

Fundamental rights considerations: NGO ships involved in search and rescue in the Mediterranean and criminal investigations

Tables and figures

Table 1: NGOs involved in SAR activities in the Mediterranean and vessels/aircrafts deployed by them (2015-2018)

NGO	Country*	Rescue vessel(s)	Operational in August 2018	
			Yes/No	Comment
Jugend Rettet	DE	'luventa'	No	(seized in Sicily (Italy) due to ongoing criminal investigations)
Médecins Sans Frontières (MSF)	FR	'Prudence' (operated by MSF Belgium)	No	(stopped in Oct. 2017)
		'Argos' (operated by MSF Belgium)	No	(stopped in Nov. 2016)
		'Dignity I' (operated by MSF Spain)	No	(stopped in 2016)
Migrant Offshore Aid Station (MOAS)	IT	'Phoenix'	No	(stopped in Oct. 2015)
Mission Lifeline	DE	'Lifeline'	No	(denied to leave the port and detained in Malta)
ProActiva Open Arms	ES	'Astral'	Yes	(mainly used for awareness raising since the end of 2016)
		'Golfo Azzurro'	Yes	
		'Open Arms'	Yes	
PROEMAID	ES	'Aita Mari'	Not yet	(plans to start operating in autumn 2018)
Refugee Rescue	UK	'Mo Chara'	Yes	
Save the Children	US	'Vos Hestia'	No	
Sea-Eye	DE	'The Sea-Eye'	No	

NGO	Country*	Rescue vessel(s)	Operational in August 2018	
			Yes/No	Comment
			(denied to leave the port and detained in Malta)	
		'The Seefuchs'	No	(denied to leave the port and detained in Malta)
Sea-Watch	DE	'Sea-Watch 3'	No	(denied to leave the port and detained in Malta)
		'Moonbird' (reconnaissance aircraft – with the support of the Evangelical Church in Germany & the Swiss Humanitarian Pilots Initiative)	No	(flying permit not re-issued by Maltese authorities)
SOS Méditerranée & Médecins Sans Frontières	DE/FR/IT/ CH FR	'Aquarius'	Yes	

Note: * = 'country' means the state where the NGO has been established or registered

Source: FRA, 2018 (based on publicly available information)

Table 2: Legal proceedings against private entities involved in SAR operations in the EU

NGO vessel concerned	Authorities/courts involved	Type of measures/legal actions	Actions against crew members	Court decision
ITALY				
'luventa' (operated by <i>Jugend Rettet</i>)	<ul style="list-style-type: none"> - Public prosecutor in Trapani (Sicily) - Tribunal of Trapani (Sicily) - Supreme Court of Cassation (Rome) 	<p>Ordering the ship to the port of Lampedusa (August 2017)</p> <p>Preventive seizure of the ship initiated by the prosecutor (August 2017)</p> <p>Preventive seizure confirmed by the</p>	<p>Yes</p> <p>(since July 2018 – against 10 former crew members, on account of facilitating irregular migration)</p>	<p>On the seizure of the ship = Yes (seizure confirmed)</p> <p>On the criminal responsibility of the crew members = case pending</p>

NGO vessel concerned	Authorities/courts involved	Type of measures/legal actions	Actions against crew members	Court decision
		<p>Tribunal of Trapani (Sicily)</p> <p>Supreme Court of Cassation rejected the objection to the seizure of the ship (April 2018)</p> <p>Investigations extended to individual (former) crew members by the public prosecutor (July 2018)</p>		
'Open Arms' (operated by ProActiva Open Arms)	<ul style="list-style-type: none"> - Public prosecutor in Catania (Sicily) - Tribunal of Ragusa (Sicily) - Criminal Court of Ragusa (Sicily) 	<p>Pre-trial seizure of the ship in the port of Pozzallo (Sicily) by the prosecutor – because of the violation of the IT Code of Conduct & jeopardising migrants' lives (March 2018)</p> <p>Ship released following an order of the pre-trial judge at the Tribunal of Ragusa (April 2018)</p> <p>The Criminal Court of Ragusa rejected the prosecutor's appeal and confirmed the release of the ship (May 2018)</p>	<p>Yes</p> <p>(against the captain & mission coordinator – on counts of "criminal association" and "facilitation of irregular migration")</p>	<p>On the lifting of the seizure of the ship = Yes (ship released)</p> <p>On the criminal responsibility of crew members = No</p> <p>(charges under investigation)</p>
'Golfo Azzurro' (operated by ProActiva Open Arms)	<ul style="list-style-type: none"> - Public prosecutor of Palermo (Sicily) - Tribunal of Palermo (Sicily) 	<p>Criminal investigations against unknown persons involved in migrant smuggling initiated by the public prosecutor</p> <p>Investigation discontinued by the Tribunal of Palermo (June 2018)</p>	<p>Yes</p>	<p>Yes</p> <p>(investigation discontinued)</p>
'Vos Hestia' (operated by Save the Children)	<ul style="list-style-type: none"> - Police - Public prosecutor in Trapani (Sicily) 	<p>Search on board after an undercover agent worked on the ship (October 2017)</p>	<p>No</p> <p>(investigations discontinued)</p>	<p>No</p> <p>(investigations discontinued)</p>

NGO vessel concerned	Authorities/courts involved	Type of measures/legal actions	Actions against crew members	Court decision
		Captain interviewed by the Deputy Prosecutor of Trapani		
<i>Médecins Sans Frontières</i> (no vessel, only staff subject to investigations)	- Public prosecutor in Trapani (Sicily)	Investigations against MSF staff (without specifying the details)	Yes (for aiding irregular migration)	No (investigations ongoing)
Sea Watch (no vessel concerned, only NGO staff subject to investigations)	- Public prosecutor in Palermo (Sicily)	Investigations for alleged conspiracy and migrant smuggling	Yes	Yes (investigations discontinued – June 2018)
MALTA				
'Lifeline' (operated by Mission Lifeline)	- Police - Public Prosecutor's Service	'Lifeline' impounded, while the other three vessels blocked at the port of La Valletta (end of June 2018)	<u>Yes</u> (against the captain – for <u>not following</u> orders of the Italian MRCC & entering Maltese territorial waters illegally)	No (all investigations & administrative procedures ongoing)
'The Sea Eye' (operated by Sea-Eye)		Maltese authorities <u>launched investigations</u> (July 2018) → due to potential issues with the registration of the ships (all three ships fly the flag of the Netherlands)	No	
'Seefuchs' (operated by Sea-Eye)			No	
'Sea-Watch 3' (operated by Sea-Watch)			No	
GREECE				
Volunteers working for the NGO 'PROEMAID' (no vessel seized)	- Public prosecutor of Mytilene (island of Lesbos) - Local court of Mytilene (island of Lesbos)	Arrest and detention of three volunteers (Spanish firefighters) (January 2016) → criminal charges and indictment (2017) Court in Mytilene (Lesvos) acquitted the	Yes (for migrant smuggling)	<u>Yes</u> (all three accused NGO volunteers acquitted)

NGO vessel concerned	Authorities/courts involved	Type of measures/legal actions	Actions against crew members	Court decision
		accused volunteers (May 2018)		
A German pensioner couple (private individuals, not associated with any NGO)	<ul style="list-style-type: none"> - Local court on the island of Symi (Aegean Sea) - Court of Appeal of the Dodecanese 	<p>Boat (a recreational craft) confiscated</p> <p>Couple convicted for migrant smuggling to 16,5 years of imprisonment each by the local court in Symi</p> <p>Court of Appeal acquitted the wife and reduced the husband's prison sentence to 3,5 years (March 2017)</p>	Yes (for migrant smuggling)	Yes (final judgment)
Emergency Response Centre International (no vessel seized)	<ul style="list-style-type: none"> - Police in Mytilene (island of Lesbos) 	Three NGO staff members arrested and criminal investigations started (August 2018)	Yes (for migrant smuggling)	No (investigations ongoing)

Source: FRA, 2018 (based on publicly available information)

Figure 1: Deaths at sea as a proportion of arrivals in the Mediterranean, 2015 – 2018 (%)



