

DEATH BY RESCUE

THE LETHAL EFFECTS OF THE EU'S POLICIES OF NON-ASSISTANCE AT SEA

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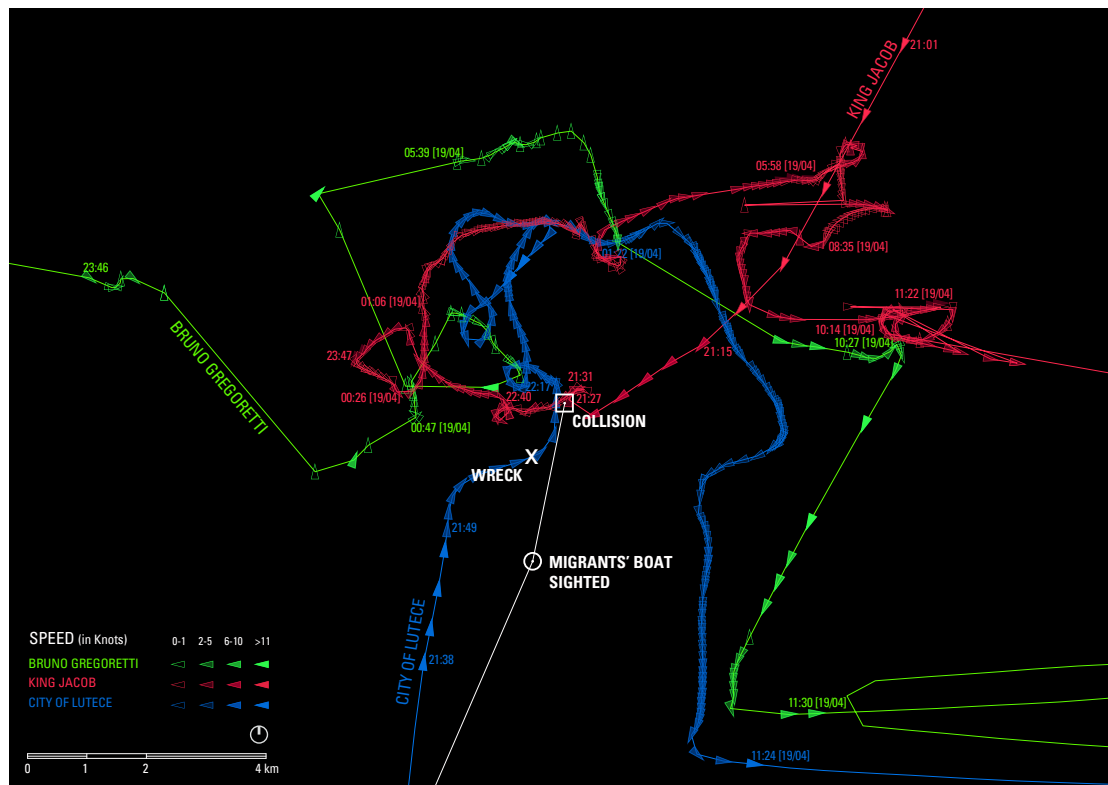
Press copy of Executive Summary

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Please note: the full report will be made available at www.deathbyrescue.org

EXECUTIVE SUMMARY

The week commencing 12 April 2015 saw what is believed to be the largest loss of life at sea in the recent history of the Mediterranean. On 12 April, 400 people died when an overcrowded boat capsized due to its passengers' excitement at the sight of platform supply vessels approaching to rescue them. Less than a week later, on 18 April, a similar incident took an even greater toll in human lives, leading the deadliest single shipwreck recorded by the United Nations' High Commissioner for Refugees (UNHCR) in the Mediterranean.¹ Over 800 people are believed to have died when a migrants' vessel sank after a mis-manoeuve led it to collide with a cargo ship that had approached to rescue its passengers. More than 1,200 lives were thus lost in a single week. As Médecins Sans Frontiers (MSF) commented at the time, these figures eerily resemble those of a war zone.²



The frantic tangle of Automatic Identification System (AIS) vessel tracks in the Mediterranean in the immediate aftermath of the 18 April shipwreck. Credit: Forensic Oceanography. GIS analysis: Rossana Padeletti. Design: Samaneh Moafi.

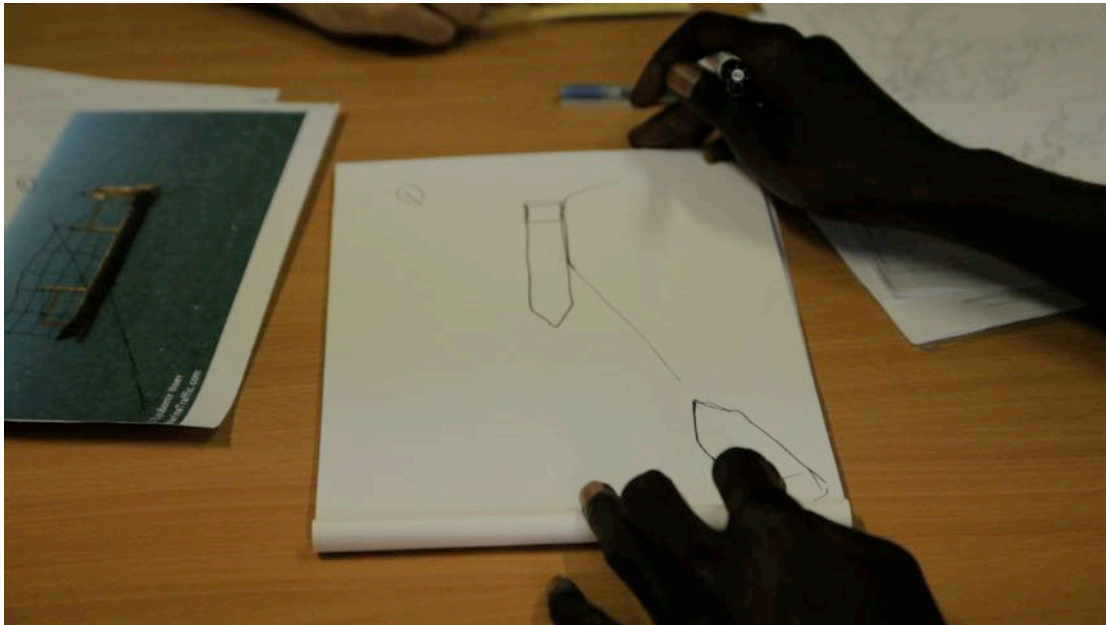
Beyond the huge death toll, what is most striking about these events is that they were not the result of the reluctance to carry out rescue operations, which has been identified as a structural cause of migrants' deaths in the Mediterranean Sea.³ In these two cases, the actual loss of life has occurred *during* and partly *through* the rescue operation itself. The detailed reconstruction of these two successive tragedies provided in this report shows, however, that in all likelihood the merchant vessels involved complied with their legal obligations and did everything they possibly could to rescue the passengers in

¹ United Nations High Commissioner for Refugees (UNHCR), "Mediterranean boat capsizing: deadliest incident on record", 21 April 2015, <http://www.unhcr.org/553652699.html> (last accessed 12 April 2016).

² Médecins Sans Frontières (MSF), "MSF calls for large scale search and rescue operation in the Mediterranean", 20 April 2015, <http://www.msf.org/article/msf-calls-large-scale-search-and-rescue-operation-mediterranean> (last accessed 12 April 2016).

³ See "Background" section of this report and Forensic Oceanography's previous investigation on the "Left-to-die Boat" case available at <http://www.forensic-architecture.org/case/left-die-boat/> (last accessed 12 April 2016).

distress. While it could appear that only the ruthless smugglers who overcrowded the unseaworthy boats to the point of collapse are to blame, the report focuses on the deeper responsibilities of EU agencies and policy makers.



[Video link: <https://vimeo.com/162952750>]

Interview with the survivors of the 18 April shipwreck. Credit: Forensic Oceanography. Editing: Laure Vermeersch. Research assistant: Sabine Llewellyn

It demonstrates that the latter's policy of retreat from state-led Search and Rescue (SAR) operations shifted the burden of extremely dangerous search and rescue operations onto large merchant ships, which are ill-fitted to conduct them. In this way, EU agencies and policy makers knowingly created the conditions that led to massive loss of life in the April shipwrecks. Death by rescue was thus the outcome of the EU's policy of non-assistance.



[Video link: <https://vimeo.com/162821584>]

Animation based on Automatic Identification System (AIS) vessel tracking data of the 12 April shipwreck. Credit: Forensic Oceanography. GIS analysis: Rossana Padeletti. Design: Samaneh Moafi. Data: MarineTraffic

The following report, produced by Forensic Oceanography – a research team based within the Forensic Architecture agency at Goldsmiths (University of London) that specialises in the use of forensic techniques and cartography to reconstruct cases of deaths at sea – in collaboration with WatchTheMed and in the framework of the Economic and Social Research Council (ESRC)-supported “Precarious Trajectories” research project, seeks to understand the conditions that made these events possible. It relies on new findings generated through extensive interviews with state officials and migrants, newly accessed operational documents, statistical data and technical evidence such as Automatic Identification System (AIS) vessel tracking data. This material has been analysed in collaboration with experts in the relevant fields of Geographic Information Systems (GIS), oceanography, EU policy, international law and migration studies.

By dissecting minutes of political meetings and previously unreleased operational documents, the report first reconstructs the institutional process that unfolded after the announcement of the Italian government’s intention to discontinue the military–humanitarian operation Mare Nostrum (MN). The latter, which began in October 2013, had deployed unprecedented means to rescue migrants in distress close to the Libyan shores but had attracted increasing criticism for allegedly constituting a “pull factor” for migrants and hence causing more deaths at sea. On 1 November 2014, EU institutions responded to the imminent end of Mare Nostrum by starting the Triton operation led by Frontex, the European border agency, which deployed fewer vessels in an area further away from the Libyan coast and which did not have rescue as their operational priority.



Map comparing the operational zones of Italian Navy’s Mare Nostrum and Frontex’s Triton. Credit: Forensic Oceanography. GIS analysis: Rossana Padeletti. Design: Samaneh Moafi.

This decision sparked strong criticism both from Members of the European Parliament (MEP) and from the human rights community, who predicted that the ending without replacement of Mare Nostrum would cause increased risk for migrants and ultimately

lead to more deaths at sea. New documents unearthed by our investigation show that this prediction was formulated within Frontex itself, which in one of its internal assessments stressed that:

“the withdrawal of naval assets from the area, if not properly planned and announced well in advance, would likely result in a higher number of fatalities.”⁴
Frontex concept document for operation Triton

Frontex operational planning of the Triton operation thus deliberately disregarded not only the external criticism of human rights advocates, but also its own internal assessment predicting increased deaths at sea. Furthermore, through newly released documents we show that the rationale for this retreat of state-operated rescue was in fact to act as a deterrent for migrants and smugglers in the aim of stemming crossings:

“The end of Operation Mare Nostrum on 31 December 2014 will have a direct impact on the JO Triton 2014. The fact that most interceptions and rescue missions will only take place inside the operational area could become a deterrence for facilitation networks and migrants that can only depart from, the Libyan or Egyptian coast with favourable weather conditions and taking into account that the boat must now navigate for several days before being rescued or intercepted.”⁵
Frontex Tactical Focused Assessment for operation Triton

While François Crépeau, United Nations Rapporteur on the rights of migrants, had already denounced this rationale in October 2014 as amounting to saying “let them die because this is a good deterrence”,⁶ the report provides evidence that EU member states and agencies prioritised combating the purported “risk of illegal border crossings” – as Frontex frames the phenomena⁷ – over the real risks incurred by migrants seeking to cross the sea to reach EU territory. Deterrence took precedence over human lives.

These policy decisions, which left a gap in SAR capabilities close to the Libyan coast, had deadly effects that we have analysed through forensic reconstruction of cases of shipwrecks and through spatial and statistical analysis. They became apparent in the first months of 2015 through a series of incidents that the report reconstructs in detail. Contrary to Frontex forecasts, migrants’ crossings continued unabated, thus proving the assumptions that led to the demise of Mare Nostrum tragically wrong. However, as a result of the retreat of state-led assets, an increasing number of migrants were left to drift for several hours or even days before being detected and before rescue means, now located much further away from the area where most SAR events were happening, managed to reach them. The gap in SAR capabilities was proving a deadly vacuum.

The Italian Maritime Rescue and Coordination Centre (MRCC) in charge for SAR operation in the Sicily Channel sought to fill this gap by increasingly calling upon merchant ships transiting in the area to carry out rescue operations. Between 1 January and 20 May 2015, commercial ships became the primary SAR actors in the central Mediterranean, rescuing 11,954 people (30% of the total people rescued). Frontex was

⁴ Frontex, *Concept of reinforced joint operation tackling the migratory flows towards Italy: JO EPN-Triton*, 28 August 2014, p. 6 (see full document in annex). Initially made available at <http://www.avvenire.it/Cronaca/Documents/JOU%20Concept%20on%20EPN> (last accessed 12 April 2016).

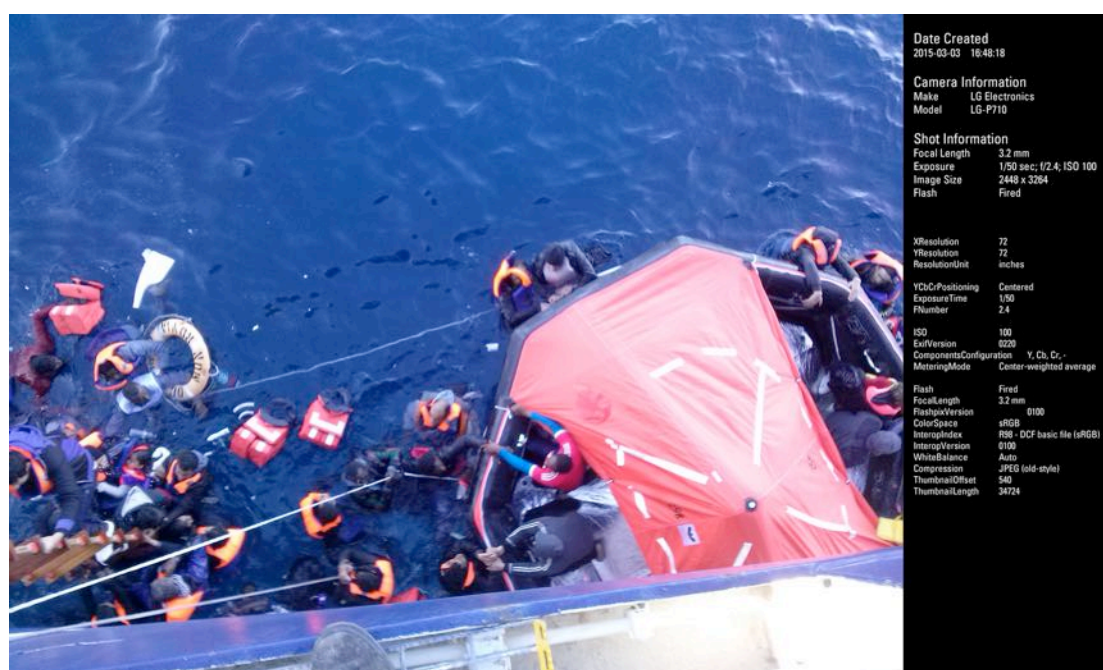
⁵ Frontex, *JO Triton 2015 Tactical Focused Assessment*, 14 January 2015, p. 2 (see full document in annex).

⁶ Office of the United Nations High Commissioner for Human Rights (OHCHR), “Europe / Migrants: ‘Let them die, this is a good deterrence’ – UN Human Rights Expert”, 30 October 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15239&LangID=E> (last accessed 12 April 2016).

⁷ See Frontex, “Risk Analysis”, <http://frontex.europa.eu/intelligence/risk-analysis/> (last accessed 12 April 2016).

fully aware of the excessive burden the retreat of its operational area from that formally covered by Mare Nostrum would put on the shoulders of the commercial shipping community, which it forecasted in its “Tactical focused assessment” for Triton dated 14 January 2015, noting that “facilitation networks will continue to exploit the presence of civilian merchant ships in the central Mediterranean during 2015 to reach Italy.”⁸

Frontex and the Italian Coast Guard were also aware of the fact that merchant ships are unfit to carry out the large-scale and particularly dangerous rescue operations involving migrants, and that the burden these ships were made to carry in the aftermath of Mare Nostrum was excessive. Shipping industry professional organisations had already publicly denounced this in October 2014, stating that “it will clearly be much more difficult for merchant ships to save lives at sea without the adequate provision of search and rescue services by EU Member States.”⁹ This ominous forecast first materialized on 3 March 2015 when, as the report’s reconstruction confirms, a shipwreck occurred just as a migrants’ boat was approaching a tugboat deployed to rescue it.



Photographs taken by the crew of the *OOO Cougar* as the migrants’ boat capsized upon approaching the ship that was attempting to rescue it. Photo credit: OOC Opielok Offshore Carrier.

This event cost the lives of more than 30 people and prompted the shipping community to send out yet another call on 31 March 2015 to EU policy makers, warning of the “terrible risk of further catastrophic loss of life as ever-more desperate people attempt this deadly sea crossing” and stating clearly that “commercial ships are not equipped to undertake such large-scale rescues.”¹⁰

Like the calls to prevent the ending of Mare Nostrum in 2014, and like several others at the beginning of 2015 that were sent out as the predicted tragic reality of continued

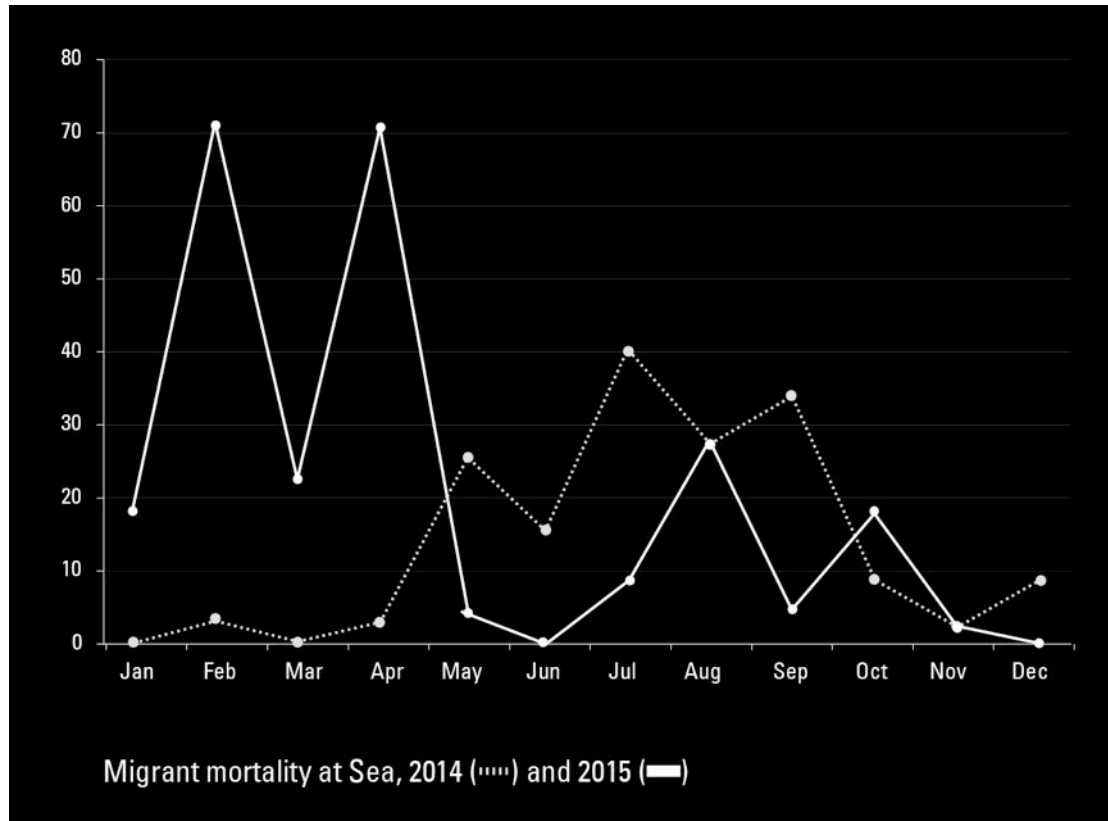
⁸ Frontex, *JO Triton 2015 Tactical Focused Assessment*, 14 January 2015, p. 3 (see full document in annex).

⁹ “ICS: Rescue of all persons at sea is a must”, *World Maritime News*, 29 October 2015, <http://worldmaritimeweb.com/archives/141521/ics-rescue-of-all-persons-in-distress-at-sea-is-a-must/> (last accessed 12 April 2016).

¹⁰ Letter of the European Community Shipowners’ Associations (ECSA) and the International Chamber of Shipping (ICS) to the Heads of State/Heads of Government of EU/EEA Member States, 31 March 2015, <http://www.ics-shipping.org/docs/default-source/Submissions/EU/attachment-to-press-release.pdf?sfvrsn=2> (last accessed 12 April 2016).

crossings and increasing deaths began to materialise, this appeal too was not heeded to. In this context, the twin April shipwrecks were only waiting to happen.

The EU's decision to not dispatch assets near the Libyan coast to provide SAR assistance to migrants in distress at sea left merchant ships stuck between the lack of consideration for human lives demonstrated by the practices of smugglers, and that which EU policy makers demonstrated by cutting back their assistance at sea to forward the aim of deterrence. As a result, privatised assistance became deadly. Statistical data for the period tragically confirms the predictions of human rights organisations: ending Mare Nostrum did not lead to less crossings, only to more deaths at sea and a higher rate of mortality.



While in the first four months of 2014, more than 26,000 migrants had crossed the Mediterranean and 60 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 (UNHCR and IOM data). The probability of dying at sea was had thus increased 30-fold, jumping from 2 deaths in 1,000 crossings to 60 in 1,000 (see statistical annex).

On 29 April 2015, the President of the European Commission, Jean-Claude Juncker, admitted that “it was a serious mistake to bring the Mare Nostrum operation to an end. It cost human lives.”¹¹ However, the ending of Mare Nostrum cannot adequately be described as a “mistake”. It was a clear decision taken by the Italian government, to which EU policymakers and agencies responded in a tragically inadequate way. While the consequence of mass death in the central Mediterranean was not only predictable, as the criticism of the human rights community showed, but had actually been predicted by Frontex itself, this decision must be characterized as an act of killing by omission.

¹¹ European Commission, “Speech by President Jean-Claude Juncker at the debate in the European Parliament on the conclusions of the Special European Council on 23 April: “Tackling the migration crisis”, 29 April 2015, http://europa.eu/rapid/press-release_SPEECH-15-4896_en.htm (last accessed 12 April 2016).

Our report thus sheds new light on the responsibility for these shipwrecks one year after the events. Because they decided to retreat their state-led Search and Rescue assets in all knowledge of the deadly consequences this would have, EU policy makers and agencies carry a strong degree of responsibility for these deaths.

The findings of the report are of particular relevance to the current situation and policies at the EU's maritime borders. Migrants' crossings in the central Mediterranean are increasing compared to last year, and as of the end of March, 343 deaths have been reported by the International Organisation for Migration (IOM). While after the April 2015 shipwrecks, the EU was compelled to extend the Triton operation and launch the anti-smuggling operation EUNAVFOR MED close to the Libyan coast, these operations have continued to prioritise security concerns over saving lives and will not bring the deaths of migrants at sea to an end. However, increasing state-led search and rescue is not in and of itself a sufficient solution. As the report demonstrates, even in the presence of the record means deployed by the Mare Nostrum operation, the danger of crossing remained high, because without avenues for legal and safe migration available, migrants continued to need to resort to smugglers and perilous means of crossing.

Recalling the responsibilities of EU institutions and member states for the deadly consequences of their policies is thus a call for a fundamental reorientation from a policy that seeks to select and block migrants' movements to one that would grant legal and safe passage, thereby making both smugglers and the very need to rescue migrants at sea obsolete, and stopping the list of more than 20,000 recorded cases of deaths at sea since the beginning of the 1990 from growing ever longer.