

## **Statement by 29 academics on Italy seizing the rescue boat Open Arms**

Italian authorities have seized the Spanish NGO rescue boat ‘Open Arms’ and have initiated criminal investigations against the NGO coordinator and the captain of the boat. The ‘Open Arms’ had refused to hand over to the Libyan coast guard 218 people it had rescued in international waters, while Italy claims that they were obliged to do so, on the basis of the Italian NGO Code of Conduct. Instead, the ‘Open Arms’ brought two rescued persons to Malta (where a mother and child were hospitalized in critical condition), and the remaining to Italy. The NGO people face prosecution on account of taking part in human smuggling (*Le Monde*, 22 March 2018).

Under international law, shipmasters are under the obligation to assist people in distress at sea, and to bring them to a place of safety. The captain of the ‘Open Arms’ has complied with this requirement by rescuing the 218 people and subsequently refusing to hand them over to the Libyan coast guard. On the basis of well documented human rights reports, the captain knew that handing them to the Libyan coast guard would imply the real risk that the 218 people would be subjected to torture, inhuman or degrading treatment, slavery, or forced or compulsory labour, which constitute grave human rights violations or even crimes against humanity. Libya is not a place of safety as required under international law.

It is, quite to the contrary, Italy that acts in violation of international law:

- Requiring captains of vessels engaged in SAR (regardless of whether they are NGO, European navy or coast guard, or merchant vessels) to hand over rescued people to the Libyan coast guard exposes rescued people to a real risk of becoming victims of grave human rights violations and crimes against humanity. Italy is responsible for the foreseeable consequences of such requests by its authorities.
- Seizing a boat dedicated to SAR activities reduces the capacity available for search and rescue, and foreseeably leads to loss of more lives. Italy is responsible for the foreseeable loss of life as a consequence of acts by its authorities.

The increasing assertiveness with which Italy exposes people to grave human rights violations and crimes against humanity, and reduces the SAR capacity in the Mediterranean, requires immediate action of the international community. We point to, and call upon the actors concerned to consider and pursue, the following options for invoking Italy’s responsibility for breaches of international law:

**Italy should cease its policy of promoting, directing and enforcing returns to Libya with immediate effect, and should cease prosecuting actors who deliver people rescued at sea to a place of safety;**

In case Italy fails to do so,

- 1. The UN Security Council should be seized to consider Italy’s actions a threat to international peace and security; to call upon Italy to cease its violations of international law; and to promote a coordinated approach to SAR in the Mediterranean which does *not* include exposing rescued persons to the risk of grave human rights violations;**
- 2. Côte d’Ivoire, Equatorial Guinea, and Ethiopia – being the the African Union Member States that are currently members of the UN Security Council – whose citizens are directly affected by Italy’s violations of international law, should propose an immediate meeting of the UN Security Council to this end;**
- 3. The Prosecutor of the International Criminal Court should *proprio motu* open an investigation concerning high-ranking Italian authorities as to their complicity in crimes against humanity taking place in Libya;**
- 4. Each Member State of the Council of Europe should consider filing an inter-state complaint against Italy at the European Court of Human Rights.**

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