

OPEN LETTER TO THE MEMBERS OF ITALIAN PARLIAMENT AND EUROPEAN PARLIAMENT

«THE TRUTH MUST BE SHOUTED FROM THE ROOFTOPS»

The deaths in the Mediterranean Sea on 11 October 2013 and on 6 November 2017 are bound by the same thread: the policy of rejecting migrants entrusted to Italy. We ask our representatives to convene the witnesses of those slaughters and listen to their testimonies, in order to stop the inhuman practice of returning migrants to Libya.

Dear Members of the European Parliament and of the Committee on Civil Liberties, Justice and Home Affairs,

We are associations, NGOs, individual activists from Italian and European civil society, who call upon you as representatives of the only democratic institution of the EU - the Parliament - appointed to represent its citizens.

Honorable Members of the Italian Parliament,

We are associations, NGOs, individual activists from Italian and European civil society who ask you to assume your responsibility for the decisions adopted by governments, without a discussion and a vote in the only institution representing citizens, which are laden with consequences affecting both international law and democracy.

WE ASK that the Italian activist who witnessed the criminal behavior by the Libyan Coast Guard on 6 November – financed through EU funding managed by Italy and trained by EU staff – be urgently heard in audition by the Italian Parliament and the European Parliament convened in a plenary session, or by its Civil Liberties, Justice and Home Affairs Committee, which is competent to address such issues.

Five refugees drowned, including a four-year-old child, and at least another thirty-five people are missing. The video footage released by the German NGO, Sea-Watch,¹ clearly shows that the Libyan Coast Guard, far from undertaking a “search and rescue” operation, acted in an aggressive and uncoordinated way to bring the refugees back to Libya, preventing the NGO and the Italian and French naval units present on the scene of the shipwreck from carrying out rescue operations, which were already coordinated by the MRCC in Rome.

Activist Gennaro Giudetti stated that the Libyan patrol boat «hooked the migrants’ rubber dinghy, which was pierced at the time, and hence there were dozens of people in the sea, some with life jackets, and many others without anything. [...] We had to advance between those who had already drowned to manage to reach those who were still alive, to recover them. The situation was abominable: we pulled the survivors on board with our arms».²

¹ https://www.youtube.com/watch?time_continue=4&v=phl-f_yFXQ.

²

The forty-seven migrants recovered at sea by the Libyan crew were packed on the deck and whipped to prevent them from diving into the sea and reaching their families on board of the Sea-Watch3 dinghies, which, in the meantime, had saved fifty-nine people. The patrol boat then headed away at full speed, disregarding of the fact that a shipwrecked person was clinging to a rope stretching out from a bulkhead. The Libyan coast guard did not even stop after the desperate and repeated warnings coming from the Italian Navy's helicopter, although they were distinctly audible on the radio frequencies recorded by Sea-Watch 3.³

«It was terrible, we saw the man shouting towards his wife and then diving into the water», said Gennaro Giudetti, «he clung to the rope that the Libyans used to bring the shipwrecked people on board, but in that moment the patrol boat leapt forward, dragging him away and we could not save him. The Libyans were violent and reckless, they beat the migrants with ropes and clubs, and - incredible as this may seem - they were throwing potatoes at us to make the rescue more difficult».⁴

This is criminal behavior that violates international laws and the law of the sea, deriving from the will of Italian and European governments to block the arrival of refugees by delegating to Libya what would otherwise be a manifest practice of *refoulement* forbidden by the European Convention of Human Rights.

WE ASK that the Italian Government be called to account to the European Parliament for the agreement reached between Italy and Tripoli on past 2 February,⁵ in the light of the Decree through which the Italian Foreign Ministry allocated € 2.5 million to the Ministry of Interior to service four patrol boats and make them work efficiently, to be delivered to the Libyan authorities. These funds come from the 200 million euro allocation agreed by the Italian Parliament for the Africa Fund for Cooperation,⁶ which is the reason why the Association for Juridical Studies on Immigration (ASGI) has notified submission of a complaint to the Lazio Regional Administrative Court against the Ministry of Foreign Affairs and the Ministry of the Interior.⁷

3

Trascript of the recording:

00:01:13 *Libyan coastguard, this is Italian Navy helicopter, people are jumping in the water.*

Stop your engine and please cooperate with Sea-Watch. Please, cooperate with Sea-Watch!

00:01:33 [...] *This is Italian Navy helicopter, channel 16, we want you to stop now, NOW, NOW!*

Lybian coastguard, lybian coastguard, you have one person on the right side, please stop your engine! Stop your engine!

00:02:03 *Stop your engine now! Stop your engine! You have [...] on right side, please, stop!*

00:02:17 *Stop! Stop! Stop! Stop your engine, stop your engine now. Stop your engine now, please!*

<https://www.youtube.com/watch?v=p4LU5-NoHVw>.

⁴http://palermo.repubblica.it/cronaca/2017/11/07/news/migranti_almeno_30_dispersi_nell_ultimo_naufragio-180480763/.

5

http://www.repubblica.it/esteri/2017/02/02/news/migranti_accordo_italialibia_ecco_cosa_contiene_in_memorandum-157464439/.

⁶ <https://www.asgi.it/asilo-e-protezione-internazionale/libia-soccorsi-migranti/>.

7

We are worried about the fact that there is no control over the actual use of EU funds in Libya. This concern appears to be confirmed by the European Commission's answer to the written question submitted to Parliament on 5 September by 21 MEPs in connection with the reports by Associated Press that the funds paid by Italy to the Tripoli government allegedly end up being received by the militias involved in trafficking human beings. The MEPs asked what guarantees there were that «the substantial support to the Libyan government, including through the Emergency Trust Fund for Africa and a project with a budget of € 46 million» would not end up in the hands of people traffickers.⁸

The Commission's answer was a tangle of hypothetical phrases that can be summarized as a paradox: there are no controls, but in case something should emerge from controls, then the EU programs would be suspended.⁹

WE ASK the Italian Government, as citizens of the Union, for a response which is proportionate to the seriousness of the facts - a response which even the Commissioner for Human Rights of the Council of Europe did not receive when, on 28 September, he asked for clarifications about the nature of the agreement with Libya and the returns it is causing.¹⁰ Interior Minister Marco Minniti's response was that it was not Italy who rejected people, but Libya which stopped them leaving.¹¹ Such an answer was «substantially meaningless and certainly disrespectful considering the knowledge of the actual policies of delegation, assistance and support by Italy to Libya, as well as the obstacle simultaneously placed in the way of the search and rescue efforts by NGOs operating in the central Mediterranean».¹² The Italian and European governments certainly know about the report by the Group of Experts on Libya of the United Nations Security Council (UNSMIL), which already listed «executions, acts of torture, deprivation of food, water and sanitary fittings» one year ago, and stated that «human traffickers, the Libyan Illegal Immigration Department and the Libyan Coast Guard are directly involved in human rights violations». According to UNSMIL, «the

Lawyer Giulia Crescini explains: «We have asked for access to the files and we have seen that one of the ministry decrees concerns 2.5 million euros for the transportation and repairs of the patrol boats, money that hence forms part of the financing of the Libyan military apparatus».

<https://www.asgi.it/asilo-e-protezione-internazionale/libia-italia-ricorso-fondi-cooperazione/>.

⁸ Elly Schlein's question to the European Commission, 5 September 2017.

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2017-00553_1+0+DOC+XML+V0//IT.

⁹ Barbara Spinelli: *Inadequate answer from the Commission. Two questions about Libya*

<http://barbara-spinelli.it/2017/11/09/insufficiente-risposta-della-commissione-due-interrogazioni-sulla-libia/>.

¹⁰

<https://rm.coe.int/letter-to-the-minister-of-interior-of-italy-regarding-government-s-res/168075baea>.

¹¹

https://www.asgi.it/wp-content/uploads/2017/11/2017_10_11_lettera_Minniti_COE.pdf.

¹²

<https://www.asgi.it/asilo-e-protezione-internazionale/libia-soccorsi-migranti/>.

interceptions of migrant boats by the Libyan coast guard have entailed actions that may constitute arbitrary killings».¹³

WE ASK our representatives in the Italian and European institutions to evaluate, in the light of the authoritative series of reports on the seriousness of the situation in Libya,¹⁴ the

13

United Nations Support Mission in Libya (UNMSIL) and Office of the United Nations High Commissioner for Human Rights (OHCHR), *Detained and dehumanized*, 13 december 2016, http://www.ohchr.org/Documents/Countries/LY/DetainedAndDehumanised_en.pdf.

¹⁴ ● On 8 May 2017, the Attorney at the International Criminal Court Fatou Bensouda reports to the UN Security Council on human rights violations in Libya, saying she is «deeply alarmed by the reports that thousands of vulnerable migrants, including women and children, are detained in centers often in inhumane conditions». <http://webtv.un.org/search/-fatou-bensouda-icc-prosecutor-on-the-situation-in-libya-security-council-7934th-meeting/5426325092001?term=bensouda>.

● 18 May 2017: the German NGO Sea-Watch reports to the Hague International Criminal Court the attempted ramming in international waters, by the Libyan Coast Guard, of their ship: while they were about to rescue some shipwrecked people, it opened fire at body height against a fishing vessel loaded with migrants and took migrants back to Libya, violating the principle of *non-refoulement*. <https://sea-watch.org/en/17246/>.

● On 1 June 2017, the Group of Experts about Libya of the United Nations Security Council published a report on «executions, acts of torture, deprivation of food, water and sanitation», stating that «traffickers of human beings, the Libyan Department against illegal immigration and the Libyan Coast Guard are directly involved in human rights violations». *Letter dated 1 June 2017 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council, §104*. <https://reliefweb.int/sites/reliefweb.int/files/resources/N1711623.pdf>.

● 19 June 2017, Human Rights Watch states that «Libyan forces have shown an irresponsible attitude to endanger the people they are helping, and for this reason, Italy and other EU countries should not give up the control of rescue operations in international waters to the Libyan forces». Judith Sunderland, EU: Delegating relief to Libya means putting lives at risk, <https://www.hrw.org/it/news/2017/06/19/305148>.

● On 20 June 2017, the UN Special Representative in Libya, Martin Kobler, said, in front of the European Parliament's Foreign Affairs Committee (AFET): «It is not advisable to continue the formation of the Libyan Coast Guard without a vigilant international control. [...] On Youtube you can see everything, including the Libyan coast guards who block people and throw them into the water to drown, or they take them back to the beaches. The European Union should begin to reflect on how to avoid the violations committed by those who are trained by the European Union itself». Martin Kobler, *L'UE doit arrêter de former les garde-côtes libyens!*, https://club.bruxelles2.eu/login/?s2member_vars=catg..level..2..post.92279..LzlwMTcvMDYvbHVILWRvaXQtYXJyZXRLci1kZS1mb3JtZXItbGVzLWdhcmRILWNvdGVzLWxpYnllbnMtbWFydgLuLWtvYmxlci8%3D&s2member_sig=1498912483-63cecc2e7e71c092e5dc074110ca679c

● 21 June 2017, Amnesty International warns the European institutions: «The EU is allowing the Libyan Coast Guard to take migrants and refugees back to the dry land in a country where illegal detentions, torture and rape are the rule. While strengthening the operations of the Libyan Coast Guard, the Union closes its eyes in the face of the serious risks inherent in this cooperation».

statements issued by representatives of the Italian Government and the European Commission on the positive nature of the agreement with Libya and its financing.¹⁵

<https://www.amnesty.it/amnesty-international-sulla-richiesta-collaborazione-la-guardia-costiera-libica/>.

- On 28 June 2017, the Upper Tribunal in London stated that it is not possible to enact repatriations to Libya, considering the level of violence present in the country, which is liable to endanger lives or safety of people. Upper Tribunal (Immigration and Asylum Chamber), The Immigration Acts. «The violence in Libya has reached such a high level that substantial grounds are shown for believing that a returning civilian would, solely on account of his presence on the territory of that country or region, face a real risk of being subject to a threat to his life or person».

<http://www.statewatch.org/news/2017/jun/uk-immigration-asylum-tribunal-zmm-v-home-sec-returns-to-libya-28-6-17.pdf>.

- 15 August 2017, Agnès Callamard, Special Rapporteur of the OHCHR on extrajudicial, summary or arbitrary executions, publishes a report stating that «some states rely on an extraterritoriality policy to stop migrants before they reach their territory and enter their control or jurisdiction [with reference to the informal summit on the Central Mediterranean held in Tallinn on 6 July 2017]. These policies may include assistance, funding and training of other country agencies for the arrest, detention, process, rescue or landing and repatriation of refugees and migrants. These policies raise serious concerns when the agencies or recipient states are held responsible for serious human rights violations, including the violation of the right to life». Unlawful death of refugees and migrants. Note by the Secretary General, 15 agosto 2017. <http://undocs.org/A/72/335>, § 36, p. 17.

- On 14 November 2017, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, declared «inhumane EU policy to assist the Libyan authorities in intercepting migrants in the Mediterranean and taking them back to the terrible prisons in Libya. The suffering of migrants detained in Libya is an outrage to the conscience of humanity».

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22393&LangID=E>.

- On 17 November 2017, "L'Avvenire" publishes the news of a «joint Italo-Libyan coordination on the SAR front».

<http://cartadiroma.waypress.eu//RassegnaStampa/LeggiArticolo.aspx?codice=SIM5021.TIF&subcod=20171117&numPag=1&>.

¹⁵ On 28 June 2017, High Representative Federica Mogherini, in response to a parliamentary question, in the name of the European Commission, reaffirmed the support, also financial, to the Libyan Coast Guard with an oxymoron that the 6 November massacre makes unacceptable: «The EU finances the training of the Libyan Coast Guard and supports the rights-based management of migration in Libya».

<http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2017-001542&language=IT>.

On 8 November 2017, two days after the massacre off the Libyan coast, Italian Prefect Mario Morcone, head of the Cabinet of the Interior Ministry and Advisor of Minister Minniti, said: «I don't care about stupid things Amnesty International or the person responsible for European human rights (Council of Europe Human Rights Commissioner, ndr)say. Italy has never sent anyone back to Libya. We only allowed the Libyan Coast Guard to rescue people and take them back to Libya, but the Libyan Coast Guard did so, Italian ships did not».

<http://www.redattoresociale.it/Notiziario/Articolo/554175/Polemica-Morcone-Caritas-Falsa-sulla-Libia-l-Italia-non-respinge>. An access to documents request on the number of returns

WE ASK our representatives in the Italian and European institutions to act in order to obtain truth and justice about the thread which connects the deaths at sea on 11 October 2013 to those of 6 November 2017. The same agreement to prevent arrivals continues to kill, not only refugees in the Mediterranean Sea, but also democracy in our parliaments. This agreement – interrupted only by the Mare nostrum operation and, when it was disbanded, by the start of activities by NGOs in search and rescue operations – now displays in full its criminal side.

This is why we believe that listening to the testimony of the “shipwreck of children” on 11 October 2013 – by the person who reconstructed the shameful affair, journalist Fabrizio Gatti, and, if appropriate, the lawyers of the Syrian doctors who lost their children in the shipwreck,¹⁶ – as well as listening to the testimony of the killings on 6 November 2017 by the human rights activist Gennaro Giudetti is a political and human act that can’t be postponed any longer. Like Giudetti, we strongly believe that the truth must be «shouted from the rooftops», to prevent it from overwhelming us.

28 November 2017

Osservatorio Carta di Milano - La solidarietà non è reato
ADIF - Associazione Diritti e Frontiere
Associazione per i Diritti Umani
ASGI – Associazione per gli Studi Giuridici sull’Immigrazione
ARCI
Antigone
Associazione Costituzione Beni Comuni

to each country, from May 2016 to May 2017, submitted by the ADIF (Associazione Diritti e Frontiere) Association, the answer was that the returns from Italy to Libya were 60, corresponding to Libyan citizens (5 women and 55 men).

¹⁶ In the documentary *Un unico destino* (“One unique Fate”), published on 14 October 2017, Italian reporter Fabrizio Gatti reconstructed the shipwreck on 13 October 2013, in which 268 Syrian refugees fleeing the war, including 60 children, died in a boat which sank, riddled with bullets by a Libyan unit: a massacre caused by the voluntary omission of rescue by the Italian Navy, whose patrol boat *Libra*, which was 45 minutes away from the scene of the shipwreck, intervened more than five hours after the request for help, urged and compelled to do so by the

Maltese

Navy.

<http://espresso.repubblica.it/inchieste/2013/11/07/news/la-verita-sul-naufragio-di-lampe-dusa-quella-strage-si-poteva-evitare-1.140363>.

On 13 November 2017, after many applications to dismiss the case, the Judge for Preliminary Investigations in Rome ruled that the commander of the Operational Room of the Italian Navy and his colleague of the Coast Guard have to be prosecuted for negligence of duty and manslaughter, granting a large part of the requests of the victims’ families, represented by lawyers Alessandra Ballerini, Emiliano Benzi and Arturo Salerni.

<http://espresso.repubblica.it/inchieste/2017/11/13/news/strage-dei-bambini-le-motivazioni-del-giudice-quegli-ufficiali-hanno-ritardato-i-soccorsi-1.314253>.

Associazione K-Alma
Baobab Experience
Campagna LasciateCIEntrare
COSPE Onlus
Ex Opg - Je so' pazzo
Fondazione Casa della carità di Milano "Mario Abriani"
Hayat Onlus
Lunaria
Terre des Hommes Italia
ActionAid
Scuola di pace di Napoli
Maurizio Acerbo, segretario nazionale PRC
Vittorio Agnoletto, medico
Mario Agostinelli, Energia Felice
Alessandra Ballerini, avvocato
Diego Bianchi, conduttore televisivo, attore e regista
Daniele Biella, giornalista e scrittore
Stefano Bleggi, Progetto Melting Pot Europa
Tony Bunyan, Statewatch
Paolo Cacciari, giornalista e scrittore
Enrico Calamai, ex console italiano a Buenos Aires
Annalisa Camilli, giornalista
Eleonora Camilli, giornalista
Angela Caponnetto, giornalista
Cosimo Caridi, giornalista
Valerio Cataldi, giornalista
Francesca Chiavacci, presidente nazionale ARCI
Laura Cima, scrittrice ecofemminista, Prima le persone
Don Luigi Ciotti, fondatore Associazione Gruppo Abele, presidente Associazione Libera
Elena Consiglio, ricercatrice Università di Palermo
Marta Cosentino, giornalista
Andrea Costa, Baobab Experience Roma
Stefano Corradino, giornalista, direttore Articolo21
Raffaele Crocco, direttore Atlante delle guerre e dei conflitti del mondo
Chiara Cuttitta, facoltà di giurisprudenza Università degli Studi di Milano
Paolo Cuttitta, docente di diritto della migrazione Vrije Universiteit Amsterdam
Stefania Dall'Oglio, esperta in diritti umani e diritto dell'immigrazione, docente master in
Peace Studies Università di Roma Tre
Adele Del Guercio, Università degli Studi di Napoli L'Orientale
Cristiana Dell'Anna, attrice
Don Vitaliano Della Sala, parroco Mercogliano, Avellino

Erri De Luca, scrittore
Pino De Lucia Lumeno, responsabile immigrazione Legacoop Calabria
Giuseppe De Marzo, responsabile nazionale Libera per le Politiche sociali
Laura Di Lucia Coletti, presidente Associazione L'Altra Europa Laboratorio Venezia
Emilio Drudi, giornalista
Anna Falcone, avvocato
Luca Fazio, giornalista
Ciro Ferrara, calciatore
Vincenzo Ferrara, presidente Fondazione Cannavaro-Ferrara
Francesco Floris, giornalista
Francesca Fornario, giornalista e scrittrice
Stefano Galieni, responsabile migrazione PRC
Riccardo Gatti, capomissione Proactiva Open Arms
Beppe Giuliotti, giornalista
Patrizio Gonnella, presidente Antigone e Cild
Maurizio Gressi, portavoce del Comitato per la promozione e protezione dei diritti umani
Gabriella Guido, portavoce Campagna LasciateCIEntrare
Ben Hayes, Transnational institute
Charles Heller, Research Fellow al Centre for Research Architecture, Goldsmiths, University of
London. Co-fondatore Forensic Oceanography e WatchTheMed
Francesca Lacaita, insegnante, DiEM25 Milano
Gad Lerner, giornalista
Antonella Leto, Forum siciliano dei movimenti per l'Acqua ed i Beni Comuni
Corallina Lopez Curti, ricercatrice
Yasha Maccanico, ricercatore e giornalista, Statewatch, University of Bristol
Anna Maffei, Pastora Chiesa Battista di Milano
Corrado Maffia, presidente Scuola di Pace di Napoli
Antonello Mangano, Terre libere
Francesca Mannocchi, giornalista
Lorenzo Marsili, direttore European Alternatives, coordinatore DiEM25
Maruego, rapper
Antonio Mazzeo, giornalista
Susi Meret, Associate Professor, Institute of Culture and Global Studies, Aalborg University,
Denmark
Filippo Miraglia, presidente ARCS e vice presidente ARCI
Emilio Molinari, Comitato italiano per un Contratto mondiale sull'acqua
Tomaso Montanari, presidente Libertà e Giustizia
Flore Murard-Yovanovitch, giornalista
Grazia Naletto, presidente Lunaria
Moni Ovadia, attore, regista e scrittore
Ernesto Pagano, scrittore

Salvatore Palidda, professore Università di Genova
Simon Parker, docente di Scienze Politiche, Università di York
Chiara Parolin, avvocato
Stefano Pasta, giornalista, Sant'Egidio
Steve Peers, professore School of Law University of Essex
Riccardo Petrella, economista politico
Lorenzo Pezzani, ricercatore al Centre for Research Architecture, Goldsmiths, University of London. Cofondatore *Forensic Oceanography* e *WatchTheMed*
Francesco Piccinini, direttore Fanpage.it
Paola Pietrandrea, coordinatrice DiEM25
Gaetano Placido, giornalista
Nancy Porsia, giornalista
Sara Prestianni, responsabile migrazione Sinistra Italiana
Roberta Radich, Coordinamento No Triv
Paola Regina, avvocato
Annamaria Rivera, antropologa, attivista e studiosa antirazzista
Antonia Romano, consigliera comunale Trento
Silvia Rossetti, editor
Fabio Sanfilippo, giornalista
Roberto Saviano, scrittore
Nello Scavo, giornalista
Ilaria Sesana, giornalista
Mario Sommella, ex operaio, presidente Associazione Prima Le Persone
Barbara Spinelli, avvocato, Giuristi Democratici
Silvia Stilli, portavoce AOI (Associazione delle Organizzazioni Italiane di cooperazione e solidarietà internazionale)
Massimo Torelli, L'Altra Europa con Tsipras
Fulvio Vassallo Paleologo, presidente ADIF
Valeria Verdolini, ricercatrice
Guido Viale, sociologo
Giacomo Zandonini, giornalista
Padre Alex Zanotelli, missionario comboniano
Padre Mussie Zerai, presidente Agenzia Habeshia