

Criminalisation of Migrants and Solidarity - an overview



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*„Most of us believe in dignity, even if we do not shout from the rooftops.
Solidarity is everywhere: in towns and villages, on the beaches and in the fields.
Solidarity means saving lives and offering humanity.”*
- Pierre Alain Mannoni

In the context of the trial of some crew members of the IUVENTA, we have compiled an overview of the many different forms of criminalisation of migration and solidarity. Criminalisation has many faces, but the IUVENTA case is only one of them. To create a better understanding of the large extent of criminalisation in Europe and on the Mediterranean Sea, we have collected some – and by far not all – cases that exemplify its various facets.

While especially the criminalisation of sea rescue is receiving attention, criminalisation is also a big problem in numerous other places within and beyond the EU borders. In Calais, on Lesbos, at the Croatian-Serbian border, at the French-Italian border; the list is seemingly endless. While European citizens can cross most borders without any special restrictions, the freedom of movement of people from the Global South is continually suppressed.

Individuals and organisations that are fighting for the rights and dignity of people on the move, regardless of their residence status, are systematically defamed, harassed, and prosecuted by state authorities.

But not only them – also migrants themselves are criminalised.

Criminalisation does not only have drastic consequences for those who are directly affected, but also for society's understanding of the rule of law, civil society action, human rights, and dignity. It is a development that entails consequences for all people living in Europe.

One example for the normalisation of the infringement of human rights was the wiretapping of journalists and lawyers of IUVENTA crew members: Not only is wiretapping lawyers and journalists against the freedom of expression and the attorney-client privilege, but those conversations were eavesdropped and recorded although they were not related to the subject matter of the accusations. This shows that criminalisation can affect all of us.

Today, people are abandoned at sea without rescue because they are migrants. Tomorrow, this could concern everyone who is declared a persona non grata.

Criminalization of Solidarity

- **At Sea**

- a. Search and Rescue NGOs**

- i. luventa** - In March 2021, the public prosecution of Trapani opened proceedings against [4 crew members of the luventa](#), a search and rescue vessel from the German NGO Jugend Rettet, which had conducted sea rescue operations in 2016 and 2017 until their boat was confiscated by Italian authorities in August 2017. Until January 2021, the Italian police had investigated members of several Search and SAR NGOs for almost five years. Even journalists and their sources as well as lawyers and their defendants had been wiretapped during confidential conversations. A total of 21 people, including from Médecins Sans Frontières, Save the Children, and luventa, as well as a shipping company, have been accused. As of today, the preliminary hearings are still ongoing, and it remains to be decided whether they will be charged with "aiding and abetting irregular immigration" of refugees to Italy.

- b. Other humanitarian organisations**

- i. Cap Anamur:** On 20 June 2004, the crew of the humanitarian [ship Cap Anamur](#), which was on a technical test run between Malta and Sicily, rescued 37 refugees whose rubber dinghy was in danger of sinking. The ship of the Cap Anamur Committee was otherwise used to transport aid and relief supplies to crisis areas. The Cap Anamur had to wait 3 long weeks to be assigned a port of safety. Once they arrived, the captain, the first officer and the head of the Cap Anamur committee were arrested and accused for "aiding and abetting illegal immigration". After 5 years of process, they were acquitted but they had to sell their ship to reduce debts, which meant the end of the mission. Captain Stefan Schmidt and committee leader Elias Bierdel became founding members of borderline-europe in 2007.

- c. Fishermen**

- i. Corrado Scala:** In 2002, an Italian fishing vessel under the command of captain [Corrado Scala rescued 151 people](#) from an overcrowded boat with a broken motor. Despite asking for help for several hours, no state authorities reacted to his requests for support. After having been told to simply return the people to Malta, which caused many of the refugees to panic, he was finally ordered to take on board women and children and tow the boat to Pozzallo, Sicily. Once they arrived, his vessel and equipment were confiscated, and he was detained and accused of "aiding

and abetting irregular immigration". Several months of trials eventually led to his acquittal but left him severely financially damaged.

- ii. **Tunisian Fishermen:** In 2007, [two Tunisian fishing vessels](#) under the commands of captain Abdelkarim Bayoudh and captain Abdelbassete Jenzeri rescued 44 migrants in a rough sea off the coast of Lampedusa. The fishermen asked for help according to international maritime law but before any help arrived, the boat with refugees deflated further and threatened to sink. The fishermen managed to take all 44 people on board despite dangerous weather conditions. When the Italian Coast Guard finally arrived, their doctor declared the traumatised and ill refugees as healthy enough to return to Tunisia. The fishermen decided to go to the much closer to Lampedusa and where arrested. After 4 years of trial, their boats were confiscated, and they had their fishing licenses revoked.

d. Merchant Vessels

- i. **Maersk Etienne:** On 3 August 2020 the merchant vessel [Maersk Etienne rescued 27 people](#) in the Central Mediterranean after having been told to do so by Maltese authorities. Despite asking for help, Malta and Italy refused to provide a port of safety to the people. After several weeks of waiting the merchant vessel was in serious need of help. On September 12 the Mare Jonio of the platform Mediterranea took over the 27 people and brought them to Pozzallo. Only 40 days after the people had been rescued, they were allowed to land in Italy. In March 2021, the Ragusa Public Prosecution accused Mediterranea of receiving money from the Danish container tanker company MAERSK in exchange for taking over the 27 rescued people on the Mare Jonio. However, this accusation had no standing. Maersk donated money to Mediterranea months after the transfer for their sea rescue mission in general.

e. Stand Offs

- i. **Marediver 601:** On 31 May 2019, the Egyptian [tugboat Marediver 601 rescued 75 people](#) in distress in international waters. Among them were at least 32 unaccompanied minors. After having informed Malta and Italy about the rescue, the Marediver 601 headed for Zarzis, Tunisia, because they did not have the means to provide for all the people on board. However, Tunisia refused to let the people disembark, because it was once again afraid of setting a precedence for further reception of refugees. Only 18 days later, on 18 June, the Marediver 601 was allowed to enter the port of Zarzis with the condition that those rescued would be deported. Only a few days later, the Bangladeshis were flown to Dhaka.

- **On land**

- f. **Members of civil organisations**

- i. **Linea d’Ombra:** The couple [Gian Andrea Franchi and Lorena Fornasir](#) founded the organisation “Linea d’Ombra” which supports migrants in Trieste that come via the Balkan Route. On 23 February 2021 the Italian police raided their home, and on 25 July 2021, public prosecution filed charges against the couple for “aiding and abetting illegal immigration and illegal residence” with the aggravating circumstances of acting for profit and membership of a criminal organisation. The charges have been dropped on November 23, 2021.
- ii. **Baobab:** Baobab is a charity that helps people on the move who are transiting through Rome. Baobab volunteers offered to support eight Sudanese and one Chadian citizen and bought them train and bus tickets to France after the hosting center set up in Via Cupa, in the capital's San Lorenzo district, was cleared in October 2016. The [president Andrea Costa](#) and two other colleagues were charged with “aiding and abetting illegal immigration”. The charges were dropped on 3 May 2022.

g. Public office holders

- i. **Mimmo Lucano:** The [former mayor of Riace](#) made his town famous when he used integration of immigrants to reverse depopulation. He was put under house arrest in 2018 for allegedly abetting illegal immigration, embezzlement, and fraud. He has been sentenced to more than 13 years in jail for aiding illegal migration and for “irregularities” in managing the asylum seekers. His lawyers launched a final appeal against the sentence.

h. Members of the clergy

- i. **Pater Moses Zerai:** Moses Zerai fled from Eritrea to Italy in the 1990s, where he then became a priest. His mobile phone number started to spread back in his home country, and people called him when they were in distress at sea while trying to reach European shores. In those cases, Zerai would contact the Italian coast guard and [save thousands of lives](#). In 2015 he was [nominated for the Nobel Peace Prize](#). Since 2016 he was under investigation of the Italian public prosecution in connection with the proceedings against Jugend Rettet “aiding and abetting illegal immigration”. It was only in May of 2022, after five years, that [all accusations against him were dropped](#).

i. Private citizens

- i. **Pierre Alain Mannoni:** In 2016, [Pierre Alain Mannoni](#), a French University Professor, brought three Eritrean women to the next train station on the Franco-Italian border so that they could reach the next town and get medical care. The women were hungry, cold, ill, and scared. On the way to the train station, he was stopped by the police and arrested. He was acquitted in the first trial in 2016, but the public prosecution appealed

against the verdict. He faced five years of prison and 15.000 Euro for aiding and abetting irregular entry. After four years of trial, he was finally acquitted on 28 October 2020.

- ii. **Cedric Herrou:** Cedric Herrou is a farmer in the Roya valley in France close to the Italian border. For years he has been [helping people who want to cross the border](#), by providing food, shelter, and access to legal aid. His farm has hosted several hundreds of people since 2016. For his solidarity, he was arrested several times and convicted for “aiding illegal immigration” in 2017. However, the sentence was overruled by the French Constitutional Council in 2018 and he was acquitted on all charges in May 2020.

Criminalization of Refugees

- **At Sea**

- a. **The so-called boat drivers in Greece**

- i. **Samos 2:** On the night of 7 November 2020, [N. and Hasan tried to reach Greece](#) from Turkey on a rubber boat together with 22 other people. The families had fled Afghanistan and were seeking safety in Europe. Off the Greek island of Samos, their boat capsized and N.’s six-year-old son died. According to the survivors, a Greek coast guard boat came by twice but did not rescue them. In addition to losing his child, N. was arrested and charged with “endangering the life of his child”, facing up to ten years imprisonment. Hasan was arrested because he had steered the boat at one point. Therefore, he was charged with human smuggling with the aggravating circumstances of endangering the lives and “causing the death of one”. He faced a life sentence for the death of one person plus a further 10 years imprisonment per transported person, amounting to 230 years plus life imprisonment. On 18 May 2022, N. was finally acquitted, and Hasan was sentenced to one year and five months on probation.

- b. **The so-called boat drivers in Italy**

- i. **4 Soccer Players:** Joma, Ali, Abdelrahman, and Muhannad played for different soccer teams in Libya when the civil war broke out, and they decided to flee to Europe and pursue their dream career as soccer players there. In 2015, they crossed the Mediterranean Sea on a wooden boat on which 49 people died of asphyxiation. Upon arrival, they were arrested and accused of “aiding and abetting illegal immigration” with the aggravating circumstances of having caused the death of the 49 people. Their lawyers believe that the four young men were accused by the Italian authorities, because they spoke Arabic and

Ali allegedly passed water to some of the people on board, leading them to believe they were part of the organisers of the sea crossing. Refugees are regularly arrested as so-called boat drivers on such arbitrary grounds. On 2 July 2021, the Italian High Court confirmed the sentence of [30 years in prison for the four soccer players](#).

c. Refugees who refused to be pushed back to Libya

- i. **EL HIBLU 3:** On 27 March 2019, the merchant vessel El Hiblu 1 was ordered by an aircraft of the EU military mission EUNAVFOR MED operation "Irinì" to rescue 108 people from distress at sea. After the rescue, the captain set course for Libya, contrary to what he had told the rescued people. When the people seeking protection became aware of this, they tried to convince the captain to turn back. Three protection seekers, aged 15, 16 and 19 at the time, [mediated and crossed over during the peaceful protest](#) on board. The captain eventually turned around and sailed to Malta. Upon arrival in Malta, the three teenagers were detained. They now face charges of terrorism, among other things, in Malta. If convicted, they face life imprisonment.

- ii. **Vos Thalassa:** On 8 July 2018, [67 people were rescued in the Libyan SAR area by the Vos Thalassa](#), a tugboat flying the Italian flag. Italian authorities were informed and forwarded the communication to the so-called Libyan Coast Guard, which asked the Vos Thalassa to head towards the North African coast to transfer the people onto its patrol boats. The rescued people tried to convince the crew members to not bring them back, some allegedly also making threats. The Italian MRCC intervened at the request of the crew of the tugboat and sent the Coast Guard to bring them to Italy. Once docked, the first people to get off the boat were Ibrahim Bushara and Hamid Ibrahim, who were accused of being the "leaders" of the so-called "revolt", therefore accused of aggravated private violence against the captain and crew of the Vos Thalassa as well as of „aiding and abetting illegal immigration“. After having been released, and then sentenced again, the two men had finally been acquitted in December 2021.

• **On land**

a. Refugees supporting refugees

- i. **4 Eritreans:** Four Eritrean refugees were accused of "aiding and abetting illegal immigration" for having [given support and solidarity to fellow Eritrean citizens](#) in Italy who had fled the East African dictatorship. The defendants had already spent two years in prison, between 2016 and 2018, accused of being part of a criminal network

dedicated to human smuggling. This accusation crumbled in the first trial, which failed to demonstrate neither any participation in a criminal network, nor any aim to make profit from the assistance given to friends and relatives. On 20 May 2022, [the Italian supreme court cleared them of the charges](#).

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