



# 12th IFLOS Maritime Talks

## Migrants at Sea

Practical and Legal Aspects of the Refugee Situation in  
the Mediterranean

at the International Tribunal for the Law of the Sea  
(ITLOS), Hamburg 17.03.2018

## Sea Watch perspective

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# SAR and politics: a deadly alliance



Moonbird foto 05.05.17

# Agenda

- Why this title?
- Who is Sea-Watch?
- How do we work?
- What are the obstacles?
- What is political at sea?
- What should be changed?

# SAR and Politics – a deadly alliance



- Mediterranean Sea is highly militarised and monitored
  - Mare Nostrum saved many lives, but was discontinued
  - Human rights / refugee rights vs. externalisation interests of Europe
  - It is the deadliest border of the world
- => Mare mortuum...



# Most dangerous border





# Who are we?



- German NGO privately funded since 2015
- Sea Watch started with a 100 yrs old fishing trawler to rescue
- No transport, first aid & „watch“
- Extension to Turkey / Greece route from Lesbos late 2015
- Stop through deal with Erdogan May`16



# Development 2016

- In 2016 new boat: Sea Watch 2
- More other NGOs followed example
- > 20.000 peoples rescued with others
- Air surveillance
- Political recognition
- Political tension



# Development 2017

- Need for more capacity
- many people died
- overall conditions got worse
- the EU withdrew and increased pressure
- traffickers increased number of people on boats (study university of Oxford)
- Libya failed state; Italy alone; change of rhetoric – ***diffamation and criminalisation***





# Sea Watch in 2017



>35.000 people  
safed since 2015!  
100% private!  
Independant -  
Purely humanitarian!

# How do we work?

- MRCC Rome coordinates
- SOPs follow experience and are shared
- Amongst NGOs good collaboration
- Communication happens with all at all times: often shared action
- We had up to 12 NGO ships on the Med, but due to pressure times change...

# Criminalisation

- Despite other statements concerted effort: politicians, italian media, far right (IB)
  - CoC issued and not signed by many
  - Two days after ultimatum on 2. Aug. confiscation of Juventa (Jugend Rettet)
  - To date no official accusation: what is known has NO substance
- => *Pure political move to pressure NGOs*

# Juventa safed many lives...



MS Juventa at SAR in 2017 before seizure



# Future for NGOs

- Several obstacles
  - **Criminalisation**
  - **Dangerous** encounters with LCG
  - Now even intentions for MRCC Libya
  - **Money** constant issue for some: high running costs, media attention
  - *No more support for NGOs – people die!*

# SAR and Military



- Mare Nostrum was big
- Much less support for refugees now
- Military is not all one: EUNAVFOR, Frontex, NATO, Italian; LYCG
- NGOs rescued and Military took over; but less so now: mainly keeping distance
- And **use SAR** and „collaboration“ as sales argument

# Military: who is who

- EUNAVFOR Med operation Sophia:
    - Phase 1: Intelligence on trafficking and SAR
    - Phase 2: direct action against traffickers and boats; control of weapons embargo
    - Phase 3 starts: **destroy traffickers infrastructure**
    - Works closely with LYCG: training and material
- => *Often state that „close collaboration with NGOs“ exists*

# Frontex (Triton to Themis)



- To protect the borders (Frontex) at sea (Triton): against illegal migration
- Informell support of LYCG
- Sometimes transport refugees
- **Transition from Frontex into European Border and Coast Guard Agency (EBCGA) - since Feb op Themis**
- Bigger and more competencies / power



# NATO



- Two missions: Maritime Group 2 to Secure the Med and defend the NATO interests
- Operation Active Endeavour: to fight terror infrastructure and prevent entry of weapons of mass destruction
- Support Turkey and Greece CG plus Frontex
- **NO SAR**

=> *Link to EUNAVFOR Med*

# So called LYCG

- **Split** into different parts:  
Infl. of central gvt limited
  - Receives **support** from  
EU (training and tech)
  - So far: several **attacks** „against“ NGOs  
(SW, Sea Eye, MSF, OA); on 21 Sept 2016  
against rescue ops with several deaths  
(**case here**)! Again on 6. Nov 2017!
- => „**prevents**“ **people from leaving: EU interest**



# Other alarming situations

- 15.45 Uhr, 30 Seemeilen vor der libyschen Küste: Plötzlich ist wieder ein Schnellboot der libyschen Küstenwache da. Schon in der Nacht waren die Libyer der deutschen **Fregatte "Mecklenburg-Vorpommern"** ungewöhnlich nahe gekommen. Doch nun, es ist der **1. November 2017**, eskaliert die Situation. Die "Bild"-Zeitung titelt  
**"Schnellboot greift deutsche Fregatte an".**
- 15.03.2018: ALARM JETZT! Die libysche Küstenwache 73 Meilen vor ihrer Küste, bedroht die Open Arms mit Schüssen zum Töten, wenn [Proactiva Open Arms](#) die geretteten Frauen und Kinder nicht abliefert. (Tweet issued for support)

# What is at stake?

- **Less SAR** capacity – more death!
- **More dangerous** routes will be taken
- **No focus** on saving lives and working on the long term changes
- **Crucial rights** denied: support of an actor violating rights and international conventions (refoulement principle)



Right to **leave** any country including one's own

Right seek and obtain **asylum** from persecution

Right to **life**

Right to protection from **refoulement**

Prohibition of **torture** [incl. inhuman reception cond'ts]

Prohibition of arbitrary **detention** [incl confinement at sea]

Right to a fair trial < access to **procedures**

Right to effective **remedies** < appeal if negative decision

Art. 12(2) ICCPR, Art. 2 UDHR, Art. 4 ECHR

Art. 14 UDHR, Art. 18 CFR

Art. 6 ICCPR, Art. 2 ECHR, Art. 2 CFR

Arts. 7 ICCPR, Art. 3 CAT, Art. 19 CFR

Arts. 7 ICCPR, Art. 1 ff CAT, Art. 3 ECHR

Art. 9 ICCPR, Art. 31(2) RC, Art. 5 ECHR

Arts. 7 ICCPR, Art. 3 CAT, Art. 13. ECHR

Art. 2 ICCPR, Art. 14 CAT, Art. 47 CFR



# Current practise

- ...is considered as violating rights and conventions
- Expertise of Prof Proelß (Universität Trier; öffentliches Recht, spez Völker- und EU-recht)
- Several Reports by Dr. Moreno-Lax (Queen Mary University; Dir of Immigration Law Programme)
- Expertise of the Bundestag (wissenschaftlicher Dienst; Feb 2018)
- ***Piracy and violence by LYCG***

# What`s needed

- **Acknowledgement** that situation is complex – Increase SAR! NOW!
- **Immediate stop of criminalisation** of NGOs and refugees
- **Fulfillment of state obligations**, respect of rights
- **Stop LYCG**
- **Support of Italy to keep the ports open**



*„If you save one life you  
save humanity“* (Talmud and Koran)



**Don't risk humanity! Save lives!**