Aalberts 2010: 21). In the process, the international legal norms established to determine responsibility for assisting those in distress at sea have been used precisely for the purpose of evading and deferring this responsibility. Furthermore, the criminalisation of assistance by states has also been a disincentive for seafarers to comply with the obligation to provide assistance. Fishermen, for example, have repeatedly been put on trial for “assisting clandestine migration” after rescuing migrants. As a result, many migrants have been left unassisted, leading to human tragedies such as the case of the left-to-die boat.

How can we explain this drive to non-assistance by coastal states? In order to understand the politics of non-assistance at sea, we need to account for its articulation with the particular migration regime that has emerged on land with the consolidation of the EU. The current architecture of the European border regime is based on two main pillars: the Schengen and Dublin Conventions, both signed in 1990, and gradually enforced in the following years.

6. This was the case, for instance, of Spain see Anderson 2012: 8. This was also the argument mobilized by the Italian government in the trial against Hirsi et al. at the European Court of Human Rights, as discussed in Tondini 2010.





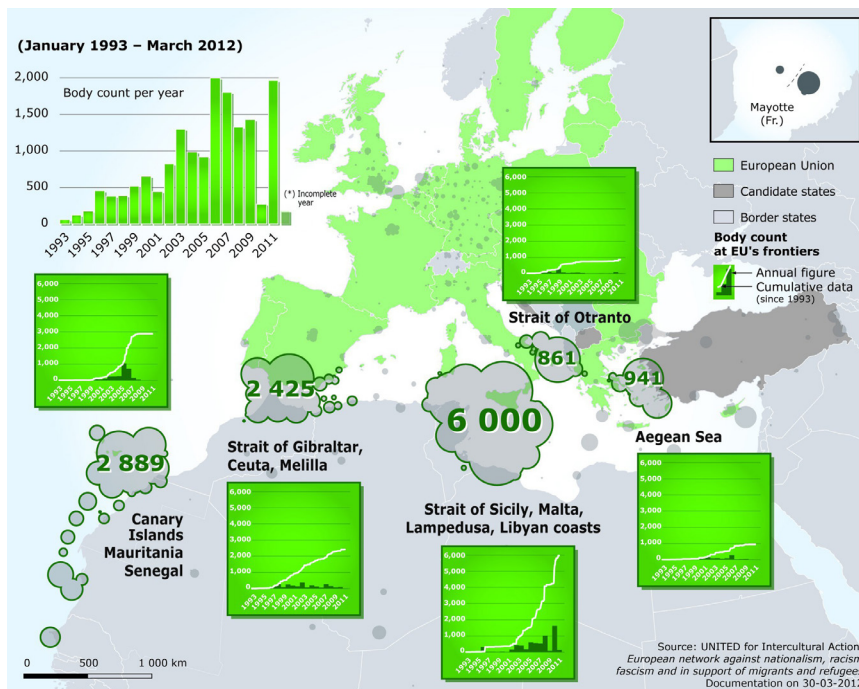
Maritime jurisdictions in the Mediterranean. (Forensic Oceanography)

The Schengen Convention, as is well known, instituted an area of free circulation inside the EU and, as a direct consequence, reinforced the EU's external borders – including the Mediterranean Sea. This process has involved the increasing militarization of the EU's outer rim but also the recourse to strategies of “externalization,”<sup>7</sup> through which non-EU states have been turned into migration gatekeepers on behalf of the EU. These measures, however, did not stop migrants from reaching the EU but rather forced them to do so through clandestine strategies and therefore in increasingly dangerous ways, such as embarking on unseaworthy boats. What Schengen actually produced, then, was not the end of trans-Mediterranean migration but rather the creation of a mass of “illegals,” a cheap and easily exploitable labour force that has become a large-scale and permanent feature of EU states and their economies (Mezzadra and Neilson 2013; Düvell 2011a and b). The more than 20,000 migrant deaths at sea recorded by NGOs since the end of the 1980s are the necropolitical effect (Mbembe 2013) of this regime of illegalisation.<sup>8</sup>

The Dublin Convention and its successive amendments exclusively addressed asylum seekers and their allocation between member-states. To prevent them from filing applications in several EU countries, the regulation officiated that the asylum seekers first country of entry into the EU would be responsible for processing the asylum claims. Moreover, in order to facilitate enforcement, it made the fingerprinting of migrants and the sharing of this data within an EU wide system (EURODAC) mandatory. As a result, the Dublin Convention locked the EU's external and internal borders, land and sea, in a continuum for the purpose of migration management (Kasperek 2015: 61). Because rescuing migrants at sea entailed the “burden” of processing their asylum requests once these had been disembarked (Guild 2006), Dublin regulations further created an uneven geography of allocation of migrants within the EU, which became increasingly problematic as the numbers of arrivals by sea increased at the turn of the 2000s. The Dublin Convention thus came to operate

7. The containment of mobility has been implemented both through “humanitarian” programs such as the installation of refugee camps in North Africa and the Middle East, and the entrusting of border control on land, sea and at all points of entry to formal forms of international transport (such as ports and airports) to the EU's neighbouring countries. See Migreurop 2013 and Casas-Cortes et al. 2013.

8. This number is based on Fortress Europe data (<http://fortresseurope.blogspot.com>) as analysed by Fargues and his colleagues (2015) for the period 1988-April 2015 for which 18,403 deaths at sea were recorded, and IOM data (<http://missingmigrants.iom.int/mediterranean>) for May-December 2015, during which an additional 2,053 deaths were recorded.



Deaths at the Borders of Europe, shown by region and year. (Migreurop. Atlas of Migration in Europe. New Internationalist Publications, London: 2013)

for northern EU states as the internal dimension of the policies of externalisation that were being applied outside the EU: a policy of *internal externalization* through which an *inner rim of control* was erected in order to select and control migrants' movements. Furthermore, the Dublin Convention has played a key role in making southern EU coastal states principally reluctant to assist at sea and disembarkment.

Besides the strategies of non-assistance described above, coastal states have conditioned interception or assistance at sea (a process which, while legally distinct, has become increasingly blurry in practice) with swift deportation, thereby avoiding the burden of assistance on land. The latter strategy has been applied, for example, by Spain in relation to Senegalese migrants in 2006-2007 (Gagrielli 2008) and Italy in relation to Tunisian migrants in 2008 and 2011 (Cassarino 2013). Another related measure has been to couple interception/rescue with "push back" agreements which allow deportation of the intercepted/rescued migrants to the country of departure without allowing migrants to set foot on EU's firm land. Such an agreement was signed in 2009 between Italy and Libya (Cuttitta 2014), and effectively sealed off the central Mediterranean route until its collapse in the Arab uprisings. Through these different strategies, southern European coastal states have managed to stop "peaks" in migration across the sea all the while preventing migrants from filing asylum applications once arrived on land. In these and other instances, what we observe is that the "high tide" of control of, and assistance to, migrants across the EU territory that was enshrined by the Dublin regulation, could only be predicated on a "low tide" of assistance at sea, and vice versa.

The border regime defined by the Schengen and Dublin Conventions,

however, has been progressively undermined in the last few years. The above mentioned strategies to evade the responsibility for receiving migrants on EU territory were made inoperative by a succession of events and factors: the fall of the gatekeeper regimes in Tunisia and Libya in 2011, the outlawing of push back agreements by the European Court of Human Rights (ECHR) in 2012 (Cuttitta 2014), and the fact that the political context in the country of origin of the majority of migrants arriving over the last years in principle qualify them for asylum in the EU. As a result, coastal states were left with strategies of non-assistance as their only resort, thereby creating the conditions in which cases such as the left-to-die boat could occur. This, however, did not stem arrivals, but rather increasingly made apparent the EU states' reluctance – and inability – to provide any form of assistance to migrants on land too. Cracks in the Dublin logic and its uneven geography of allocation of migrants across the EU became increasingly apparent in particular with the 2011 ECHR decision to stop Dublin deportations to Greece because of the appalling reception conditions there (Kasperek 2015: 72). These cracks were widened by the record number of arrivals on the EU's shores, as of 2013, and by the effects of the global economic crisis, which, as Kasperek (2015: 73) notes, "affected the southern economies the strongest and impeded the ability of regional and national labour markets in the south to absorb illegalized migration." As a result, southern European coastal states were left with a mass of unexploitable migrants (Feher 2015) whose unruly movements across the continent have eventually brought the whole EU border regime to a breaking point. The contradictions brought about by this situation would explode in all their intensity in the aftermath of two tragic shipwrecks in October 2013, when Italy launched the unprecedented *Mare Nostrum* operation at sea, but also retreated from assistance on firm land, thereby opening the Pandora's box of the government of migration inside the EU.

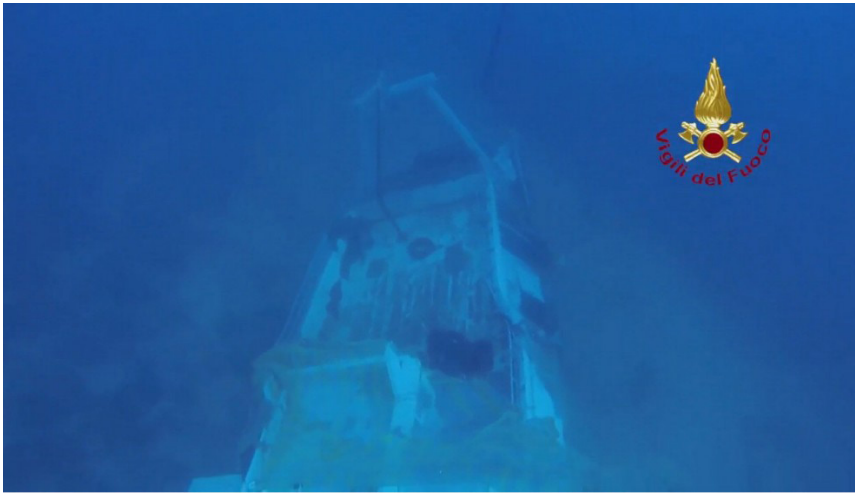
## THE TWIN SHIPWRECKS OF OCTOBER 2013: BETWEEN TRAGIC REPETITION AND SEA CHANGE

On October 3, 2013, a boat carrying more than 500 migrants sank less than 1km from the coast of Lampedusa, causing the death of at least 366 people and a public outcry.<sup>9</sup> Not only did this boat manage to cross the multiple layers of surveillance surrounding Lampedusa undetected, but the survivors of this incident have also claimed that a few hours before the boat capsized, 2 or 3 fishermen's ships ignored their calls for help (this has not been confirmed or disproven to date). On October 11, when another boat carrying over 400, that was taking on water after it had been shot by a Libyan vessel, the deployment of rescue was delayed for over 5 hours due to the aforementioned conflicts of responsibility between the Italian and Maltese Coast Guards. As the investigation we conducted together with the WatchTheMed network and journalist Fabrizio Gatti revealed, in the end, rescue vessels arrived one hour after the boat had sunk and more than 200 people had died.<sup>10</sup> Since both of these tragedies involved practices of non-assistance, they initially appeared as the tragic repetition of the left-to-die boat, with an even more exorbitant death toll.<sup>11</sup> In hindsight, however, we can see that these shipwrecks were indices of much deeper changes.

9. See <http://watchthemed.net/reports/view/31>

10. See <http://watchthemed.net/index.php/reports/view/33>

11. This was also Senator Tineke Strick's impression. Senator Strick had conducted an important investigation on the "left-to-die boat" case on behalf of the Parliamentary Assembly of the Council of Europe; however, after these two shipwrecks she denounced the fact that not only had justice not been delivered to the survivors of the left-to-die boat case, but that no lessons had been learned from it. See PACE 2014. important investigation on the "left-to-die boat" case on behalf of the Parliamentary Assembly of the Council of Europe, however after these two shipwrecks she denounced the fact that not only had justice has not been delivered to the survivors of the left-to-die boat case, but that no lessons had been learned from it. See PACE 2014.



The remains of a shipwreck that occurred near Lampedusa, on October 3, 2013. At least 366 people perished in the wreck. (Vigili del Fuoco)

First, these events signalled the impact of the ongoing shifts in the MENA region both in terms of intensity of the crossings and of their composition. As of summer 2013, escalating violence in Libya led a record number of people to attempt the crossing of the central Mediterranean. This trend was exacerbated by what would become the largest refugee crisis since the Second World War, the Syrian exodus. While until summer 2013, Syrians had mostly sought refuge in neighbouring countries,<sup>12</sup> the increasing numbers of refugees quickly exceeded both the capacity of humanitarian organisations and neighbouring countries alike. The lack of prospects for refugees and the progressive reintroduction of visa obligations by neighbouring countries (Awad 2014) led more and more refugees to attempt to reach the EU by crossing the Mediterranean. The tacit acceptance by the EU of humanitarian encampment outside its territory as the first “solution” to manage the Syrian exodus thus began to collapse. Most migrants involved in the October 11 shipwreck were from Syria. The refugees of the Syrian conflict accounted for the highest share of arrivals in Italy in 2013 and 2014, before, as we will see, their proportion went down in 2015 with the opening of the so-called “Balkan route.”<sup>13</sup>

Second, the massive crossings that we have witnessed since the summer of 2013 were in part enabled by, and contributed to, a shift in smuggling practices. The smugglers in Libya had been operating a well-established business since the beginning of 2000 and their business relied on stable relations with the Qaddafi regime (Monzini et al. 2015). The fall of the Libyan regime and the ensuing political fragmentation led to changes in smuggling practices that have made the conditions of the crossing more dangerous. The increasing level of violence affecting Libyan society has touched migrants as well, and they have been subjected to multiple forms of violence at different moments in the commerce of passage (AI 2015a, Monzini et al. 2015: 42). The Libyan political fragmentation has led to more volatile relations between smugglers and the factions in control of particular areas – as the shooting of the vessel in the October

<sup>12</sup> See UNHCR 2013. For useful overviews of the Syrian exodus see Crisp 2015.

<sup>13</sup> Syrians accounted for the highest share of arrivals in Italy by the end of 2013 (11.000 of 42.000 [Fargues 2015]) and continued to be the top nationality in 2014 (42.000 of 170.000 [UNHRC data])



11 incident exemplifies – but has also allowed new actors who offered lower prices but did not always possess the know-how of safe crossings to enter the smuggling market (Porsia 2015). This in turn has meant that to guarantee a profitable margin, smugglers had to resort to subpar navigation equipment or load more migrants on board their failing boats. The fall of the Qaddafi regime thus allowed to re-open the central Mediterranean route, but in an increasingly precarious condition, which was further exacerbated by the deteriorating political context in Libya.

Finally, following the October shipwrecks politicians were swift to prescribe more of the same failed policies, including: extra funding for the European Border Agency, Frontex, and increasing surveillance through the launch of Eurosur, the European Border Surveillance System (Heller and Jones 2014). On the policy level then as well, these initial measures gave the impression of repetition. However, faced with the impossibility of ignoring the public outcry caused by these shipwrecks, within two weeks Italy single-handedly launched what has been by far the largest “humanitarian and security” operation in the Mediterranean: *Mare Nostrum*.<sup>14</sup> By prioritizing the task of saving lives at sea, *Mare Nostrum* (MN) constituted a considerable break with the practices of non-assistance at sea described earlier. However, as we will see, MN’s extension of assistance at sea was conditioned on a shift in the logic of assistance on firm land.

#### MARE NOSTRUM: FROM THE BLURRING OF SECURITY AND HUMANITARIAN LOGICS AT SEA TO THE RETREAT OF ASSISTANCE ON LAND

One 135 meters-long amphibious vessel, two frigates, two corvettes, four helicopters, three planes and unmanned aerial vehicles patrolling for over one year just a few miles off the coast of Libya at the monthly cost of about 9.5 million euros: these figures provide an indication of the spectacular scale of the MN operation.<sup>15</sup> As Paolo Cuttitta rightly notes, the involvement of the Italian Navy in the management of migration was not in itself completely new, and border control had for several years come cloaked in the language of humanitarianism (Cuttitta 2014). The scale of MN, however, was unprecedented; so was the inscription of the humanitarian “duty” of saving lives at the core of MN’s mission which was coupled with the aim of bringing to justice those deemed responsible for putting their lives at risk, i.e. the smugglers. Thus MN constituted a clear shift from principled reluctance to operate rescue and the criminalisation of those who are engaged in it, such as fishermen and cargo ships, to proactively performing rescue and criminalising smugglers.<sup>16</sup>

This shift of mission produced several breaks in the way rescue and bordering at sea had been practiced until then. With *Mare Nostrum* the “tide” of rescuing activities reached an unprecedented expansion of the spatial deployment of the operations: whereas until then SAR operations in the undeclared Libyan SAR zone were a rare event and the majority of migrants’ boats reached Italian and Maltese coasts on their own or were just “escorted” for the last few nautical miles,<sup>17</sup> now, military vessels were continuously positioned in close proximity to the Libyan coast, and intercepted and rescued every migrants’ boat that they

14. See: [http://www.ansamed.info/ansamed/en/news/sections/generalnews/2013/10/15/Immigration-Italy-launches-Mare-Nostrum-400-saved\\_9466386.html](http://www.ansamed.info/ansamed/en/news/sections/generalnews/2013/10/15/Immigration-Italy-launches-Mare-Nostrum-400-saved_9466386.html). For our understanding of the *Mare Nostrum* operation we have drawn on are in dialogue with AI 2014; AEI 2014; Cuttitta 2014; Tazzioli 2014, 2015 and Carrera and den Hertog 2015.

15. For the list of units the Italian Navy deployed in the frame of MN, see <http://www.marina.difesa.it/EN/operations/Pagine/MareNostrum.aspx>

16. According to Italian Coast Guard data, 83,000 out of the over 170,000 migrants who reached Italy by sea in 2014 were rescued by MN means.

17. This has been the case in particular until September 2011, when the island of Lampedusa was declared “non-safe port” (see: <https://www.iom.int/statements/lampedusa-declared-non-safe-port-rescuing-sea-risk-concern-migrants-detention-ships>). After that decision, rescue operations in the high seas south of Lampedusa became increasingly common but became the rule only with *Mare Nostrum*. This has been confirmed to us by the Italian Coast Guard and border police during several interviews conducted between 2011 and 2015.



Admiral Guido Rando of the Italy Navy shows the operational area of Mare Nostrum (in red). (Photo Ansa)

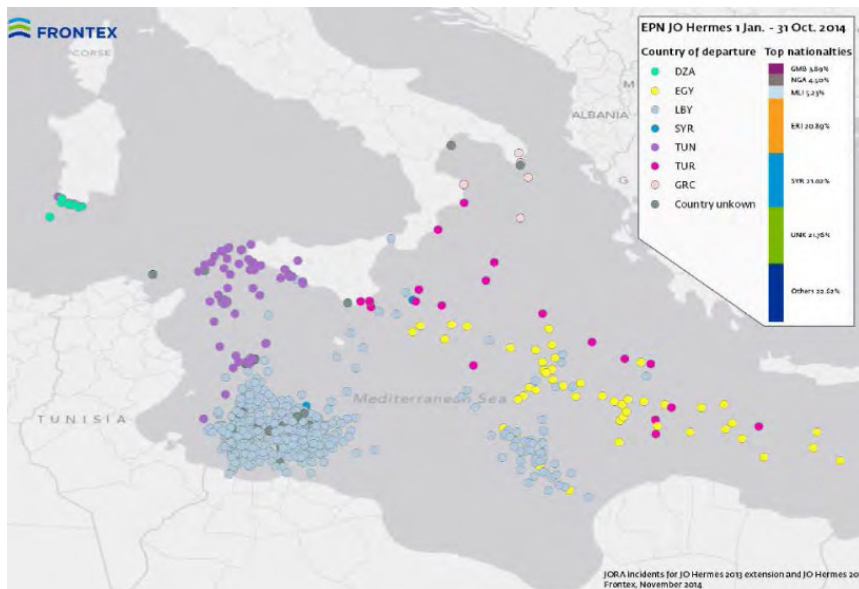
encountered. In practice, then, we might say that the jurisdictional lines of SAR zones that served to allocate responsibility for coordinating and operating rescue vanished, and the Italian state extended its claim to rights and obligations at sea far beyond its normally accepted perimeter (even into Libyan territorial waters), effectively giving the full meaning to the imperial undertones of the operation's Latin name "our sea," first used by the Roman empire, and later by the Italian fascist regime. Moreover, while disembarkation had constituted a thorny problem for many years, with MN migrants rescued in the central Mediterranean were taken to Italy by default.

As Martina Tazzioli has importantly highlighted (2014, 2015), MN managed to focus public attention on the good "scene of rescue," recasting the role of the state and the military as that of a merciful saviour. At the same time, however, this "scene" obscured other crucial aspects of the operation. First, it obscured the fact that, while a record number of people were rescued, a record number of deaths were also reported, and MN did not make the crossing less dangerous.<sup>18</sup> MN assets deployed close to the Libyan coast came to operate as a "half-way bridge to Europe,"<sup>19</sup> which still forced migrants to resort to the service of smugglers for the first stretch of their journey. Smugglers in turn provided this service with even more precarious and unseaworthy means, counting on MN's assets to rescue migrants swiftly.<sup>20</sup> During this initial section of the crossing, migrants were also at times intercepted by the diminished Libyan Coast Guard, which reportedly managed to conduct operations of "preventive refoulement" (Cuttitta 2014). That such a large operation geared specifically to rescue at sea could not put an end to deaths at sea only confirms that no rescue operation can undo the political violence of the EU border regime which forces migrants to resort to precarious means of crossing in the first place. The very term "rescue" might in this sense need to be replaced by a long descriptive denomination such

18. The mortality rate went from around 15/1,000 in 2013 (Fargues et al. 2014 and 2015) to 17.55/1,000 in 2014 (our calculation, see statistical annex).

19. <http://afrique-europe-interact.net/1205-1-Mare-Nostrum>

20. Fargues and his colleagues for example argue that "smugglers seem to have adopted a new strategy of deliberately meeting, instead of bypassing controls, but also using even more unseaworthy boats, loading them ever more, and providing less food and fuel" (Fargues 2015: 5, see also Porsia 2015: 77). In this MN probably heightened the low-cost and low-security versions of the commerce of passage that had begun to emerge before it as a result of the fragmentation of the Libyan political landscape. The interviews journalist Nancy Porsia has conducted further indicate that "smugglers also began to retrieve the boats abandoned by the Italian Navy after the rescue operations and re-use them for as many as six further trips" which evidently affected the seaworthiness of the vessels (Porsia 2015, p. 77).



A map of the transit boats detected by Mare Nostrum and Joint Operation Hermes. The different colors on the map correspond to different countries of departure. (Frontex)

as “the practice of preventing death of passengers whose lives have been put at risk by the EU’s migration regime and its production of illegality.”<sup>21</sup>

Our aim is not to simply debunk or verify the humanitarian discourse surrounding MN. Independent of truth or falsity, our interest is in considering MN’s humanitarianism in terms of the practices it enabled. We are interested in MN as a “moral technology” as elaborated by Didier Fassin (2012), as “spatial organizations and physical instruments, technical standards, procedures and systems of monitoring” which, as Eyal Weizman notes, despite being deployed in the name of alleviating human suffering, “have become the means for exercising contemporary violence and for governing the displaced, the enemy and the unwanted” (Weizman 2012: 4). Through this lens, we can see more clearly what MN actually produced beyond its stated “life saving” mission. In the frame of MN, saving lives and policing borders became one and the same thing. Not only did rescue operations allow the arrest of 330 alleged smugglers,<sup>22</sup> these operations also allowed for summary identification procedures to happen already onboard the military ships, which for a time became floating detention centres, extending onto the high seas the biopolitical regime of identification normally applied on firm land.<sup>23</sup> This, in turn, allowed for swift repatriation procedures for the nationals of countries with which Italy held readmission agreements, in particular Tunisians and Egyptians.<sup>24</sup> MN thus epitomised what William Walters has called the “humanitarian border,” in which the limit between security and humanitarian logics is increasingly blurred (Walters 2011: 138).

Finally, the good scene of rescue ended at the harbour for all those migrants who were not deported and who, after disembarkation, were stranded for months in different types of camps waiting for the assessment of their asylum request, or left with no other choice than continuing their trip. The flip-side of Italy’s extension of its sovereign “privileges” at sea was in fact the retrac-

21. We thank the participants of our 20th of October 2015 presentation at the Maison Suger (FMSH) in Paris for spurring our reflection on the politics of the terminology of “rescue.”

22. <http://www.marina.difesa.it/EN/operations/Pagine/MareNostrum.aspx>

23. See: <http://dirittiefrontiere.blogspot.fr/2014/03/le-immagini-confermano-come-le-navi.html>

24. See Tazzioli 2014, 2015 and Cuttitta 2014. See also: <http://dirittiefrontiere.blogspot.it/2014/08/riprendono-le-prassi-illegali-di.html>



A migrant is fingerprinted onboard the ship San Marco in November 2013. (Polizia di Stato)

tion of its sovereign “duties” on firm land, i.e. the disinclination to fingerprint and assist rescued migrants once disembarked, thereby enabling their further movement across EU space.<sup>25</sup> As a result, of the more than 170,000 migrants who arrived in Italy only 64,625 filed an asylum application in the country (EUROSTAT data). However, more than a deliberate decision and congruous governmental practice, non-fingerprinting and enabling further movement should be understood as having emerged from, on the one hand, the resolute refusal by migrants to enter the Dublin system so as to be able to choose their final destination and, on the other, the tacit acquiescence of Italian authorities. The sound of the slogan “No fingerprints!” which resounded across the streets of Lampedusa in July 2013 when over two hundred Eritreans staged a protest against identification procedures, corresponds, in a distant echo, with the statement of an Italian Navy official: “it is impossible to force them when all refuse... and, moreover, it is finally a good solution for both, since they could move and Italy does not have to host them” (quoted in Tazzioli 2015: 77). Italian authorities, then, used migrants’ desire and struggle to continue their journey into other European countries – which continues in Lampedusa and elsewhere as we write – to get rid of as many people entitled to international protection as possible, *de-facto* unlocking the bond between land and sea that the Dublin system had created.<sup>26</sup> In other words, the “high tide” of assistance at sea within MN was predicated on the “low tide” of assistance on land.

This practice was not without consequences and caused ripple effects across the EU. As it had already happened following the arrival of Tunisians in 2011, intra-Schengen border checks were re-instated at the main points used by migrants to exit Italian territory towards other EU countries. In places like Ventimiglia,<sup>27</sup> Chiasso,<sup>28</sup> and the Brenner Pass,<sup>29</sup> renewed border checks, which in particular blocked “black” passengers, stirred a wave of protests from migrants and activists. While northern European states vocally deplored Italy’s lax atti-

25. See for instance <http://www.foxnews.com/world/2014/07/04/ap-analysis-italy-fails-to-fingerprint-thousands-migrants-despite-eu-law/>, <http://www.nytimes.com/2013/11/30/world/middleeast/out-of-syria-into-a-european-maze.html> and <http://www.unhcr.org/cgi-bin/texis/vtx/refdaily?pass=52fc6fbd5&id>

26. This was not something entirely new but has rather been an established strategy for managing migrants’ arrivals in the aftermath of the Arab Spring: already in February 2013 the Italian Ministry of Interior had interrupted the programs of humanitarian assistance for migrants arrived from Northern Africa since 2011 and had given them 500€ knowing well that many of them, left unassisted and with the money to buy a travel ticket, would have left to other European countries. See: <http://www.meltingpot.org/Emergenza-Nordafica-Chiusura-il-28-febbraio-500-euro-per.html#.VmOCCMp77KB>

27. See: <http://noborders2omiglia.noblogs.org/post/2015/09/22/we-are-not-going-back-il-comunicato-dei-migranti-migrants-statement-ita-fr-eng-ar/#more-292>

28. See: <http://www.meltingpot.org/The-NoBordersTrain-gets-to-Switzerland-European-asylum-not.html#.VmRi7Mp77KA>

29. See: <https://euobserver.com/beyond-brussels/128919>



tude, claiming that Italian authorities were in contravention with EU regulations and unduly exporting the strain on their asylum system to their European partners,<sup>30</sup> the Italian government retorted that migration was a “European problem” and that Rome could not bear alone the “burden” of providing for all the migrants who reached the Italian coasts. At stake in this tug-of-war was essentially the attempt by EU institutions and northern states to reverse the tide on land and sea: ending assistance at sea and forcing Italy to reinstate orderly assistance on firm land. EU politicians such as the UK Foreign Office Minister Lady Anelay echoed the Italian far-right in denouncing MN as a “pull factor” for people to cross the Mediterranean, thereby justifying her government’s refusal to fund the continuation of the operation.<sup>31</sup> The European Commission pledged to foster a more limited European engagement in the central Mediterranean with a new Frontex operation that would be called Triton. On land, Italy was further pressured to step up its fingerprinting efforts and reinstate the processing of asylum applications.<sup>32</sup> During its EU presidency, Italy demonstrated its diligence, taking the lead in an EU-wide policing operation labelled *Mos Maiorum* in mid-October.<sup>33</sup> In late October, a few days before the beginning of the Triton operation and the simultaneous phasing out of *Mare Nostrum*, a circular by the Italian Ministry of Interior was leaked that requested local police forces to use “renewed care” in identification procedures, even if such a procedure required the use of force.<sup>34</sup> Finally, Italy took on a leading role in seeking to re-establish control over migration before the crossing of the sea, in particular through the “Khartoum Process” which was initiated through a high-level meeting between the EU and 28 African states in November 2014 and was dedicated to managing the movements of migrants coming from the Horn of Africa.<sup>35</sup> This messy sequence of informal practices and EU wide negotiations demonstrates once again the inextricable link between the politics of migration on land and sea. Italy had challenged this link with operation MN and other EU member-states and institutions desperately sought to re-establish it. 2014 thus saw a phase of rapid tidal change in the politics of bordering and (non-)assistance across land and sea. 2015 would prove even more volatile, leading to contradictory currents and increased turbulence which would prove deadly for migrants.

#### FROM JANUARY TO APRIL 2015: THE RETREAT OF STATE-LED ASSISTANCE AT SEA AND THE PRIVATIZATION OF RESCUE

The phasing out of *Mare Nostrum* in November 2014 and the beginning of the far more limited Frontex-led *Triton* operation<sup>36</sup> was unanimously criticised by several human rights organisations who predicted that the change would not lead to fewer crossings but rather to more deaths.<sup>37</sup> United Nations Rapporteur on Migrants Rights, François Crépeau, denounced the logic of ending rescue at sea on the grounds that it constituted a pull-factor amounting to using deaths at sea as a deterrent.<sup>38</sup> To this criticism, the European Commissioner Malmstrom as well as Frontex officials<sup>39</sup> responded on several occasions that *Triton* should not be considered a replacement of MN as it had radically different operational aims and means. *Triton* had a much smaller budget – initially 2.9 million euros per month – and fewer available assets which were patrolling a smaller area

30. See: <http://www.thedailybeast.com/articles/2014/08/26/italy-s-latest-export-is-refugees-and-the-rest-of-europe-is-not-happy.html>

31. See: <http://www.theguardian.com/politics/2014/oct/27/uk-mediterranean-migrant-rescue-plan>

32. See: [http://www.lemonde.fr/les-decodeurs/article/2014/10/31/triton-la-nouvelle-operation-de-surveillance-des-frontieres-europeennes\\_4515022\\_4355770.html#8ri8uZirwT7riMP1.99](http://www.lemonde.fr/les-decodeurs/article/2014/10/31/triton-la-nouvelle-operation-de-surveillance-des-frontieres-europeennes_4515022_4355770.html#8ri8uZirwT7riMP1.99)

33. <http://www.aljazeera.com/indepth/features/2014/10/eu-launches-operation-track-down-migrants-2014101214057473720.html>

34. The circular was followed by documented cases of police violence during fingerprinting procedures. See <http://www.meltingpot.org/Identificazioni-umanitarie-Violenze-sul-corpo-dei-migranti.html>

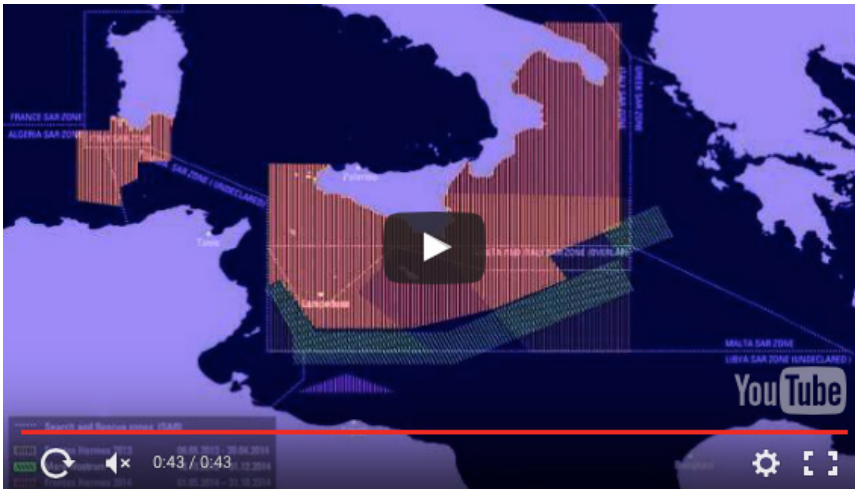
35. See Statewatch, “The ‘Khartoum Process’: beefing up borders in east Africa” 7 October 15 <http://www.statewatch.org/news/2015/oct/khartoum-process.htm> and ARCI, “Diplomatie italienne avec l’Érythrée : sur le dos des migrants?” *Mediapart*, 12 August 2015, <https://blogs.mediapart.fr/migreurop/blog/120815/diplomatie-italienne-avec-lerythree-sur-le-dos-des-migrants>

36. Frontex has been conducting “joint operations” to police the Central Mediterranean since 2006. Through its mobile patrols, Frontex effectively extended the EU bordering practices in the high seas. The first joint mission *Nautilus* was replaced by *Hermes* after the fall of the Ben Ali regime in January 2011 and in response to the several thousands of Tunisians who crossed the sea. *Hermes* was in turn replaced by *Triton*, which officially started on the 1st of November 2014.

37. <https://www.amnesty.org/en/latest/news/2014/10/italy-ending-mare-nostrum-search-and-rescue-operation-would-put-lives-risk/> and <http://www.hrw.org/news/2014/10/02/dispatches-honor-lampedusas-dead-sustaining-boat-rescue>

38. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15239&LangID=E>

39. <http://frontex.europa.eu/news/frontex-launches-call-for-participation-of-the-eu-member-states-in-joint-operation-triton-b9nupQ>



An animated map of bordering and rescue operations in the central Mediterranean between 2013 and 2015. (Forensic Oceanography)

extending up to thirty nautical miles from Lampedusa.<sup>40</sup> Moreover, the aim of *Triton* was border control and not rescue at sea, and it thus involved a very different spatial and operational logic: instead of proactively patrolling the waters immediately off the Libyan coast as assets within MN had, SAR activities were now only to be operated as a secondary outcome of its border patrols, and Frontex assets would only be deployed towards SAR operations if they were called upon to do so by the Italian Coast Guard. If MN signalled the flowing of state sovereignty at sea, *Triton* signalled its tactical retreat, the rapid ebbing of assistance at sea. Comparing the zone in which most rescues were conducted in 2014 as indicated on the map in figure... with the patrol zone of Frontex's *Triton* operation indicated in figure..., one could only be left wondering about the fate of all the migrants' boats that would soon encounter situations of distress in this zone but risked being left unassisted.<sup>41</sup>

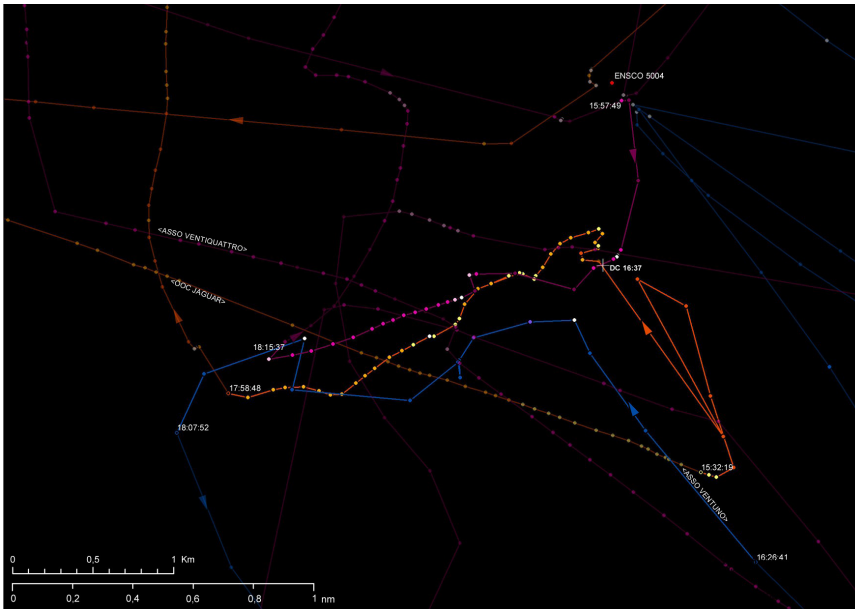
In the first five months of 2015, the considerable gap in rescue capabilities left by MN's (non-)replacement by *Triton* was partially filled by the massive recourse to shipping vessels as the agents of rescue operations.<sup>42</sup> The commercial shipping community had already emerged as a crucial actor during MN, when it started to be involved in rescue operations on an unprecedented level<sup>43</sup> but with the ending of *Mare Nostrum*, it took on an even more prominent role: of the 39,250 people rescued by May 20, 2015, 11,954 were rescued by cargo ships. This represented 30% of the total of the rescued people, thus making the shipping industry the first actor operating rescue in the central Mediterranean. Long opposed and criminalized as part of the politics of non-assistance, the "privatisation" of rescue activities was now not only encouraged but was actively called upon by the Italian Coast Guard. The latter, however, as established by the international legislation on Search and Rescue, still maintained the full control and coordination of SAR operations even in these cases of rescue by proxy. As a result, the scope of state intervention was not diminished, since the Italian Coast Guard actually extended its "SAR capabilities." In fact, instead of the

40. See: <https://euobserver.com/justice/125945>

41. We should note that the complete eclipse of the Italian Navy was short lived. After it discontinued *Mare Nostrum*, it launched a smaller scale operation as of March 12, 2015, labelled *Mare Sicuro*. While its operational zone appears to have included the area close to the Libyan coast, *Mare Sicuro*'s aim was not explicitly that of rescue (see <http://www.marina.difesa.it/cosa-facciamo/operazioni-in-corso/Pagine/MareSicuro.aspx>) The Italian Navy remained a prominent actor in the operation of rescue throughout the year, rescuing close to 10,000 up to the 20th of May and 27,000 by the 26th of October 2015 (see Italian Coast Guard data in the annex).

42. We analyze in more detail the role of the shipping industry in rescue at sea in Pezzani and Heller 2015.

43. According to the data compiled by the Italian Coast Guard, commercial vessels rescued 42,061 people in 2014, representing 25% of the total number, second to the Italian Navy.



Map of AIS tracks of vessels surrounding the location of the April 12, 2015 shipwreck (DC) off the coast of Libya, in which more than 400 people died. The frantic tangle of AIS ships' tracks visualized above, typical of this kind of operation, offers a powerful trace of the dramatic moments of search and rescue and points to the disruption of commercial traffic. GIS analysis: Rossana Padeletti for Forensic Oceanography.

“privatisation” of rescue, we might speak in this instance just as adequately of the temporary “nationalisation of commercial shipping” to operate SAR.<sup>44</sup> This development confirms Sasskia Sassen’s argument that “privatisation” should not be equated with a simple withdrawal of the state from its various regulatory functions, but rather understood as its “repositioning [...] in a broader field of power” (Sassen 2002: 173-4). While commercial vessels have contributed to saving thousands of people, their involvement has also posed serious challenges in terms of safety. Commercial ships are not designed to safely approach boats that are much smaller, overcrowded and unstable. Furthermore, they often have a very limited crew, who are not specifically trained nor equipped to carry out the extremely perilous operations necessary to rescue an overcrowded boat on the open seas. As such, and without diminishing the importance of the efforts of the shipping community, it is not surprising that their massive involvement in rescue operations contributed to the two April 2015 shipwrecks, the largest to have occurred in the Mediterranean in recent history.

On April 12, 2015, around 4 in the afternoon, over 400 people died while several tug boats were directing themselves to rescue the passengers in distress. According to the survivors, the boat capsized when people onboard panicked while the tug boats were approaching them (the *Asso 21* and *24*, and *OC Jaguar* around 4 PM). Barely a week after, on April 18, 2015, over 800 people died in a shipwreck that occurred while the *King Jacob*, a 147m long cargo ship, was directing itself to rescue the passengers in distress. According to the testimonies we have collected, the boat driver rammed into the cargo ship when the latter turned on its spotlights.<sup>45</sup> While we are currently investigating these cases

44. We thank Eyal Weizman for suggesting this formulation.

45. We should note that commercial vessels operating such difficult rescues is clearly a cause in assistance becoming deadly; state operated ships have also caused death at the moment of rescue. See the 5th of August incident involving the Irish ship *LÉ Niamh* already mentioned in note 4.

further, it is clear that despite their intentions, the commercial vessels became not merely involved in the rescue efforts, but in the sequence of events that led to the situation of distress and ultimately death of the migrants. Stuck between the shifting practices of smugglers whose operational mode had been adapted to the presence of MN on the one hand, and the EU policy makers' reluctance to provide assistance at sea on the other, the excessive mobilisation of private vessels for rescue operations led to *assistance becoming deadly*. In the process, it is as if the two "layers of sea" that had been held separate by the EU's hierarchical mobility regime and the politics of non-assistance – the first smooth and speedy for privileged passengers and the goods transported by the shipping industry; the second slow and deadly for the "undesirables" of the earth (Agier 2011) – had collapsed into one another again, violently rubbing against each other. As a result, the zigzag movements of commercial ships operating rescue, captured as they were by automatic vessel tracking systems, increasingly came to resemble those of migrants.

The ebbing of assistance at sea resulting from the suspension of MN and its (non)replacement by *Triton* was thus a murderous policy, which was implemented with full knowledge of the deadly effects it would produce. The data on arrivals, crossing and deaths at sea for the first four months of 2015 tragically confirmed the predictions of human rights organisations: while in the first four months of 2014, more than 26,000 had crossed and 50 deaths had been recorded, in the same period of 2015 an almost identical number of crossings had occurred, but the number deaths had increased to 1,687. The probability of dying at sea had thus increased 30 fold, jumping from less than 2 deaths in 1000 crossings to 60 in 1000 (see statistical annex). Contrary to the claims of EU politicians who saw MN as a "pull factor," ending MN did not lead to fewer crossings, but to more deaths at sea and a higher mortality rate. Regardless of whether the "high tide" of MN had proven untenable, what is clear is that the "low tide" of *Triton* and its spectacularly deadly consequences could not be maintained within the regime of the "humanitarian border." Thus, exposed to the ensuing protests of activist groups and non-governmental organisations, and desperate to resolve the contradictions between its own conflicting imperatives, the EU border regime of (non)assistance and control on land and sea took yet again another direction.

#### POST-APRIL 2015 SHIPWRECKS: THE DE-COUPLING OF HUMANITARIAN AND SECURITY LOGICS AND THE "TROIKASATION" OF MIGRATION MANAGEMENT

Like the twin October 2013 shipwrecks, the twin April 2015 shipwrecks signalled another wave of impressive shifts in rescue and bordering practices. A first impressive shift has been the dramatic decrease in the rate of mobilisation of commercial ships for the purpose of rescue operations: the number of people rescued by commercial ships went from 14,796 in the first six months of 2015, to only 705 more in the following six (Italian Coast Guard data, see annex). Clearly, other actors stepped in to fill the gap in rescue capability still left open after the end of MN. First of all, Frontex's *Triton* operation was impressively

46. See AI 2015b for a summary of this institutional process. For the extension of Frontex see: <http://frontex.europa.eu/news/frontex-expands-its-joint-operation-triton-udp-bHP>

47. Such an admission is also implicit in Frontex's May 26 2015 press release, in which Fabrice Leggeri stated: "We have dramatically increased the deployment levels in the Central Mediterranean to support the Italian authorities in controlling its sea borders and in saving lives, too many of which have already been tragically lost this year." <http://frontex.europa.eu/news/frontex-expands-its-joint-operation-triton-udp-bHP>

48. For the conceptual and legal distinction between smuggling and trafficking, see Monzini et al 2015. Monzini also underlines how the actual practices of the "actors practicing the commerce of illegalized passage" often blur the practices of smuggling and trafficking. See also Guilfoyle 2009.

49. [http://www.nytimes.com/2015/04/23/opinion/matteo-renzi-helping-the-migrants-is-everyones-duty.html?\\_r=2](http://www.nytimes.com/2015/04/23/opinion/matteo-renzi-helping-the-migrants-is-everyones-duty.html?_r=2)

50. In fact, the rhetoric against smugglers has been a recurrent presence in the debate around migration at sea at least since the beginning of 2000 (see Cuttitta, 2014) and was also, as we argued above, at the heart of *Mare Nostrum's* mission, but after April 2015 it gained a renewed prominence.

51. The April 23 statement by the EU Council mentions in particular the commitment to "undertake systematic efforts to identify, capture and destroy vessels before they are used by traffickers," to "disrupt trafficking networks, bring the perpetrators to justice and seize their assets," through swift action by Member State and EU agencies. To this effect, Federica Mogherini, the EU's Chief foreign and security policy coordinator, was "invited to immediately begin preparations for a possible CSDP (Common Security and Defence Policy) operation."



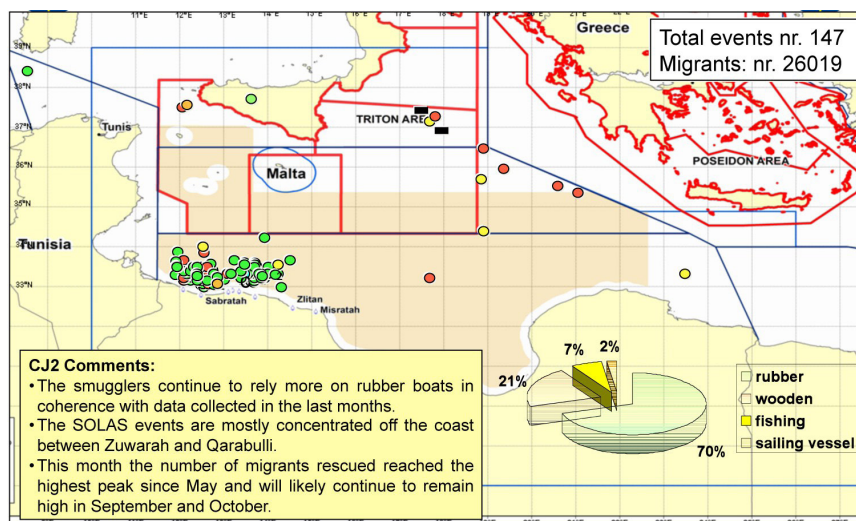
expanded. On May 13, 2015, the European Commission declared that “search and rescue efforts will be stepped up to restore the level of intervention provided under the former Italian ‘Mare Nostrum’ operation.” On May 26, Frontex adopted a new operational plan for Operation *Triton*, with an increased budget, additional assets and an expanded operational area from 30 up to 138 nautical miles south of Lampedusa, almost reaching the extent that had been covered earlier by MN.<sup>46</sup> The expansion of Frontex’s operation in the central Mediterranean in the aftermath of the April shipwrecks can be seen as an implicit admission of guilt by the EU for its deadly policy of retreat.<sup>47</sup> Nevertheless, *Triton* did not become a Europeanised *Mare Nostrum* overnight. *Triton* remained first and foremost a border control mission, and rescue continues to be a by-product of this primary mission. As such, Frontex assets continued to not be proactively positioned close to the Libyan coast. Furthermore, the situation in 2015 was markedly different in that the extension of *Triton* was accompanied by the deployment of other novel operations at sea: the military EUNAVFOR MED operation on the one hand, and non-governmental rescue vessels on the other.

EUNAVFOR MED emerged as the answer to the dilemma that the EU policy makers faced in the aftermath of the April shipwrecks: *how not to save migrants – which would allow them to enter EU territory in great numbers at a time of economic downturn – without letting them die – which is untenable in the face of public opinion?* The essential outlines of the answer to this apparently unresolvable question were provided on April 22, 2015 by the Prime Minister of Italy Matteo Renzi, in a New York Times OP-ED. The culprits for the unprecedented loss of lives in the Mediterranean, Renzi wrote, were the ruthless Libyan “traffickers” – not smugglers<sup>48</sup> – the “slave traders of the 21st century.” In order to stop shipwrecks, then, their vessels should be put “out of operation” and those who operate them “brought to justice.”<sup>49</sup> While this line of argument of course totally confuses causes and effects, ignoring the fact that it is the very migration regime that forces migrants to resort to traders in the commerce of illegalised passage in the first place, it quickly attracted the consensus of EU policy makers.<sup>50</sup> The very same day that Renzi’s article went to press, the EU Council committed to fulfilling these objectives and a project for an EU-wide military operation targeting “traffickers” was formulated.<sup>51</sup> In the following weeks, it was further defined according to three operational phases, ranging from surveillance activities, interception and destruction of vessels used for smuggling on the high seas, to direct military action against smugglers inside Libyan territorial waters.<sup>52</sup> From the formal beginning of EUNAVFOR MED on June 22., 2015, the mission’s command started coordinating the several military vessels that had been deployed by different states in a more or less chaotic manner in the immediate aftermath of the April shipwrecks.<sup>53</sup> With at least five planes and four ships, deployed by twenty-two different countries on a rotational basis close to the Libyan coast, EUNAVFOR MED came to reconstitute the naval force that the end of MN had left vacant.<sup>54</sup> This time, however, rather than a “humanitarian and military” operation similar to MN, at work was “a police operation with military means,” as Rear admiral Hervé Bléjean, the Deputy Operation Commander in the Mediterranean, describes it; “the adversaries,” he

52. Ian Traynor, “EU draws up plans for military attacks on Libya targets to stop migrant boats,” *The Guardian*, 10 May 2015, available at <http://www.theguardian.com/world/2015/may/10/eu-considers-military-attacks-on-targets-in-libya-to-stop-migrant-boats> (accessed May 2015). See Mogherini’s statement at the UN Security Council on the 11th of May here : [http://eu-un.europa.eu/articles/en/article\\_16189\\_en.htm](http://eu-un.europa.eu/articles/en/article_16189_en.htm) For the description of the operation as it was put into effect, see here: [http://www.eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/pdf/factsheet\\_eunavfor\\_med\\_en.pdf](http://www.eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/pdf/factsheet_eunavfor_med_en.pdf)

53. In its July 2015 statement “A Safer Sea,” Amnesty International summarizes this deployment: “A number of governments decided to deploy naval and aerial assets outside Operation *Triton*, in national humanitarian operations to assist refugees and migrants in peril at sea. On 5 May, the British flagship HMS *Bulwark* reached the central Mediterranean to assist refugees and migrants at sea under the UK operation “Weald,” together with three Merlin helicopters. It was followed on 7 May by the German Navy ships *Berlin* and *Hessen* and later in May by the Irish ship *Lé Eithne*. Within a few days of reaching the central Mediterranean, they all started assisting refugees and migrants” (AI 2015b). While most of these assets (or their replacement) came under EUNAVFOR MED command, a notable exception has been the Irish assets that remained independent within Ireland’s “Pontus” operation. This operation retained a clear humanitarian priority, rescuing about 7000 migrants in the Mediterranean between May and September 2015 (see <http://www.military.ie/ie/an-tseirbhis-chabhlaigh/nuacht-agus-imeachtaí/single-view/article/thursday-24th-september-deployment-of-le-samuel-beckett-to-mediterranean/?cHash=3b0ac2113f4cc3f25847862e9bc808ba> ).

54. [http://eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/press-releases/2015/0728\\_en.htm](http://eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/press-releases/2015/0728_en.htm) and [http://www.eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/pdf/factsheet\\_eunavfor\\_med\\_en.pdf](http://www.eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/pdf/factsheet_eunavfor_med_en.pdf)



Map indicating Search and Rescue areas (dark blue line), Frontex's Triton and Poseidon area (red), EU NAVFOR MED's (salmon), joint area of operations (light blue), and the location of interception and rescue missions near the Libyan coast during August 2015. (JO Triton/MRCC ROME)

contends, “are not combatants but criminals, and the aim is not to eliminate them but to bring them to justice.”<sup>55</sup> Saving the lives of migrants has been far from the mission’s operational priority. This was clearly illustrated when it was revealed that the UK’s HMS *Entreprise* had not rescued a single migrant after almost eight weeks of deployment on intelligence-gathering missions near the Libyan coast.<sup>56</sup> While it appears that after the summer more rescue operations were conducted, and by the end of 2015 (six months of activity) 8,500 people had been rescued by assets operating within EUNAVFOR MED,<sup>57</sup> this number pales in relation to the rescue operated by Médecins Sans Frontières (MSF) for example, which in eight months of activity rescued 20,129 people.<sup>58</sup>

While the operational priority of providing assistance to migrants at sea was stripped of the mission of state-led operations Triton and EUNAVFOR MED, non-governmental humanitarian actors took the initiative to launch a series of rescue operations, constituting a veritable civilian rescue flotilla (Stierl 2015). Here as well, while the involvement of non-governmental actors at sea was not entirely new (see Cuttitta 2014 and Pezzani 2015), it took on an unprecedented scale. In early April 2015, MSF (Holland) had already announced that it would join the Migrant Offshore Aid Station (MOAS, in operation since 2014) to provide medical assistance onboard the *Phoenix*.<sup>59</sup> In the aftermath of the April 18, MSF launched two further rescue missions of its own on-board the boats *Bourbon Argos* (MSF Belgium) and *Dignity I* (MSF Spain).<sup>60</sup> In May 2015 *Seawatch*, an independent first-aid and rescue operation initiated by a group of German citizens, sailed to the central Mediterranean. Finally, an additional initiative of this kind called *SOS Méditerranée* is soon to begin its first rescue mission.<sup>61</sup> The main patrolling and rescuing zone of the vessels constituting this civilian flotilla lies immediately outside the Libyan territorial waters, between Tripoli and Zuwara, an area that had been covered by MN. While the civilian rescue activities have remained trapped in the “half-way bridge” conundrum that had

55. Quoted in his interview in *Le Nouvel Observateur*, 2 November 2015. URL: <http://tempsreel.nouvelobs.com/monde/migrants/20151102.OBS8685/les-passeurs-sont-souvent-des-migrants-auxquels-on-offre-le-passage-gratis.html>

56. <http://www.independent.co.uk/news/uk/home-news/british-ship-sent-on-mediterranean-migrant-mission-has-not-rescued-a-single-person-10450375.html?printService=print> 57. [http://eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/news/20160111\\_02\\_en.htm](http://eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/news/20160111_02_en.htm)

58. <http://www.msf.org/article/migration-msf-ends-search-and-rescue-operations-central-mediterranean-after-20129-people>

59. <http://www.msf.org/article/msf-moas-launch-mediterranean-search-rescue-and-medical-aid-operation>

60. See <http://www.msf.org/topics/mediterranean-migration>

61. See [sea-watch.org/en/](http://sea-watch.org/en/) and <http://sos-mediterranee.org/>. For a more detailed analysis of these missions and the distinctions between them, see Stierl 2015.

already proven its limits in the frame of the MN operation – as their intervention could not prevent migrants from resorting to smugglers in order to reach them – their impact has been impressive on both symbolic and operational levels. Because MSF's action is associated with medical assistance in a war context, its intervention signalled that both the scale of deaths and the militarisation of borders that lead to them have turned the Mediterranean into a war zone. This war zone, however, is created by the EU member-states and their policies, and as such MSF's discourse can be described as a "reluctant humanitarianism": it denounces the retreat and inaction of states that has followed the termination of MN and calls on them to redeploy a large-scale SAR operation immediately. In the absence of such an operation, MSF took it upon itself to intervene where states were failing to do so, all the while (like Seawatch) reiterating that saving migrants in distress at sea could not put an end to deaths as long as the exclusionary EU migration policy remained in place.<sup>62</sup> By the end of October 2015, non-governmental vessels had rescued over 18,000 people, accounting for 7.6% of all rescued people (see annex).<sup>63</sup> In the process, their operations denied states the monopoly over intervention in, and the monitoring of, the seas, thereby enabling civil society to claim its right to monitor the EU's maritime frontier. To the list of non-governmental initiatives, one would need to add the land-based initiative WatchTheMed and its Alarm Phone project (to which we have contributed), that might be seen as the maritime control rooms of this civil society flotilla. Together, these nongovernmental endeavours have transformed the ostensibly neutral space of the sea into a political arena in its own right.

In the aftermath of April 2015, we can see that the "high tide" of assistance and bordering has risen again to a level similar to that of MN, but this time, the Janus face of MN, humanitarianism and security, have been split into two: the humanitarian mission is operated by the civilian flotillas and the policing mission by EUNAVFOR MED and Frontex. However, both these faces continue to be bound together, in a "secret solidarity," to borrow Michel Agier's terms (2010), as the action of non-governmental humanitarian vessels has become integrated, despite their own agenda, with the militarised activities of states. This is exemplified by the view that has become common after civilian rescue vessels leave the scene of rescue. As those onboard gaze into the distance, they see a cloud of smoke rise from the sea: it's what's left of the boat on which rescued migrants had embarked after it has been blown to dust by a military ship nearby (fig ...). This points to a broader ambivalence of humanitarian practice today, which in the words of Michel Agier, is always at risk of becoming the "left hand of Empire," healing the wounds wrought by the violence of the right hand, and operating in tandem with a politics of containment aimed at the populations of the global south (Agier 2010).<sup>64</sup>

The redeployment of the humanitarian border in its de-coupled form following the April shipwrecks has not proven more effective than MN in stopping illegalised migrants from either crossing or dying at sea. While the rescue capacity guaranteed by the civilian flotillas and the re-deployment of state actors did somewhat diminish the danger of crossing in the second half of the year, 2,892 deaths have been recorded by the IOM in the central Mediterranean in

62. A particularly sticking example of MSF's communication is provided by its 20 April 2015 statement: <http://www.msf.org/article/msf-calls-large-scale-search-and-rescue-operation-mediterranean>

63. Between October and December 2015, with the onset of winter and the consequent lowering of the number of crossings, all of the civilian rescue vessels have suspended their operations in the Central Mediterranean. Several of them, however, have been redeployed to the Aegean, where crossings remain intense. See: <http://www.msf.org/article/migration-msf-ends-search-and-rescue-operations-central-mediterranean-after-20129-people>

64. As Paolo Cuttitta has reported during a recent conference in Palermo (Peace and Rights in the Mediterranean, 12–3 November 2015), this dilemma has been raised within MSF itself, where some of its members, following the group's usual tradition of painstaking self-criticism, have raised the question whether the substitution of states in their SAR duties was not allowing them to redirect the resources and assets normally allocated to rescue operations towards the military objectives pursued by EUNAVFOR MED.



After a rescue operation is complete, the migrants' boat is blown up by a nearby military vessel. (MSF)

2015. This figure is almost identical to that of 2014, and the mortality rate for both years is also comparable (see annex). Just as the effects of the Britain-led anti-slavery campaigns of the 19th century, the last 25 years of policies of closure and militarization demonstrate that repression of smuggling leads to changes in smuggling systems – the shifting of strategies and routes – rather than in their demise. In the meantime, such policies often increase the dangers for migrants in the process.

In fact, the one and only factor that has so far managed to significantly curb the danger of crossing in 2015 has not been a state or non-state operation at sea, whether aimed at policing the border or at rescuing people. The single event that has managed to make the crossing significantly safer for the first time in the recent history of trans-Mediterranean migration<sup>65</sup> has been the migrants' collective choice to change their route as of May 2015 from the central to the eastern Mediterranean, that is from a longer and much more dangerous route to a much shorter and relatively safer stretch of sea. While 806 deaths have been recorded this year in the eastern Mediterranean as well, this number is proportionally much lower in relation to the 856,723 arrivals in Greece than it would have been in the central Mediterranean, leading to a dramatic decrease in the overall mortality rate for the Mediterranean crossing as a whole from 15% in 2014 to 3.7% in 2015 (see annexe). This is, in relation to the figures that have been calculated to date, the lowest mortality rate in the last 15 years (see Fargues et al. 2015). Certainly, having a better chance of crossing the sea alive does not diminish either the human tragedies for those who do not succeed or the hardships migrants are facing once on land; yet acknowledging the crucial role played by migrants' collective refusal to risk their lives in the central Mediterranean, and the consequent opening of the Balkan route, challenges a recurrent framing of the current events according to which, as Sandro Mezzadra and Manuela Bojadžijev have argued, "migrants and refugees play a passive

65. At least since the beginning of the 2000s, see the data collected by Fargues and his colleagues (2013 and 2014).



role while states, governments, and European institutions are the active agents, called upon to intervene.”<sup>66</sup>

Beyond considering the changing scenario at sea and its impact on the danger of crossing in the aftermath of the April 2015 shipwrecks, in the scheme we have set for the articulation of land and sea, we must further consider the developments that have occurred on land during the same period. In order to do so, we ask: *how has the EU sought to prevent the repetition of the unravelling of the Schengen and Dublin regimes on land which had been caused by the extension of state-led intervention at sea through MN?* The ongoing crisis of Dublin and Schengen – both in relation to migrants arriving in Italy, and to the record number of people arriving in Greece since the summer 2015 – suggests, in fact, that the attempt to re-implement what we have called a process of *internal externalisation* has failed. With this failure, the accusations levelled against southern states of being unable – if not unwilling – to provide the degree of control demanded by the EU and its northern member-states has grown. Faced with this situation, within mostly the same succession of institutional meetings that have allowed for the redeployment of control at sea,<sup>67</sup> the EU has sought to re-inscribe control on firm land in a newly negotiated way. In short (see Kasparek’s contribution to this issue for further details), the EU has offered limited relocations of migrants from their first EU country of arrival – now labelled “frontline states” – thereby somewhat lifting the “burden” that Dublin regulations have imposed on them, in exchange for southern and eastern European states’ acceptance to re-instate control. This time, however, supervision of the actual implementation of these measures has been entrusted to EU agencies such as Frontex and the European Asylum Support Office (EASO). The personnel of these agencies have been deployed in higher numbers at the external borders of the EU with the aim of operating inside reception centres – now labelled “hotspots” – so as to ensure that fingerprinting and identification are effectively carried out, and “deserving” asylum seekers – a few of whom will be re-located – are efficiently sorted from “bogus” economic migrants who will be promptly expelled through repatriation agreements.<sup>68</sup> In this process, Frontex has gone from allegedly being a police force *at the service* of any European member state, to the executor of northern states’ will *against* the incompetence of their southern neighbours. We might refer to this move as the *troikaisation* of migration control since the increasing interference of the northern European states – in particular Germany, the European Commission and EU agencies – into Greece and Italy’s migration management echoes the highly uneven power relations exercised by the tripartite committee led by the European Commission, the European Central Bank and the International Monetary Fund, to govern the Greek “debt crisis” and crush the Syriza government in Greece.<sup>69</sup> The redrawing of economic and political boundaries at the EU level in the aftermath of the “debt crisis” has here been replicated at the level of migration management (see “Crisis” in *Keyword* in this issue). After being threatened with being kicked out the Eurozone in the Summer of 2015, at the turn of the year Greece finds itself threatened with forcibly exiting Schengen should it fail to reinstate control on migrants arriving on its shores.<sup>70</sup>

66. Bojadžijev, Manuela, and Sandro Mezzadra. 2015. “Refugee crisis’ or crisis of European migration policies?” FocaalBlog. 12 November. [www.focaalblog.com/2015/11/12/manuela-bojadzijeve-and-sandro-mezzadra-refugee-crisis-or-crisis-of-european-migration-policies](http://www.focaalblog.com/2015/11/12/manuela-bojadzijeve-and-sandro-mezzadra-refugee-crisis-or-crisis-of-european-migration-policies).

67. See in particular the “European Agenda on Migration” adopted by the EU Commission on the 13th of May 2015.

68. This new development mirrors those that have been occurring at the maritime border, where humanitarianism and policing, including and excluding have become ever more intertwined and inextricable from each other. For useful summaries on these shifts and hotspots in particular see: Migreurop, Avec les “hotspots,” l’UE renforce sa politique de refoulement des boat people, 21 July 2015 : <https://blogs.mediapart.fr/migreurop/blog/210715/avec-les-hotspots-l-ue-renforce-sa-politique-de-refoulement-des-boat-people-and-Statewatch>, Explanatory note on the “Hotspot” approach, <http://www.statewatch.org/news/2015/jul/eu-com-hotspots.pdf>.

69. To see this institutional assemblage at work, a cursory review of the European Commission’s 15th of December 2015 ‘Progress Report on the Implementation of the hotspots in Greece’ suffices: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/securing-eu-borders/legal-documents/docs/communication\\_-\\_progress\\_report\\_on\\_the\\_implementation\\_of\\_the\\_hotspots\\_in\\_italy\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/securing-eu-borders/legal-documents/docs/communication_-_progress_report_on_the_implementation_of_the_hotspots_in_italy_en.pdf) The plans to give to Frontex the status of a new European Border Police with powers to intervene in a member state “not effectively fulfilling its duty of defending the external border” have further highlighted this tendency. See: <http://www.euractiv.com/sections/global-europe/eu-mulls-plan-take-charge-europes-borders-320152>



October 30, 2015: The German President of the European Parliament Martin Schulz, accompanied by Greek Prime Minister Alexis Tsipras, visits the Greek island of Lesbos and the newly created hotspot at Morian. During the visit Schulz stated that he hopes “the Greek authorities here speed up as we need the hotspot as soon as possible (and) in an enlarged way.” (European Parliament Audiovisual Services for Media)

In addition to reinforcing the EU’s strategy of internal externalisation, the aim of re-erecting the EU’s outer rim of control has not been abandoned either. While the continuing chaos in the country makes enlisting Libyan cooperation impossible, this is not the case for Turkey, which has emerged as the main country of transit since summer 2015. To persuade the Turkish authorities to crack down on the crossing of illegalised migrants, the EU has offered Turkey 3 billion euros as well as additional assistance for the Syrians refugees who reside there. Moreover, the EU has offered to facilitate access of Turkish nationals to the EU through visa programs, and to resume negotiations over Turkey’s integration to the EU. All the while, the EU has suspended all criticism with respect to the Turkish regime’s treatment of its Kurdish population.<sup>71</sup> While it has proven recalcitrant,<sup>72</sup> at the end of 2015 Turkey demonstrated efforts to enforce tougher controls in the Aegean Sea. Unsurprisingly, and despite the increasing number of NGOs, activists, and humanitarian actors operating rescue missions in the same area of the Aegean Sea, these efforts have coincided with an increase in the cases of death at sea.<sup>73</sup> In addition, the EU Commission has presented a proposal to include Turkey in an EU-wide list of “safe countries” where migrants could be easily deported – a measure that the Greek government has already agreed upon.<sup>74</sup> Finally, as we write, Germany has taken command of a NATO operation in the Aegean Sea to “stem illegal trafficking and illegal migration,” thus ushering in a phase of de-coupled military and humanitarian operations that had so far only characterized the central Mediterranean.<sup>75</sup> The re-expansion of control at sea that we have witnessed since April 2015 has thus, this time, been coupled with an attempt – unsuccessful to date – to re-inscribe control on firm land within and around the perimeter of the EU. Under the unabashed command of the EU agency and northern EU member-states, the present regime constitutes successive rims of humanitarian sorting and milita-

70. <http://statewatch.org/news/2016/jan/eu-med-crisis-com-greece.htm>

71. <https://blogs.mediapart.fr/migreurop/blog/011215/ueturquie-enfermer-les-migrants-reprimer-les-mouvements-bombarder-le-kurdistan>

72. <http://www.euractiv.com/section/justice-home-affairs/news/erdogan-threatens-to-send-refugees-to-the-eu-by-plane-and-bus/>

73. On the increasing number of deaths in relation to changing practices of the Turkish authorities, see: <http://www.criticatoc.ro/left-east/inside-the-dirty-deal-between-turkey-and-the-eu/>, <http://www.theguardian.com/world/2016/jan/22/deadliest-january-45-refugees-die-boats-capsize-aegean> and <http://francoiscrepeau.com/domino-effect-turkeys-new-visa-rules-violate-the-principle-of-non-refoulement/>. The operation of MOAS, MSF (in collaboration with Green Peace this time), and Seawatch, which have been redeployed from the central Mediterranean to the Aegean at the end of 2015, have been bolstered by the activities of organisations such as Proactiva Open Arms which have specifically emerged to respond to the situation in the Aegean.

74. <http://www.statewatch.org/analyses/no-283-why-turkey-is-not-a-safe-country.pdf> <http://www.ekathimerini.com/205708/article/ekathimerini/news/hot-spot-work-intensifies-as-greece-agrees-to-recognize-turkey-as-safe-country>

75. [http://www.nato.int/cps/en/natohq/opinions\\_127972.htm](http://www.nato.int/cps/en/natohq/opinions_127972.htm)

rised bordering practices.

## CONCLUSION

October 3 and 11, 2013. April 12 and 18, 2015. These dates, like those of all the other major shipwrecks that have occurred at the maritime borders of the EU before them, do not simply punctuate the cruel and repetitive history of the EU migration regime. Each of these dates also announces a fundamental shift in the policies, practices and discourses that have continuously redefined this deadly border-zone; they mark the making of the Mediterranean into a laboratory from which new assemblages of territory, authority and rights have emerged at a remarkably fast pace. The October 3 and 11, 2013 shipwrecks triggered a rupture in the politics of non-assistance at sea through the launching of the military-humanitarian *Mare Nostrum* operation and the simultaneous suspension of assistance provided by the Italian state on firm land. The April 12 and 18, 2015 shipwrecks, instead, tragically revealed the deadly consequences of the EU member-states and institutions' attempt to reverse the MN regime by shrinking state-led assistance at sea and partially privatizing rescue. In turn, the twin shipwrecks of April ushered in the de-coupling of humanitarian and security logics at sea: the latter were performed through Frontex's *Triton* operation and the EUNAVFOR MED operation, and the former through the deployment of an unprecedented non-governmental flotilla for rescue missions.

The ruptures caused by each of these tragic events have thus certainly not remained confined to the space of the sea, but have run deep into the already fragile architecture of the EU and its border regime on land; they have expanded the fissures of a system that seems to have entered a perpetual crisis. While the arrivals of migrants on EU shores grew exponentially during the summer of 2015, northern EU states and EU institutions sought to force southern and eastern EU states to re-erect an inner rim of control through what we have called the *troikaisation* of migration management, all the while continuing to seek to enlist the cooperation in border control of the "transit" states that migrants en route to the EU cross on their way. Indeed, we can see the volatility of the changes over the last two years as the expression of a regime desperately trying to cope with its own contradictions but never quite managing to resolve them. For one, the humanitarian and securitised migration regime on land and sea is stuck between irreconcilable imperatives: it cannot stop people but it does not want to let them move; it cannot let them die but it doesn't want to save lives either. Within the current hierarchized and exclusionary migration regime, there will not be any resolution to these contradictions. If we come back to the paradoxical evolution to which we pointed at the onset of this article – namely, that of the shift from deaths by non-assistance to deaths through assistance – we can now say that there is only one way out of these equally deadly options: no assistance, but legal access. It is only when migrants are granted legal access to EU territory, and thus to safe means of transport, that the cycle of death may be brought to an end. Until this happens, the migration regime will continually be forced to adapt to the changes brought about by the unauthorized mobility of migrants and the shocks caused by tragic shipwrecks.

The volatile shifts and the desperate search to re-establish an equilibrium

that we have observed in the last few months may also be seen as the throes of an emergent regime. The unstoppable momentum gathered through the collective transgression of borders over the last year combined with the deepening of the rifts opened by the “debt crisis” in the architecture of the EU have in fact produced uncontrollable currents that seem to have brought the EU’s border regime, if not the whole of the Union, to a breaking point. Let’s remember that it took the migrant worker struggles and the oil crisis of the 1970s to bring the post-war guest worker regime to an end. What gradually replaced it was the regime of illegalized migration that has been the durable and structural feature of neoliberal economies of the global north. Similarly, we can reasonably formulate the hypothesis that the current crisis of the EU border regime, in the context of the global economic crisis, may lead to a new migration regime, which will be an inextricable dimension of the new phase of capitalism still in formation. Reasonable as it may be, this hypothesis is tainted with pessimism: historically, every new migration regime, while operating differently than its predecessor, has never ceased to deny the full recognition of migrants’ freedom and equality “before, at and after the border,” to paraphrase the advocates of border control. However, in this time of transition, the power of the current migrant struggles may still leave some room for optimism. For after the so-called “Athens’ spring” was crushed by the brutal reaction of the troika, in July 2015, the collective enactment of freedom of movement distinctive of the “long summer of migration”<sup>76</sup> (despite the efforts deployed by governmental agencies to quell it) has become the only spark of hope for a different Europe to emerge – a Europe in which the full recognition of freedom and equality is no longer bounded by race, class and state boundaries. Through their movements and struggles, migrants are fighting to realise this idea of Europe, which led them to risk their lives crossing the sea in the first place.

76. We borrow this expression from Kasparek and Speer (2015).



## STATISTICAL ANNEX

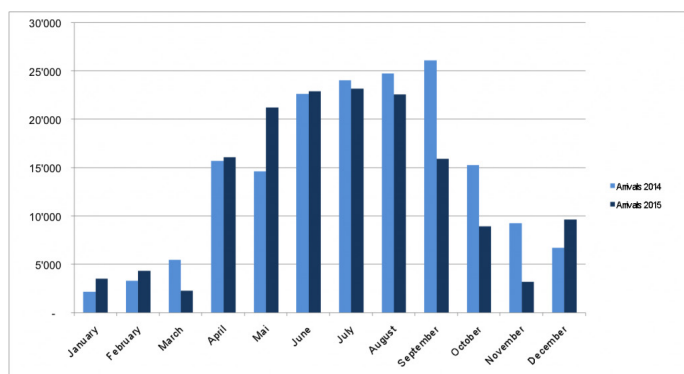
### I. Recorded migrant death and arrivals

Data sources:

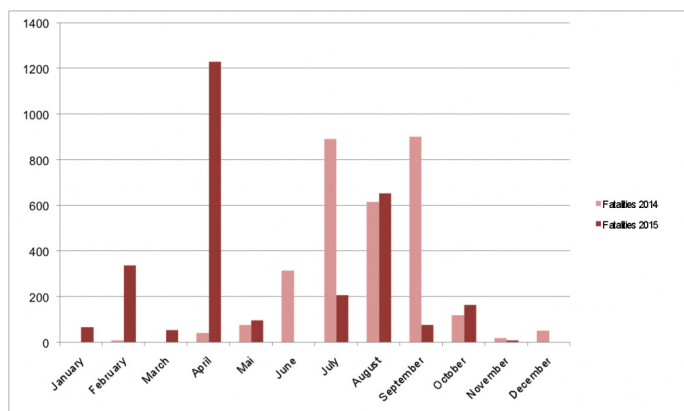
Arrivals: UNHCR data based on the agency's border activities, Ministry of Interior and Police data. Data available at: <http://data.unhcr.org/mediterranean/regional.php>

Recorded deaths: IOM, collected on the basis of statistical data from governments and other agencies, as well as NGOs and media. Available at: <http://missingmigrants.iom.int/mediterranean>

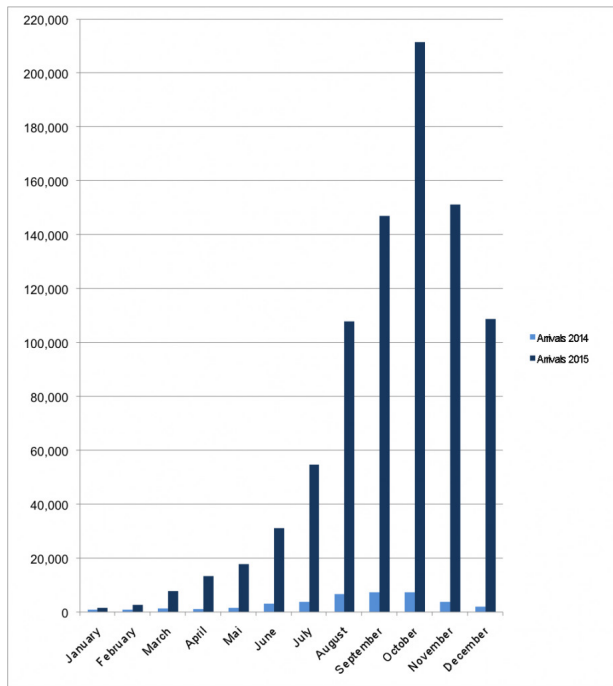
#### *Central Mediterranean*



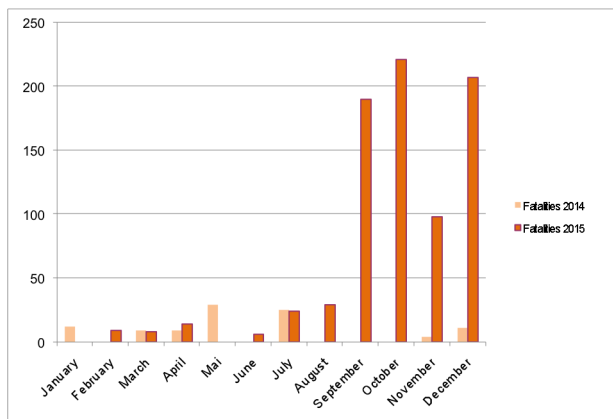
Migrant arrivals in the central Mediterranean, 2014–2015



Migrant deaths in the central Mediterranean, 2014–2015

*Eastern Mediterranean*

Migrant arrivals in the eastern Mediterranean, 2014–2015



Migrant deaths in the eastern Mediterranean, 2014–2015

## 2. Migrant mortality rate

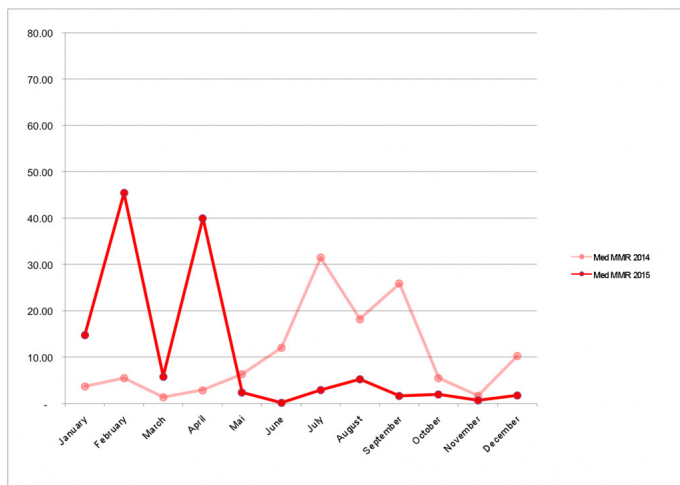
*Methodology*

A mortality rate is a measure of the number of deaths in a particular population per unit of time. To calculate the migrant mortality rate (MMR) which we can understand as a measure of the danger of crossing the sea, we calculate the proportion of migrants dying in relation to number of migrants who initially left (the sum of the live arrivals and deaths at sea). However, because neither all arrivals nor all fatalities are discovered in relation to illegalised migration – a phenomena that operates by definition in a partially hidden way –, the calcu-

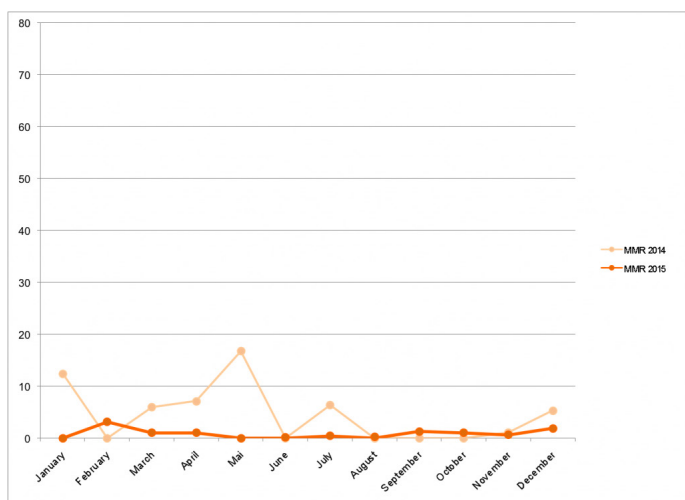
lation of mortality based on recorded arrivals and deaths is by necessity incomplete (see Carling 2007). Even though at present the Mediterranean is a highly monitored space and we can thus expect most deaths and arrivals to be recorded in the sources we rely on (UNHCR for arrivals and IOM for deaths), to date, no satisfactory solution to this methodological issue has been applied to migrant mortality at sea. As such the mortality rate calculated for this study should be seen as indicative of tendencies of the increasing or decreasing danger of crossing rather than a highly reliable measure. For a synthetic discussion of the different sources of data on deaths in the Mediterranean Sea, see Spijkerboer and Last 2014. For a discussion of the methodological difficulties concerning the calculation of mortality, see Heller 2015.

	WESTERN	CENTRAL	EASTERN	TOTAL
Fatalities 2014	58	3,038	99	3,195
Arrivals 2014	4,348	170,100	41,038	215,486
<b>MMR 2014</b>	<b>13.16</b>	<b>17.55</b>	<b>2.41</b>	<b>14.61</b>
Fatalities 2015	74	2,892	806	3,772
Arrivals 2015	4,408	153,842	856,723	1,014,973
<b>MMR 2015</b>	<b>16.51</b>	<b>18.45</b>	<b>0.94</b>	<b>3.70</b>

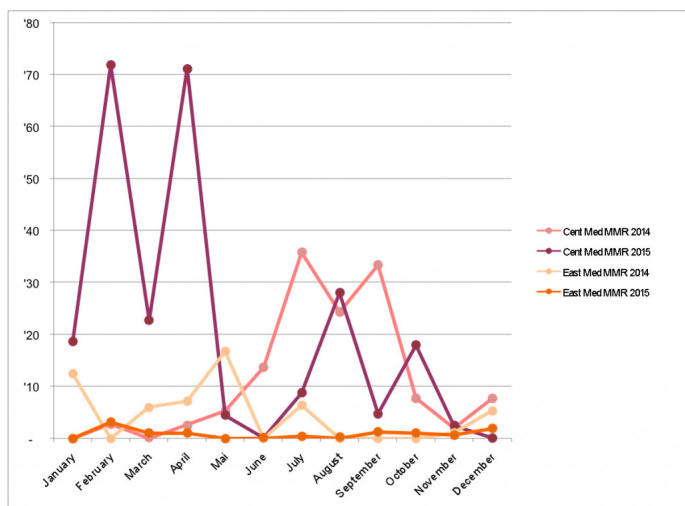
Annual fatalities, arrivals, and migrant mortality rate (MMR) in areas of the Mediterranean Sea, 2014–2015



Migrant mortality rate in the central Mediterranean, 2014–2015



Migrant mortality rate in the eastern Mediterranean, 2014–2015



Migrant mortality rate in the Mediterranean, 2014–2015



## 3. Interception/rescue operations by actor in the central Mediterranean

Data source: Italian Coast Guard

2014 data

**MIGRANTS RESCUED AT SEA – YEAR 2014**

MIGRANTS RESCUED BY:	Units	Persons
ITALIAN NAVY	459	82.952
ITALIAN COAST GUARD	243	38.047
MERCHANT SHIPS	254	42.061
ITALIAN CUSTOM POLICE	27	1.601
OTHERS	15	1.709
<b>TOTAL</b>	<b>982*</b>	<b>166.370</b>

\*Some boats have been rescued by units of the Italian Coast Guard together with other Military/Force of Police.

Migrants intercepted/rescued in the central Mediterranean, 2014

2015 data

**MIGRANTS RESCUED AT SEA – YEAR 2015**  
FROM 01<sup>ST</sup> JANUARY TO 20<sup>TH</sup> MAY 2015

MIGRANTS RESCUED BY:	Units	Persons
ITALIAN NAVY	55	10.060 <sup>(2)</sup>
ITALIAN COAST GUARD	72	10.734 <sup>(1)</sup>
MERCHANT SHIPS	97	11.954
ITALIAN CUSTOM POLICE	30	3.128 <sup>(3)</sup>
FRONTEX (NOT ITALIAN UNITS)	14	2.130
OTHERS (Foreign Military Ships)	11	1.244
<b>TOTAL</b>	<b>268*</b>	<b>39.250</b>

Migrants arrived directly on the Italian shore: **954**

\*Some boats have been rescued by units of the Italian Coast Guard together with other Military/Force of Police.  
(1) 3292 of which have been rescued by It C.G. units cofinanced by FRONTEX Agency.  
(2) 383 of which have been rescued by It NAVY units cofinanced by FRONTEX Agency.  
(3) 1081 of which have been rescued by It Custom Police units cofinanced by FRONTEX Agency.

SLIDE 22 OF 33 ITALIAN COAST GUARD HEADQUARTERS

Migrants intercepted/rescued in the central Mediterranean, to May 20, 2015

**MIGRANTS RESCUED AT SEA – YEAR 2015**  
FROM 01<sup>ST</sup> JANUARY TO 26<sup>TH</sup> OCTOBER 2015

MIGRANTS RESCUED BY:	Units	Persons
ITALIAN COAST GUARD	232	37.245 <sup>(1)</sup>
ITALIAN NAVY	153	27.189 <sup>(2)</sup>
Other FOREIGN MILITARY UNITS	105	18.867
N.G.O.	109	18.219
MERCHANT SHIPS	136	15.501
FRONTEX (NOT ITALIAN UNITS)	76	15.118
ITALIAN CUSTOM POLICE	61	6.187 <sup>(3)</sup>
<b>TOTAL</b>	<b>839*</b>	<b>138.326</b>

Migrants arrived on they own on the Italian shore: **1.500**

\*Some boats have been rescued by units of the Italian Coast Guard together with other Military/Force of Police.  
(1) 16419 of which have been rescued by It C.G. units cofinanced by FRONTEX Agency. \*\*  
(2) 383 of which have been rescued by It NAVY units cofinanced by FRONTEX Agency. \*\*  
(3) 2605 of which have been rescued by It Custom Police units cofinanced by FRONTEX Agency. \*\*

\*\* at 15.10.2015.

Migrants intercepted/rescued in the central Mediterranean, to October 26, 2015

## REFERENCES

- Agier, Michel. 2010. "Humanity as identity Humanity as an Identity and Its Political Effects (A Note on Camps and Humanitarian Government)," *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, Volume 1, Number 1: 29–45.
- — —. 2011. *Managing the Undesirables: Refugee Camps and Humanitarian Government*. Cambridge and Oxford: Polity.
- Alioua, Mehdi, and Charles Heller. 2013. "Transnational Migration, Clandestinity and Globalization – Sub Saharan Transmigrants in Morocco." In Sven Kesselring and Gerlinde Vogl, eds. *New Mobilities Regimes in Art and Social Sciences*. London: Ashgate Publishing.
- Africa Europe Interact (AEI). 2014. "Mare Nostrum: Resistance from below forces Europe to save people." URL: <http://afrique-europe-interact.net/1205-1-Mare-Nostrum.html>
- Amnesty International (AI). 2014. "Lives Adrift: Refugees and Migrants in Peril in the Central Mediterranean." London: AI. September 2014.
- — —. 2015a. "Libya is full of Cruelty: Stories of Abduction, Sexual Violence and Abuse from Migrants and Refugees." London: AI. Mai 2015.
- — —. 2015b. "A Safer Sea: The impact of increased search and rescue operations in the central Mediterranean." London: AI. July 2015.
- Andersson, Ruben. 2012. "A Game of Risk: Boat migration and the business of bordering Europe." *Anthropology Today* 28, no. 6: 7–11.
- Andreone, Gemma. 2004. "Observations Sur La 'Juridictionnalisation' de La Méditerranée." *Annuaire Du Droit de La Mer* 9: 7–25.
- Awad, Ibrahim. (2014) Population Movements in the Aftermath of the Arab Awakening: The Syrian Refugee Crisis between Regional Factors and State Interest, In GRECH, O. and WOHLFELD, M. (eds.). *Migration in the Mediterranean: Human Rights, Security and Development Perspectives*. Malta: MEDAC.
- Bauder, Harald. 2013. "Why We Should Use the Term Illegalized Immigrant." *RCIS Research Brief*, no. 2013/1: 1–7.
- Carling, Jørgen. 2007. "Migration Control and Migrant Fatalities at the Spanish-African Borders." *IMR* 41, no. 2: 316–343.
- Carrera, Sergio and Leonhard den Hertog. 2015. Whose Mare? Rule of law challenges in the field of European border surveillance in the Mediterranean." *Centre for European Policy Studies (CEPS) Papers in Liberty and Security in Europe*, no. 79, Jan. 2015: 1–2.
- Casas-Cortes, Maribel. Sebastian Cobarrubias and John Pickles. 2013. "Re-bordering the neighbourhood: Europe's emerging geographies of non-accession integration." *European Urban and Regional Studies*, vol. 20, no. 1: 37–58.
- Cassarino, Jean-Pierre. 2013. "Tunisia's New Drivers in Migration Governance." *Paper presented at the International Studies Association Conference*, San Francisco, CA, April 3–6.
- Cuttitta, Paolo. 2007. "Le monde-frontière. Le contrôle de l'immigration dans l'espace globalisé." *Cultures & Conflits*, no. 68: 61–84.
- — —. 2014. "From the Cap Anamur to Mare Nostrum: Humanitarianism and Migration Controls at the EU's Maritime Borders." In Claudio Matera and Amanda Taylor, eds. *The Common European Asylum System and Human Rights: Enhancing Protection in Times of Emergencies*. Centre for the Law of EU External Relations, Den Haag: Asser Institute.
- Crisp, Jeff. 2015. "Syria's refugees: a global responsibility." *Opendemocracy*. 30th of June 2015. URL: <http://www.rsc.ox.ac.uk/news/syria2015s-refugees-a-global-responsibility> (accessed January 18, 2016)
- De Genova, Nicholas. 2002. "Migrant 'Illegality' and Deportability in Everyday Life." *Annual Review of Anthropology* 31: 419–47.
- — —. 2013. "Spectacles of migrant 'illegality': the scene of exclusion, the obscene of inclusion." *Ethnic and Racial Studies* 36.7: 1180–98.
- De Guchteneire, Paul and Antoine Pecoud. 2006. "International Migration, Border Controls and Human Rights: Assessing the Relevance of a Right to Mobility." *Journal of Borderlands Studies* 21, no. 1: 69–86.
- De Haas, Hein. 2008. "The myth of invasion: The inconvenient realities of migration from Africa to the European Union." *Third World Quarterly* 29, no.17: 1305–22.

- Düvell, Franck. 2008. "Clandestine migration in Europe." *Social Science 16 Information* 47, no. 4: 479–97.
- . 2011a. "Irregular Immigration, Economics and Politics." *CESifo DICE Report* 9, no. 3: 60–68.
- . 2011b. "Paths into Irregularity: The Legal and Political Construction of Irregular Migration." *European Journal of Migration and Law* 13, no. 3: 175–95.
- Fargues, Philippe, et al. 2013. "Migrants smuggled by sea to the EU: facts, laws and policy options." *EUI*. Bruxelles: Migration Policy Centre.
- Fargues, Philippe, and Sara Bonfanti. 2014. "When the best option is a leaky boat: why migrants risk their lives crossing the Mediterranean and what Europe is doing about it." *EUI*. Bruxelles: Migration Policy Centre.
- Fargues, Philippe, and Anna Di Bartolomeo. 2015. "Drowned Europe." *EUI*. Bruxelles: Migration Policy Centre.
- Fassin, Didier. 2012. *Humanitarian Reason: A Moral History of the Present*. Berkeley: University of California Press.
- Feher, Michel. 2015. "Disposing of the Discredited: A European project." *Presentation for the Neoliberalism and Biopolitics Conference*, Berkeley, February 2015.
- Frontex. 2014. "Africa – Frontex Intelligence Community Joint Report." <http://www.statewatch.org/news/2014/dec/eu-africa-frontex-intell-report-2014.pdf> (accessed May 3, 2015).
- Gagrielli, Lorenzo. 2008. "Flux et contre-flux entre l'Espagne et le Sénégal. L'externalisation du contrôle des dynamiques migratoires vers l'Afrique de l'Ouest." *Asylon(s)*, No 3. URL: <http://www.reseau-terra.eu/article716.html>
- Gammeltoft-Hansen, Thomas, and Tanja E. Albers. 2010. "Sovereignty at Sea: The law and politics of saving lives in the Mare Liberum." *DIIS Working Paper*: 1–31.
- Garrison, Tom. 2009. *Essentials of Oceanography*, 5th ed. Belmont: Brooks/Cole Cengage Learning.
- Grosz, Elizabeth. 2012. "Geopower." *Environment and Planning D: Society and Space* 30: 971–88.
- Guild, Elspeth. 2006. "The Europeanisation of Europe's Asylum Policy." *International Journal of Refugee Law*, 18 (3–4), 630–51.
- Guilfoyle, Douglas. 2009. *Shipping Interdiction and the Law of the Sea*. Cambridge University Press.
- Heller, Charles. 2015. *Liquid Trajectories: Documenting Illegalised Migration and the Violence of Borders*. London: Centre for Research Architecture, Department of Visual Cultures, Goldsmiths University.
- Heller, Charles, Pezzani, Lorenzo, and Situ Research. 2012. *Report on the Left-to-Die Boat*. London: Forensic Architecture. <http://www.forensic-architecture.org/wp-content/uploads/2014/05/FO-report.pdf> (accessed December 10, 2013).
- Heller, Charles, and Lorenzo Pezzani. 2013. "A disobedient gaze: strategic interventions in the knowledge(s) of maritime borders." *Postcolonial Studies* 16, no. 3: 289–98.
- . 2014. "Liquid Traces: Investigating the Deaths of Migrants at the Maritime Frontier of the EU." In Forensic Architecture, ed. *Forensis: The Architecture of Public Truth*. Berlin: Sternberg Press.
- . 2015. "'Sharing the Burden of Rescue': Illegalised Boat Migration, the Shipping Industry and the Costs of Rescue in the Central Mediterranean." Post for the Border Criminologies Themed Blog Series on the Industry of Illegality organised by Ruben Andersson, 2 November 2015 <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2015/11/sharing-burden>
- Heller, Charles, and Chris Jones. 2014. "Eurosur: saving lives or reinforcing deadly borders?" *Statewatch Journal* 23, no 3/4. <http://database.statewatch.org/article.asp?aid=33156> (accessed May 15, 2015).
- Kasperek, Bernd. 2015. "Complementing Schengen: The Dublin System and the European Border and Migration Regime". In Harald Bauder and Christian Matheis, eds. *Migration and Borders Here and Now: From Theorizing Causes to Proposing Interventions*. London and New York: Palgrave MacMillan.
- Kasperek, Bernd, and Mark Speer. 2015. "Of Hope. Hungary and the Long Summer of Migra-

- tion." *Bordermonitoring.eu*. September 9. <http://bordermonitoring.eu/ungarn/2015/09/of-hope-en/>.
- Last, Tamara, and Thomas Spijkerboer. 2014. "Tracking deaths in the Mediterranean." In Tara Brian and Frank Laczko, eds. *Fatal Journeys: Tracking Lives Lost during Migration*. International Organisation of Migration.
- Mbembe, Achille. 2003. "Necropolitics." *Public Culture* 15 (1): 11–40.
- Mezzadra, Sandro. 2011. "The gaze of autonomy. Capitalism, migration, and social struggles." In Vicki Squire, ed. *The contested politics of mobility: borderzones and irregularity*. London: Routledge.
- Mezzadra, Sandro, and Neilson Brett. 2013. *Border as Method*. Duke: Duke University Press.
- Migreurop. 2013. *Atlas of Migration in Europe: A Critical Geography of Migration Policies*. London: New Internationalist Publications.
- Migreurop. 2015. Search and Rescue in Central Mediterranean Sea. Available at : <http://www.migreurop.org/article2619.html?lang=fr> (Accessed August 2015)
- Monzini, Paola. 2010. *Smuggling of migrants into, through and from North Africa*. Vienna: United Nations Office on Drugs and Crime.
- Monzini, Paola, Nourhan Abdel Aziz, Ferruccio Pastore. 2015. "The Changing Dynamics of Cross-border Human Smuggling and Trafficking in the Mediterranean." *Istituto Affari Internazionali (IAI)*, Rome: 1–75.
- Papastergiadis, Nicos. 2000 *The Turbulence of Migration. Globalization, Deterritorialization und Hybridity*. Cambridge: Polity Press.
- Parliamentary Assembly of the Council of Europe (PACE). 2014. *The "left-to-die boat": actions and reactions*. Strasbourg: Council of Europe. <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20940&lang=en> (accessed May 2015).
- Pezzani, Lorenzo. 2015. *Liquid traces: Spatial practices, aesthetics and humanitarian dilemmas at the maritime borders of the EU*. London: Centre for Research Architecture, Department of Visual Cultures, Goldsmiths University.
- Porsia, Nancy. 2015. "The Exploitation of Migration Routes to Europe: Human Trafficking Through Areas of Libya Affected by Fundamentalism." In *Libya's Fight For Survival*. Brussels: European Foundation for Democracy: 73–87.
- Ravenstein, Ernst. 1885. "Laws of Migration." *Journal of the Statistical Society* 48: 167–227.
- Salvi, Giovanni. 2014. "From Refoulement to Mare Nostrum. The fight against the smuggling of migrants by sea: legal problems and practical solutions." *Presentation given at the 8th Meeting of the Consultative Forum of Prosecutors General and Directors of Public Prosecutors of the Member States of the European Union*. The Hague: December 12th 2014.
- Sassen, Saskia. 2002. "A New Cross-Border Field for Public and Private Actors," in Yale H Ferguson and R. J. Barry Jones, eds. *Political Space: Frontiers of Change and Governance in a Globalizing World*. Albany, NY: State University of New York Press: 173–88.
- Sassen, Saskia. 2006. *Territory, Authority, Rights: From Medieval to Global Assemblages*. Princeton: Princeton University Press.
- Schmitt, Carl. 2003. *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*. New York: Telos Press.
- Steinberg, Philip E. 2001. *The Social Construction of the Ocean*. Cambridge: Cambridge University Press.
- Stierl, Maurice. 2015. "Maritime Humanitarians, Migrant Suffering and the Idea of Europe." *Antipode* (forthcoming).
- Suárez de Vivero, Juan Luis. 2010. *Jurisdictional Waters in The Mediterranean and Black Seas*. Brussels: European Parliament.
- Tazzioli, Martina. 2014. *Spaces of governmentality, autonomous migration and the arab uprisings*. London: Rowman & Littlefield International.
- — —. 2015. "The Desultory Politics Of Mobility And The Humanitarian-Military Border In The Mediterranean. Mare Nostrum Beyond The Sea." *REMHU : Revista Interdisciplinar Da Mobilidade Humana*, 23 (44): 61–82.
- Tondini, Matteo. 2010. "Fishers of Men? The Interception of Migrants in the Mediterranean Sea And Their Return to Libya." *INEX Paper* (October 2010): 1–28.
- United Nations Office of the High Commissioner for Refugees (UNHCR). 2013. *From slow boil*



*to breaking point: A realtime evaluation of UNHCR's response to the Syrian refugee emergency.*  
 Geneva: UNHCR. July 2013. <https://data.unhcr.org/syrianrefugees/download.php?id=2558>  
 (accessed January 18, 2016)

Walters, William. 2011. "Foucault and frontiers: notes on the birth of the humanitarian border."  
 In Ulrich Bröckling, Susanne Krasmann and Thomas Lemke, eds. *Governmentality: Current  
 Issues and Future Challenges*. New York: Routledge.

Weizman, Eyal. 2012. *The Least of All Possible Evils: Humanitarian Violence from Arendt to  
 Gaza*. London: Verso.

#### RECOMMENDED CITATION

Heller, Charles and Pezzani, Lorenzo. "Ebbing  
 and Flowing: The EU's Shifting Practices of (Non-)  
 Assistance and Bordering in a Time of Crisis"  
*Near Futures Online* 1 "Europe at a Crossroads"  
 (March 2016): [http://nearfuturesonline.org/  
 ebbing-and-flowing-the-eus-shifting-practices-of-  
 non-assistance-and-bordering-in-a-time-of-crisis/](http://nearfuturesonline.org/ebbing-and-flowing-the-eus-shifting-practices-of-non-assistance-and-bordering-in-a-time-of-crisis/)