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Legal Context Behind the Justice Fleet's Stand: Crimes Against Humanity in Libya and the Central Mediterranean

Crimes against humanity are being committed in Libya and at sea. The Justice Fleet's position reaffirms a basic principle: Human life comes before illegal orders.

Context: Violence at Sea and Libya's Detention Industry

Over the past decade, the Central Mediterranean has become a theater of organized violence against people on the move and those in solidarity with them. Libyan maritime authorities and affiliated militias, including the so-called Libyan Coast Guard, the Joint Rescue Coordination Centre (JRCC) Tripoli, and Eastern actors like the Tariq Ben Zeyad Brigade, routinely use armed force, live fire, and deliberate endangerment at sea.

A new Sea-Watch report (Oct 2025) documents 60 violent incidents since 2016, including shootings, ramming and blocking maneuvers against rescue vessels, threats and intimidation of crews, and assaults on people in distress. These are not aberrations, but the maritime front-line of a system of crimes against humanity. Those intercepted are forcibly returned to Libya, where detention sites run by militias, state agencies, and private actors, form a profitable industry of exploitation and abuse. Inside these sites, torture, sexual violence, forced labor, and enslavement are routine.

In 2023, the UN Fact-Finding Mission on Libya concluded that sea interceptions and pullbacks amount to imprisonment or other severe deprivation of liberty as crimes against humanity, committed as part of a widespread and systematic attack against migrants and refugees attempting to leave Libya. This finding reinforces the legal analysis advanced by ECCHR, which in its 2022 communication to the International Criminal Court argued that sea interceptions and forced returns to Libya constitute crimes against humanity and that European and Libyan officials jointly implemented a common plan to carry out these interceptions in full awareness that they foreseeably result in torture, enslavement, and other crimes against humanity.

1) How are the actions of Libyan maritime actors linked to crimes against humanity?

Under Article 7 of the Rome Statute, crimes against humanity include acts like imprisonment, enslavement, torture, rape or other forms of sexual violence, and persecution when committed as part of a widespread or systematic attack on civilians pursuant to a State or organizational policy. Both on land and at sea, Libyan violence against migrants and refugees meets this threshold. The attack is widespread, directed at thousands perceived to be migrants and refugees, and systematic, following clear patterns implemented by both state and non-state actors. Maritime violence is not incidental but integral to this system: it is the enforcement mechanism of a broader cycle of abuse in which sea interceptions and forced returns amount to imprisonment as crimes against humanity. European migration-control imperatives drive this coordinated policy of containment. By providing funding, training, equipment and operational coordination, EU and Member States enable and contribute to a system that foreseeably results in crimes against humanity.



2) Who is responsible: the common-plan theory of co-perpetration (Article 25 (3)(a))

ECCHR's legal analysis focuses on co-perpetration. Under Article 25 (3)(a) of the Rome Statute, liability arises where actors share a common plan, each making an essential contribution, with knowledge that crimes are a foreseeable consequence.

Libyan actors, including Libyan maritime authorities, together with officials in EU institutions (such as the European Commission, FRONTEX, the European External Action Service, and the EU naval mission EUNAVFOR MED) and EU Member States (including Italy and Malta) jointly implement such a common plan to prevent sea crossings by people on the move. European contributions include:

- **Material enablement:** Provision of vessels, equipment, and training that empower Libyan forces to intercept and attack at sea.
- **Operational coordination:** Orders and information flows through Italy, Malta and Frontex that direct rescues toward Libyan units, despite Libya not being a place of safety.
- **Policy architecture:** Creation of Libya's SAR zone, agreements like the Italy-Libya MoU, and national laws like Italy's Piantadosi Decree that compel NGOs to comply with unlawful instructions.

European actors may not intend every act of violence, but they are foreseeable and accepted consequences of their shared policy of containment.

3) Implications for civil sea rescuers: lawful duties, unlawful orders, lawful refusal

Under international maritime law, captains have a non-derogable duty to rescue persons in distress and ensure disembarkation in a place of safety. Libya cannot be considered a place of safety due to the foreseeable risk of unlawful detention, torture, enslavement, and inhuman treatment. When Italian authorities order NGO ships to coordinate with Libyan maritime forces, they effectively demand participation in a system of crimes against humanity. Complying with such orders creates a foreseeable risk of complicity; refusal is therefore not defiance but legal necessity. Recent Italian judgments confirm this: the Crotona Civil Court (March 2024) declared the detention of the Humanity 1 unlawful and affirmed Libyan forces are not legitimate rescue authorities. The Italian Constitutional Court (July 2025) clarified that captains may only follow lawful orders consistent with rescue obligations and said that disobeying unlawful ones cannot be punished.

The Justice Fleet's decision to suspend operational communication with the JRCC Libya is therefore an act of compliance with international law and the only way to rescue without complicity.

“Saving lives is not a crime. Funding and coordinating abductions to torture is. When orders make rescuers potentially complicit in crimes against humanity, refusal is the only lawful response.”

Allison West, Senior Legal Advisor at ECCHR

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