



## **THE CREATION OF SOS MEDITERRANEE**

**SOS MEDITERRANEE** is a European maritime and humanitarian organization for the rescue of life in the Mediterranean Sea. It was founded by citizens in May 2015 in response to the deaths in the Mediterranean Sea and the failure of the European Union to prevent these deaths.

**SOS MEDITERRANEE** works as a European association with teams in Germany, France, Italy and Switzerland jointly financing and operating a rescue ship. Bringing together the skills from the maritime and humanitarian fields, **SOS MEDITERRANEE** pursues its mission with three main objectives: **to save lives in the Central Mediterranean, to ensure the protection of and assistance for survivors until they arrive in a place of safety and to be a witness of their stories and of the humanitarian tragedy.** To fulfill these goals, the organization chartered a 77-meter vessel, named the Aquarius, that left the port of Marseille on February 20, 2016 for the island of Lampedusa, from where it launched its first rescue mission on February 26, 2016. The medical care has been provided by Doctors without Borders/Médecins sans Frontières (MSF) since May 2016.

In December 2018, **SOS MEDITERRANEE**, in partnership with MSF, has been forced to take the decision to terminate the charter party of the Aquarius ship. Following continuous attacks to the Aquarius, this decision was necessary to allow **SOS MEDITERRANEE** for a prompt and sustainable return to search and rescue mission to the Central Mediterranean. **SOS MEDITERRANEE** returned the Aquarius to its shipowner on 31st December 2018.

**SOS MEDITERRANEE** remains fully committed to provide lifesaving assistance and is preparing to resume search and rescue operations with a new ship as soon as possible.

**SOS MEDITERRANEE will continue its mission as long as people have to flee across the Mediterranean in unseaworthy boats, risking their lives.**

## **SOS MEDITERRANEE IN NUMBERS**

### **29.523 lives saved in two and a half years**

Since its first mission in February 2016, **SOS MEDITERRANEE**'s teams assisted 29.523 persons in distress at sea: 11.261 in 2016; 15.078 in 2017; 3.184 in 2018.

The Aquarius crew conducted a total of 243 operations: 177 rescue operations (51 in 2016, 102 in 2017 and 24 in 2018) and 66 transshipment operations (where people rescued by another vessel -e.g. Italian coastguard ships, merchant ships etc.- are brought onto the Aquarius).

## **VIOLATIONS OF INTERNATIONAL LAW**

### **LEAD TO TENS OF THOUSANDS OF DEATH**

In the last few years more than 20,000 people seeking safety have lost their lives trying to cross the Mediterranean from Libya on unseaworthy boats. Given the insufficient response of the European Union and its Member States to prevent further loss of life at sea, a number of non-governmental organisations launched rescue operations in the Central Mediterranean as of 2014, saving thousands of people from drowning and bringing them to safety. Today, European governments are actively blocking search and rescue (SAR) NGOs through administrative, political and judicial harassment campaigns, preventing the organisations from delivering humanitarian assistance to those in need. Currently almost all NGO rescue ships are blocked from leaving European ports and people fleeing detention, torture, sexual exploita-

tion and forced labour in Libya either drown at sea or are intercepted by the Libyan Coast Guard and unlawfully returned to these inhumane conditions. **This is in violation of the existing international law that search and rescue operations are based on.**

## **THE LEGAL FRAMEWORK OF SEARCH AND RESCUE**

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

### **THE FOLLOWING INTERNATIONAL CONVENTIONS DEFINE THE RESCUE OBLIGATIONS AT SEA:**

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

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

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

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

**Humanity:** onboard the ship, after a rescue, the human dignity of the survivors must be respected<sup>3</sup> and their immediate needs met<sup>4</sup>.

**Swift disembarkation:** survivors have to be disembarked in a place where their safety is no longer jeopardised<sup>5</sup>, as soon as reasonably practicable<sup>6</sup> and with minimum further deviation from the ship's intended voyage<sup>7</sup>

**Place of safety:** is defined as "a location where rescue operations are considered to terminate.

It is also a place where the survivors' safety of life is no longer threatened and where their basic human needs (such as food, shelter and medical needs) can be met. (...)”<sup>8</sup>.

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<sup>1</sup> UNCLOS Art. 98, SOLAS, Chapter V, Regulation.33-1, IMO Resolution MSC.167 (78), International Convention on Salvage Art 10(1).

<sup>2</sup> SOLAS, Chapter V, Regulation 33.

<sup>3</sup> EU Regulation 656/2014, Art. 6.

<sup>4</sup> IMO Resolution MSC.167 (78), 5.1.2.

<sup>5</sup> IMO Resolution MSC.167 (78) 5.1.6, SAR Convention 1.3.2.

<sup>6</sup> SOLAS, Chapter V, Regulation. 33-4.

<sup>7</sup> IMO Resolution MSC.167(78) 2.4, SOLAS, Chapter V, Regulation 33.

<sup>8</sup> Annex to the 1979 SAR Convention, 1.3.2.

**Freedom of navigation in the high seas:** the ships of every state have the right to sail on the high seas.<sup>9</sup>

## WHAT HAS HAPPENED

### IN THE CENTRAL MEDITERRANEAN SINCE 2014?

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

#### 2013-2014: BEGINNING AND END OF *MARE NOSTRUM*

In response to a large shipwreck that took place in front of the Italian island of Lampedusa, Italy launched the search and rescue operation *Mare Nostrum* on October 18th 2013, with the intention to safeguard human lives in the Central Mediterranean. The operation was carried out in full respect of the "duty to render assistance to any person found at sea in danger of being lost"<sup>10</sup>. As a result, more than 150,000 lives were saved. But on October 31st 2014, Italy ended the operation due to lack of support from the European Union. *Mare Nostrum* was replaced by the European border control operation *Triton*. The focus shifted from saving lives to border control. This resulted in fewer rescue ships, yet people continued to try to escape Libya. As a result, thousands of men, women and children drowned.

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

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

2018. According to maritime law, every coastal state to assume responsibility over a certain maritime area off of its coast, spanning territorial and international waters. Within this designated region, the coastal state is responsible for responding and coordinating distress and helping to find a place of safety for the survivors. Since 2018, the Libyan Joint Rescue Coordination Centre (LY-JRCC) has been responsible for the coordination of search and rescue services in its designated region. Since then the number of people intercepted and unlawfully returned to Libya has skyrocketed. Once returned to Libya, rescued people are exposed to severe Human Rights violations that have been well-documented, including torture, rape, forced labour and executions. This is contrary to the legal obligation that after a rescue, the survivors should be

delivered to a "place of safety"<sup>11</sup>. Libya cannot be considered a place of safety. It should also be noted that the LY-JRCC turned out to be dysfunctional and not able to carry out effective and safe rescues. **As a result, again, more people drown.**

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

Many search and rescue NGOs were founded in 2014 and 2015 by European citizens, to fill the gap left by their governments. The organisations render assistance to those in need in full compliance with international law. However, they have been harassed by administrative,

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<sup>9</sup> UNCLOS Art. 87.

<sup>10</sup> UNCLOS Art. 98.

<sup>11</sup> SAR Convention, Ch. 1.3.2.

political and judicial measures, preventing the organisations from saving lives. Since 2017, several investigations have been launched against search and rescue ships and individual crew members, yet prosecutors could not prove any wrong-doing by the NGOs. Most cases ended in acquittal or were discontinued due to a lack of evidence.<sup>12</sup> In other instances, rescue ships, such as SOS MEDITERRANEE's Aquarius, were stripped of their flag due to political pressure. The blocking of search and rescue NGOs is neglecting the duties and obligations of States and shipmasters to rescue people in danger at sea. As a result, fewer ships are available to assist boats in distress in the Central Mediterranean. An increasing number of people are at risk of drowning. Civil society can no longer witness and report on this humanitarian tragedy.

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

In summer 2018, Italy closed its ports to rescue ships. As a result, survivors remained stranded at sea for days - or even weeks - until a group of European States would agree to receive the people on an ad-hoc basis. This practice is not in line with the applicable international maritime conventions, which state that ships should be relieved of their responsibility of the rescue as soon as possible<sup>13</sup> and should treat the survivors humanely<sup>14</sup>. Due to this practise, survivors face even further risks to their safety. It also means that the stranded ships are not able to assist other people in distress at sea in the meantime, further endangering lives of those in need of assistance.

### **WHAT SOS MEDITERRANEE IS CALLING FOR:**

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

- 1. Fight to save lives at sea** by reinforcing the search and rescue capacity in the Central Mediterranean and bring people to a place of safety in accordance with international law.
- 2. Ensure the disembarkation of survivors in a place where they are safe**, their basic human needs are met and their fundamental rights are respected. Libya cannot be considered a place of safety. Various reports by Human Rights organisations unequivocally show the large-scale Human Rights abuses in Libya, including arbitrary detention, torture, forced labour and sexual exploitation. People intercepted by the Libyan Coast Guard cannot lawfully be returned to Libya.
- 3. Urge EU Member States to ensure search and rescue NGOs are no longer blocked and are able to save lives.** Civic ships conduct legal search and rescue operations, but have been blocked from rescuing through administrative, political and judicial harassment campaigns.
- 4. Set up an effective, coherent and transparent disembarkation system for survivors to a place of safety**, in compliance with international law.

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<sup>12</sup> "Fundamental rights considerations: NGO ships involved in search and rescue in the Mediterranean and criminal investigations", European Agency for Fundamental Rights.

<sup>13</sup> IMO Resolution MSC.167(78), 6.13.

<sup>14</sup> IMO Resolution MSC.167(78). 5.2.

# Be humane, save lives at sea, respect the law!

#RespectLawoftheSea

Follow us:

[sosmediterranee.org](https://sosmediterranee.org)

Testimonies from survivors: <https://sosmediterranee.com/our-mission/voices-from-the-sea/>

Board diary: <https://sosmediterranee.com/our-mission/bord-diary/>

Onboard Aquarius online Logbook: <https://onboard-aquarius.org/>

Twitter: <https://twitter.com/SOSMedIntl>

Instagram: <https://www.instagram.com/sosmediterranee>

**Speaker: Fabienne LASSALLE Deputy General Director SOS MEDITERRANEE France**



A graduate from the IEP (Institute of Political Studies) of Grenoble, holding a Master in Development, Cooperation and Humanitarian action (Panthéon-Sorbonne University), Fabienne Lassalle coordinated during more than 10 years development projects funded by international donors - European Commission, World Bank, regional development banks - in Africa, Asia and Latin America. She was also, during 5 years, Associate Director of Gondwana, a consulting firm for the protection of biodiversity, for businesses and local communities. In 2015, she participated in the creation of SOS MEDITERRANEE and became the Deputy Director of the association.

## WHAT IS ...

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

**A DISTRESS SITUATION?** A situation where there is reasonable certainty that a vessel is threatened by grave and imminent danger and requires immediate assistance. A distress situation is defined by the seaworthiness of the vessel, the likelihood that it will not reach its final destination, the number of persons on board in relation to the type and condition of the vessel, the availability of fuel, water and food, the availability and capability of safety, navigation and communication

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<sup>15</sup> Annex to the SAR Convention, 1.3.2.

equipment, the presence of persons in urgent need of medical assistance, deceased persons, pregnant women or children on board, as well as the weather and sea conditions.<sup>16</sup>

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

**A PLACE OF SAFETY?** A place of safety is “a location where rescue operations are considered to terminate. It is also **a place where the survivors’ safety of life is no longer threatened and where their basic human needs** (such as food, shelter and medical needs) **can be met.** (...)”<sup>17</sup>. Regulation No 656/2014 of the European Parliament and of the Council adds that it should “[take] into account the **protection of their fundamental rights in compliance with the principle of non-refoulement**”<sup>18</sup>.

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

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

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

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

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<sup>16</sup> EU Regulation 656/2014, art.9 (f).

<sup>17</sup> Annex to the SAR Convention, 1.3.2.

<sup>18</sup> Regulation No 656/2014, art. 2 (12).

<sup>19</sup> Annex to the SAR Convention, 1.3.5.