

**Roundtable with International Experts on  
'Search and Rescue in the Central Mediterranean:  
Perspectives from Civil Society'  
30 May 2023, Berlin**

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## Abstract

The Central Mediterranean remains one of the deadliest migration routes in the world, with countless lives lost each year in hazardous and treacherous sea crossings. In January 2023, the Swedish EU Council Presidency and the European Commission have relaunched the Contact Group on Search and Rescue ('SAR Contact Group'),<sup>1</sup> with the next meeting scheduled for 16 June 2023. While the SAR Contact Group aims to facilitate and reinforce information exchange and coordination not only among national authorities but as well other relevant stakeholders,<sup>2</sup> members of the civil society, including non-governmental organisations ('NGOs') active in search and rescue operations, have not been invited to or heard in the meetings of the SAR Contact Group so far.

On 30 May 2023, the German Federal Foreign Office convened a roundtable of experts from international organisations (IOM, UNHCR, IMO), German and European NGOs (including NGOs active in Search and Rescue activities) and academia (legal scholars, political science and sociological experts, mechanical engineers and naval architects). Entitled 'Search and Rescue in the Central Mediterranean: Perspectives from Civil Society', this roundtable brought together the perspectives and the technical, legal and political expertise of those active in saving lives in the Central Mediterranean and of researchers and other professionals working in the field of Search and Rescue ('SAR') operations at sea. Representatives from Frontex and DG Home as well as from the relevant German federal ministries were present as well; embassy representatives from the SAR Contact Group states were invited to attend the plenary sessions. In the spirit of an open conversation, it was agreed that contributions in the discussions would not be attributed to individual speakers.

Federal Foreign Minister Annalena Baerbock and IOM Director General António Vitorino opened the event with keynote addresses, followed by a high-level expert panel discussion. After lunch, four Working Tables consisting of 15–20 experts discussed (1) coordination and communication in SAR operations, (2) a European approach on SAR operations, (3) technical and administrative cooperation with NGO vessels and (4) how to safeguard humanitarian space in the Central Mediterranean. Rapporteurs presented each working table's findings in a plenary session. The day concluded with remarks from Violeta Moreno-Lax (Queen Mary University London) who summarised the key elements and recommendations of the day.

The lively debate produced several key findings, along with a set of recommendations to address current challenges in search and rescue activity in the Mediterranean.

Thus, the participants identified a range of factors that were contributing to deaths at sea:

One major challenge identified by the participants was the political unwillingness of EU member states to adopt an approach that was guided predominantly by considerations of humanity. Participants emphasised the need to shift the prevailing framing of search and rescue operations from a security-centric perspective to one that prioritises saving lives. In the present political climate, they expected that the installation of new unified standards for search and rescue vessels would result in imposing unrealistically high thresholds for such missions to leave port. According to the NGOs, safety standards on

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<sup>1</sup> European Contact Group on Search and Rescue (E03752), <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupid=3752>.

<sup>2</sup> European Commission, Draft Roadmap towards a 'European Framework for Operational Cooperation on Search and Rescue in the Mediterranean Sea', published by Statewatch in May 2023, available at: <https://www.statewatch.org/news/2023/may/european-commission-wants-common-rules-on-registration-and-certification-for-mediterranean-search-and-rescue-organisations/>.

board of private search and rescue vessels were already high, calculations of stability and supply of first aid being regularly based on an additional number of rescued persons.

The experts also criticised the criminalisation of NGOs, citing administrative blockades at port, long stand-offs at sea, a lack of communication at the scene and general narratives pushing those actors in the realm of illegality and illegitimacy. Conversely, the experts warned that the current situation was leading to a rule of law crisis, consisting of the lack of compliance by states with EU law and international obligations pertaining to the duty to save lives at sea.

To tackle these challenges, the experts put forth a set of recommendations:

With regards to the operational field, information sharing with all relevant actors in proximity to the scene was deemed essential. Maritime Rescue Coordination Centres ('MRCCs') should adopt a transparent procedure for assessing the vessels available for rescue, ensuring that those best equipped and trained for the task were prioritised. In that sense, a differentiation between state vessels, NGO rescue ships and merchant vessels or pleasure crafts should only occur when necessary to optimise life-saving efforts. Information gathering upon rescue should be confined to what was absolutely necessary to protect human life. The installation of a Humanitarian Response Plan was recommended to fund and protect the work of rescuers. Efforts to introduce a separate classification for rescue ships should be abandoned. Instead of further limiting the manoeuvrability of private rescuers, any legislative reforms should address the level of state responsibility.

The participants therefore deplored that the 31 states represented in the SAR Contact Group were focusing on regulating and thereby possibly further hampering NGO rescues, rather than tackling the non-compliance of state authorities with international maritime standards, which the participants perceived as a rule of law problem at sea. While some participants called for an inclusion of civil society perspectives in the SAR Contact Group, others considered that this would only keep the focus on the NGOs, when it should be on the states themselves.

In the political debate, participants called upon the EU and its member states to refrain from using language that fosters criminalisation. This included abandoning the image of NGOs as autonomous actors that disregarded existing standards. The prosecution of private rescuers at sea had to stop. The NGOs present at the discussion emphasized the need for better inclusion in and coordination of search and rescue, resulting in a partnership focused on the common goal of upholding human rights standards while saving lives. Accordingly, this would also mean to terminate state cooperation with Libyan authorities, since Libya could not be considered a safe place.

The participants emphasised the tremendous added value of reintroducing a state or EU-led SAR mission. This would translate to assume the responsibility conferred by international law and to reduce the strain on private actors that were eventually incapable to fill the gap. However, such a mission would have to be centred around a clear humanitarian mandate and fulfil basic conditions; in particular, it could not result in disembarkations outside of the EU or in off-shore processing of asylum applications, and it had to include clear accountability mechanisms to avoid impunity for violations of international maritime and human rights standards. Finally, it would have to include a relocation arrangement in order to work reliably.

The discussions converged on the fact that there was an urgent need to demand states to comply with their international obligations. The EU Commission was called upon to play a more active role in enforcing compliance with EU and international law among member states.

## Opening statements

Annalena Baerbock, German Foreign Minister

Foreign Minister Annalena Baerbock opened the Roundtable event by summarising the latest deadly incidents at sea and acknowledging the role of civil society in rescue operations in the Central Mediterranean. She pointed out that his year had seen the **highest number of deaths at sea since 2017**. Non-governmental organisations ('NGOs') were seeking to **fill the humanitarian gap** left open by the withdrawal of coordinated large-scale search and rescue ('SAR') efforts by states. Baerbock acknowledged that NGOs active in SAR activities were investing immense psychological and physiological strength in the operations while continuously having to face criminal and administrative allegations and thanked them for their effort and their work of humanity.



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Stating that Germany cannot leave the task to national coast guards and NGOs alone, Baerbock defined three crucial elements of the German government's efforts for a coordinated European SAR Policy, forming a triangle of humanity, order and solidarity: Firstly, **a human and humanitarian only approach must be adopted towards migrants and refugees rescued at sea**, including respect for humanitarian standards, existing EU law and EU values; in this regard FRONTEX needed to restore trust and transparency under the new

Director Hans Leijten. The administration of EU external borders must be governed by an EU-value led approach. Secondly, Baerbock called for **true European solidarity amongst the EU member states**. She emphasised the need for a common migration and asylum policy where the special responsibility of states at EU external borders is equally acknowledged as the importance of solidarity measures implemented by other member states. In order to provide long-term solutions that work in practice and not only in theory, a relocation mechanism needed to go hand in hand with reliable border procedures. This was because many states were only willing to take refugees if there was a speedy procedure at the border, guaranteeing 'order'. However, these border procedures must not undermine current human rights standards. Thirdly, she emphasised the need to **protect the space of civil society organisations**. Civil society organisations contributed to saving lives and their work must not be hindered.

She concluded that, as every single death was unacceptable, this Roundtable served to provide a platform to those who truly understand the situation in the Mediterranean to formulate solutions that effectively save lives at sea.

António Vitorino, Director General, International Organisation for Migration

For António Vitorino, Director General of the International Organisation for Migration (IOM), time had come to have a frank discussion on the implications of SAR operations in the Central Mediterranean. Acknowledging the high number of deaths at sea, he also pointed to other extremely dangerous migratory routes, such as through the Sahara Desert. While governments were feeling a growing pressure due to increasing arrivals, it was therefore equally relevant to focus on the **increasingly risky journeys** migrants and refugees have to take.

He further reported that the IOM sees a **shift in migratory routes and a shift in the communities which are migrating**: More and more migratory boats departed from Tunisia, and more and more people arriving from Turkey originated from Egypt, Nepal and India. Such diversity had to be met by differing approaches, in light of the individual circumstances of the place. **Prevention campaigns** were a key element in the work of IOM with the different communities, providing them with better information on the dangers of the migratory routes and legal pathways. But more data on gender, nationality and reasons for migration was needed in order for such campaigns to work effectively.



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The Director General emphasised that the pull-factor argument against SAR operations had been rebutted; instead of minimising rescue efforts, a coordinated and predictable system for SAR operations was needed. He stated that **search and rescue operations must be state sponsored and coordinated, with a key role for FRONTEX**, and that a predictable system of disembarkation for NGOs and state-led Search and Rescue missions was required. In this context, he clearly affirmed that **Libya cannot be regarded as safe place for disembarkation**, reporting that those disembarked in Libya are immediately detained in facilities of militias, to which NGOs and international organisations such as IOM and UNHCR had no access, and that detainees were directly pushed into the hands of smugglers.

This Roundtable event was a forum for the search for alternatives: to detention in Libya as well as to feeding the business of smugglers. While opportunities for legal migration were not directly linked to ending irregular migration, they constituted an important factor when negotiating with the local communities. Additionally, ways to improve the international system had to be found to make migration safe and orderly. In this respect, in the context of SAR operations, the need for **shared responsibility and solidarity mechanisms** was critical. He added that the role of the civil society was crucial and that any criminalisation was completely unacceptable.

Q&A

#### *Plans for revising the German Ship Safety Ordinance*

The first question concerned the Foreign Minister's position on the plans of the German Federal Ministry for Transport to revise the **Ship Safety Ordinance**. There was concern that these would in effect obstruct civil society organisations in their life saving work in the Central Mediterranean.<sup>3</sup>

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<sup>3</sup> The concern raised by the participant has been expressed also by several NGOs, see e.g.: <https://sea-watch.org/bundesregierung-plant-behinderung-ziviler-seenotrettung/>.

Minister Baerbock reiterated that the German government takes the view that the SAR activities of NGOs were important for saving lives since states are not fulfilling their obligation to do so. A safety check ('TÜV'<sup>4</sup>) was crucial but must not hinder civil search and rescue operations. She added that the legislative procedure had only started, and that the proposal will be followed by further debates.

#### *Purpose of the Roundtable and CEAS reform*

The second questioner asked Minister Baerbock about the purpose of the event and her expectations in light of the legislative proposals on a **reform to the Common European Asylum System (CEAS)**<sup>5</sup>, which the participant believed would lead to even more deaths.

The Minister reiterated that the goal must be to find solutions that work in practice and not only in theory. Therefore, the purpose of the event was to listen to those practicing and researching Search and Rescue about what the real challenges were and how they could be overcome. The next SAR Contact Group meeting on 16 June 2023 presented an opportunity to raise the question why the perspectives of these actors were not included and why no effort was put in a state-led search and rescue operation. She added that in 2023 state rescues made up the majority of arrivals, and that this fact should create room to negotiate coordinated state-led SAR operations, since saving lives was already *de facto* (as well as by law) the task of states.

On the CEAS reform, Minister Baerbock asserted that the current conditions were unacceptable. However, in her view, a mechanism for solidarity and relocation could only find a political majority if paired with reliable border procedures. She acknowledged that the negotiations were challenging due to the tendency by member states to lower standards, but that it was important to try.



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#### *SAR Contact Group and the right to leave one's own country*

The third question raised concerns over the European Commission's Draft Roadmap towards a 'European Framework for Operational Cooperation on Search and Rescue in the Mediterranean Sea', which had just been leaked by Statewatch.<sup>6</sup> Deliverable 5 of the Roadmap is to agree on the **type of information that shipmasters may be asked to collect**, deliverable 8 aims at a **standardisation of registration and certification rules on private vessels** carrying out SAR operations. The questioner represented

<sup>4</sup> The Technischer Überwachungsverein (TÜV) carries out legally mandated safety checks and awards safety certificates. The term is also used colloquially for official technical standards and mechanisms to ensure compliance with these standards.

<sup>5</sup> An analysis on the impact of the legislative changes on migrants can be found here: <https://ecre.org/editorial-migration-pact-agreement-point-by-point/>.

<sup>6</sup> European Commission, Draft Roadmap towards a 'European Framework for Operational Cooperation on Search and Rescue in the Mediterranean Sea', published by Statewatch in May 2023, available at: <https://www.statewatch.org/news/2023/may/european-commission-wants-common-rules-on-registration-and-certification-for-mediterranean-search-and-rescue-organisations/>.

the view – which is supported by FRA<sup>7</sup> – that such administrative rules would obstruct the work of NGOs conducting SAR operations and asked whether additional regulations on the EU level must be expected and what this meant for the German Ship Safety Ordinance.

Applauding IOM Director General Vitorino’s analysis of the situation in Libya and his clear stance on disembarkation there, another questioner voiced concern over **externalisation policies of the European Union aiming at preventing departures** also from Libya.<sup>8</sup> Referring to Vitorino’s emphasis on prevention strategies, the questioner demanded an equally strong pledge for compliance by states and international organisations with the **human right to leave one’s own country**.

Minister Baerbock first highlighted that SAR operations in the Central Mediterranean constituted a European issue and that the German government therefore welcomed the reinstatement of the SAR Contact Group. She reiterated that the legislative proposal on the Ship Safety Ordinance was not aimed at hindering SAR operations but to remind states of their obligation to coordinate such operations.

IOM Director General Vitorino added that Germany had a very strong voice in the European and international debate. For the currently prepared Recommendations by IOM, UNHCR and Red Cross to the Commission and the Council<sup>9</sup> it was therefore crucial to hear the needs by civil society organisations active in SAR operations and to emphasise the need for state compliance with their obligations in such operations. As to the right to leave, there was no legal prevention of movement, but it was an ethical question to prevent the people from falling into the hands of smugglers.

#### *Call for recognition of voices of migrants*

The last questioner reported having lived in Libya for four years, where the questioner had been put into detention camps seventeen times and been intercepted at sea and deported back to Libya several times. The questioner wanted to know why UNHCR, other international organisations and the international community were not taking action and how the testimony and claims of refugees and those being subjected to these inhumane treatments could be heard and listened to.

IOM Director General Vitorino explained that beneath the official detention centres in Libya there was a network of unofficial camps run by militias where international organisations such as IOM or UNHCR had no access. He emphasised that while IOM was fully aware of the human rights violations because it was listening to the testimonies of victims, the international community needed to find ways to urge the Libyan government to end cooperation with militias, because international organisations could not enforce measures without the government’s approval.

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<sup>7</sup> FRA, *June 2022 Update – Search and Rescue (SAR) operations in the Mediterranean and fundamental rights*, 20 June 2022, <https://fra.europa.eu/en/publication/2022/june-2022-update-ngo-ships-sar-activities>.

<sup>8</sup> Action Plan for the Central Mediterranean, Nov. 2022, no. 3, available at: [https://home-affairs.ec.europa.eu/eu-action-plan-central-mediterranean\\_en](https://home-affairs.ec.europa.eu/eu-action-plan-central-mediterranean_en).

<sup>9</sup> Earlier recommendations of IOM and UNHCR urged states to ensure a prompt disembarkation at a place where human rights are respected, see: UNHCR, IOM, OHCHR, UNICEF, UNODC and the Special Rapporteur on the Rights of Migrants, ‘Joint Statement on Place of Safety’, May 2022, [www.unhcr.org/62824f564](http://www.unhcr.org/62824f564); IOM, UNHCR, ‘IOM and UNHCR Appeal for the Urgent Disembarkation of all Stranded Refugees and Migrants in the Central Mediterranean’, 7 Nov. 2022, <https://www.iom.int/news/iom-and-unhcr-appeal-urgent-disembarkation-all-stranded-refugees-and-migrants-central-mediterranean>.

## Panel discussion: What are the main challenges for SAR operations in the Mediterranean? Lessons from the past, current dynamics, future improvements



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The panel discussion on the main challenges for search and rescue operations brought together Jean-Pierre Gauci (BIICL), Julia Schaefermeyer (SOS Méditerranée), Juan Matias Gil (MSF), Regina Catrambone (MOAS), Frederick Kenney (IMO) and Vincent Cochetel (UNHCR), chaired by Susanne Fengler (TU Dortmund).<sup>10</sup>

Asked about the strategic choices made by migrants and refugees and about the reasons for the rise of the numbers of crossings in the central Mediterranean, **Vincent Cochetel (UNHCR)** prefaced his statement by saying that the number of arrivals<sup>11</sup> was quite manageable for Europe and that other parts of the world had to deal with much higher numbers.

He explained that there has lately been a slight decrease in departures from Libya. The main driver for departures remained a higher sense of insecurity, particularly harder access to launching points, discriminatory and aggressive sentiments in some local communities, and horrific conditions in detention centres. In any case, most people arriving in Libya (65 %) still had the intent of staying there to work. He deplored that UNHCR's work was constrained since they were only allowed to register nine specific nationalities, while having to witness how people were continuously sold, resold, and re-trafficked.

<sup>10</sup> Speakers listed in the order they are sitting as depicted in the photograph (left to right), the chair seated to the left of the speakers. Short biographies of the speakers are attached in Annex I.

<sup>11</sup> See, e.g., the numbers compiled by UNHCR: <https://data.unhcr.org/en/situations/mediterranean>.

After all, smuggling was a profitable business whose profits were directly reinvested into the legal economy of Libya.

In Tunisia, on the other hand, the number of departures had increased. One reason for this was the cheap price.<sup>12</sup> However, the situation of migrants and refugees had temporarily returned to what it had been like before the presidential statement of 23 February 2023, with a lack of inclusion and opportunities in the Tunisian society. While Tunisia was a party to the 1951 Refugee Convention, it had not enacted national laws that grant access to asylum. This made it impossible for refugees to receive a legal status and official documentation.

Cochetel concluded by reminding the audience that maritime containment measures would not stop people coming via the sea because it was the only 'open' border left.

MOAS founder **Regina Catrambone** emphasised that, if people continued to take these deadly routes, their rescue could not be up for discussion. MOAS (Migrant Offshore Aid Station) had been the first NGO to send out a SAR vessel in 2014 in response to the Lampedusa shipwreck.<sup>13</sup> Almost a decade later, the responsibility to rescue was still in the hands of civil society organisations. The governmental lack of cooperation with civil society and the criminalisation of NGO operations had led to a mutual distrust that had curbed the effectiveness of rescue at sea. European funds should not only be spent on border control but also on SAR operations; after all, the NGOs were performing a state duty. Asked about FRONTEX, she affirmed that existing European missions should engage in search and rescue. She also called for enhanced legal access in the form of visas, humanitarian corridors and family reunification; closing migration routes would only open up new ones. She said the desire for regulation and coordination of private SAR missions was understandable. Eventually, this would also serve the NGOs' cause, to promptly disembark those rescued at a place of safety.

Asked about the legal framework and the challenges of under-regulation, **Frederick Kenney Jr. (IMO)**, answered that the SAR Convention established a twofold framework: It placed direct responsibility for rescuing people in distress on all actors on the field, and it obliged States to create a functioning SAR framework.

However, he claimed that the system had not been designed for the current 'mass migration'. The obligation to rescue was triggered by a situation of distress, but technically, most ships that transported migrants and refugees were so unseaworthy that they must be considered in distress as soon as they left port. States had to coordinate rescues and disembarkations on their own, but given the current numbers, a single country would quickly be overwhelmed by this task. He therefore questioned whether the system was still fit for purpose.

Calling the sea a 'dangerous and unforgiving place', he also expressed support for the prevention of departure.

**Juan Matias Gil (MSF)** stated that in theory, the existing system exactly determined where, how, and by which actor rescue operations had to be conducted. He questioned, however, the invocation of the delimitation of SAR zones, when it was common knowledge that states such as Malta simply did not monitor their zone. The documentation of the dimensions of the crisis was left to civil society. However, EU member states could not disregard what was happening on the sea by invoking borders.

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<sup>12</sup> According to Vincent Cochetel it costs about USD 300 to leave for Italy.

<sup>13</sup> See, e.g., 'Fatal shipwreck near Italy', Deutsche Welle, 5 Dec. 2014, <https://www.dw.com/en/italian-media-report-deadly-shipwreck-of-migrant-boat-between-libya-and-lampedusa/a-17630131>.

Gil also voiced alarm over the direction in which the work of the Contact Group was headed, departing from its original goal to ensure safety and avoid criminalisation. He called upon states to treat SAR operations as what they are and not as border control.

In his view, there was no need for new regulations but for adherence on behalf of the states to the obligations in place. One major flaw was that Maritime Rescue Coordination Centres ('MRCC') abstained from coordination with NGOs and instead only initiated communication with FRONTEX. Often there was no transparency about who was on the other side of the line if NGOs were called to rescue people in distress.

**Julia Schaefermeyer (SOS Méditerranée)** was asked to share her perspective on the increasing criminalisation of NGOs. She began by citing blockades in port, the allocation of faraway ports or long stand-offs at sea with victims on board. Relevant information was not passed on to the NGOs, she said. Instead of facilitating private SAR operations with what they needed, monetary resources were bound up elsewhere. National decrees seemed to be specifically designed to make NGOs bleed out on a preliminary stage before they even reached the scene.

In addition, the humanitarian space was becoming increasingly restricted and dangerous. At sea, physical attacks by the Libyan Coast Guard and other armed militias posed a threat. On land, NGOs were the target of right-wing misinformation campaigns, retelling a narrative of smuggle-networks-supporting organisations that did not comply with official procedures and created a pull factor. Such allegations had to be rebutted in the clearest forms.

Schaefermeyer made it clear that the maximization of rescue opportunities had to be a priority rather than the removal of civil society organisations from the scene. The EU legal framework, she said, must be in line with European principles and human rights, which the EU claims to hold in its DNA.

**Jean-Pierre Gauci (BIICL)** was asked to add his perspective on the political debate. He said it was important to adopt a multi-stakeholder approach, noting that private merchant vessels were also obliged to rescue under international law when approaching ships in distress. He called upon flag states to sanction the non-performance of this duty and to remove disincentives to rescue, such as delays in the disembarkation, higher costs due to long stand-offs at sea before disembarkation is allowed, and finally uncertainty as to the applicable protocols and the legal response to that rescue.

Gauci also insisted that private vessels should not be instructed to disembark people in Libya, in violation of international law. Cooperation with third states was only as good as the outcome it pursued.

Asked for **global examples that could serve as models** for handling migration in the Mediterranean, Regina Catrambone pointed to a study of the European Parliament from 2016<sup>14</sup>; all the necessary recommendations were already in there. Vincent Cochetel cited the **Comprehensive Plan of Action for Indo-Chinese Refugees** in the 1980s.<sup>15</sup> What stood out about this plan was the states' shared willingness to guarantee disembarkation and resettlement of those qualifying for asylum. The system was far from being perfect, but it never questioned the necessity to rescue in the first place. Such political commitment to rescue was what was missing today.

In the Q&A, one participant cautioned that any amendment efforts would create the **risk of undermining existing standards** on search and rescue. Lawyers made law for good and bad weather; it was such times of bad weather, when the law had to be revived and uphold.

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<sup>14</sup> European Parliament, Report of 23 March 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration (2015/2095(INI)).

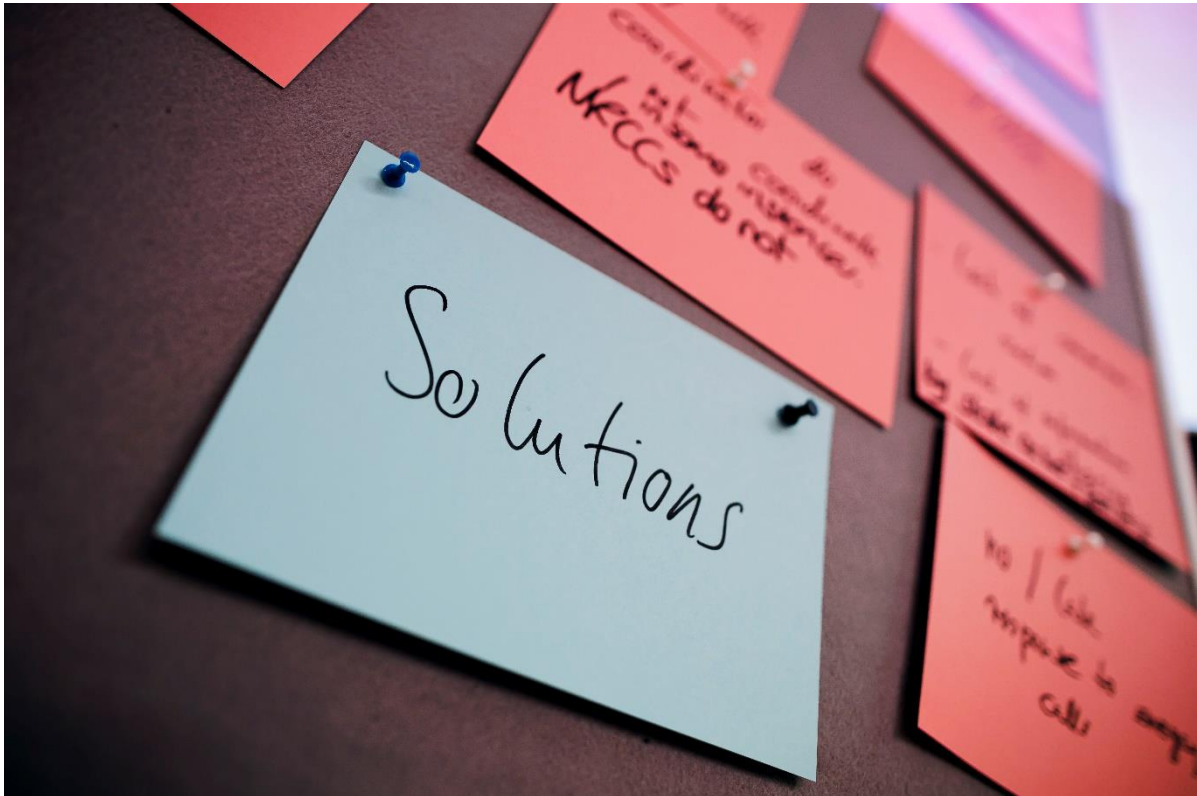
<sup>15</sup> Report of the Secretary-General to the 44th Session of the GA, UN doc. A/44/523, 22 Sept. 1989, with Annex Declaration and Comprehensive Plan of Action.

Frederick Kenney Jr. partly disagreed. He did acknowledge the risk of regression. Drafting an agreement was a delicate task, as evidenced by the 2003 SOLAS and SAR Convention amendments on the port of disembarkation, which he had co-drafted. Those amendments had left the obligation to rescue untouched. He clarified he was only advocating for a revision of the system of coordination. This was necessary to remove the burden from merchant vessels in situations of mass migration.

Julia Schaefermeyer added that the **terminology of 'mass migration'** was misleading given the relative figures. It was important to resist the framing of search and rescue as migration management.

The final questioner challenged the functionality of the Libyan SAR zone and the Libyan Joint Rescue Coordination Centre ('JRCC'), especially in light of the fact that the **Libyan Coast Guard** did not act in line with international maritime standards, including the obligation to disembark rescued persons in a place of safety. The questioner asked what the IMO intended to do as the competent international organisation where states notified their SAR zones and how it aimed to investigate reported violent behaviour of enforced interception by the Libyan Coast Guard. Kenney responded that the IMO had no operational arm and that international maritime law placed the responsibility of oversight on the member states, so that the IMO was unable to act without states' approval.

## Working Tables



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### Working Table 1: Coordination and Communication in SAR operations

Regarding the coordination and communication between NGO vessels conducting SAR operations and MRCCs of different states, the overarching question was how SAR actors, including states, EU agencies and NGOs, could improve communication, coordination and cooperation in sea rescue cases and situational awareness.

#### **Input: Challenges of documenting deaths and disappearances in the Central Mediterranean**

The first Input was provided by a representative of an intergovernmental organisation. The speaker linked difficulties in documenting the many deaths and disappearances in the Central Mediterranean to the challenging coordination and communication after SAR operations.

Although data on deaths at sea were incomplete, there had been an increase in loss of life in the first half of 2023; with nearly 1,000 documented as of 25 May, the number had been higher than in any year since 2017. This was linked in part to increasing departures via the Central Mediterranean, and in particular from Tunisia. However, the available data also pointed to delays in state-led SAR accounting for more than 200 deaths already in 2023. The speaker also voiced concern that restrictions and intimidation of NGOs conducting SAR operations by Libyan and Italian authorities worsened the inadequate SAR presence in the Central Mediterranean area and highlighted the growing number of interceptions by North African authorities, including by Libyan actors and, more recently, by Tunisian actors.

A lack of communication by all government actors conducting SAR meant that documenting these deaths was increasingly challenging. In cases of large shipwrecks where only state actors were involved

in the SAR operation, information from the rescue crews was often entirely absent, with estimates of missing persons coming only from interviews of survivors after disembarkation, conducted almost exclusively by NGO/IGO actors. This lack of transparent communication from state actors meant that, even though the Central Mediterranean was the deadliest known migration route, the true number of deaths was likely far higher than the 22,000 recorded since 2014.

### **Input: Current shortcomings of coordination and communication at sea**

The second Input was provided by a representative of a SAR NGO and focused on the current shortcomings in the communication and coordination by states at sea.

The speaker started by emphasising that rescue is rooted in legal obligations: the duty for the captain to render assistance and the duty for states to provide SAR services and to coordinate SAR operations with all involved actors. States systemically violated these legal obligations through push- and pullbacks to Libya and Tunisia, by actively obstructing the work of civil society organisations, and through **non-assistance, failure to coordinate and obstruction of NGO rescue operations** in situations where every minute counted.<sup>16</sup> Instead of debating new legal frameworks, the EU Commission, as guardian of the Treaties, should therefore put efforts in finding mechanisms which ensure the implementation of the existing legal framework.

Specifically, while the NGOs persistently complied with the legal framework and informed all relevant MRCCs about distress cases and operational steps taken to the rescue, in their experience the responsible states did not react at all or failed to communicate and coordinate. The speaker shared the testimony of survivors who claimed that MRCCs had not answered their call or hung up on them.<sup>17</sup> NGOs were also not being informed about distress situations despite being in the vicinity. Thus, in one example, a merchant vessel was called by the Italian MRCC to rescue persons in distress even though an NGO-operated SAR vessel was close to the scene and better equipped to conduct the rescue,<sup>18</sup> and was ordered to disembark the rescued persons to Libya. Frontex also did not share any information with NGOs active in the Mediterranean; instead, the agency's aerial support mainly supported interceptions from Tunisian and Libyan entities, the latter of which resulted in push- and pullbacks to Libya.<sup>19</sup> These practices were not only failing to save lives, but **actively endangering lives**.

### **Deaths are avoidable if states step up to their obligations**

Relying on the input, the working group started by analysing the problems in the Central Mediterranean Sea. According to the working group's analysis, the main problem was the **lack of compliance by states and of accountability mechanisms in cases of non-compliance** with international SAR obligations. One reoccurring issue in this regard was the shortcoming of MRCCs to coordinate in a way that lives are efficiently saved and international principles of e.g. non-refoulement are kept. Different practices of the MRCC of Malta and Libya were used as exemplary illustrations for these shortcomings. It was mentioned that the Maltese MRCC instructed merchant vessels to refrain from rescue operations despite witnessing situations of distress and that the Maltese MRCC instructed merchant vessels to

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<sup>16</sup> A comprehensive overview on how states obstruct rescue operations can also be found here: Markard et al., *Support for Civil Search and Rescue Activities: Options for the German Government* (Heinrich-Böll-Stiftung, 2023), pp. 13 ff., <https://eu.boell.org/en/support-civil-search-rescue>.

<sup>17</sup> The speaker cited a recent incident in the SAR zone of Malta, where distress calls were ignored and the approximately 500 passengers then pushed back to Libya; see: <https://alarmphone.org/en/2023/05/29/500-people-abducted-at-sea/>.

<sup>18</sup> The incident was reported by SOS Humanity, see: [https://twitter.com/soshumanity\\_en/status/1661682610328797185](https://twitter.com/soshumanity_en/status/1661682610328797185).

<sup>19</sup> The speaker relied on research of Human Rights watch, which can be found here: <https://www.hrw.org/video-photos/interactive/2022/12/08/airborne-complicity-frontex-aerial-surveillance-enables-abuse>.

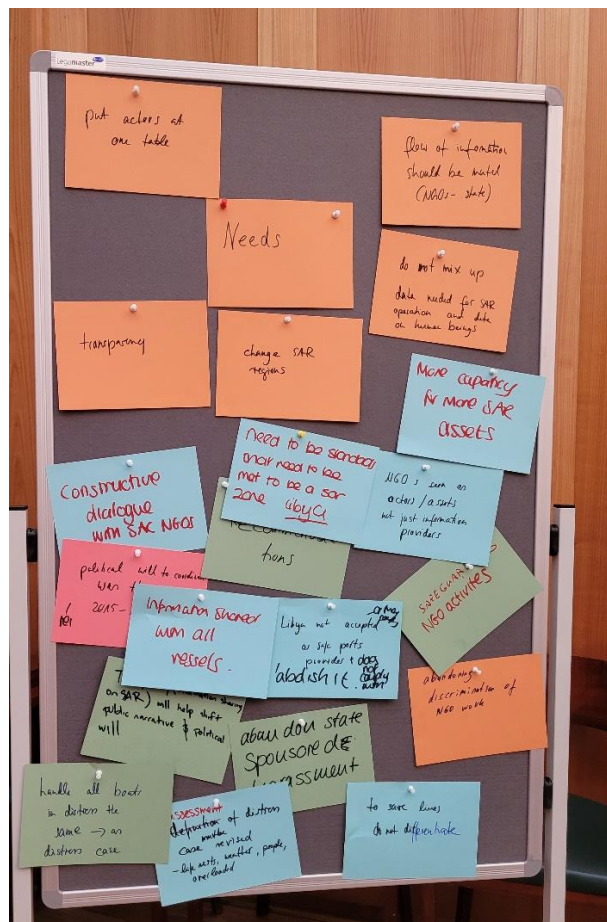
disembark persons in Egypt and Libya which amounted to refoulement of these people.<sup>20</sup> According to the working group, Malta systemically violated Human Rights and their obligation to coordinate SAR operations.<sup>21</sup> With regard to Libya the working group analysed that the JRCC was neither functional nor acting in line with international maritime law standards, which stipulate that rescued persons must be disembarked in a place of safety. The working group therefor called for a **suspension of any cooperation with the Libyan authorities**. Due to the **absence of binding accountability mechanisms** the violations of the law of the sea by MRCCs as well as other EU and state led actors remain an ongoing practice.

The working group further identified the **lack of communication and information sharing by state and EU actors** with NGOs in rescue operations as problematic. Members of the working group reported that Frontex did not inform actors close to the scene when they witness a distress situation.<sup>22</sup> Instead of facilitating the rescue the working group analysed that Frontex is actively engaged in pullbacks conducted by the Libyan coast guard.<sup>23</sup>

The overall impression among the participants of the working group was that there was a **lack of political will** to improve the situation in the Mediterranean Sea and to significantly strengthen efforts to rescue lives. Instead, it was mentioned that the steps taken by the EU, its agencies and the member states rather created new problems.

The working group then discussed what needs emerged from the problems identified. It was proposed to:

- Expand state-led SAR vessels and operations;
- Ensure that state and EU actors continuously and constructively share information about (potential) distress cases with civil actors involved in SAR;
- Redistribute the SAR regions of states according to the respective state's capacity to coordinate rescues in line with international SAR obligations, taking in to account that Libya should not be awarded any SAR responsibilities;
- Ensure transparency.



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<sup>20</sup> The speakers referred to incidents reported here: <https://alarmphone.org/en/2023/05/29/500-people-abducted-at-sea/>; <https://sea-watch.org/en/nonrefoulement/>; [https://alarmphone.org/en/2020/04/16/twelve-deaths-and-a-secret-push-back-to-libya/?post\\_type=release\\_type=post](https://alarmphone.org/en/2020/04/16/twelve-deaths-and-a-secret-push-back-to-libya/?post_type=release_type=post).

<sup>21</sup> In this context, one speaker referred to the submission by Sea Watch e.V. and Border Violence Monitoring Network to the United Nations Human Rights Committee, see: <https://sea-watch.org/wp-content/uploads/2020/10/Human-Rights-Committee-Joint-Report-on-Malta-4.pdf>.

<sup>22</sup> Sea-Watch has filed a lawsuit against Frontex before the General Court of the European Union in April 2022 to receive information on why none of the authorities present at a distress situation in July 2021 informed the nearby rescue vessel of Sea-Watch, see: <https://sea-watch.org/en/sea-watch-takes-frontex-to-court/>.

<sup>23</sup> Here members of the working group referred to forensic analysis conducted by Human Rights Watch and Border Forensics, see: <https://www.hrw.org/video-photos/interactive/2022/12/08/airborne-complicity-frontex-aerial-surveillance-enables-abuse>.

It was added that European MRCCs must launch rescue operations after receiving distress alerts without any delay, and that they must stop ‘outsourcing’ the duty to rescue and to disembark persons in a safe place to the Libyan authorities who did not act in line with international maritime law and human rights law. Moreover, there was a need to ensure the accountability of state actors for non-compliance with international search and rescue obligations.

### **Definition of ‘distress’ must be based on objective criteria**

The group further discussed whether a more precise definition of ‘cases of distress’ may enhance search and rescue operations in the Mediterranean. Regarding deliverable 7 of the leaked Roadmap of the SAR Contact Group<sup>24</sup>, which concerns this issue, most of the group members criticised that NGO actors – despite being search and rescue experts – were not mentioned in the roadmap as contributors to the discussion.

The majority of the participants agreed that any boat with migrants on board leaving Libya or Tunisia should be regarded as *per se* in distress. They criticised that both Maltese authorities and Frontex were not taking into account all relevant factors when assessing distress. It was emphasised that **objective criteria** such as the **overcrowding of the boat, the lack of life saving equipment on these boats, unseaworthiness of the boats and the lack of registration of the boats** should initiate search and rescue procedures as provided for in the Law of the Sea.

### **Instead of criminalisation – constructive cooperation is needed**

The group finally **criticised the ongoing criminalisation** of NGOs and their activities in the Central Mediterranean. It was perceived that in the public and political debate there was a tendency to frame the behaviour of NGOs as smuggling and illegal, whereas these allegations were not substantiated by any statistical, legal or factual evidence.

Again, the discussion of problems was followed by a debate on possible needs and ways to remedy these problems. Here the participants concluded that all actors need to be put at one table with the aim of a constructive flow of information and expertise. In this regard the **agency and expertise of NGOs** active in Search and Rescue must first be recognised by states. Additionally, states should refrain from any harassment against NGOs and adopt a **clear stance to safeguard the activities** instead.

Following the Working Table, some NGO participants shared their perception that the Frontex official attending had tried to influence the discussion and outcome.

### Working Table 2: European approach on SAR operations

The second Working Table focused on how EU entities and initiatives such as the SAR Contact Group, coastal and flag states could contribute towards a coordinated European SAR effort in the Central Mediterranean. The working group members were invited to develop a vision for such a coordinated effort, while considering practical and legal preconditions, such as the legal framework for a possible European SAR Mission, its possible inclusion in new or existing CSDP missions and the possible role of Frontex. The group also considered possible objections of some member states and how they could be overcome, or whether a coalition of the willing might solve the problem. Throughout, the group also considered the role that NGOs with their vessels and expertise would play in this context.

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<sup>24</sup> European Commission, Working Paper for Discussion on a Draft Roadmap towards a ‘European Framework for Operational Cooperation on Search and Rescue in the Mediterranean Sea’, published by Statewatch on 25 May 2023, see <https://www.statewatch.org/news/2023/may/european-commission-wants-common-rules-on-registration-and-certification-for-mediterranean-search-and-rescue-organisations/>. The document was made available for download here: <https://www.statewatch.org/media/3904/eu-com-sar-roadmap-plan.pdf>.

## Input: Points of agreements and points for discussion

The introductory comments, which were provided by a legal scholar, highlighted points of agreement and points for discussion:

Firstly, there was a **need to clarify the applicable law, how should it be approached, and whether it needed to be changed**. While public institutions argued that the existing legal framework wasn't made for 'mass migration', NGOs tended to fear opening the gate to regression of law. Should, then, 'mass migration' have an influence on search and rescue – which is an unconditional obligation<sup>25</sup> – or was the only proper place for this issue the rules for disembarkation, which include non-refoulement? The last amendments to the SAR and SOLAS Conventions were achieved in 2003 and responded to the *MV Tampa* incident, that is, with a situation involving migrants at sea;<sup>26</sup> they did not touch the obligation to provide assistance but concerned disembarkation. The scope of the obligations of the SAR state<sup>27</sup> to quickly find or supply a port of disembarkation had remained a point of contention, nonetheless. Arguably, in light of the *ratio legis*, such a place should be nearby, but proximity was not explicitly mentioned in the law. On the other hand, there were explicit rules on cooperation and coordination, but making them work was another question.

Secondly, there was **agreement that search and rescue was a state job**. Even private actors founded in the 19th century, such as the Société Nationale de Sauvetage en Mer (SNSM),<sup>28</sup> which were acting under the umbrella of the state, were not considered to release the state from its obligations. **What, then, was the proper role of the European Union?** Its competence was a concept that has been rather dynamic, and clearly, the EU was already dealing with search and rescue in different scenarios. This meant that there may be room for harmonising rules on search and rescue; for example, there was much discussion over the perceived need for a separate registration category for ships intended specifically for humanitarian SAR purposes. Finally, there could be a supplementary European flag, following the example of certain international organisations, such as the UN and the Red Cross, whose purpose is to put a flag state's ship under the protection of that organisation and to signal its use to outsiders in humanitarian crises.<sup>29</sup> This could signal a difference from purely commercial vessels.

The Chair suggested to start with three questions: Looking at the previous coordinated efforts, what were the lessons learned, where did they succeed, which obstacles did they face? What should a future coordinated effort look like? If a European SAR mission were feasible: how would it be designed, which factors should be taken into consideration?

## Irritation over the European Commission's Roadmap

The discussion started with some participants expressing irritation over the fact that a Roadmap toward a 'Framework for Operational Cooperation' – a working paper prepared by the EU Commission following the January 2023 meeting of the SAR Contact Group for discussion at the next technical

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<sup>25</sup> SOLAS regulation V/33 and SAR Annex 2.1.10 specify that the obligation to provide assistance 'applies regardless of the nationality or status of such persons or the circumstances in which they are found'.

<sup>26</sup> See, e.g., UNHCR, *The State of the World's Refugees 2006*, Ch. 2 Safeguarding asylum, Box 2.3 The Tampa Affair: interception and rescue at sea, 19 April 2006, <https://www.unhcr.org/publications/state-worlds-refugees-2006-chapter-2-safeguarding-asylum-box-23-tampa-affair>.

<sup>27</sup> This term refers to the coastal state in whose Search and Rescue Region ('SRR' or 'SAR zone') an incident occurs.

<sup>28</sup> The Société centrale de sauvetage des naufragés, founded in 1865, and the Hospitaliers Sauveteurs Bretons (HSB), founded in 1873, merged to form the SNSM in 1967. The German Gesellschaft zur Rettung Schiffbrüchiger (DGzRS) was founded in 1865 and is entirely privately funded; the same is true for the British Royal National Lifeboat Institution (RNLI), founded in 1854, and the Koninklijke Nederlandse Redding Maatschappij (KNRM), whose precursors were founded in 1824 and which received the royal privilege in 1949. Despite this fact, those two latter organisations are basically integrated into state rescue services, the RNLI is even subordinated to the Department for Transport.

<sup>29</sup> See, e.g., art. 42 of the First 1949 Geneva Convention and art. 43 of the Second 1949 Geneva Convention.

meeting in April and the next plenary in June 2023 – had been leaked from the SAR Contact Group,<sup>30</sup> which some participants took to mean that the discussions to be held in this workshop were moot anyway. Participants also criticised that the SAR Contact Group excluded anyone critical of the current policies.

It was noted that the Roadmap was very much focused on private SAR actors and was **missing sections on state responsibility** and on coordination among EU member states. It thereby failed to build on pre-existing discussions on the division of responsibility on disembarkation to help Italy and overcome Malta's issues, e.g. by including a responsibility of non-coastal member states for relocation.

One participant added that state obligations are not only incurred by SAR states but also by flag states, including non-coastal EU member states. It was important to strengthen the **flag state's obligations** as a first step and then to develop solutions to make this better, by adding a European flag or by including relocation options.

Others pointed out that the Roadmap did not address **disembarkation and relocation**, even though this was part of search and rescue.

### **Whether the current legal framework is still fit for purpose**

Participants also highlighted that the Roadmap reflected an understanding of **humanitarian SAR as something new** (and therefore possibly not covered by the existing legal framework), when the introductory comment had aptly highlighted that for some member states, this has always been what SAR looked like. It was suggested that such inaccuracies should be removed from the document.

One participant stressed that the claim that these treaties had not been made with 'mass migration' in mind conflicted with research over the last fifteen years. Indeed, SOLAS had been passed with migrants in mind. Thus, in the *Titanic* disaster that sparked its drafting in 1914, more than 1,000 of the passengers were migrants, relegated to the lower decks, such that they couldn't reach the lifeboats; it was also the pressure of their home states that guaranteed the passing of this treaty. Equally, when the SAR Convention was passed in 1979, the world had been four years into the 'boat people' crisis.

It was therefore important to stop following narratives that conflict with the obligation to render assistance in distress regardless of nationality, circumstance, etc.<sup>31</sup> If there was any need for renegotiating treaties, it was only to complete them in respect to disembarkation,<sup>32</sup> not to change their existing, detailed provisions on search and rescue.

Participants agreed that it was therefore important to **focus on the obligations of states under the law as it stands**. Changing international law was a distraction, and NGOs should not engage in these discussions. This meant that, whatever states do, such as establishing joint SAR missions or making registration compulsory, this could in no way directly or indirectly impact on the duty to save lives at sea; it **must not make rescue more difficult**. The law was actually much clearer than some states made it out to be. For example, there was a definition of 'distress' in the SAR Convention.<sup>33</sup> EU law also

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<sup>30</sup> European Commission, Working Paper for Discussion on a Draft Roadmap towards a 'European Framework for Operational Cooperation on Search and Rescue in the Mediterranean Sea', published by Statewatch on 25 May 2023 (n 6).

<sup>31</sup> SAR Annex 2.1.10: 'Parties shall ensure that assistance be provided to any person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.' SOLAS Ch. V Reg. 33.1: 'This obligation to provide assistance applies regardless of the nationality or status of such persons or the circumstances in which they are found.'

<sup>32</sup> It was also mentioned that it was a challenge that Malta had not accepted the 2003 amendments to the SAR and SOLAS conventions on the responsibilities of the SAR state.

<sup>33</sup> SAR Annex 1.3.10: "'Distress phase". A situation wherein there is a reasonable certainty that a vessel or a person is threatened by grave and imminent danger and requires immediate assistance.'

included these obligations, namely in the EBCG Regulation<sup>34</sup> and in the EU Maritime Borders Regulation,<sup>35</sup> even EUROSUR was described as a means to facilitate SAR and avoid loss of life at sea.<sup>36</sup> Participants agreed that member states should work toward clarifying what this means in practice.

### **Lack of state compliance as main problem**

Several participants demanded that the SAR Contact Group focus on what they considered the real problems, namely **lack of compliance of states** with their international legal obligations including systematic non-assistance and failure to cooperate in good faith. One participant cited reports that Malta had failed to assist over 7,000 persons in its SAR zone<sup>37</sup> and taken a boat carrying 500 people back to Libya, where the passengers were imprisoned.<sup>38</sup> The participant added that Malta required distress calls to recognise distress, but that the MRCC Valetta often simply did not pick up the phone, and so on.<sup>39</sup>

It was deplored that the European Commission's Recommendation on SAR<sup>40</sup> dangerously **normalised disengagement from SAR** by the EU member states and the policing of SAR NGOs through its veiled critique of their work, while leaving the clear violations of third-country actors such as the so-called Libyan Coast Guard unmentioned. Rather than restricting the space for rescue NGOs, for example by using the Italian Code of Conduct as a model, that space should be enhanced. In that respect, it was problematic that the European Commission's Recommendation on the Facilitators Directive<sup>41</sup> only 'invited' member states to decriminalise humanitarian rescue and was very narrowly phrased.<sup>42</sup>

Participants agreed that the crucial problem was not lack of harmonisation or a need to revise the law, but this kind of lack of compliance with existing rules, and impunity. The SAR Contact Group members should therefore, participants felt, **look at the behaviour of states** before focusing on private citizens who are only at sea to fill the gap left by these very states in violation of their obligation.

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<sup>34</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 ('EBCG Regulation'), [2019] OJ L 295/1.

<sup>35</sup> Regulation (EU) No 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ('EU Maritime Borders Regulation'), [2014] OJ L 189/93.

<sup>36</sup> EBCG Regulation, art. 18.

<sup>37</sup> See ECRE, 'Mediterranean: Italy Delays, Malta Ignores, Tunisia and Libya Pull Back and Abuse – People on the Move Suffer', 5 May 2023, <https://ecre.org/mediterranean-italy-delays-malta-ignores-tunisia-and-libya-pull-back-and-abuse-people-on-the-move-suffer/>.

<sup>38</sup> See <https://alarmphone.org/en/2023/05/29/500-people-abducted-at-sea/>.

<sup>39</sup> See ANSA, 'Malta accused of ignoring alarms again, leaving migrants to die', InfoMigrants, 16 March 2023, <https://www.infomigrants.net/en/post/47500/malta-accused-of-ignoring-alarms-again-leaving-migrants-to-die>; SOS Méditerranée, log entry, 'Ocean Viking calls via Sat Phone Malta RCC to ask about an update on mentioned distress case, operator states the Duty Officer is busy and asks to send an email', 20 April 2023, <https://onboard.sosmediterranee.org/operations/ocean-viking-197-survivors-17-april-26-may-2023-disembarkations-bari-civitavecchia/ocean-viking-calls-via-sat-phone-malta-rcc-to-ask-about-an-update-on-mentioned-distress-case-operator-states-the-duty-officer-is-busy-and-asks-to-send-an-email/>; ECRE, 'Central Med: Malta Continues to Ignore Distress Alerts Leaving People at the Mercy of So-called Libyan Coast Guard, Civilian SAR Operators Save Lives as Crackdown is Ongoing', 25 May 2022, <https://ecre.org/central-med-malta-continues-to-ignore-distress-alerts-leaving-people-at-the-mercy-of-so-called-libyan-coast-guard-civilian-sar-operators-save-lives-as-crackdown-is-ongoing/>.

<sup>40</sup> Commission Recommendation (EU) 2020/1365 of 23 September 2020 on cooperation among Member States concerning operations carried out by vessels owned or operated by private entities for the purpose of search and rescue activities ('Commission SAR Recommendation'), [2020] OJ L 317/23.

<sup>41</sup> Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence ('Facilitators Directive'), [2002] OJ L 328/17, art 1.

<sup>42</sup> Commission Guidance on the implementation of EU rules on definition and prevention of the facilitation of unauthorised entry, transit and residence ('Commission Guidance on the Facilitators Regulation'), [2020] OJ C 323/1, [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020XC1001\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020XC1001(01)).

## Should NGOs strive to play a role in the SAR Contact Group or in another forum?

While some participants called for a **stronger engagement of non-state SAR stakeholders** – SAR NGOs, international organisations, and migrants – within the SAR Contact Group’s dialogue as an institutionalised, recurrent forum, others therefore cautioned that this would make it more about NGOs, when the Contact Group – as a forum of 31 states – should be focused on state obligations. Another forum would be more suitable for NGO issues instead, such as a group formed by UNHCR, IOM, Germany and France in 2019, which had made quick progress.

One participant stressed that solutions could be found quickly if there was **political will**; thus, *Mare Nostrum* was set up within a week. Others concurred that, without political will, operational, managerial, technical solutions – as proposed in the Roadmap – would not solve the problem.

It was perceived, though, that the German government, by convening this conference, was signalling the will to do something, and that the experts present should seize the invitation to provide them with important points and arguments.

## Demands to be discussed in the SAR Contact Group

If the German government was to accept border procedures as part of a package, it was felt, it should **ask for something in return**, including a European SAR operation, better conditions for humanitarian civil SAR operations and a commitment to no longer fund ‘rogue’ SAR actors. This should also include options that make states specifically affected by SAR buy into the solution, while upholding international standards.

Participants agreed that it was crucial to include **disembarkation rules and a relocation mechanism** in order to reduce disincentives to rescue and to involve non-coastal member states in the sharing of responsibilities.<sup>43</sup> Such rules had been suggested by the Commission in the New Pact, but the member states had by now negotiated a solidarity mechanism that did not include the proposed SAR relocation mechanism. The Pact negotiations had thereby become immaterial to search and rescue, and it was disingenuous to link the two. To the contrary, whatever changes were to be expected from the Pact would create more disincentives to rescue. It was therefore important to renew pressure in that direction. There would not be a solution if Italy did not agree, and relocation was therefore indispensable.

## Should there be a European SAR mission, and what should it look like?

As to the desirability of a European SAR operation, one participant suggested that **reinstating naval assets to existing EU missions** at sea was a better first step and role for the EU. This could be done without a mandate change, and much more quickly than setting up a new operation. FRONTEX had been able to rescue 45,000 people because it had assets, whereas Operation IRINI was actively avoiding migrants. Others agreed that there was an urgent need for more assets at sea. In any case, there was no reason to defer the reinstatement of naval assets until a new mission was designed. Participants also highlighted that the law of the sea applied to the existing missions, including by virtue of references in secondary EU law,<sup>44</sup> and that the EU itself had ratified UNCLOS. Others cautioned that SAR missions must be humanitarian, whereas FRONTEX had a border patrol mandate and CSDP missions such as Operation IRINI were military-led. Still others argued that, if the objective was clear –

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<sup>43</sup> The call for disembarkation rules and relocation mechanisms is also supported by the findings in the study: Markard et al., *Support for Civil Search and Rescue Activities: Options for the German Government* (Heinrich-Böll Stiftung, 2023), pp. 28 ff., <https://eu.boell.org/en/support-civil-search-rescue>.

<sup>44</sup> See, e.g., Regulation (EU) No 656/2014 of the European Parliament and of the Council of 15 May 2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, [2014], OJ L 189, 27 June 2014 (‘External Sea Borders Regulation’), recitals 8, 9, 15 and 17, Art. 2(14), etc.

saving as many lives as possible – it didn't make a difference whether the mission was military-led, state-led or civilian in nature.

Reminding participants that NGOs had consistently demanded state-led search and rescue, three arguments were raised in favour of a **European SAR operation**: Firstly, states had nothing to lose, because in the absence of such a mission, NGOs would continue their work and would continue to be supported by the population. Secondly, the EU could not have border security without knowing who is coming, and that by disapplying international law it was doing itself a disavour. Thirdly, the EU was conceiving of itself as culturally different from other regions of the world, in its respect for the rule of law and for fundamental freedoms, where other actors are using force. If the EU wanted to survive, it had to consistently use the cultural argument, and that meant to respect international law and the rule of law also at sea. It was also going to have a tough time telling countries in Northern Africa about the need to regulate and enforce the law while displaying bad practice itself. Finally, the cultural argument also required respect for the humanitarian space of NGOs, including their right to free speech and their freedom of association.

As to the **role of NGOs in such a framework**, one participant suggested that governments should think about NGOs as assets; Italy had stopped *Mare Nostrum* because of its costs and because it drew resources away from anti-drug and anti-trafficking operations. NGOs were doing search and rescue 'for free' and had a lot of experience. Others cautioned that an EU SAR scheme that included NGO rescues could result in problematic demands similar to those of the Italian Code of Conduct, including compliance with MRCC instructions that were incompatible with international law. NGOs therefore needed to insist on their independence. It was agreed that any mechanism to come could not be more restrictive than the international legal rules in place, but that it should only facilitate compliance with these rules.

As to the way such a joint mission would be run, participants agreed that it would be most effective to agree on things that could *not* be done, rather than try to design a framework. Most importantly, participants agreed that no disembarkations could be done in **Libya**, and that the mission could also not cooperate with Libyan actors if that cooperation led to disembarkation in Libya.

#### Working Table 3: Technical and administrative cooperation with NGO vessels

The focus of the third Working Table was to hear the view of NGOs active in SAR operations and of other legal, technical and practical experts on how flag and coastal states could improve technical and administrative cooperation. Where would it make sense to treat SAR NGOs differently than, for example, commercial ships responding to a distress call? Should a separate classification of rescue ships be introduced? If so, what parameters should be taken into account? How could the concerns of the coastal states be addressed, their administrative practices be relieved and smooth SAR operations and disembarkations be ensured?

#### **Input: The perspective of private merchant vessels**

A short input focused on the perspective of private merchant vessels regarding their involvement in SAR operations. The role and special needs of private merchant vessels in SAR operations were often neglected in political debates despite their heavy presence in the Mediterranean Sea. Private merchant vessels considered it not only as their legal but also moral obligation to rescue persons in distress at sea. Accordingly, the main question for them was not whether to conduct rescue operations or not, but how a safer and more transparent coordination could be achieved by the responsible coordinating states. The main need was that prompt disembarkations are ensured, also for the mental and physical health of seafarers. Since especially tankers were not designed to keep rescued persons onboard for a

prolonged period, **delays and untransparent communication caused risks for crew members**, as well as for the rescued persons. Untransparent communication and coordination by states with merchant vessels as to when these vessels were being called to rescue and assist and delayed disembarkations further caused financial problems.

### **Framing of the issues**

Starting out, some group members noted that the terms used in the questions were in part blurry. Thus, vessels run by NGOs active in SAR operations were used interchangeably with ‘private vessels’, while it remained unclear whether ‘SAR vessels’ only referred to vessels operated by NGOs or all vessels instructed by the coordinating MRCC. Several participants found the questions partly misleading, as they were politicised and framed SAR operations as a problem; as such, the questions did not let the participants of the table define what the problems are. There was also criticism that the questions introduced by the Chair differed from those distributed to the other group members prior to the meeting.

### **Should vessels run by NGOs be treated differently than merchant ships responding to a distress call?**

The participants started with the question whether vessels run by NGOs should be treated differently than commercial ships when conducting SAR operations.

One participant asserted that a **rescue was a rescue, no matter who was performing it**. Any additional legal framework or classification adopted should aim at protecting human rights defenders and guarantee the efficiency of the rescue irrespective of who was conducting it.

Another participant took a technical point of view. The design of a ship depended on its function, and in this regard, ships designated for SAR operations were treated differently by mechanics in the design and set-up than ships for other purposes. Another pointed out that the technical difference had no effect in the moment where a distress call was made and vessels were called by the MRCC to the rescue.

Participants agreed that a differentiation should only be made where it was necessary, namely when it came to coordinating activities by the state. Thus, MRCCs should prioritize vessels that are equipped and trained to conduct SAR operations when ordering the surrounding vessels to assist and conduct the rescue of those in distress. Any **differentiation should be based on the different functions but never on ownership or the operator**.

### **Should a separate classification of rescue ships be introduced? If so, what parameters should be taken into account?**

Participants debated what value a new category would have. It was pointed out that vessels run by NGOs who conduct rescue operations already follow the highest safety standards voluntarily, as the requirements of all treaties are fulfilled and an additional amount of rescued people was taken into account in calculating the stability of the boat, and in assessing the need for life saving appliances. There was no compliance issue since **all the legal minimum standards are kept and often even higher safety standards are adopted**. The existing framework already specified all the necessary technical modifications.

Concerns were raised that if a new category was to be introduced this could lead to a higher threshold of due diligence for NGOs, which would in turn lead to a shrinking space for manoeuvre in conducting rescue operations. Others took the view that increased responsibility was not a problem; what was a problem was the current climate of criminalisation and obstruction.

Participants agreed that parameters and standards of safety should only be discussed on factual grounds. The debate around safety standards should not be used to introduce an additional certificate for which there is **no factual necessity**, and which is designed to deter NGOs conducting rescue operations.

### **European unified standards?**

Two participants mentioned that unified standards could be useful concerning technical specifications of ships. Another pointed out that it was not defined for whom and what standards shall be unified, although this was determinative for the European Union's competencies to introduce common standards. Participants also criticised that it should not be upon civil society actors to come up with concrete policy recommendations in a one-day forum.

Much approval was shown by the participants to the point that this meeting could only be regarded as a **starting point for further meetings** in order to exchange information and expertise.

There was a general disapproval of the politicisation and problematisation by the SAR Contact Group of civil society rescue operations. Instead, the participants considered it vital that their concerns regarding the non-compliance by member states with their obligations to coordinate and conduct rescue operations were listened to, not only at today's forum.

### Working Table 4: How to safeguard humanitarian space in the Central Mediterranean

The fourth Working Table provided an opportunity to share experiences of obstacles that civil society stakeholders are facing when taking action to save lives at sea.

Particular attention was paid to criminalisation, manifested in the detention of private vessels in port, an expanding body of regulations with demanding standards and terminologically biased reporting. The group discussed how misleading public narratives could be dismantled and how the work of private SAR actors could be facilitated rather than hindered. To what extent should NGO shipmasters be demanded to collect and forward information on those rescued? To what degree should NGOs and other civil society actors be involved in the work of the SAR Contact Group? How could policymakers facilitate the task of search and rescue and protect private actors? In which areas, on the other hand, might regulation have counterproductive effects? And on a more concrete level: what comments had to be made on the Draft Roadmap to safeguard an outcome that would not further contribute to the shrinking of the humanitarian space?

### **Input: Current alarming developments**

The Input was provided by a representative of a human rights NGO. The speaker started by referencing recent alarming facts on the situation of search and rescue in the Mediterranean. In particular, the speaker referenced a statement of the UNHCR Fact Finding Mission on Libya identifying crimes against humanity in Libya,<sup>45</sup> rising death tolls gathered by the IOM<sup>46</sup> as well as a report of Brot für die Welt identifying migration as the area where the shrinking of the humanitarian space was most visible.<sup>47</sup> In summary, the situation showed that in the light of ongoing support for Libyan actors and continuous

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<sup>45</sup> UN Human Rights Council, 'Libya: Urgent action needed to remedy deteriorating human rights situation, UN Fact-Finding Mission warns in final report', Press release, 27 March 2023, <https://www.ohchr.org/en/press-releases/2023/03/libya-urgent-action-needed-remedy-deteriorating-human-rights-situation-un>.

<sup>46</sup> IOM, 'Deadliest Quarter for Migrants in the Central Mediterranean Since 2017', 12 April 2023, <https://www.iom.int/news/deadliest-quarter-migrants-central-mediterranean-2017>.

<sup>47</sup> Brot für die Welt, *Atlas der Zivilgesellschaft 2023*, <https://www.brot-fuer-die-welt.de/themen/atlas-der-zivilgesellschaft/>.

repression of NGOs, the situation of people on the move was increasingly precarious. Expressing concern on the leaked Draft Roadmap, the speaker then proposed to depart from the original plan and instead, discuss the Roadmap's deliverables in detail.

### **Comments on the Draft Roadmap**

This was met with agreement by the other participants. The group therefore agreed to give direct **feedback on the Roadmap's deliverables**, which were seen as tackling relevant issues in need of discussion, *inter alia* burden sharing between states. For the most parts, the deliverables did not indicate breaches of existing international law in themselves; their compatibility with international law would depend on their elaboration, the group agreed. It was for that reason that states had to be reminded that any framework needed to be geared towards a humanitarian approach respecting human rights.

The group proceeded with discussing its particular concerns with regards to deliverable 5 (collecting information) and deliverable 8 (standardised registration and certification rules), which had already been raised in the plenary session's Q&A.

### **To what extent should NGO shipmasters be required to collect and share information?**

Deliverable 5 of the Roadmap envisages an agreement 'on the type of information that shipmasters may be asked to collect'. Most participants saw a risk that such rules would be misused to further control the work of NGOs. The task of the crew of a SAR vessel was not to process asylum applications, but to rescue and disembark those rescued to a safe port. A disclosure of information could only be justified if it served this purpose. **Information gathering had to be proportional and to do no harm.** In this sense, data had to be minimised to what was necessary to improve initial care upon arrival, consider vulnerabilities and meet the specific needs of the victims.

One participant proposed that for the sake of data protection, any information collected must be secured by firewalls as well as a confined list of authorities that would receive the information. There was also general agreement that the presence of state officials on board of private SAR vessels must be excluded in any case to guarantee independent, goal-oriented work.

Another participant explicitly addressed categorisation of age, gender as well as nationalities. The majority, however, regarded the documentation of nationality as impractical since people on the move were often not in possession of their passports. The majority also feared that the latter could open new risks of racial discrimination and shift questions of asylum and relocation to the previous stage of rescue.

### **Does further regulation of private actors facilitate or hinder the humanitarian work?**

Deliverable 8 of the Roadmap, which proposes to 'agree on standardisation/convergence of registration and certification rules on private vessels carrying out SAR as their predominant activity', raised great concern in the group.

Only one speaker said that, given that the duty to rescue is a state duty, it was reasonable to put a regulatory framework in place for private actors performing this duty.

Other participants declared that rather than creating new rules for private rescue missions, the SAR Contact Group should focus on how to **improve the implementation of states' existing duties** under international maritime law. The problem was neither lack of comprehensive regulation, nor a conflict of interests; the problem was that states failed to abide by their commitments under international law, which more broadly rendered it an issue of the rule of law. Whereas there was no evidence of safety threats from private SAR operations, the non-performance of SAR operations put lives at risk, the experts stressed.

Therefore, the group strongly advised the German government to **refrain from any regulations that would hinder search and rescue in any form**,<sup>48</sup> and instead promote the implementation of existing international law. Moreover, the majority was deeply concerned that certification would not only increase costs and complicate the overall procedure but further pave the way for criminalisation.

### **Framing of discussions and NGO participation in the SAR Contact Group**

Participants remarked that criminalisation could also be seen in the use of language by European authorities. The Roadmap's reference to SAR NGOs working 'in an autonomous way, without having received a delegation from the authorities responsible for the coordination of such activities', falsely indicated a behaviour in disregard of established procedures of rescue. Terminology like this drew an image of NGOs as 'wild, wild west'. It was of utmost importance, the group agreed, to **counter such narratives**. Moreover, the group members considered that it were not rescue operations but pushbacks that pushed victims back into the hands of smugglers and thereby exposed them to re-traumatisation.

A matter that the group could not agree upon was whether the SAR Contact Group should make use of its power to invite NGOs and other actors of the civil society to the table. While one participant expressed approval of such experience sharing, another disagreed; in the face of criminalisation, there was no common ground for discussion and no hope for productive co-operation, that person said.

However, the group agreed that **forums such as the present could make a practice-oriented contribution** to the work of the SAR Contact Group.

### **A need for protection of humanitarian actors and the 'shrinking humanitarian space'**

One participant put security threats at sea on the agenda. Recently, there had been numerous incidents of gun shootings carried out by armed militias and directed immediately against the rescued and the rescuers. Given that private SAR operations stepped in to perform a state duty, **states had to ensure the safety of those on board**. States had to be aware that their funding also fell into the hands of militias that were not following orders from state authorities. While one speaker proposed to enter better communication, the broad majority rejected any form of negotiation with these forces.

While there was some disagreement on linking SAR operations on the one hand and asylum procedures on the other hand, the group unanimously recommended that Germany should not consent to the proposal for a Common European Asylum System reform. This was because **extended screening procedures** would put further pressure on external border states and thereby **increase incentives to block search and rescue operations performed by NGOs** irrespective of their humanitarian necessity.

### **A Humanitarian Response Plan?**

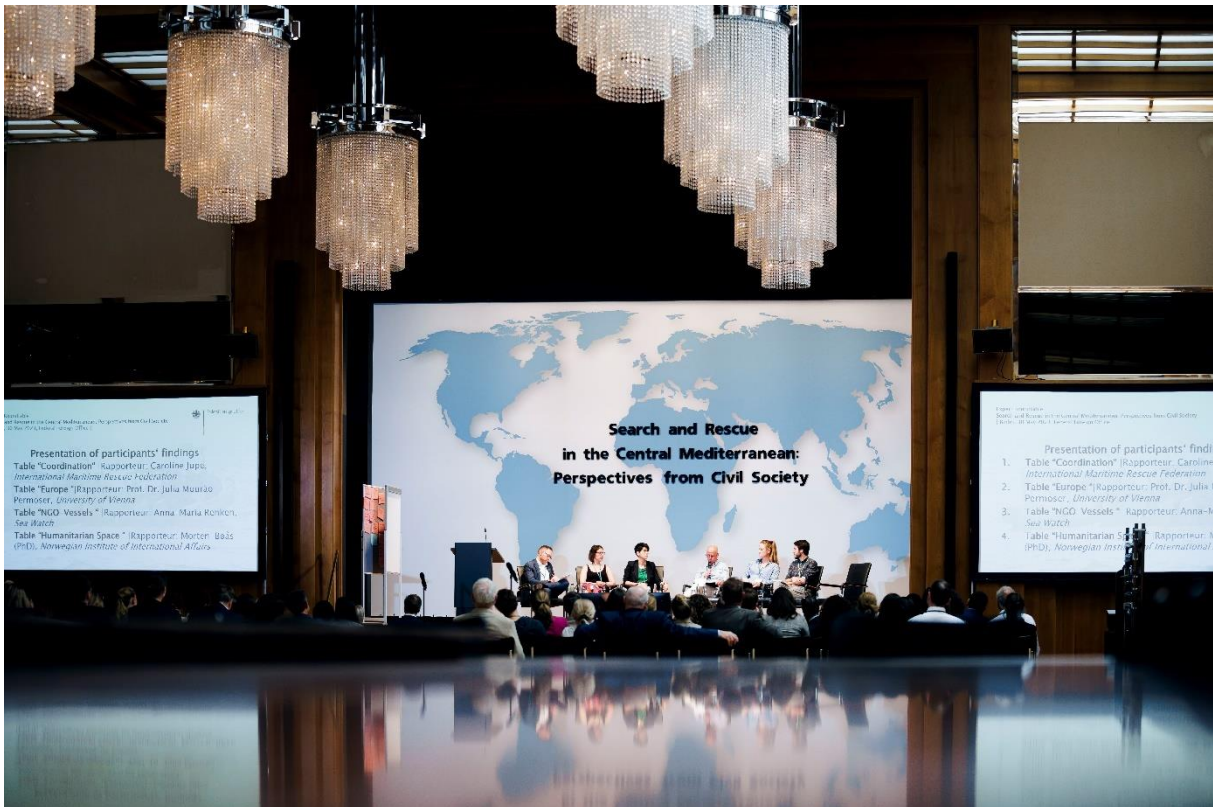
The group strongly proposed to develop a **humanitarian response plan** for the high seas. Such a plan could be implemented via the mechanisms of the Directorate General for the European Civil Protection and Humanitarian Aid Operation,<sup>49</sup> one participant proposed. It could serve to identify needs, coordinate joint assistance, and provide for funding.

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<sup>48</sup> The group particularly referred to the current draft of the national Ship Safety Ordinance by the German Ministry of Transport as an example. For a brief account in English, see Matthias Monroy, 'EU states against civilian rescue: Ships should meet higher standards', 1 March 2023, <https://digit.site36.net/2023/03/01/eu-states-against-civilian-rescue-ships-should-meet-higher-standards/>. The Ministry insists that there will be no constraints on SAR: BDMV, 'Keine Einschränkung bei der Seenotrettung', 28 Feb. 2023, <https://bmdv.bund.de/SharedDocs/DE/Artikel/WS/wissing-stellungnahme-wdr-schiffssicherheitsverordnung.html>.

<sup>49</sup> On the work of the Directorate General for the European Civil Protection and Humanitarian Aid Operations, see: [https://civil-protection-humanitarian-aid.ec.europa.eu/what/humanitarian-aid\\_en](https://civil-protection-humanitarian-aid.ec.europa.eu/what/humanitarian-aid_en).

## Concluding Plenary Session



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The afternoon was dedicated to conclusions by members of civil society and the presentation of the findings from the Working Tables by each group's rapporteur(s).

Concluding interventions by members of the civil society

The first concluding intervention drew attention to the potential of **humanitarian corridors**. The speaker reported that civil society organisations have negotiated for and set up humanitarian corridors, now assuring safe arrivals in Europe from various countries such as Libya, Pakistan, Niger and Iran to Germany. The objective was to prevent people to take dangerous migration routes and to enable them to take safe ways instead. While the speaker acknowledged that the numbers of those who can come via humanitarian corridors remained small compared to those who need to flee their countries, humanitarian corridors could set best practice examples for legal pathways to Europe.

The speaker explained that humanitarian corridors rely on private sponsorships. In a next step, lists of migrants were created in the country of origin and then matched with sponsors from receiving countries. Once the migrant arrived safely in the receiving country, he or she could apply for asylum. Such humanitarian corridors constituted a win-win situation for the local communities in countries of origin and for the market in countries receiving migrants. The speaker concluded that legal pathways such as for example humanitarian corridors should be institutionalised by states.

The second speaker emphasised that a shift in the focus of the current debate on search and rescue operations is needed. Whereas the political debate currently focused on the adoption of new measures which would obstruct civil society rescue operations, the real problem was the non-compliance of

states with their responsibilities as well as the criminalisation trend. The person further relied on an **Action Plan proposed by ECRE, Red Cross and Amnesty International** which proposes twenty recommendations on how the current high numbers of deaths at sea could be prevented.<sup>50</sup> The speaker highlighted the call for state-led SAR operations, a limitation of cooperation with Libya exclusively to the aim of protection of life, the installation of legal pathways, the strict adherence to human rights and the installation of reliable accountability mechanisms for incidents of human rights violations. The speaker concluded that states should refrain from criminalising humanitarian action and listen to the expertise of civil society organisations and other experts in the field.

Findings and recommendations of the Working Tables

Finally, the findings and recommendations of the Working Tables were presented by rapporteurs from each group. The presentations were rather different in style; the following account is therefore partly based on the notes that the rapporteurs provided.

*Working Table 1 – Need for transparent and conclusive information sharing*

The rapporteur started to list the main problems identified by the working group. In the course of the discussion, it was agreed that the criminalisation of NGOs, the omission of states to answer emergency alerts, the avoidance of states to coordinate rescue operations following these alerts and the active obstruction of the rescue activities by NGOs constitute human rights violations and lead to death at sea next to illegal pushbacks to Libya and Tunisia.

Recommendations as to how these problems could be remedied were:

- **Information on distress situations** need to be shared with all actors which are close to the scene.
- **Strict priority in the assessment by MRCCs** of which ship they call to the rescue should be given to those vessels best equipped to the task of rescuing lives. The assessment of the MRCCS should follow a transparent procedure and be conducted irrespective of ownership and operator of the available rescue vessels.
- The EU Commission as guardian of the Treaties should put efforts in **finding mechanisms which enhance the compliance of member states with EU law** and international law on the conductance of search and rescue coordination services and obligations to rescue lives at sea.

*Working Table 2 – Call for an EU-led SAR mission*

The rapporteur summarised that the main problem was the lack of political will to find durable and human rights-based solutions for the incidents at sea. Past experience had shown that where there was a will things could happen very quickly. In the absence of a political will all new legislative and technical initiatives risked being implemented in a way that caused even more human rights violations and deaths at sea. **A new mission could not succeed without tackling the existing problems.**

As a first step the group therefore called for a **shift in the political framing** of SAR operations, including in the SAR Contact Group and the leaked Roadmap:

- The current framing of Search and Rescue as a security issue and the activities of NGOs as a root of problems in the Central Mediterranean Sea needed to be dismantled.

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<sup>50</sup> See: Human Rights Watch, 'Plan of Action: Twenty Steps to Protect People on the Move Along the Central Mediterranean Route', 16 June 2021, <https://www.hrw.org/news/2021/06/16/plan-action-twenty-steps-protect-people-move-along-central-mediterranean-route>.

- States needed to clearly acknowledge the humanitarian mandate of NGOs and to refrain from criminalising NGOs.
- Instead, political actors should **promote a vision which centred saving lives** and reintroduce **an EU-led SAR mission**.

The working group then addressed the **German government** and recommended to:

- **Shape the agenda of the SAR Contact Group** in a way that focuses on compliance and accountability of coastal states, flag states and external states. Effort must be put in addressing the question how impunity for violations of human rights and international law and omissions by states in coordinating and rendering assistance can be ended. If this could not be achieved in the current set up of the SAR Contact Group, Germany should introduce another forum where the expertise of those active in the field of SAR is listened to and where the focus lies on the responsibility of states.
- **Take a clear stance** against completely unacceptable measures by states such as e.g. the criminalisation of NGOs and the cooperation with non-safe third countries.
- **Reactivate mechanisms** which already had been proven successful in the past as for example relocation mechanisms. Another option would be to extend the Temporary Protection Directive mechanism to other groups of migrants.

While there was disagreement over whether expanding existing missions to make them more humanitarian risked making SAR subordinate to border control objectives, the group did agree on **basic conditions for an EU-led SAR mission**:

- A clear **humanitarian mandate** as precondition for such a mission;
- The establishment of **clear accountability mechanisms** to avoid impunity for human rights abuses;
- A rule that **no disembarkation outside the EU** and **no off-shore processing** of asylum applications would be done;
- A standing **arrangement on relocation** to pre-empt the question of people's fate after disembarkation;
- Broad **information sharing** with all relevant actors that are able to save lives while respecting international maritime law in cases of distress, including NGOs;
- A clear message that **search and rescue is unconditional** and should not be subordinated to migration control objectives.

The group highlighted that some questions still had to be worked out, regarding the operational scope of such a mission, the coordination of disembarkations – by the member states or an EU agency –, its financing – by the EU or a 'coalition of the willing' – and the implications of the chosen financing model.

**In order to build a 'coalition the willing'** participants found it crucial to dismantle false narratives about SAR NGOs but also the current legal framework and identified three arguments:

- **Respect for the rule of law is in the interest of all EU member states.** The persistence of infringements by states to their human rights and SAR obligations at the EU's external borders endangered the rule of law. It should be a core interest of the member states and the EU to reinstall trust in the compliance of member states with the existing legal framework.
- **The situation in the Mediterranean undermines the image of the EU as a community of values.** The EU projected an image of itself abroad as a community of values centred around fundamental rights, which form its commitment and its identity. The status quo at sea was dangerously undermining this image, and thereby the credibility of EU policies more broadly.

- **An orderly dealing with migration requires SAR missions.** The absence of state-led or EU-led SAR missions left a humanitarian gap that could not be filled by humanitarian civil actors. Not performing SAR or seeking to prevent civilian SAR missions created a situation of chaos which was not in line with the goal of an orderly dealing with migration.

At the end of the presentation, the rapporteur highlighted that participants from the working group were worrying about how these proposals would be used and raised concerns that the findings of today's debate might be instrumentalised.

*Working Table 3 – All legislative reforms must be evaluated with regard to their practical efficiency to the duty of saving lives*

The rapporteurs pointed out that due to the blurry framing of the preparatory questions, the discussion had been difficult in the beginning. The group had to clarify what was meant by which terms before engaging in the discussion. The rapporteurs then summarised three main recommendations:

- **Differentiation in the treatment of SAR NGOs only when necessary for the aim of efficiently saving lives.** In respecting their obligation to coordinate SAR operations, MRCCs should send the better equipped and trained vessel which was in the best position to render assistance to a situation of distress. Any differentiation between vessels should therefore not be based on ownership or operator. Instead, vessels of NGOs equipped and trained for SAR operations should be prioritised to respond to distress calls before merchant vessels. This would reduce the pressure on owners of merchant vessels and on trading goods via sea. Additionally, it would ensure the physical and mental health of seafarers on board merchant vessels. While the main principle remained that MRCCs must deploy their own rescue vessels for rescue operations, the authorities needed to comply with their legal obligations when delegating a rescue operation to other actors. In particular, the principle of due diligence should be respected.
- **No separate classification for rescue ships.** The working group stated that there was no technical, practical or legal need for a separate classification. Another regulation would not improve administrative cooperation but rather hinder the activities of and cooperation with NGO vessels. Instead, the NGO vessels currently sailing under the German flag could constitute a best practice example on how a **standardisation can be achieved within the existing framework**. Most NGO vessels registered in Germany were registered as 'Cargo Ships' and fulfilled the safety standards required for their registration. On top of these registration standards, additional needs for equipment and stability were assessed and agreed on in cooperation with the German authorities by the operators with respect to the special SAR operations. Here, the additional number of rescued people was taken into consideration when assessing the stability of the ships and the need for lifesaving appliances. In this way it could be ensured that all **safety standards truly served their purpose** and did not amount to mere formalistic measures which in practice hinder the operation of NGOs.
- **Legislative reforms and political debates must focus on the current lack of compliance by states with international obligations.** According to the working group, if all coastal states and their institutions followed existing law and treated SAR as a duty rather than a crime, most of the problems would be solved. Referring to the very core of Schengen that the Mediterranean is 'our' common EU border, a **joint effort and responsibility** was needed to relieve coastal states from the burden of registration and accommodation of survivors rescued at sea. The working group therefore strongly recommended to reintroduce an **EU backed, financed, and coordinated SAR program**.

With regard to the current processing of the SAR contact group the working group further remarked that the expertise of NGOs and other legal, sociological, psychological and technical experts should be

taken into account and taken seriously from the beginning on. As these actors reconciled a broad range of knowledge and experience, they should be included not only when the framework and the direction of the legislative and policy reforms is already set up. Authorities should approach them with the will of improving rather than blocking or criminalising the humanitarian work of civil society actors.

#### *Working Table 4 – Call for a Humanitarian Response Plan*

The rapporteur started by expressing the group's grave concern that the approach indicated by the Roadmap, in its current form, would further facilitate the shrinking of the humanitarian space. Noting that the following was not a comprehensive list of recommendations, the group demanded that the **SAR Contact Group**:

- **Openly counter the narrative that NGOs were flouting existing standards** and acting outside the legal framework as such narratives further paved the way for criminalisation;
- With regards to deliverable 5, ensure that any **collected data is proportionate**, in that it is limited to what is strictly necessary for the purpose of safe disembarkation and **does no harm**;
- With regards to deliverable 8, **abstain from administrative constraints in the form of registration and certification requirements** that increase costs and prevent NGOs to perform the task of search and rescue;
- **Focus on the implementation of existing duties under international maritime law** and commit member states to abide by their obligations.

To strengthen and **protect the work of civil society actors**, the experts proposed to:

- **Develop a Humanitarian Response Plan for the high seas** in collaboration with the Directorate General for European Civil Protection and Humanitarian Aid Operations that quantifies existing needs and provides the funds to respond to them;
- **Protect humanitarian actors and beneficiaries from security threats** posed by intercepting forces on the high seas.

Turning to the **German government** the group called to:

- Reduce administrative constraints to civil rescue, especially by **abstaining from any law that hinders effective search and rescue operations** such as the proposed German Ship Safety Ordinance;
- **Not approve a European Asylum System reform** that installs screening procedures which increase the workload and pressure at the external borders and thereby creates further incentives of coastal states to block SAR vessels.

The rapporteur concluded by stressing that search and rescue had to be understood as a solely humanitarian task whose performance had to remain separately from the task of policing, border management and process of asylum requests.



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In her closing statement, Violeta Moreno-Lax (Queen Mary University of London, University of Barcelona) highlighted key take-aways and summarised the gist of the day's deliberations, also with a view to providing continuity.

She stated common ground around a number of core issues that could feed into the work of the German government as part of the EU SAR Contact Group:

First of all, there seemed to be **a rift between NGO actors, on one hand, and EU institutions and Member States, on the other hand, both on matters of fact and on the interpretation of the relevant legal provisions.** It needed to be clarified whether the SAR regime was to be used as a border policing and migration containment tool<sup>51</sup> or whether the protection and preservation of human life at sea was a priority, in line with maritime law.<sup>52</sup>

Secondly, **discourse on SAR as a 'pull factor' for mass migration was not only perpetuating a myth,<sup>53</sup> it was also misguided and unhelpful.** The response to the Ukrainian exodus<sup>54</sup> of over 4 million people<sup>55</sup> amply demonstrated the EU's capabilities, whereas SAR NGO rescues barely amounted to 5% of all

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<sup>51</sup> Thus, SAR was framed as a component of Integrated Border Management ('IBM') in the EBCG Regulation, art 3(1)(b).

<sup>52</sup> See Preambles to the SAR and SOLAS Conventions; see also UNCLOS art 98.

<sup>53</sup> For relevant references and a summary of findings, see Moreno-Lax, Allsopp, Tsourdi, De Bruycker and De Leo, *The EU Approach on Migration in the Mediterranean*, PE 694.413 (Brussels: European Parliament, 2021), pp. 76 ff, [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694413/IPOL\\_STU\(2021\)694413\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694413/IPOL_STU(2021)694413_EN.pdf).

<sup>54</sup> See, e.g., Carrera and Ineli-Ciger (eds), *EU Responses to the Large-scale Refugee Displacement from Ukraine* (EUI, 2023), <https://cadmus.eui.eu/bitstream/handle/1814/75377/ASILE%20E-Book.pdf>.

<sup>55</sup> European Commission, *Infographic – Refugees from Ukraine in the EU*, 21 April 2023, <https://www.consilium.europa.eu/en/infographics/ukraine-refugees-eu/>.

rescues.<sup>56</sup> In any case, the protection and preservation of human life at sea was an unconditional obligation entrenched in customary international law, the Law of the Sea, EU law, and human rights norms,<sup>57</sup> such that even a mass influx or a pull factor would be irrelevant for compliance.

Thirdly, there was agreement among participants that **SAR norms were neither unsuitable nor unclear nor antiquated**. Both the duties to ‘search’ and to ‘rescue’ were regulated by the SAR and SOLAS Conventions in sufficient detail. A renegotiation of the treaties concerned risks downgrading and weakening existing obligations that required a contextual interpretation in light of international human rights and refugee law.<sup>58</sup> Any changes to the rules, if they occur, should make rescue easier, not more difficult, and focus on the core function of SAR, protecting and preserving human life at sea.

The Working Groups had emphasised that the focus should rather be on real problems at the political, legal, and operational level, including but not limited to:

- **Generating political will** to address and engage in SAR in good faith;
- **Cooperating and coordinating efforts** that maximise SAR;
- **Reaching agreement on conduct that is to be understood as being incompatible with existing norms of international and EU law** (including the engagement in action that facilitates pull-backs to unsafe countries or that unduly obstructs or even criminalises SAR);
- **Putting an end to non-compliance** with existing rules; disincentives to engage in SAR, to properly respond to distress incidents at sea, and to deliver survivors to a ‘place of safety’<sup>59</sup>; and systematic forms of non-assistance by certain Member States<sup>60</sup>;
- **Addressing non-compliance as a rule of law problem** that undermines the integrity of EU law and EU values, requiring respect for fundamental rights,<sup>61</sup> including at sea. As the ECtHR had emphasised, ‘the maritime environment ... cannot justify an area outside the law where ships’ crews [and shipwreck survivors] are covered by no legal system capable of affording them enjoyment of the[ir] rights’<sup>62</sup>;

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<sup>56</sup> See background papers for this meeting, relying on statistical data from EUROSTAT and Frontex regarding 2022.

<sup>57</sup> For a recent acknowledgment, see UN Human Rights Committee, General Comment No 36 on the Right to Life, [2019] CCPR/C/GC/36, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/261/15/PDF/G1926115.pdf>.

<sup>58</sup> Rule 3.1.9, SAR Convention Annex and IMO, ‘Guidelines on the Treatment of Persons Rescued at Sea’, Res. MSC.167(78), 20 May 2004 (‘IMO Guidelines’), [https://wwwcdn.imo.org/localresources/en/OurWork/Facilitation/Documents/MS.C.167%20\(78\).pdf](https://wwwcdn.imo.org/localresources/en/OurWork/Facilitation/Documents/MS.C.167%20(78).pdf). Although the IMO Guidelines are not strictly binding, they must ‘be taken into account’ in the implementation of the SAR and SOLAS Conventions by State Parties accepting the 2004 amendments to both instruments. For the 2004 amendments, see IMO, ‘Amendment to the International Convention on Maritime Search and Rescue, 1979, as Amended’, Res. MSC.155(78) (20 May 2004); and IMO, ‘Adoption of Amendments to the International Convention for the Safety of Life at Sea, 1974, as Amended’, Res. MSC.153(78) (20 May 2004).

<sup>59</sup> IMO Guidelines (n 58), para. 6.17.

<sup>60</sup> Italy has been condemned for not responding timely to distress calls, nor timely launching a rescue response, while Malta has been investigated for similar malpractices by the UN Human Rights Committee (‘HRC’). See UN HRC, *S.A. v. Malta*, Comm. No. 3043/2017, 27 January 2021, CCPR/C/128/D/3043/2017 (inadmissible); and *S.A. v. Italy*, Comm. No. 3042/2017, 27 January 2021, CCPR/C/130/DR/3042/2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/096/89/PDF/G2109689.pdf>.

<sup>61</sup> Treaty on European Union (‘TEU’), [2012] OJ C 326/13, art 2. See also EBCG Regulation, art 80.

<sup>62</sup> ECtHR [GC], *Medvedev and Others v. France*, 29 March 2010, Appl. No. 3394/03, para 81. For a recent acknowledgment and a compendium of the applicable norms, see The Geneva Declaration on Human Rights at Sea, Jan. 2022, [https://www.humanrightsatsea.org/sites/default/files/media-files/2022-02/GDHRAS\\_Jan\\_2022\\_Final\\_online\\_version\\_sp%20%281%29.pdf](https://www.humanrightsatsea.org/sites/default/files/media-files/2022-02/GDHRAS_Jan_2022_Final_online_version_sp%20%281%29.pdf). On the applicability of EU fundamental rights duties in extraterritorial settings, see Moreno-Lax, *EU External Migration Policy and the Protection of Human Rights*, PE 603.512 (Brussels: European Parliament, 2020) [https://www.europarl.europa.eu/cmsdata/226387/EU\\_External\\_Migration\\_Policy\\_and\\_the\\_Protection\\_of\\_Human\\_Rights.pdf](https://www.europarl.europa.eu/cmsdata/226387/EU_External_Migration_Policy_and_the_Protection_of_Human_Rights.pdf).

- **Recognising, valuing, and facilitating the role of NGOs as SAR operators, as monitors of SAR and human rights violations,<sup>63</sup> and as human rights defenders** (in line with current international and EU norms<sup>64</sup>), rather than as the problem (in terms of generating safety and security concerns<sup>65</sup>).

With this in mind, all Working Groups had extended an invitation to the German government to take these recommendations to the appropriate fora and to work towards the emergence of a common EU approach that takes them into account.

Some further common threads and specific proposals had been put forward across Working Groups, including the need to:

- 1) **Stop the criminalisation of SAR NGOs** and actively contest ongoing prosecutions (of the *IUVENTA-10*,<sup>66</sup> ERCI volunteers<sup>67</sup> and others<sup>68</sup>). A serious political commitment against criminalisation of SAR activity across the EU that is entrenched in law. The German government should push for legal reform at EU level of the Facilitators Directive<sup>69</sup> and related measures to ensure this result.
- 2) **Protect the civic space in which SAR NGOs operate**,<sup>70</sup> in line with their entitlements under the ECHR and related instruments,<sup>71</sup> considering their functions, ultimately as guarantors of EU values and human rights.
- 3) **Reject attempts at harmonising rules on the registration of SAR NGO ships or on the creation of a new classification of privately operated SAR vessels.** This was a distraction from the main issues, given that there was no record of a single incident where SAR NGOs had not complied with the applicable safety rules or taken account of the relevant maritime conventions. In any new initiatives within the EU framework, it was important to preserve the discretion of captains to use their ‘professional judgment’ to take ‘any decision ... necessary for the safety of life at sea’.<sup>72</sup>
- 4) **Recognise that there is no need for new definitions of ‘distress’ or ‘place of safety’**, concepts sufficiently defined in the SAR and SOLAS Conventions, in national and international case law, and in instruments of EU law, like the Maritime Borders Regulation 656/2014.
- 5) **Acknowledge that the key problem is state non-compliance with existing SAR rules.** A rigorous monitoring mechanism (where civil society, including SAR NGOs, can play a role) and clear liability measures and consequences for non-compliance were needed to end impunity for violations and

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<sup>63</sup> See, e.g., the work undertaken by the SAROBMED: The Search and Rescue Observatory for the Mediterranean project (2017–19), <https://sarobmed.org/>, recording and documenting over 70 cases of violations of SAR and human rights obligations occurring during, or as a result of, maritime interventions by EU actors and partners.

<sup>64</sup> On the rights of human rights defenders and their protection, see UN General Assembly Declaration on Human Rights Defenders, [1999] A/RES/53/144, <https://www.ohchr.org/sites/default/files/Documents/Issues/Defenders/Declaration/declaration.pdf>; and EU Guidelines on Human Rights Defenders 2008/2016, [https://www.eeas.europa.eu/sites/default/files/eu\\_guidelines\\_hrd\\_en.pdf](https://www.eeas.europa.eu/sites/default/files/eu_guidelines_hrd_en.pdf).

<sup>65</sup> See, e.g., Commission SAR Recommendation (n 40), Recital 12. See also the related Commission Guidance on the Facilitators Regulation (n 42).

<sup>66</sup> See <https://iuventa-crew.org/en/>.

<sup>67</sup> Regarding the proceedings in Greece against Seán Binder and Sara Mardini, see, e.g., Amnesty International, ‘Greece: Prosecution appeal prolongs ordeal of rescue workers Seán Binder and Sarah Mardini’, 16 May 2023, <https://www.amnesty.org/en/latest/news/2023/05/greece-prosecution-appeal-prolongs-ordeal-of-rescue-workers/>.

<sup>68</sup> For a summary of this practice of criminalisation of humanitarian assistance in the Mediterranean, see Moreno-Lax et al., *The EU Approach on Migration in the Mediterranean* (n 53), p. 92 ff.

<sup>69</sup> Facilitators Directive, art 1.

<sup>70</sup> See, e.g., Fundamental Rights Agency of the EU (‘FRA’), *Protecting civic space in the EU – Key findings and FRA opinions*, 19 Aug. 2022, [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2022-protecting-civic-space-key-findings\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-protecting-civic-space-key-findings_en.pdf).

<sup>71</sup> ECHR, arts 9, 10 and 11. See also supra note 64.

<sup>72</sup> SOLAS, Ch XI-2, Reg. 34: ‘The Owner, Charterer, the Company operating the ship ... or any other person shall not prevent or restrict the Master of the ship from taking or executing any decision which, in the Master’s professional judgment, is necessary for the safety of life at sea and protection of the marine environment’.

to break the disincentives against the proper conduct of SAR. Instead, work should be geared towards the creation of incentives for rescue and disembarkation, e.g., through the constitution of a common fund that compensates private vessels for their contribution to SAR efforts.<sup>73</sup>

- 6) **Define the EU's own SAR obligations post Lisbon**, following the creation of the EBCG or Frontex, the legally binding character of the EU Charter of Fundamental Rights, and on account of the EU's ratification of UNCLOS<sup>74</sup>. As many areas related to SAR entailed EU competence (including Integrated Border Management<sup>75</sup>), this connection needed to be acknowledged and clarified.
- 7) **Reach agreement on safe ports of disembarkation and put forward a 'predictable disembarkation mechanism' on EU soil**,<sup>76</sup> excluding non-EU ports which cannot, for the time being, be considered places of safety.<sup>77</sup>
- 8) **Push for the EU and fellow Member States to stop collaboration with unsafe third countries** that cannot credibly engage in SAR nor provide a place of safety (including Libya but also Tunisia<sup>78</sup> and others in a similar position). This should include a stop to information sharing, funding, and capacity building initiatives that facilitate pullbacks and containment in third countries of origin and transit<sup>79</sup> (in line with the right to leave and the right to seek asylum<sup>80</sup>). In this regard and in particular, the German government was invited to condition further cooperation with the EU and fellow Member States regarding Integrated Border Management on the termination of support and cooperation with the Libyan Coastguard (especially on consideration that the so-called Libyan Search and Rescue Region was not functional, lacked an MRCC,<sup>81</sup> and should thus be considered non-operational).

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<sup>73</sup> For a similar approach, see Gauci, *When Private Vessels Rescue Migrants and Refugees: A Mapping of Legal Considerations*, British Institute of International and Comparative Law (Nov. 2020), [https://www.biicl.org/documents/124\\_private\\_vessels\\_research.pdf](https://www.biicl.org/documents/124_private_vessels_research.pdf).

<sup>74</sup> Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 Dec. 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof, [1998] OJ L 179/1.

<sup>75</sup> EBCG Regulation, art 3(1)(b). Further on this, see Moreno-Lax, 'Towards a Thousand Little Morias: The EU (Non-)Rescue Scheme - Criminalising Solidarity, Structuralising Defection', in Thym (ed.), *Reforming the Common European Asylum System: Opportunities, Pitfalls, and Downsides of the Commission Proposals for a New 'Pact' on Migration and Asylum* (Nomos, 2022) 161-186, <https://www.nomos-elibrary.de/10.5771/9783748931164/reforming-the-common-european-asylum-system>.

<sup>76</sup> For a similar call, see International Chamber of Shipping ('ICS'), UNHCR and IOM, 'ICS, UNHCR and IOM call on States to end humanitarian crisis onboard ship in the Mediterranean', Joint Press Release, 7 Sept. 2020, <https://www.iom.int/fr/node/101451>.

<sup>77</sup> Analysing the situation in Algeria, Egypt, Libya, Morocco, and Tunisia, see Farahat and Markard, *Places of Safety in the Mediterranean: The EU's Policy of Outsourcing Responsibility* (Heinrich-Böll-Stiftung, Feb. 2020), pp. 18 ff, <https://eu.boell.org/sites/default/files/2020-02/HBS-POS%20brochure%20web.pdf>.

<sup>78</sup> For an overview of concerns, see ECRE, 'Mediterranean: Arrivals and Deaths Up With UN Agency Pointing to Gaps in State Response to Distress, Italy Receives More Critique over State of Emergency, NGOs Warn of Unsafe Tunisia', 21 April 2023, <https://ecre.org/mediterranean-arrivals-and-deaths-up-with-un-agency-pointing-to-gaps-in-state-response-to-distress-italy-receives-more-critique-over-state-of-emergency-ngos-warn-of-unsafe-tunisia/>.

<sup>79</sup> Cf. Moreno-Lax, 'Protection at Sea and the Denial of Asylum', in Costello, Foster and McAdam (eds), *The Oxford Handbook of International Refugee Law* (Oxford University Press, 2021) pp. 483 ff, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3623029](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3623029).

<sup>80</sup> Moreno-Lax and Giuffré, 'The Rise of Consensual Containment: From "Contactless Control" to "Contactless Responsibility" for Migratory Flows', in Juss (ed), *Research Handbook on International Refugee Law* (Edward Elgar, 2019) pp. 81 ff, <https://www.unhcr.org/5a056ca07.pdf>.

<sup>81</sup> On this point, see Answer given by Mr Várhelyi on behalf of the European Commission to Parliamentary question - E-000027/2021(ASW), 30 March 2021, [https://www.europarl.europa.eu/doceo/document/E-9-2021-000027-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2021-000027-ASW_EN.html); and Answer given by High Representative/Vice-President Borrell i Fontelles on behalf of the European Commission to Parliamentary question - E-003014/2022(ASW), 8 November 2022, [https://www.europarl.europa.eu/doceo/document/E-9-2022-003014-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2022-003014-ASW_EN.html).

- 9) **Launch an EU SAR operation** including regular patrolling of the EU Member States Search and Rescue Regions, developing a European regional approach. Lessons could be learnt from the Indo-chinese Comprehensive Plan of Action for Vietnamese ‘boat people’<sup>82</sup> or, closer to home, the Messina Model that during 2018–19 linked disembarkation in a place of safety in the EU with relocation in the Member States.<sup>83</sup> An EU-led mission, with a clear SAR mandate, monitoring and compliance mechanisms, identifying safe disembarkation and relocation options in Europe, financed by the EU, and mobilising Member State assets, Frontex and EUNAVFORMED assets, as well as NGO assets (like with *Mare Nostrum*<sup>84</sup>), could lead to a better chance of disconnecting SAR from asylum issues and Dublin responsibility allocation problems – this had worked under the Messina model and could work once again.
- 10) **Clarify the role of Frontex and CSDP missions in this framework**, which now have executive powers and specific SAR responsibilities under the EBCG<sup>85</sup> and the EU Maritime Borders Regulations<sup>86</sup>. The German government should push for the development of workable Standard Operating Procedures (SOPs) and a SAR Code of Conduct for EU actors and partners,<sup>87</sup> to ensure compliance with international human rights, refugee law, EU law, and law of the sea standards.

A reconfiguration of the mandate of the SAR Contact Group along these lines would make the Contact Group relevant to the community of stakeholders and to current realities on the ground. The German government should therefore push for this revision and the expansion of the Group’s mandate in this direction.

In addition, maintaining a parallel dialogue with SAR NGOs, experts, and other key stakeholders in events such as today would ensure a channel of communication that maintained relevance and independence and could generate insights that could feed into the SAR Contact Group on a regular basis. Thinking about continuity formulas of today’s exercise, consolidating and institutionalising today’s discussion, would be another key final recommendation for the German government and all of the Roundtable participants to pursue collectively.

Anke Meyer, Director for EU Coordination and EU Policies at the Federal Foreign Office, closed the event. She reaffirmed the idea of the event as being in a listening mode; talking to each other was better than about one another. She thanked all of the participants for their work and their concrete recommendations; of course, negotiations would be required to achieve results.

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<sup>82</sup> See, e.g., Ineli-Ciger, ‘An Examination of the Comprehensive Plan of Action as a Response to Mass Influx of “Boat People”: Lessons Learnt for a Comprehensive Approach to Migration by Sea’, in Moreno-Lax and Papastavridis (eds), *Boat Refugees’ and Migrants at Sea: A Comprehensive Approach* (Brill, 2016) pp. 408 ff.

<sup>83</sup> EASO, Note on the ‘Messina Model’ applied in the context of ad hoc relocation arrangements following disembarkation, EASO/ED/2019/403, 10 Sept. 2019, <https://reliefweb.int/report/world/note-messina-model-applied-context-ad-hoc-relocation-arrangements-following>.

<sup>84</sup> Marina Militare, ‘Mare Nostrum Operation’, undated, <https://www.marina.difesa.it/EN/operations/Pagine/MareNostrum.aspx>.

<sup>85</sup> EBCG Regulation, art 3(1)(b).

<sup>86</sup> EBCG Regulation, art 21(3)(b).

<sup>87</sup> Frontex has developed similar Codes of Conduct for joint operations. See, e.g., Code of Conduct applicable to All Persons Participating in Frontex Operational Activities, [https://frontex.europa.eu/assets/Key\\_Documents/Code\\_of\\_Conduct/Code\\_of\\_conduct\\_applicable\\_to\\_all\\_persons\\_participating\\_in\\_Frontex\\_operational\\_activities.pdf](https://frontex.europa.eu/assets/Key_Documents/Code_of_Conduct/Code_of_conduct_applicable_to_all_persons_participating_in_Frontex_operational_activities.pdf); Code of Conduct for Return Operations and Return Interventions Coordinated or Organised by Frontex, [https://frontex.europa.eu/assets/Key\\_Documents/Code\\_of\\_Conduct/Code\\_of\\_Conduct\\_for\\_Return\\_Operations\\_and\\_Return\\_Interventions.pdf](https://frontex.europa.eu/assets/Key_Documents/Code_of_Conduct/Code_of_Conduct_for_Return_Operations_and_Return_Interventions.pdf).



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Expert Roundtable  
**Search and Rescue in the Central Mediterranean: Perspectives from Civil Society**  
| Berlin, 30 May 2023, Federal Foreign Office |

## Participants Panel Discussion

### Moderation



#### **Prof. Dr. Susanne Fengler**

Fengler is director of the Erich Brost Institute for International Journalism at TU Dortmund University, Germany. She has co-ordinated several large-scale comparative studies analyzing migration coverage in countries of origin, transit and destination of migrants. She recently edited the *UNESCO Handbook for Journalism Educators: Covering Migrants and Refugees*, which was endorsed by UN High Commissioner Filippo Grandi.

### Participants



#### **Regina Egle Liotta Catrambone**

*Co-Founder – Director MOAS (Migrant Offshore Aid Station)*

Born in Reggio Calabria, Italy, her education began within a Catholic learning environment, which led to the development of an interest in social issues. Through her work in the humanitarian sector, Catrambone has designed diverse projects for vulnerable individuals, with a specific focus on migrants and refugees. MOAS' projects primarily aim to fill systemic gaps identified in the humanitarian field. Between 2014 and 2017 MOAS' team rescued over 40.000 people in distress, in the Mediterranean and Aegean Sea. In 2023 her first book 'Raccogliere il mare con un cucchiaino' was published focussing on the need to initiate a constructive dialogue on migration. She is also the Chairperson of the international group of companies Tangiers Group.



#### **Vincent Cochetel**

*Special Envoy for the Western & Central Mediterranean Situation, United Nations High Commissioner for Refugees (UNHCR)*

Cochetel is the UNHCR's Special Envoy for the Central and Western Mediterranean Situation since June 1, 2017. He has a long history with UNHCR, joining in 1986 and managing field offices in Central Europe, Eastern Europe, and the Middle East. He has participated in emergency missions across Asia, West Africa, and Europe. Cochetel has held various positions within UNHCR, including Director of the Investigation Unit and Deputy Director of the Division of International Protection and Director of the Resettlement Service. He has also served as the UNHCR's Regional Representative for the United States and the Caribbean and Director of the Bureau for Europe, as well as the Regional Refugee Coordinator for the refugee crisis in Europe from 2015 to 2017. Cochetel is an accomplished author and contributed to the drafting of several UNHCR training manuals. He graduated from the Law Faculty of Tours (France), Paris II and Paris XI universities.

## Participants



### **Dr Jean-Pierre Gauci (PhD (KCL), LL.D., MJURIS (Melit.) FRSA**

He is Arthur Watts Senior Research Fellow in Public International Law British Institute of International and Comparative Law; co-director of The People for Change Foundation and visiting lecturer at the University of Malta. He consults widely to national and international governmental and non-governmental organizations. His primary research areas include international migration and refugee law. His research focuses on international migration law with a focus on human trafficking, maritime migration, access to protection, smuggling and asylum. He has co-edited eight books and authored a wide range of journal articles, book chapters, reports and other publications. He recently led a research project focused on the role of private vessels when they rescue migrants and refugees at sea. The focus of that research was on the commercial and human rights legal implications of maritime rescues.



### **Juan Matias Gil**

*Head of Mission - Search and Rescue Representative Médecins Sans Frontières*

Gil is a registered economist, Masters in Human Rights and Conflict Management, with 14 years of international field experience. For Médecins Sans Frontières (Doctors Without Borders) he is currently the SAR Representative for Migration in the Central Mediterranean. Previously, he worked as knowledge Manager for the COVID-19 mission in Spain and Portugal; he was Head of Mission in different locations such as the Democratic Republic of Congo, Guinea Bissau, and Serbia-Bosnia, and worked as a Security Advisor in Syria. He has also held positions at two other SAR NGOs, ResQ People Saving People and Sea-Eye, focusing on migration emergencies in the Central Mediterranean.



### **Frederick J. Kenney, Jr.**

*Director of Legal and External Affairs International Maritime Organization*

Kenney is currently the Director of Legal and External Affairs at the International Maritime Organization in London. He advises the Secretary-General on legal issues related to the organization, focusing on treaty law and the law of the sea. He provides legal counsel to the Secretariat staff, oversees the Organization's role as depositary for multilateral conventions, and manages the Public Information Service, Maritime Knowledge Centre, and External Relations Office. During the COVID-19 pandemic, he chaired the Secretary-General's Seafarers Crisis Action Team. Previously, Kenney held positions in the United States Coast Guard, including Judge Advocate General and Chief Counsel. He has extensive experience in maritime law and has served at sea for over five years. He has academic credentials from Michigan State University and the University of San Francisco School of Law.



### **Julia Schaefermeyer**

*Communications & Advocacy Manager SOS Méditerranée*

Julia Schaefermeyer joined SOS MEDITERRANEE as Communications Coordinator in 2019, alternating between working onboard rescue ship Ocean Viking and on land over two and a half years. In 2022, she became Communications and Advocacy Manager in Germany for SOS MEDITERRANEE. Schaefermeyer studied Political Science and International Relations with a focus on migration policy and international law in Berlin, Frankfurt (Germany), and Rennes (France) and has previously worked in international cooperation, research, and journalism.