



Department of International Relations

Course of International Organization and Human Rights

Transnationalism in times of “crisis”:
the case of the NGO SOS MEDITERRANEE

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“Hope is the thing with feathers
That perches in the soul
And sings the tune without the words
And never stops at all.”
— Emily Dickinson

“To all these courageous souls, may the light
illuminate your names”

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LIST OF ACRONYMS:

Central Med.: the Central Mediterranean Sea
CSDP: Common Security and Defence Policy
EASO: European Asylum Support Office
EBCGA: European Border and Coast Guard Agency
ECHR: European Court of Human Rights
EU: European Union
EUBAM: European Union Border Assistance Mission
EUNAVFOR MED: European Union Naval Force Mediterranean
EUEA: European Union External Action
FRONTEX: Frontières Extérieures
GLAN: Global Legal Action Network
GNA: Government of National Accord
IMO: International Maritime Organisation
IOM: International Organisation for Migration
IR: International Relations
LYCG or LCG: Libyan Coast Guard
MOAS: Migrant Offshore Aid Station
MRCC: Maritime Rescue Coordination Center
MS: Member States
MSF: Médecins Sans Frontières / Doctors Without Borders
NCC: National Coordination Centre
NGO: Non-Governmental Organisation
RCC: Rescue Coordination Center
SAR: Search and Rescue
SOS MED: Sos Méditerranée
SRR: Search and Rescue Region
UNCLOS: United Nations Convention on the Law of the Sea
UNHCR: United Nations High Commission for Refugees

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Figure 1: Total number of migrants crossing the Central Mediterranean route 2008-2018

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Abstract:

The highly media covered “refugee crisis” led to the apparition of new actors on the Central Mediterranean route. The deadliest border in the world is at the crossroad of merchants, military, navy, humanitarian and makeshifts boats. The security migratory nexus along with humanitarian practices turned the Central Mediterranean basin into a two-sided space. Due to the lack of adequate institutional means and the increasing fatality rate at sea, a new type of non-state actors started to proliferate in 2014. Search and Rescue (SAR) non-governmental organisations (NGO) provide humanitarian actions in this complex environment. But, how do these new NGOs negotiate their humanitarian role in this ambivalent environment? The aim of this work is to provide an in-depth study of one SAR NGO still operating at sea. Given that the study of SAR NGOs is still underrepresented in the academic literature, we will be interested in the humanitarian role conception and the humanitarian practices of the NGO SOS Méditerranée. This research is a comprehensive and reflexive analysis aiming at reducing the complexity of SAR operations in the Central Mediterranean Sea. The traditional humanitarian ideology (*INI* scheme) seems to be called into question due to the highly “securitised” features implemented by other actors involved in SAR. The case of the NGO SOS Méditerranée is emblematic and can trigger interest for anyone passionate by European migration and border, humanitarianism and maritime operations.

Keywords: European Migration; Central Mediterranean Sea; Search and Rescue; non-governmental organisations; SOS Méditerranée; Humanitarianism; Critical border

Introduction:

European migration is not a new phenomenon. People have always had some reasons to leave their birthplace. Nowadays, Europe is one of the three most migrants flowing regions but during the 19th and 20th centuries, it was a region of net emigration. In the 90s, Mediterranean countries such as Spain, Italy and Greece enjoyed an economic increase and were in need of unskilled labour. At the same time, the creation of the Schengen system and the Dublin agreements were already shaping the intent of the EU on its new external borders. Its two main policy instruments were visas and carrier sanctions. The European answer was already the militarisation of its external borders and the externalisation of migrants' flows control. But those policies did not stop the growing number of irregular entries across the Central Mediterranean (Central Med.) Sea. This migration route unfortunately became the deadliest in the world.

In fact, from the 90s until 2013 included, the numbers of migrants crossing the Central Mediterranean route remained relatively stable except the 65 000 entries in 2011 following the Arab Springs. The Italian military and humanitarian operation *Mare Nostrum* was, at that time, the only institutional response. Due to the lack of institutional adequate means and the increasing number of migrants trying the journey, a new type of non-governmental organisations (NGOs) started to operate at sea. The proliferation of Search and Rescue (SAR) NGOs started in 2014 and ten were present in 2016. They have played an important role as they rescued almost 120,000 migrants between 2014 and 2019. Nevertheless, this new “humanitarian fleet” does not act without consequences on the particular EU South border. Whereas they were considered as “angels” until 2016, from 2017 onwards, they have been stigmatised as “sea taxis” and “vice smugglers”¹. In June 2018, facing an anti-NGOs campaign and, due to the Italian political context at that time, the *Aquarius*, the NGO vessel of SOS Méditerranée (SOS MED), was refused to dock in an Italian port. This first case was the beginning of the Italian refusal of disembarkation policies. This event led us to the following questioning at the basis of this work: “Why an actor, not supposed to save people at sea and carrying about 600 rescued migrants, had to wait about ten days before disembarking?”.

We understand this particular event in relation with the broader “refugee crisis” and the European migration in general. Therefore, we decided to start this work with a clear

1 Cf. last Cusumano research: Cusumano, E. & Villa, M., “From “Angels” to “Vice Smugglers”: the Criminalization of Sea Rescue NGOs in Italy”, *European Journal on Criminal Policy and Research*, 2020, forthcoming. Available on: <https://doi.org/10.1007/s10610-020-09464-1>, Consulted on 09.09.20.

contextualisation of the Central Mediterranean migration. Indeed, the European migration and its “crisis” involve many actors, several level of powers and different types of organisations. Subsequently, the first part of this research aims at providing a good insight of the 2014-2018 Central Med. situation. Some precisions regarding the terms used in migration issues, the past European migration and some factual data related to the migrants flows on the Central Med. route will be described. Following a comprehensive approach, we consider this information necessary to have a first look at the environment in which SAR NGOs operate. At the same time, a short chronology of the timeline 2014-2018 will depict the actors at stake in the basin. From the EU *Triton* operation to *Themis* through *Eunavfor Med Sophia*, the European, the Italian and the Libyan actors will be observed. The main policies such as the EU-Turkey, the Malta declaration will also be mentioned in this section. Indeed, before starting the theoretical part and conceptualise our subject, we prefer to well define the actors at stake. An introduction to our case study and to the complex legal framework surrounding SAR operations will come to close our contextualisation part.

This research follows a comprehensive and deductive reasoning. After having described the general tendencies surrounding the actors involved at sea, we will review the literature on the basis of a new questioning: “Why did NGOs take an important role in SAR operations on the Central Mediterranean route during the so-called “refugee crisis” ?”. We will follow the same path as for the first part, reasoning going from the broadest to the most specific. Firstly, we will question the concept of “crisis” itself. Secondly, the differences within migration studies will help us to position ourselves in the academic debate. Lastly, the literature on SAR operations and more precisely on SAR NGOs in the Central Mediterranean will come to give us the right angle in order to participate to the enrichment of the literature. We will see that humanitarianism and critical border studies will give us the right tools to analyse the role of SAR NGOs in the Central Mediterranean. We will see that the Central Med. contains a particular tension. SAR NGOs are facing an “ethical dilemma” when operating at sea. Consequently, at the end of the state-of-the-art, we will ask ourselves the following question: “What humanitarian role SAR NGOs intend to take in the Central Mediterranean space?”

The originality of this work holds in the fact that we anchor this research in a less common IR paradigm. The transnationalism perspective has a great relevance regarding our subject as it allows the study situated at the *meso* level. It legitimises scientifically our in-depth study of one SAR NGO, SOS Méditerranée, in *Worlds Politics*. Moreover, its ontological

concepts of “complex interdependence” and “reciprocal effects” regarding relationships amongst actors in a “network” will be fully incorporated in our research question and our hypotheses. The problematisation of our questioning finally result in: “How do NGOs involved in the “refugee crisis” negotiate their humanitarian role in the SAR (Search and Rescue) zones of the Central Mediterranean Sea?”. Indeed, the Central Mediterranean is an ambivalent space where a plethora of actors are involved. A two-sided logic (inclusion/exclusion) is commonly attributed to this particular environment. In addition, “securitarian” measures and humanitarian actions are both operating side by side. Therefore, we firstly postulate that “SAR NGOs negotiate their humanitarian role in the Central Med. by developing a “new humanitarianism” with respect to the traditional *INI* scheme and the principle of *Humanity*”. Indeed, the traditional humanitarian ideology represented by the principles of *Impartiality*, *Neutrality* and *Independence* and the principle of *Humanity* will be at the basis of our analysis in order to understand the humanitarian role of the NGO SOS Méditerranée. Its role conception and its humanitarian practices will be observed in order to better apprehend the actions of SAR NGOs at sea. Secondly, in line with our transnationalist perspective and our state-of-the-art, we postulate that “SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. differently over time, depending on the actions of other actors”. This second hypothesis suggests that “the actions of other actors” will have an influence on the humanitarian role that SAR NGOs intend and effectively take in the Central Med. Subsequently, we postulate a sub-hypothesis that will, in our view, complement this second hypothesis: “more the Central Med. is “depoliticised”, more SAR NGOs will conceive their humanitarian role as political and distant from the *INI* principles”.

The third part of this work will present the particular research design according to which our questioning will be tested. Firstly, we will briefly discuss the impact of the *COVID-19* pandemic on this research. Thereafter, the selection of the NGO SOS Méditerranée as a case study will be justified. The operationalisation of our hypotheses and the abbreviations that we will use in our analyses will be described for reason of understanding. Following a constructivist epistemology, this research aims at providing an in-depth qualitative study of one of the SAR NGOs operating in the Central Med. Our empirical analysis will be based on two different data collection. On the one part, we will analyse the NGO official documents (a particular corpus made of “activity report” and “press releases”). And, on the other part, we will conduct semi-structured interviews with advisory board members of SOS MED in order to have a basis of results comparison allowing us to gain in scientificity. Our crossed data collection methods will be translated in our analyses. The qualitative analyses of both our data material will follow a

frame discourse analysis in order to fully appreciate the identity of our case study. In addition, we will follow a critical positioning in the analysis of our discourse as we know that SAR NGOs operations include a high degree of delicateness. The results of the humanitarian ideal-type that we apply to our data will come to respond to our first hypothesis. In order to test the second hypothesis and the causal relation between “depoliticised” actions and the humanitarian role at sea, we will apply the same analytical grid as for our first hypothesis with some elements of process tracing. The presentation of our findings and a short discussion will come to close this last part, just before our conclusion.

First Part: Broad Context of Migration Across the Central Mediterranean

My initial question is the following: “Why an actor, not supposed to save people at sea and carrying about 600 rescued migrants, had to wait about ten days before disembarking?”. We find necessary to really deepen every aspect that surrounds the topic. Thus, we will start with the broad European migratory framework in order to understand the varied actors at stake and their actions in the Central Mediterranean Sea. This first section does not pretend to be exhaustive and could not be so. The selection of the events is personal and therefore subjective. The same is true for the selection of policies that we analyse in the ensuing section. This latter can be perceived as redundant but we find necessary to deepen the operations of search and rescue at sea by exploring the European (EU & Italy) political framework and its relationship with Libya. Finally, the legal framework will come to close this part and will help us understand the actions of our actors in the international waters. In order to rightly understand the whole reasoning behind this work, we find essential to add this part to our work. As the European “crisis” issue affects many actors, many level of power, many organisations and people, we have chosen to describe the situation in order to have a clearer view of the topic. The SAR operations conducted by SOS Méditerranée intervened in a large context of State de-responsibilities. By mentioning the chronology of the events, the birth and missions of the NGO and the legal framework, we want to set the scene in which the NGOs are (or were) operating in the Central Mediterranean Sea. Thus, we intend to reframe the SAR operations in the broad migratory “crisis”.

I. Contextualisation: European Migratory “Crisis” and Actors at Sea:

I.I. Clarification and Definitions:

In the first place, as migration is a longstanding phenomenon and is in constant evolution, some technical concepts that will be used in this work have to be highlighted. We find relevant to contextualise them in the broad European migratory framework. Firstly, according to IOM, a *migrant* is “an umbrella term, not defined under international law, reflecting the common lay understanding of a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons”². This definition encompasses several aspects of migration such as economic migrants, migrant workers, smuggled migrants, environmental migrants and so on. On its side, the term *refugee* is defined as “a person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country”³. The eligibility criteria for a *refugee* application are laid down in the 1951 Convention relating to the status of refugees⁴, also known as the Geneva Convention, and for which a Protocol has been added in 1967. Lastly, an *asylum seeker* is considered as “an individual who is seeking international protection. In countries with individualised procedures, an asylum seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Not every asylum seeker will ultimately be recognised as a refugee, but every recognised refugee is initially an asylum seeker”⁵.

Thus, we understand that *migration* is a broader concept while *asylum seeker* and *refugee* are both terms referring to protection seeking. As we speak of people crossing the Central Mediterranean Sea for different reasons and for different purposes, we will refer them most of the time as *migrants*. We are not saying that those terms are interchangeable. We have decided that the inclusivist approach⁶ is more appropriate because it includes *refugees* as part of the migration. Indeed, whereas in the 2011 peak's flow, the most represented nationality was Syrian and people were mostly *refugees*, but not only. The situation has changed during the so-called “*refugees crisis*” of 2014-2015 that we are speaking of. In our case, we understand migration in the Central Med. as some mixed and composite flows of economic, environmental *migrants*, *refugees* and other types not mentioned here.

2 IOM definition available online: <https://www.iom.int/key-migration-terms#Migrant>. (Accessed on 07.17.20)

3 *Ibidem*.

4 The Convention and its Protocol are available online: <https://www.unhcr.org/3b66c2aa10>. (Accessed on 07.17.20)

5 IOM definition available online: <https://www.iom.int/key-migration-terms#Migrant>. (Accessed on 07.17.20)

6 Definition given by Carling J., “What is the meaning of migrant?”, available online www.meaningofmigrants.org. (Accessed on 07.17.20)

I.II. Past European Migration:

Migration is not a new phenomenon. People have always had some reasons for leaving their birthplace. Moreover, the European Union can be perceived abroad as a place of liberties, tolerance and rights' respectful. No wonder that people being persecuted, violated or fleeing poverty try to reach, too often at their life's price, this new start in their life. Nowadays, the EU is one of the three most migrants flowing regions⁷. But it was not the case during the 19th and 20th centuries during which Europe was a region of net emigration⁸. Since World War II, the European region is increasingly becoming a region of immigration. We can cite several events or tendencies that accelerated this phenomenon.

Throughout the 20th century, migratory flows in the Mediterranean have been clearly affected by several international events. The Glorious Thirties brought a need of working force primarily satisfied by intra-European flows and then during the 60s by trans-Mediterranean flows⁹. The 1973 crisis and the Gulf War in 1990-1991 have also accelerated the migration flows towards Europe¹⁰. In addition, the 80s marked a turning point in relation to the speed's mobility and numbers of people attracted by migration¹¹. From then on, globalisation reaches an unprecedented level. The North/South divide is deepening, and a migratory pressure towards Europe is accelerating. In the 90s, Mediterranean countries such as Spain, Italy and Greece enjoyed an economic increase and need unskilled labour. The European answer at that time was already the militarisation of its external borders and the externalisation of migrants' flows control¹². But those policies did not stop the growing number of irregular entries across the Central Mediterranean Sea.

In fact, from the 90s until 2013 included, the numbers of migrants crossing the Central Mediterranean route remained relatively stable except the 65 000 entries in 2011 following the Arab Springs¹³. Hence, the so-called 2011 “North Africa Emergency” (Emergenza Nord Africa) that will turn into the “Mediterranean migration crisis” in 2014-2015, was born. This first

7 Data available online: <https://migrationdataportal.org/themes/international-migrant-stocks>. (Accessed on 07.17.20)

8 *Ibidem*.

9 Jaulin T., « Migrations en Méditerranée : la crise de l'asile », *Politique étrangère*, 2016, p. 26.

10 *Ibidem*.

11 de Wenden W., “L'Europe migratoire “, in Aligisakis M. (dir.), *L'Europe face à l'Autre : politiques migratoires et intégration*, Euryopa, 2003, p. 57.

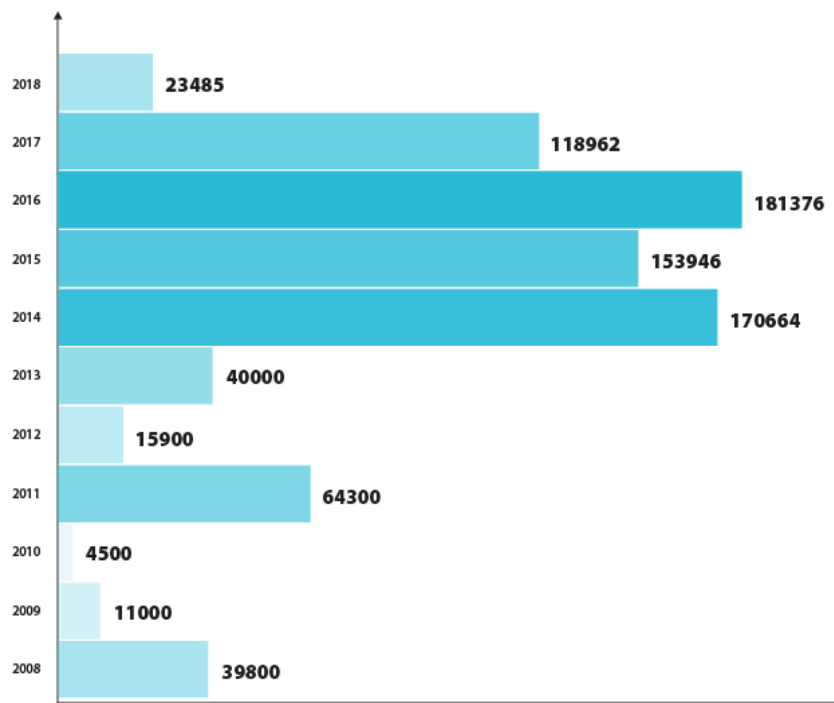
12 Jaulin T., *loc.cit.*, p. 30.

13 Cf. **Figure 1**.

“Emergency” or “crisis” drove Italy (led by the fourth Berlusconi government) to request assistance to the European Union as this latter was already operating in the Greek sea through the operation Poseidon¹⁴. On the 20th of February, the first European operation in the Central Mediterranean Sea, the Joint Operation Hermes 2011, was launched.

The year 2011 (64 300) is marked by an important increase in comparison with the previous year. Also, when looking closely at **Figure 1**, we notice that in 2014 the number of migrants (170 760) trying to reach the European continent more than quadruple compared to 2013 (40 000). We find relevant to note that “between 1997 and 2010 an average of 23 000 migrants travelled to Italy by boat per year; in 2011 this rose to 63 000 and in 2014 it reached 170 000”¹⁵.

Figure 1¹⁶:



Facing the 2011 flows of migrants, the French and Italian governments were already politically “instrumentalising” the public discourse by mentioning the fear of an “invasion”¹⁷.

14 Operation Poseidon objectives available online: <https://frontex.europa.eu/along-eu-borders/main-operations/operation-poseidon-greece/>. (Accessed on 07.22./20)

15 McMahon, S. and Sigona, N., ‘Boat migration across the Central Mediterranean: drivers, experiences and responses’, *MEDMIG Research Brief*, No.3, 2016, p. 3.
Report available online: <http://www.medmig.info/research-brief-03-Boat-migration-across-the-Central-Mediterranean.pdf>. (Accessed on 07.22.20)

16 Frontex data available online: <https://frontex.europa.eu/along-eu-borders/migratory-routes/central-mediterranean-route/>. (Accessed on 07.22.20)

17 Jaulin T. *loc.cit.*, p.30.

Thus, the governance of mobility and the control of borders were already reshaped, in Italy so far. Afterwards, a tragedy took place in October 2013 off the coast of the Lampedusa island. It costed the lives of 366 persons¹⁸ and has resulted in the launch of the military-humanitarian operation *Mare Nostrum* by the Italian government. The two objectives of this operation were the following: “saving lives at sea” and “to bring to justice all those whose profit from the illegal smuggling of migrants”¹⁹. The operation led by the *Marina Militare* saved 91 000 lives, has recuperated 499 dead bodies and arrested 718 smugglers²⁰. However, a new discourse started to develop at that time: rescue vessels would be a pull factor of irregular migrants trying to reach the European coasts²¹. This phenomenon is well known as “appel d'air”. We will come back to it later in this work because this discourse persists today.

It is important to remind that when speaking of the Central Mediterranean route, we cope with one route among others regarding migration. The other sea routes in the Mediterranean are: the Eastern Mediterranean route between Turkey and Greece, the Western Mediterranean route between Morocco and Spain. As migratory flows are scattered geographically, we have decided to focus on the Central Mediterranean route. This region covers the dangerous journeys started in Libya mostly (“Libya remains by far the principle country of departure”²²) towards Italy or Malta. We also wanted to specify that the selection of the following events is not exhaustive and does not represent the situation in a whole. As this work is a student's work, it cannot be taken for granted.

I.III. 2014: End of Mare Nostrum, European Union Triton Era:

Asking for a European solidarity, the Italian operation *Mare Nostrum* was succeeded by the EU operation *Triton* in 2014²³. On the side of the 2011 launched *Hermes* operation and the *Aeneas* operation located more East (Greece), *Triton* had the official and theoretical objective of intervening “in border control in an area around 30 nautical miles from the Italian coast.”²⁴. As its

18 Yardley J. & Povoledo E., “Migrants Die as Burning Boat Capsizes Off Italy”, *The New York Times*, 30.03.13, available online: <https://www.nytimes.com/2013/10/04/world/europe/scores-die-in-shipwreck-off-sicily.html>. (Accessed on 07.22.20)

19 Cecinini S., “Tutte le operazioni di salvataggio nel Mediterraneo: da Mare Nostrum a Themis”, *Sicurezza Internazionale*, 06.18.18, article available online: <https://sicurezzainternazionale.luiss.it/2018/06/18/le-operazioni-salvataggio-nel-mediterraneo-mare-nostrum-themis/>. (Accessed on 07.22.20)

20 *Ibidem*.

21 Balleix C., « Migrations : l'Europe à l'épreuve de la crise italienne », *Notes de l'Ifri*, 2018. p. 1.

22 McMahon, S. and Sigona, N., *loc.cit.*, p. 5.

23 European Commission, “Europe's migration and asylum policy – Small steps to make a big difference”, *European Agenda on Migration – Factsheets*, 3.2.17., text available online: https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-migration/background-information_en. (Accessed on 07.22.20)

24 Gros-Verheyde N., “L'opération Triton en Méditerranée : combien de bateaux ?”, *B2-Bruxelles2*, 04.25.15, article available online: <https://www.bruxelles2.eu/2015/04/lagence-frontex-combien-de-bateaux/>. (Accessed on

sister *Mare Nostrum*, *Triton* saved many lives, 155 000 only for the 2015 year²⁵. In order to do so, the *Triton* rescues were outside the 30 nautical miles. They were happening in the Italian SAR (Search and Rescue) zone and sometimes in the Libyan waters.

Unexpectedly, one main difference was the lower budget. For the Italian *Mare Nostrum*, the monthly budget was around 9 million euro whereas the EU budget for *Triton* was between 1.5 and 2.9 euro²⁶. As the operations and their instruments (vessels, airplanes and helicopters) started being numerous, the Italian Maritime Rescue Coordination Centre (MRCC Rome) took on an overall coordinating role. Frontex explained at that time that its aim was to coordinate monthly "3 ocean-going patrol vessels, 2 coastal patrol vessels, 2 coastal patrol boats, 2 aircraft and 1 helicopter"²⁷. But in reality, we were far from this result if looking only at European MS military material²⁸. Indeed, without the Frontex funded but still national flag State vessels, aircraft or helicopter, the total of Frontex (*Triton*) operational instruments were far below the 10 promised.

I.IV. 2015; The "Crisis" & EUNAVFOR MED (SOPHIA):

The year 2015 is the deathliest year in the Mediterranean (all routes combined) and the most numerous in terms of arrivals in Europe. The so-called "crisis" is called this way because in 2015 and 2016 more or less 2.5 million people applied for a refugee status in Europe²⁹. Nevertheless, Italy and the Central Mediterranean route have been less affected than Greece where more than 885 000³⁰ irregular migrants attempted to cross the country. In Italy, this number was 154 000³¹. Nevertheless, from April 2015, the death rate in the Central Mediterranean Sea fell to 1 out of 427 which is below the 1 out of 16 of the previous months³². The Council of Europe had an urgent meeting on 23 April 2015 and decided to reinforce the *Triton & Poseidon* operations. The budget will be tripled and some practical instruments will be made available (notably, some vessels and aircraft). Lastly, Frontex and its new plan extended the initial 30 nautical miles to 138 miles.

07.23.2020)

25 Balleix C., "Migrations: quelle solidarité avec l'Italie?", *Institut Jacques Delors*, 2018, p. 6.

26 Cecinini S., *Ibidem*.

27 Gros-Verheyde N., *Ibidem*.

28 *Ibidem*.

29 Eurostat data, available online: <https://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>. (Accessed on 07.22.20)

30 Frontex data available online: <https://frontex.europa.eu/along-eu-borders/migratory-routes/eastern-mediterranean-route/>. (Accessed on 07.22.20)

31 Cf. **Figure 1** above p. 4.

32 Amnesty International, "Une mer plus sûre. Les effets du renforcement des opérations de recherche et de sauvetage en Méditerranée centrale", 07.09.15., p.1.

Furthermore, several European governments decided to develop national security-humanitarian missions, outside the *Triton* operation. It allows them to go further down South, near the Libyan coasts, which results in a diminution of the risk of sinking. The British vessel *HMS Bulwark* and three helicopters, the German ships *Berlin & Hessen* and the Irish *Lé Eithne* were all made available during the month of May in order to help refugees & migrants in danger. In addition, two NGOs, the Migrant Offshore Aid Station (MOAS) and Médecins sans Frontières (MSF) were also reinforcing their capacities at sea³³. We better understand why the date rate at sea was decreasing in 2015. More people were embarking on boat but many actors were present in the Mediterranean in order to save them and the SAR zones were extended closer to the Libyan coasts. But despite all these efforts, about 3000 people lost their lives in 2015³⁴.

Another big step of 2015 is the creation of the *European Navy For Mediterranean (EUNAVFOR MED)* or *Sophia* mission. With the *Triton's* assets tripled, Frontex established the “Joint Operation Sophia” which was set the objective was “the surveillance and assessment of human smuggling and trafficking networks”³⁵. As we will see for 2016 (after the EU-Turkey agreement) and onwards, the *Sophia* goals and roles will vary. Thus, this first Common Security and Defence Policy (CSDP) operation in the Central Med. had no direct explicit operation in SAR operations. But still, as we will see, rescuing people in distress remains a moral and legal duty for any boats at sea.

On the Italian side, a new mission called *Mare Sicuro* came into effect the 12th of March 2015. Its initial aim was the protection of the Italian national interests in the Central Mediterranean Sea and the maritime security in relation to the terrorist threat. This operation executed by the *Marina Militare* under the Italian Ministry of Defense planned to cover the Italian SAR zone near the Sicilian coasts³⁶. We will see how the situation will change in 2017 when the Italian government and the Libyan one find an agreement to develop the Italian military navy in the Libyan territorial waters.

33 *Ibid.* p. 3.

34 Bléjean H., « EUNAVFOR Med Sophia : opération militaire européenne en mer Méditerranée », *Revue Défense Nationale*, Vol. 4, n°789, p. 58.

35 Council of the European Union, “Council launches EU naval operation to disrupt human smugglers and traffickers in the Mediterranean”, 06.22.15., press release available online:

<https://www.consilium.europa.eu/en/press/press-releases/2015/06/22/fac-naval-operation/>, (Accessed on 07.22.2020)

36 Operation details available on the website of the Ministero della Difesa:

<http://www.difesa.it/EN/Pagine/Home.aspx>. (Accessed on 07.22.20)

I.V. 2016; EU-Turkey Agreement & the Libyan hell:

With regard to the migrant flows of 2016 (**Figure1**), Central Mediterranean flows were still reaching more or less 181 000 people whereas the Eastern Mediterranean route backslid to 182 000³⁷. Most of those people that were taking the “Eastern” route did it in the first semester of the year. As a matter of fact, the 18th of March 2016 EU-Turkey agreement acted as a deterrent for irregular migrants. This statement is totally in line with the European policy against irregular immigration, as developed since the end 90s³⁸. Turkey had to block irregular migrants at its border and take back the ones found in Greece. It means that “for each Syrian returned to Turkey, Europe has promised to accept another Syrian living in a Turkish camp”³⁹. The EU had also promised to facilitate the European visas delivery for the Turkish citizens and to pay greater lip service to the idea of Turkey becoming a member state. The price of this “agreement of cooperation” was €6 billion.

Furthermore, when looking at historical migration patterns, it is common to say that when one route closes, another one opens. Consequently, as the Eastern route was closing, the other route was the Central Med.. As we say before, the main country of departure is Libya but in which circumstances? Libya is often perceived as a “hell on earth”⁴⁰ for the trafficked migrants. Some research confirmed: “Over 75% of the people we spoke to who had traversed Libya explicitly referred to experiences of physical violence there”⁴¹. Many reports and human rights NGOs were already warning about the dangers that migrants were facing in Libya. Since March 2011, the International Criminal Court has already opened three cases and has issued 5 warrants of arrest for crimes against humanity and war crimes⁴².

I.VI. 2017; External Instruments' Confirmation & EU “Malta declaration”:

In the first semester of 2017, it is more or less 100 000 that disembarked in Italy, coming mainly from Libya. The internal European solidarity is absent. The external instruments are set

37 Source Frontex: <https://frontex.europa.eu/along-eu-borders/migratory-routes/eastern-mediterranean-route/>, (Accessed on 07.22.20)

38 Jaulin T., *loc. cit.*, p. 26.

39 Kingsley P., “Refugee crisis: What does the EU's deal with Turkey mean?”, *The Guardian*, 03.18.16, available online: <https://www.theguardian.com/world/2016/mar/18/eu-deal-turkey-migrants-refugees-q-and-a>. (Accessed on 07.22.20)

40 Filippi L., “Libye: l'enfer des migrants victimes du trafic humain, vu par Narciso Contreras”, *France Info*, 10.21.16., available online: https://www.francetvinfo.fr/monde/afrique/libye/libye-lenfer-des-migrants-victimes-du-traffic-humain-vu-par-narciso-contreras_3063127.html. (Accessed on 07.22.20)

41 McMahon, S. and Sigona, N., *loc.cit.*, p.11.

42 Cases available online: <https://www.icc-cpi.int/libya>. (Accessed on 07.22.20)

up, threatening the fundamental rights of the migrants in Libya. In February 2017, an informal meeting of EU heads of State was held in Malta. The main aim of this meeting was to find “measures to stem the flow of irregular migrants from Libya to Italy”⁴³. The main point states that “In particular, they agreed to step up cooperation with the Libyan authorities”⁴⁴. Consequently, the operation *Eunavfor Med (Sophia)* keeps acting. Hence, its objectives are the following: the 2015 initial mission of fighting against smuggled migrants and human trafficking, the training and equipping the Libyan Coast Guard and setting up of basic operational rooms: an interagency National Coordination Centre (NCC) and a Maritime Rescue Coordination Center (MRCC)⁴⁵.

As it was the case in 2011, during the *Mare Nostrum* operation, NGOs such as MSF or SOS Méditerranée were subject to criticism and accused of “appel d'air”⁴⁶. Firstly, because their rescue activities were closer to the Libyan or Tunisian coasts. Secondly, they carried out about a third of all operations combined in the first semester of 2017⁴⁷. This year is marked by the accusation against NGOs by Frontex on the one part and by some political actors such as “Lega Nord” or “Movimento 5 Stelle” on the other.

The 6th of November 2017, an incident between the German NGO “Sea-Watch” and the Libyan Coast Guard (LCG) has resulted in the deaths of at least 5 people including 1 child⁴⁸. In a few words, both boats received a call from the MRCC Rome. Due to the wrong practices of the Libyan Coast Guard, the organisation claims that at least 20 people died. In addition, we see in a video reconstruction that the agents beat and threaten survivors on board⁴⁹. This fatal boat incident led the 17 survivors accompanied by the Sea-Watch to go to the European Court of Human Rights and thus “take legal action against the illegal pull-backs supported by the EU”⁵⁰.

43 Council of the European Union, “Informal meeting of EU heads of state or government”, 02.03.17, press release available online: <https://www.consilium.europa.eu/en/meetings/european-council/2017/02/03/>. (Accessed on 07.23.20)

44 *Ibidem*.

45 Balleix, *loc. cit.*, p.11.

46 “Appel d'air” means that the presence of vessels in the international waters contribute to the development of the migrant smuggling.

47 Balleix, *loc. cit.*, p. 6.

48 Louarn A.-D., “Méditerranée : des centaines de migrants renvoyés de force dans l'enfer libyen”, 11.07.17, *Info Migrants*, article available online: <https://www.infomigrants.net/fr/post/5947/mediterranee-des-centaines-de-migrants-renvoyes-de-force-dans-l-enfer-libyen>. (Accessed on 02.23.20)

49 The case is available online: <https://forensic-architecture.org/investigation/seawatch-vs-the-libyan-coastguard>. (Accessed on 07.23.20)

50 Sea-Watch e.V., “Legal action against Italy over its coordination of Libyan Coast Guard pull-backs resulting in migrant deaths and abuse”, *sea-watch.org*, 05.08.18., article available online: <https://sea-watch.org/en/legal-action-against-italy-over-its-coordination-of-libyan-coast-guard/>. (Accessed on 07.23.20)

On 2 August 2017, the Italian operation of *Mare Sicuro* has been extended to the Libyan Territorial Waters, following a formal request of the Libyan Government⁵¹. In fact, the Italian justification is that “the presence in the Libyan waters is aimed at supporting the Libyan Navy Coast Guard upon request”⁵².

In parallel, one main event directly involved NGOs activities at sea. The Italian “Code of Conduct” aimed at SAR NGOs which disembark in Italian ports. This twelve points⁵³ official decision has been directly and fully supported by the European Commission⁵⁴. Among the key issues of this code of conduct we will retain the following points: 1) “commitment not to enter Libyan territorial waters, except in situations of grave and imminent danger requiring immediate assistance and not to obstruct Search & Rescue by the Libyan Coast Guard”⁵⁵, 2) “commitment not to make communications or send light signals” (we see here the direct accusation towards NGOs), 3) “NGOs are requested to be equipped with instruments and resort to personnel whose technical suitability and capabilities in mass rescue operations under all conditions are ascertained. This is required in order to guarantee their professional know-how in rescuing activities”, 4) “commitment to receive on board, possibly and for a period which is strictly necessary, upon request by the competent National Authorities, judicial police officers for information and evidence gathering with a view to conducting investigations related to migrant smuggling and/or trafficking in human beings, without prejudice of the ongoing humanitarian activity”. We can understand the first two points as a direct accusation against NGOs. The third point is two-faced when it is known that the Libyan Coast Guards were still “in training” (Cf. “Capacity building and training of the Libyan Navy Coastguard mission” started on the 24th October 2016”). Finally, regarding the fourth point and the acceptance of a police officer on board, some NGOs pointed out that it enters into conflict with the humanitarian principle of neutrality⁵⁶ but we will come back to it in our case study analysis.

Thereupon, several NGOs refused to sign this “code of conduct” imposed by the Italian

51 Eboli V., “An update and Italian perspective on legal issues arising from refugee migration, rescue and loss at sea”, *CMI 2017 GENOA*, 7-8.09.17, slide 9. PowerPoint available online: https://comitemaritime.org/wp-content/uploads/2018/05/CMI2017Genoa_Abstract_Eboli.pdf. (Accessed on 07.23.20)

52 *Ibidem*.

53 “Code of conduct” available online: <https://www.statewatch.org/media/documents/news/2017/jul/italy-eu-sar-code-of-conduct.pdf>. (Accessed on 07.23.20)

54 Rettman A., “EU backs Italy on NGO rescues”, *euobserver*, 07.14.17., article available online: <https://euobserver.com/migration/138540>. (Accessed on 07.23.20)

55 First point of the “code of conduct”.

56 Zalan E., “NGOs divided by Italy's new rescue code”, *euobserver*, 08.01.17., article available online: <https://euobserver.com/migration/138656>. (Accessed on 07.24.20)

authorities. It resulted in a fast NGO criminalisation. For example, the motorboat the “Iuventa” was seized in Trapani in August 2017 under suspicion of “assistance to illegal migration and collusion with smugglers”⁵⁷.

The second semester of 2017, the migrant flows across the Central Mediterranean route decreased by 34%. The total number of deaths at sea in 2017 sadly rose to 2853 compared to the 4581 registered in 2016⁵⁸. Even though there is a net diminution in terms of fatalities, the death rate increase. Thus, there were fewer crossings but they were more dangerous.

I.VII. 2018: Themis Operation & NGOs Charged:

The year 2018 marked the “lowest number of arrivals registered in the last five years”⁵⁹ (Cf. **Figure 1**). It is a decrease of almost 80% compared to 2017 and 2016. As we stated further above, when one route closes, another reopens. Regarding, the Central Mediterranean route, it is the country of departure that changed in 2018. Indeed, departures from Libya have fallen by 87%, Algeria by almost half, thus Tunisia replaced Libya as the main country of departure⁶⁰.

The first of February 2018, a new joint operation called *Themis* replaced the 2014-launched *Triton* operation. The area was extended to “waters covering flows from Algeria, Tunisia, Libya, Egypt, Turkey and Albania”⁶¹. Its missions can be summarised as follows: an enhanced law enforcement focus⁶², its presence in the Italian hotspots, data collection and the fight against criminal networks (with a focus on the smuggling of drugs in the Adriatic). As we can notice, *Themis* mission differs from *Eunavfor Med (Sophia)*. While the first one focuses more on drugs and terrorism, the latter deals with the arms embargo. But their mission on the fight against migrants networks overlap and there is no clear difference on that matter⁶³. Furthermore, in June 2018, European leaders asked for new measures in order to reduce illegal migrant flows on the Central Mediterranean route. The European Council of the 28-28 June 2018 agreed on

57 Solidarity At Sea Iuventa, “Seizure”, *Solidarity-at-sea.org*, 08.17, article available online: <https://solidarity-at-sea.org/criminalization/iuventa-seizure/>. (Accessed on 07.24.20)

58 Balleix, *loc. cit.*, p.16.

59 Amnesty International, *loc. cit.* p.1.

60 Source available online: <https://frontex.europa.eu/along-eu-borders/migratory-routes/central-mediterranean-route/>. (Accessed on 07.24.20)

61 Source available online: <https://frontex.europa.eu/along-eu-borders/main-operations/operation-themis-italy-/>. (Accessed on 07.24.20)

62 *Ibidem*.

63 Gros-Verheyde N., “Frontex lance une opération en Méditerranée centrale, nommée Thémis”, *B2-Bruxelles2*, 01.31.18, article available online: <https://www.bruxelles2.eu/2018/01/frontex-lance-une-operation-en-mediterranee-centrale-nommee-themis/>. (Accessed online 23.07.20)

several points (but nothing really new) such as the fight against smuggling in Libya, support Italy as first line country, support Libyan Coastguard, promote human reception conditions and voluntary returns and lastly, enhance cooperation amongst countries of entry and transit⁶⁴.

On 4 March 2018, “Lega” (formerly “Lega Nord) and the “Movimento Cinque Stelle” won the Italian legislative elections. This reminds us the central place that migration takes in Europe. Henceforward, since the beginning of June 2018, Italy's withdrawal from its leading role in coordinating rescues at sea⁶⁵ in the central Mediterranean. Its “new policy of refusing disembarkation to vessels carrying rescued migrants, have rendered the search and rescue system unreliable, unpredictable, and punitive”⁶⁶. In June 2018, the vessel *Aquarius* and its 629 shipwrecked were refused to disembark in a Maltese or Italian port. Waiting for a European decision, the boat covered 1500 kilometres during almost a week before being welcomed in Spain⁶⁷. This shows how immigration is still a political question that divides Europe⁶⁸. A few days later, on the 30th of July, the Italian supply vessel *Asso Ventotto* disembarked people rescued at sea directly in Libya. In terms of international and European law, this “pushback” or “refoulement” represents a first “dangerous precedent”⁶⁹.

SAR NGOs, which in 2017 and until May 2018 had carried out about 40 percent of rescues, face slander, intimidation and court cases. In March 2018, the NGO *Proactiva* had refused to transfer 218 people rescued at sea to the *Libyan Coast Guard*, this NGO was charged by the Italian justice for non-respect of the “code of conduct”⁷⁰. In June 2018, the *Aquarius* vessel cannot disembark. A few months earlier (in January), an incident occurred between the *Aquarius* and the *Libyan Coast Guard*. The LYCG urged the NGO's crew to directly go away and did not want the NGO's assistance despite the shipwreck ongoing⁷¹.

Those examples are some among others. The relationships between actors in the Central

64 Council of the European Union, “European council”, 06.28-29.18, press release available online: <https://www.consilium.europa.eu/fr/meetings/european-council/2018/06/28-29/>. (Accessed on 23.02.20)

65 Notably due to the shift of MRCC to Tripoli

66 Amnesty International, *loc. cit.*, p.5.

67 Udescu M., “L'”Aquarius”, le bateau avec à son bord 629 migrants, victime de la paralysie européenne”, *LaLibre.be*, 06.11.18., article available online: <https://www.lalibre.be/international/l-aquarius-le-bateau-avec-a-son-bord-629-migrants-victime-de-la-paralysie-europeenne-5b1e6afd5532a296886550fd>. (Accessed on 24.02.20)

68 Balleix, *loc. cit.*, p.7.

69 Amnesty International, *Ibidem*.

70 Balleix, *loc. cit.*, p.16.

71 *Ibidem*.

Mediterranean Sea are really complex because it concerns many actors, coming from different levels of power, acting in accordance with national and/or international legal framework. We have now understood that since 2017, the European attitude towards migrants rescues and reception has changed. After being present in 2014-2015, the EU-Turkey agreement in 2016 confirmed the European willingness of externalise its borders. The next section will deepen this trend but also reflect on the Italian policies and the Libyan case. The next point will analyse the broader political framework of three actors acting in the Central Med. Namely, Italy, the European Union and Libya.

II. Overview of the European Migratory Policies:

After having depicted a first outline of the different events surrounding the European migration and the operations at sea, we will now take a look at the varied policies which implement the operations at sea. We will see that a common thread is coming out from the European⁷² framework. The “external dimension of EU immigration and asylum policy ” (as the EU calls it), or more commonly the externalisation of EU borders, is the main feature of the European response in the field of immigration. Firstly, we will be interested in the Italian case. What was his political environment regarding irregular immigration and SAR operations over the years? Secondly, we will analyse how the European Union backed Italy in its externalisation process and was even inspired by it. And, lastly, the weak political situation of the Libyan case will be described regarding human rights, the EU & Italian policies/agreements implementation and the Libyan Coast Guard.

II.I. Italy, a Country of Arrivals and Closure of Its Ports:

When looking back to the 90s, a first successful agreement of containment was signed by Italy in 1997 with the Albanian authorities. In result, the migration flows were reduced through the implementation of joint patrols within the Albanian territorial waters that “push-backed”⁷³ migrants in former-Yugoslavia or Albania⁷⁴. Thus, the same objectives were targeted in 1998 when Italy and Libya signed a “Joint Communication” and a “Verbal Process” related to

72 The term European is understood in a territorial sense. Thus, not only related to the European Union.

73 The term “push-back” or “*refoulement*” is defined by the ECCHR as “a set of state measures by which refugees and migrants are forced back over a border – generally immediately after they crossed it – without consideration of their individual circumstances and without any possibility to apply for asylum or to put forward arguments against the measures taken.”, definition available online: <https://www.ecchr.eu/en/glossary/push-back/>. (Accessed on 07.30.20)

74 Forensic Oceanography (Heller C. & Pezzani L.), “Mare Clausum: Italy and the EU's undeclared operation to stem migration across the Mediterranean”, *Forensic Architecture agency & Goldsmiths University of London*, 05.18, p. 20.

“the prevention of and the fight against illegal immigration”⁷⁵. The following years, the initiated cooperation between both countries was confirmed. In 2000, a first “Memorandum of Intent” was signed and then ratified in 2002 by the Italian Parliament. We will see that this strategy of containment through an agreement with a third country will come back 15 years later between the same countries. It is relevant to notice that Italy had already begun “territorial *refoulement*” in 2004-2005. It was highly criticised but the Italian government allowed air deportations from the Italian soil towards Libya⁷⁶. Afterward, the authorities decided to practice direct high seas “push-backs” or *refoulement* in 2009. After the arrival of Berlusconi at the head of the Italian State, this latter signed another agreement with Gaddafi's regime. Hence, migrants intercepted by Italian ships in the Mediterranean at sea were directly sent back to Libya. We state that this type of agreement has inspired the EU and the “Joint Communication” of the 18th of March 2016 between UE and Turkey⁷⁷. Thus, until 2009, *refoulements*, undertaken by the Italian government with the acceptance of the EU and through a Libyan cooperation, were not scarce.

From 2016 and onwards, the Italian political guideline was to reinforce the LYCG logistical, operational and financial means of the Libyan Coast Guard. The process started with the appointment of Marco Minniti as Italy's Interior Minister on the 12th December 2016⁷⁸. Minniti's hardline decisions on “stemming migration” resulted in three main events. On the 2nd of February 2017, Italy signed a “Memorandum of Understanding” with the Libyan Government of National Accord (al-Sarraj Government) “on cooperation in the development sector, to combat illegal immigration, human trafficking and contraband and on reinforcing the border security”⁷⁹. A few months later, in April, Minniti's fiat “on combating illegal immigration”⁸⁰ became a law.

Indubitably, the year 2018 marked a turning point regarding SAR NGOs actions in the Central Med. The new Italian policy of “closed ports” has rendered NGOs operations unsafe and complicated. This new policy on disembarkation led to the refusal or delayed disembarkation of many rescues operations such as the *Aquarius*, the *Lifeline*, the *Open Arms*, but even an Italian

75 *Ibidem*.

76 Forensic Oceanography (Heller C. & Pezzani L.), *op. cit.* p. 19.

77 Balleix, *loc. cit.*, p.10

78 Paravicini G., “Italy's Minister of fear”, *Politico*, 12.27.17, article available online:

“<https://www.politico.eu/article/marco-minniti-italy-minister-of-fear/>. (Accessed on 07.30.20)

79 The whole text is available online: <https://www.asgi.it/wp-content/uploads/2017/02/ITALY-LIBYA-MEMORANDUM-02.02.2017.pdf>. (Accessed on 30.07.20)

80 Ministero dell'Interno, “E legge il decreto Minniti sul contrasto all'immigrazione illegale”, 04.12.17, text available online: <https://www.interno.gov.it/it/notizie/e-legge-decreto-minniti-sul-contrasto-allimmigrazione-illegale>. (Accessed on 07.30.20)

the Italian Coast Guard ship, the *Diciotti*⁸¹. Moreover, this policy had direct effect on the diplomatic relations among EU Member States. The question of knowing who will assume the responsibility for accepting disembarkation of people rescued at sea had developed an inter-governmental and mostly informal response from the European governments, with the Commission acting as a “facilitator”⁸².

II.II. European Backing and Supporting Italian Strategy with Libya:

In this section we will scrutinise the European Union political framework and its backing of Italy, especially in its choice of Libya as first partner. Secondly, the background in which the operation *Eunavfor Med Sophia* was acting. We will see how the Italian & European policies proceeded together.

As Italy was doing at that time, 2004 and 2005 were both years during which a European cooperation with Libya was in negotiation. Firstly, The Council of the European Union agreed with Libya on “a policy of engagement on migration matters”⁸³. A few months later, in June 2005, a Council Conclusion enacted the ad hoc measures focusing on the cooperation between both actors at sea. The objectives were to “reinforce systematic cooperation between the respective national services responsible for sea borders, and developing common Mediterranean Sea operations involving the temporary deployment of EU Member States vessels and aircraft”⁸⁴.

As mentioned further above, the different policies (Italian direct push-backs & territorial push-backs for examples) aiming to deter migrants from trying the dangerous journey across the Central Mediterranean Sea did not work properly. The real success in order to stem migration flows has been the EU-Turkey deal. Hence, the European Union had to replicate this model. Italy was also doing the job at that time with the several agreements that we have described in the previous section. According to some authors: “the only solution appeared to be to re-engage substantially with all actors in Libya in order to re-impose the multilevel policy of containment that had proven effective in the past”⁸⁵. But this time, with some variations. Regarding the migratory flows at sea, as in 2005, the focus was on the LYCG. But the service was (and still is)

81 Amnesty International, “Between the devil and the deep blue sea”, 2018, p. 7.

82 Carrera S. & Cortinovis R., “Search and rescue, disembarkation and relocation arrangements in the Mediterranean”, *CEPS Liberty and Security in Europe*, n°10, 06.19, p. 10.

83 Forensic Oceanography (Heller C. & Pezzani L.), *op. cit.* p. 24.

84 *Ibidem*.

85 Carrera S. & Cortinovis R., *loc. cit.*, p. 21.

“ill-equipped, as fragmented as the Libyan political landscape and partly operated by militias”⁸⁶. This new European (& Italian) scheme of externalisation is qualified by Heller & Pezzani as “*refoulement* by proxy”⁸⁷. To summarise, from the direct high seas *refoulements* 15 years ago, the strategy of *refoulement* is now operated by the Libyan Coast Guard service, itself compounded by corrupted people and militias members, sending migrants back to detention centres in an unsafe country. Other authors defined this new strategy as “contactless control”⁸⁸ or “to eliminate any physical contact” in order to “sever any jurisdictional link with EU countries, in an attempt to elude any concomitant responsibility”⁸⁹.

In the scope of the “*refoulement* by proxy”, the *Eunavfor Med Sophia* mission was settled in 2015 in order to initially put a military naval presence near the Libyan coasts. But since 2016, the operation changed its aim and started to implement the cooperation agreements through the training of the LYCG, “that had (limitedly) begun already in 2014 through the European Union Border Assistance Mission (EUBAM) Libya”⁹⁰. Practically, it means that *Eunavfor Med Sophia* started the training of “78 trainees on board EUNAVFOR MED assets and with teams from UNHCR as well as Frontex in charge of specific modules”⁹¹.

Along with its operations at sea, the EU decided to revise the Schengen Borders code and to apply a “temporary reintroduction of border control at internal borders”⁹². The aim of the different European policies regarding the Libyan coasts was to settle up an effective MRCC. The European aid towards Libya was not only about development. As a matter of fact, the funding of different missions in Libya has been covered by the European Union Trust Fund for Africa (EUTF), itself funded at almost 80% by the 11th EDF (European Development Fund) budget⁹³. One of the goals of the Trust Fund for Africa was to make working the new Libyan MRCC and a SAR zone therefore, which clearly is a national security tool. As it is now well recognised (but not well researched), the Development aid branch of the EU can be altered by other purposes and in this case the security one.

86 *Ibidem*.

87 The term is not mine but comes from the Forensic Oceanography report.

88 Moreno-Lax V. & Giuffrè M., “The Raise of Consensual Containment: From ‘Contactless Control’ to ‘Contactless Responsibility’ for Forced Migration Flows”, 03.31.17, 26p. In: S. Juss (ed.), “Research Handbook on International Refugee Law”, *Edward Elgar*, Forthcoming.

89 *Ibidem*.

90 Forensic Oceanography (Heller C. & Pezzani L.), *op. cit.* p. 41.

91 *Ibidem*.

92 Proposal of a regulation amending Regulation (EU) 2016/399 as regards the rules applicable to the temporary reintroduction of border control at internal borders, COM (2017) 571 final, 09.27.17, law available online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52017PC0571>. (Accessed on 07.30.20)

93 Rodier C., “L’équation lucrative du contrôle des frontières”, *L’Économie politique*, Vol. 84, n° 4, 2019, p. 52.

After the increasing refusal of disembarkation in 2018. The EU had to rethink the role of its missions at sea and which solutions to adopt in front of these wandering boats at sea. For this latter question, the lack of solidarity and of a clear set of rules have resulted in intergovernmental and ad hoc decisions taken by States “willing” to accept a share of individuals disembarked in Spain or Malta⁹⁴. These arrangements are also framed with the help of the European Commission (that has played the role of a facilitator for voluntary MS⁹⁵) and EU agencies (such as EASO and Frontex) for the reception, information and registration services. Secondly, regarding the role of the operation *Eunavfor Med (Sophia)*, the Italian government asked for a revision of the mandate of its mission. The debate was about “the rule according to which all asylum seekers rescued in the framework of the mission should be disembarked in Italian ports”⁹⁶. As MS did not reach finding an agreement on disembarkation, in March 2019, the mission was “prolong for a further six months but without deploying naval ships (to avoid involvement in SAR operations), focusing on air patrols and training of the Libyan Coast Guard⁹⁷. As the LYCG is more or less equipped now (still with the help of Italian operational material), the EU has therefore limited the scope of the surveillance in the Central Mediterranean Sea to an aerial observation.

II.III. From the Libyan Transit to the Libyan Hell:

The situation in Libya is well-known for being chaotic and unstable. Over the years, the conditions of migrants have worsened to such an extent that Libya is being investigated for crimes against humanity. In this fragmented country and affected by various violent conflicts, migrants are risking their lives and are generally in the grip of a large panel of abuses. Several reports by organisations such as Amnesty International⁹⁸ and Humans Rights Watch⁹⁹ are describing the conditions that migrants are facing in Libya. Often referred as the “Libyan Hell”, migrants are directly confronted to rapes, tortures, slavery, exploitation, smuggling, extortion, humiliations¹⁰⁰. The political revolution of 2011 has really had an important impact regarding the human rights degradation.

94 Carrera S. & Cortinovis R., *loc. cit.*, p. 11.

95 *Ibidem*.

96 *Ibid.*, p. 16.

97 *Ibidem*.

98 Amnesty International, “Libya's dark web of collusion”, 2017, 64p. Report available online: <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>. (Accessed on 07.30.20)

99 Human Rights Watch, “No escape from Hell”, 01.21.19. Executive summary available online: <https://www.hrw.org/report/2019/01/21/no-escape-hell/eu-policies-contribute-abuse-migrants-libya>. (Accessed on 07.30.20)

100 Verbeke L., “L'enfer libyen pour les migrants”, *FranceCulture*, 11.15.17, article available online: <https://www.franceculture.fr/societe/l-enfer-libyen-pour-les-migrants>. (Accessed on 07.30.20)

Indeed, in the early 2000s, Libya had a position of transit country. Colonel Muammar Gaddafi was using this position and declared in June 2002: “no North African state wishes to guard the gates of Europe for free, as our region is invaded by sub-Saharan migrants”¹⁰¹. Most of the agreements signed were already shaped by the exchange of money from European countries (Italy) in order to limit migration crossings. Since 2014, two separated governments are ruling over Libya. The first one is the Government of National Accord (GNA) in Tripoli and the other one is the House of Representatives or more commonly named as General National Congress (GNC), based in Tobruk¹⁰². Moreover, when looking closer to the country's situation, the role of armed militias, “city-states” and tribes cannot be neglected. In January 2017, the EUBAM Libya mission reported that “due to the absence of a functioning national Government, genuine and legitimate state structures are difficult to identify in particular, given the dynamic and ever changing landscape of loyalties”¹⁰³.

As the Council of the European Union indicates: “EU support for the Libyan Coastguards is paying off”¹⁰⁴. Indeed, in 2017, more than 20 000 people have been rescued by the LYCG. In 2018, this number decreased to 15 235, while 400 Libyan coast guards have been “trained by EU member states since 2016”¹⁰⁵. At the same time, the EU brings to the fore that it helped Libya in order to carry a “growing number of migrants safely returning home”¹⁰⁶. In 2016, the voluntary humanitarian returns from Libya were at 2777. In 2017-2018, this number grew to 35 000. Several NGOs denounce “the EU delegation of responsibility for sea rescue operations to Libya¹⁰⁷” and the fact that it puts lives at risk. After several incidents (gunshots at sea, NGOs direct threats, migrant deaths due to bad handling at sea) caused by the LYCG, dozens of NGOs and about hundred of citizens have recently signed an “Open letter requesting the International Maritime Organization (IMO) to repeal the Libyan SAR zone”¹⁰⁸. The conflict between NGOs and the LYCG in the Libyan SAR zone has been commented in June 2018 as such: “All vessels operating in the Mediterranean must respect the applicable laws and not obstruct the operations of the Libyan coastguard”¹⁰⁹.

101 Forensic Oceanography (Heller C. & Pezzani L.), *op. cit.* p. 23.

102 *Ibid.* p. 31.

103 *Ibidem.*

104 Council of the European Union, “Infographic - Migration flows: EU action in Libya”, *Infographics*, 2019, available online: <https://www.consilium.europa.eu/fr/infographics/eu-action-in-libya/>. (Accessed on 07.30.20)

105 *Ibidem.*

106 *Ibidem.*

107 Human Rights Watch, “UE : Déléguer à la Libye la responsabilité des sauvetages en mer met des vies en danger”, *Human Rights Watch*, 06.19.17, article available online: <https://www.hrw.org/fr/news/2017/06/19/ue-deleguer-la-libye-la-responsabilite-des-sauvetages-en-mer-met-des-vies-en-danger>. (Accessed on 07.30.20)

108 Open letter available online: <http://www.gisti.org/spip.php?article6436#nb1>. (Accessed on 07.30.20)

109 Gros-Verheyde N., “Que veut dire l’ordre donné par le Conseil européen aux navires des ONG ?”, *B2-*

As a summary of the migrants situation that attempt the journey from the Libyan coasts, we find relevant to quote the academic author Moreno-Lax: “And no one would deny that there is, for example, a need for a comprehensive search and rescue mission in the Mediterranean. However, Libya, under the constant threat of violent and armed militias, needs stabilization and democratisation before any cooperation on the life of migrants and refugees can be set up. The same concerns apply to any cooperation initiatives designed to halt the movement of refugees by strengthening Libya’s Southern border. If migrants and refugees will be rescued by a Libyan Coastguard and disembarked in Libya or if they are forcefully kept in detention centres in Turkey to prevent their departure to Greece, EU States may engage their international responsibility for breaching the rights of those thus rescued or retained against their will to leave any country and to *non-refoulement*”¹¹⁰.

III. Introduction to the Case Study: the NGO “SOS Méditerranée”:

This section does not include the case study academically. It is, in line with this first part, a way to introduce our NGO and re-contextualise it in the broad Central Mediterranean issue. We only pretend here to give some useful information in order to better apprehend our subject. Some figures of migrants rescues, the rescue boat change will be related. In addition, we will present the challenges (the refusal of disembarkation, the flag State troubles) that the NGO faced/is facing. As a matter of fact, we are presenting here what will be our case study in the empirical part of this research. The case study is not yet problematised but introduced in order to have a broader understanding of our topic.

III.I. Birth, Organisation & Mission:

Initially, the NGO SOS Méditerranée was a French-German project launched by Klaus Vogel (German merchant captain) and Sophie Beau (A French humanitarian). It became more and more European in 2016 and 2017 when a first Italian association and then a Swiss one joined the NGO¹¹¹. The NGO mission includes three main objectives: “saving lives in Central Mediterranean”, “ensure the protection of the survivors until their arrival in a safe port” and “testify”¹¹². In order to do so, SOS MED is working closely with MSF. The latter supports maritime operations through the presence of its doctors on board. By 2020, SOS MED has

Bruxelles2, 07.02.18, article available online: <https://www.bruxelles2.eu/2018/07/u/>. (Accessed on 07.30.20)

110 Moreno-Lax V. & Giuffré M., *loc. cit.*, p. 25.

111 SOS MEDITERRANEE, *Dossier de presse*, 04.19, p.3.

112 *Ibidem*.

assisted more than 30 000 people in distress at sea¹¹³. Its operations have started in February 2016 with the *Aquarius*, a 77-long-meter German vessel owned by the German maritime company *Jasmund Shipping*.

III.II. From *Aquarius* to *Ocean Viking*:

Thus, the first NGO's rescue ship, the *Aquarius*, operated at sea between February 2016 and December 2018. The vessel carried out 177 rescue operations and 66 transshipment operations bringing the total to 243 operations¹¹⁴. Despite the *Aquarius*' short (but already too long) lifespan, many incidents have dotted its path. As we have seen in the previous section, incidents involving the LYCG and non-stop NGO criminalisation began in 2017. For example, as related in its press file¹¹⁵, on 12 May 2017, a group of far-right identity activists tried to prevent the *Aquarius* from leaving the port of Catania.

In 2018, *Aquarius*' activities were progressively undermined as it has to stay at dock several times. On the 10th of June 2018, after a 9-hour operation and 2 perilous rescues, about 630 people were safely aboard the *Aquarius*. Amongst them, 123 minors and 7 pregnant women¹¹⁶. The operations were coordinated by the MRCC of Rome. The rescue ship was on his way back towards Italy (located at 34 nautical miles from Italy and 27 nautical miles from Malta) when the Italian government denied *Aquarius* access to Italy's territorial waters, “arguing that Malta should take responsibility for disembarking the migrants on board the vessel”¹¹⁷. Afterwards, it turned into a diplomatic standstill. No European country accepted the disembarkation of the rescued people. During one week, the rescue ship had to wait at sea for the designation of a place of safety where to dock. Finally, Spain put an end to this long *odyssée* and opens the port of Valencia. More than 800 journalists were waiting for the vessel which became a new symbol of the migratory issue in Europe¹¹⁸. A real lack of solidarity and the collective failure of European states regarding their obligations in disembarkation were the highlighted consequences of this maritime wandering¹¹⁹.

113 Starke D., “[Opinion piece] Shrinking humanitarian space – a fatal reality for search and rescue NGOs in the Central Mediterranean Sea”, *SOS MEDITERRANEE*, 11.07.19. Article available online: <https://sosmediterranee.com/opinion-piece-shrinking-humanitarian-space-a-fatal-reality-for-search-and-rescue-ngos-in-the-central-mediterranean-sea/>. (Accessed on 08.01.20)

114 *Ibidem*.

115 *Ibid.* p. 11.

116 SOS MEDITERRANEE, *loc. cit.*, p. 14.

117 Carrera S. & Cortinovis R., *loc. cit.*, p.19

118 Information found online: <https://www.histoire-immigration.fr/collections/l-aquarius>. (Accessed on 08.01.20)

119 Miron A. & Taxil B., “Le dernier voyage de l’*Aquarius*”, *La Revue des droits de l’homme*, 01.15.19, p. 2.

The following months will be tough for the NGO and its rescue ship. The first episode regards its flag State. Since its beginning, the vessel was flying Gibraltar flag but at the end of June 2018, the shipowner, *Jasmund Shipping*, received a notification at sea stating that the country was withdrawing its flag¹²⁰. The flag State colours mean that the country's laws are ruling on board. But more importantly, a vessel without flag State is unlawful and can be boarded at any time by competent authorities. Consequently, before its docking in Marseille, the ship had to find a new country that accepted to give its flag to the shipowner¹²¹. Panama accepted and resolved this first attempt of political decision of stopping the freedom of navigation of a humanitarian rescue ship. The ship can thus restart its operations on the 15th of September 2018. But, really rapidly, the 30th of September 2018, the rescue ship began its last maritime journey. Panama announced officially that it also took its flag off the *Aquarius*. In this case, the “Italian government had pressured Panama to delete the *Aquarius* from its registry”¹²². The Panamanian justification was the following: a “non-respect of international legal proceedings”¹²³. In fact, Italy reportedly threatened to close its ports to vessels flying the Panamanian flag¹²⁴. In a nutshell, the *Aquarius* has been removed of its flag twice in less than two months. As a unique fact in the international maritime story¹²⁵, and considering the Swiss parliamentary refusal of giving a flag State to the NGO, the *Aquarius* faced two withdrawals and one refusal.

After the Italian obstruction at sea, it also occurred on land. The Prosecutor's Office of Catania investigated “the unclassified disposal of onboard waste” with allegations of “illegally profiting from it”¹²⁶. The Italian judicial authorities requested the seizure of the vessel. Hence, SOS MED and MSF decided to end the charter of the *Aquarius*, only because of the attacks they had faced¹²⁷. About a year ago, in 2019, Norway accepted to give its flag to the newly rescue boat, the *Ocean Viking*. Even though the boat has changed, the situation did not, and even worsened. The *Ocean Viking* had to obey to the closure of Italian ports (that reopened sometimes

120 SOS MEDITERRANEE, *loc. cit.*, p. 20.

121 Information found online: <https://www.histoire-immigration.fr/collections/l-aquarius>. (Accessed on 08.01.20)

122 Alabaster O. & Dahan N., *Ibidem*.

123 Feertchak A., “Pavillon, débarquement, sauvetage en mer : que dit le droit dans le cas de l'*Aquarius* ?”, *Le Figaro*, 09.26.18, available online: <https://www.lefigaro.fr/actualite-france/2018/09/26/01016-20180926ARTFIG00229-pavillon-debarquement-sauvetage-en-mer-que-dit-le-droit-dans-le-cas-de-l-aquarius.php>. (Accessed on 08.01.20)

124 *Ibidem*.

125 Miron A. & Taxil B., “Requiem pour l'*Aquarius*. Les sauvetages en mer, entre instrumentalisation et criminalisation”, *La Revue des droits de l'homme*, 01.15.19, p. 7.

126 Starke D., *Ibidem*.

127 SOS MEDITERRANEE, *loc. cit.*, p. 3.

over the past months) but the NGO will perhaps, as its counterparts, stop its rescue activities at sea.

III.III. Current Situation: Coronavirus Emergency and Other NGOs:

After 4 distinct operations between 25 & 30 June 2020 and a week of requesting disembarkation to the Italian & Maltese authorities, the NGO SOS Méditerranée declared its rescue boat, the *Ocean Viking*, in a “state of emergency” at sea¹²⁸. Fights, suicide attempts, physical threats to the crew occurred on board with the 180 rescued people. According to the NGO, “the situation on board deteriorated to the extent that the safety of the 180 survivors and crew could no longer be guaranteed”¹²⁹. The Sicilian port of Empedocle finally accepted the rescue ship. But, thereafter, since the 22nd of July 2020, the *Ocean Viking* must remain docked. The Italian Coast guards are mentioning “technical irregularities” in their official report¹³⁰. The result is that, today, almost no humanitarian ships are operating in the Central Med. despite the fact that the current *COVID-19* pandemic "generates an exceptional flow of economic migrants", according to the Italian Ministry of the Interior¹³¹. The case of the NGO SOS Méditerranée is not isolated. The last Amnesty article in the date of the 3rd of August 2020 is strong and asserts that: “At present, there are no lifeboats operating at sea: this endangers the lives of thousands of people”¹³².

When looking at the drop of NGOs number in the Mediterranean, we observe several scenarios but with common features. The judicial administrative reasons invoked by Italian authorities are not new. Rescue ships such as the *Sea Watch 3*, the *Alan Kurdi* or the *Aita mari* had experienced the same pitfalls. Furthermore, the crew of the *Iuventa* is penally engaged in Italy for a presumed complicity with smugglers¹³³. They are risking 20 years in prison. The boat

128 LeMonde avec AFP, “Le navire humanitaire « Ocean-Viking » se décrète en état d’urgence, avec 180 migrants à bord”, *LeMonde*, 08.03.20, available online: https://www.lemonde.fr/international/article/2020/07/03/le-navire-humanitaire-ocean-viking-se-decrete-en-etat-d-urgence-avec-180-migrants-a-bord_6045148_3210.html. (Accessed on 08.01.20)

129 *Ibidem*.

130 Amnesty International, “Le harcèlement des ONG en Méditerranée met des milliers de vies en danger”, *Amnesty International*, 08.03.20, available online: <https://www.amnesty.fr/refugies-et-migrants/actualites/le-harcelement-des-ong-en-mediterranee-met-des-milliers>. (Accessed on 08.01.20)

131 RTBF, “Louise Guillaumat (SOS Méditerranée) : "Il y a une vraie volonté de nous empêcher de débarquer en Europe"”, *vivreici.be*, 08.30.20, available online: http://www.vivreici.be/article/detail_louise-guillaumat-sos-mediterranee-il-y-a-une-vraie-volonte-de-nous-empêcher-de-debarquer-en-europe?id=444038. (Accessed on 08.01.20)

132 Amnesty International, *Ibidem*.

133 *Ibidem*.

Vos Hestia of the NGO *Save the Children* was, in October 2017, was raided by the Italian authorities for collaboration with smuggling networks¹³⁴. Then, the NGO stopped its operations.

This section allows us to better understand the role that a NGO like SOS Méditerranée intends to take in the Central Mediterranean. We highlighted that rescuing people at sea can result in a controversial action and triggers different reactions on behalf of the actors involved. But what is the legal framework that organise the relationships between actors at sea? In order to rightly close the first part of this work and the contextualisation that we have started, we find more than necessary to describe the legal framework at stake regarding the search and rescue activities in the Central Mediterranean Sea.

IV. The Legal Framework, Between Law of the Sea and Refugees Rights:

First of all, we must specify that the legal framework ruling the SAR operations is composite and multilevel. On the one part, it is vertically composed of International law, European law and national law. On the other part, it is horizontally concerned by several legal matters such as the law of the sea, the human rights, refugee convention and migratory legal framework. As this work is not a legal analysis of the SAR operations, we only expect to correctly highlight the main legal features of sea rescue operations. We will start with the maritime division followed by the international conventions (United Nations Convention on the Law Of the Sea, Safety Of Life At Sea and the Search And Rescue Convention) and their articles ruling rescue actions at sea. Afterwards, we will introduce the human rights at stake and the European legal framework. What is the interaction between States' responsibilities and human rights. Different concepts such as “place of safety”, “*non-refoulement*” and “disembarkation” will be at the core of the fourth step of our analysis. Lastly, the jurisprudence is growing over the years. Several cases are perfectly representative of what is happening on the Central Mediterranean route.

IV.I. Maritime Space Division:

In order to implement an order at sea, the United Nations has divided all the oceans and seas on earth. Regarding the competences and the sovereignty of a State in relation to its coasts,

¹³⁴ Leboucq F., “Pourquoi n'y a-t-il plus aucun bateau d'ONG aidant les migrants actif en Méditerranée ?”, *Libération*, 09.25.18, available online: https://www.liberation.fr/checknews/2018/09/25/pourquoi-n-y-a-t-il-plus-aucun-bateau-d-ong-aidant-les-migrants-actif-en-meditteranee_1680821. (Accessed on 08.01.20)

the United Nations Convention on the Law of the Sea (UNCLOS) established different “zones”. As a matter of facts, under international law, as codified in the UNCLOS¹³⁵, “there are six maritime zones: the internal sea, the territorial sea, the contiguous zone, the continental shelf, the exclusive economic zone (EEZ) and the high seas”¹³⁶. But, regarding the rescues at sea, we can summarise the division as follows: from its shores and up to 12 nautical miles further, the zone is considered as the territorial waters of the State. Within its territorial waters, the State has sovereign rights¹³⁷. The application of the country domestic law is in force. Further than the 12 nautical is the “contiguous zone” or the “24-mile zone”. Recently, there were tensions within that zone where a lot of NGOs are waiting for a distress call or the apparition of a ship in distress. In fact, in this zone, a State can still “exercise necessary control to prevent breaches in customs, health and immigration regulations”¹³⁸. NGOs are arguing that their presence is lawful because there is no such breach and thus the “the same laws apply as in international waters”¹³⁹. Nevertheless, if the State authorities suspect a vessel of violating the domestic law “upon arrival in its territorial seas, they might be able to take action to exclude it from the contiguous zone”¹⁴⁰. So usually, and under the classification of the UNCLOS, in the contiguous zone, a State may “exercise control necessary... to prevent [and punish] infringement of... customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea.”¹⁴¹. But in some case, as ours and the Libyan waters, for persons in distress at sea, “a return to territorial waters is illegal according to the international principle of *non-refoulement*”¹⁴². We already understand here the tensions between two different legal framework at stake. On the one hand, the maritime rights and, on the other hand, the refugee rights. In a nutshell, the NGO ships waiting in the “contiguous zone” off the Libyan coasts have no intent to enter into the territorial waters. The law regime in this zone is therefore the same as the one in international waters.

After passing the contiguous zone, so 24 nautical miles away off the coasts, international waters and its own legal regime (multiple conventions) started. The two core principles ruling the

135 The UNCLOS Convention is available online:

https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf. (Accessed on 08.01.20)

136 See document of the European Commission available here:

https://ec.europa.eu/maritimeaffairs/sites/maritimeaffairs/files/docs/publications/mediterranean_expert_group_report_en.pdf. (Accessed on 08.01.20)

137 Sea-Watch, "Press release: Sea-Watch demands independent investigation of the illegal return of an overcrowded wooden boat", *Sea-watch.org*, 05.11.17, <https://sea-watch.org/en/pm-sea-watch-demands-independent-investigation-of-the-illegal-return-of-an-overcrowded-wooden-boat/>. (Accessed on 08.01.20)

138 *Ibidem*.

139 *Ibidem*.

140 Smith A., “Uncertainty, alert and distress: the precarious position of NGO Search and Rescue operations in the Central Mediterranean”, *Paix et Sécurité Internationales*, n°5, 2017, p. 54.

141 *Ibid.* p. 54.

142 Sea-Watch, *Ibidem*.

international waters are the shared sovereignty and the freedom of navigation¹⁴³. Regarding distress at sea and the rescue legal framework, the international maritime law divides oceans and seas into SRRs (Search & Rescue Regions). Among those SRR, every coastal country has a SAR (Search and Rescue) zone as defined in the 1979 International Convention on Search and Rescue¹⁴⁴ (SAR Convention) signed in Hamburg, amended by the Resolution MSC 70(69). Thus, the SAR zone covered by a country extends over the High Seas but it does not give “any sovereign rights to the corresponding coastal state, but competence over a specific activity, the coordination of rescue”¹⁴⁵.

If we look at **Figure 2**¹⁴⁶, we better understand the maritime division of the Central Mediterranean route. The first two green lines are respectively the territorial waters delimitation, following by the contiguous zone and thereafter, beyond the second green line, the high seas. We also observe the straight red lines that shape the SAR system of the Central Mediterranean Sea. It seems essential to recall that Libya declared unilaterally its SAR zone really recently (August 2017) and it is, even more recently, internationally recognised.

Figure 2¹⁴⁷:



IV.II. The International Law of the Sea:

With reference to the SAR operations occurring in high seas, customary law has the

143 Forensic Oceanography (Heller C. & Pezzani L.), *op. cit.* p. 50.

144 The SAR Convention is available online: <https://onboard-aquarius.org/uploads/2018/08/SAR-Convention-1979.pdf>. (Accessed on 08.01.20)

145 Forensic Oceanography (Heller C. & Pezzani L.), *op. cit.* p. 50.

146 Cf. further below p. 28.

147 Figure taken from the Forensic Oceanography Report.

same legal force as international written conventions (Cf. Article 38 of the Statute of the International Court of Justice). Customary law can be defined as follows: “unwritten law deriving from practice accepted as law”¹⁴⁸. And, with regard to accepted customary law at sea, the fact that “shipmasters must render assistance to those in distress at sea, regardless of their status or circumstances”¹⁴⁹ is a longstanding maritime tradition and is also codified in treaties. For example, the already mentioned UNCLOS of 1982, contains in its article 98, the *Duty to render assistance* by stating that: “Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers: (a) to render assistance to any person found at sea in danger of being lost; (b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him”¹⁵⁰. These two points of the first paragraph clearly highlight the obligation for a State to respond adequately and materially to “any person found at sea in danger”, especially when the State is informed of the need of assistance. In its paragraph 2, Article 98 imposes an obligation on every coastal State Party to “... promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements co-operate with neighbouring States for this purpose”¹⁵¹. Thus, it provides the duty, for signatory States, to settle up an effective RCC.

The International Convention for Safety of Life at sea (SOLAS), signed in 1974, also obliges in its Chapter V, Regulations 7 and 33 that “shipmasters to proceed with all speed to the assistance of persons in distress at sea” and “Contracting Governments to ensure arrangements for coast watching and for the rescue of persons in distress at sea round their coasts”¹⁵². The “duty to render assistance” and obligations for coastal States to provide an effective assistance system were both enshrined in tradition and in international treaties. But, according to the IMO, there was no proper detailed international system covering the search & rescue operations until the adoption of the SAR Convention¹⁵³.

148 Ratcovich M., “International Law and the Rescue of Refugees at Sea”, *Stockholm University*, 2019, p. 13.

149 Forensic Oceanography (Heller C. & Pezzani L.), *op. cit.* p. 56.

150 The UNCLOS Convention is available online:

https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf. (Accessed on 08.01.20)

151 UNCHR, “Rescue at sea. A guide to principle and practice as applied to refugees and migrants”, 2015, p. 7.

152 The SOLAS Convention is available online: <https://www.samgongustofa.is/media/english/SOLAS-Consolidated-Edition-2018.docx.pdf>. (Accessed on 08.01.20)

153 See IMO Website: [http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-\(SAR\).aspx](http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-(SAR).aspx). (Accessed on 08.01.20)

The International Convention on Maritime Search and Rescue was signed in 1979 and came into effect in 1985. Its aim is to coordinate States' actions regarding distress at sea. By acceding to the Convention, a State must define a SRR known as the SAR area of responsibility (SRR) and set up one or more MRCCs¹⁵⁴. Regarding the persons rescued at sea, Chapter 2.1.10 and Chapter 1.3.2 respectively oblige State Parties to “ensure that assistance [is] provided to any person in distress at sea ... regardless of the nationality or status of such a person or the circumstances in which that person is found” and to “provide for their initial medical or other needs, and deliver them to a place of safety”¹⁵⁵. Therefore, we understand that the rescue must be ensured no matter the status or nationality of the person. Secondly, the person must be taken to a “port of safety”. But no definition of a “place of safety” was provided before 2004. The establishment of a SRR and the SAR services within that region including “duty to render assistance, coordination for disembarkation” and the necessity of a “place of safety” are recalled under the SAR Convention, at 6.1-6.11¹⁵⁶. Nevertheless, as for the Italian case, these SAR obligations do not clearly affirm a duty to “accept rescued individuals within national territory” (e.g. national waters). Thus, a State always has the maritime right to accept or not a foreign flag vessel to disembark in its ports. Even though it can trigger some human rights issues.

In 2004, the IMO adopted the Resolution MSC.167(78), “Guidelines on the Treatment of Persons Rescued at Sea”. In this latter, at 6.12., a “place of safety” is defined as: “a place where survivors’ safety of life is no longer threatened, where their basic human needs (such as food, shelter and medical needs) can be met, and from where transportation arrangements can be made for survivors’ next or final destination”¹⁵⁷. When looking at the concept of “place of safety”, we can observe two different approaches. The first one will consider it in a broad human rights perspective and for example “the need to avoid disembarkation of rescued asylum seekers and refugees in territories where their lives and freedoms would be threatened”¹⁵⁸. It is clearly linked to the principle of *refoulement* which, in this sense, should be fully respected in any disembarkation arrangements. But the Resolution states at 6.17. that “the need to avoid disembarkation in territories where the lives and freedoms of those alleging a well-founded fear

154 Information found on the following website: https://www.lantenne.com/Convention-Sar-sauvetage_a14501.html. (Accessed on 08.01.20)

155 UNHCR, “Rescue at sea. A guide to principle and practice as applied to refugees and migrants”, 2015, p. 7.

156 Smith A., *loc. cit.*, p. 61.

157 IMO Resolution MSC 167(78) available online:

[http://www.imo.org/fr/OurWork/Facilitation/personsrescued/Documents/MSC.167\(78\).pdf](http://www.imo.org/fr/OurWork/Facilitation/personsrescued/Documents/MSC.167(78).pdf). (Accessed on 08.01.20)

158 UNHCR, “Guidelines on applicable criteria and standards relating to the protection of asylum seekers and refugees rescued at sea”, 2002, p. 4.

of persecution would be threatened is a consideration in the case of asylum-seekers and refugees recovered at sea.”¹⁵⁹. Following this point, according to some authors, “the language is weakened considerably and imposes no affirmative obligation to ensure refugees are returned to a place where they fear persecution”¹⁶⁰. In addition, there is no “mechanism for shipmasters to communicate about the risk of abuse or fear of persecution a rescued person might face to the RCC”¹⁶¹. Thus, we understand that there is a tension between two rights at stake, the human rights through the *non-refoulement* principle (see below) and the maritime rights with respect to shipmasters and coastal States.

IV.III. International Human Rights and the European Framework:

Regarding the international human rights framework, principle of *non-refoulement* is conceived as customary international law (some authors also consider it as a *Jus Cogens* principle¹⁶²). It is also codified in the 1951 Convention Relating to the Status of Refugees. Its Article 33(1) provides that “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”¹⁶³. As we have already mentioned at the beginning of this work, the Article 1A(2), defined a refugee as ““owing to [a] well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his [or her] nationality and is unable or, owing to such fear, is unwilling to avail himself [or herself] of the protection of that country”¹⁶⁴. The issue here is that the international maritime law ensures that there is an obligation to rescue with no relevance to nationality and status of the individual (SAR Convention Chapter 1.3.2). The UNHCR recalls in its guidelines that “the identification of asylum-seekers and the determination of their status is the responsibility of State officials adequately trained for that task”¹⁶⁵ because “it is clear that a shipmaster is not the competent authority to determine the status of those who fall under his

159 IMO Resolution MSC 167(78) available online:

[http://www.imo.org/fr/OurWork/Facilitation/personsrescued/Documents/MSC.167\(78\).pdf](http://www.imo.org/fr/OurWork/Facilitation/personsrescued/Documents/MSC.167(78).pdf). (Accessed on 08.01.20)

160 Smith A., *loc. cit.*, p. 65.

161 *Ibidem*.

162 See for example: Allain J., “The *jus cogens* Nature of *non-refoulement*”, *International Journal of Refugee Law*, Vol. 13, n° 4, 2001, pp. 533–558.

163 UN General Assembly, “Convention and Protocol Relating to the Status of Refugees”, *United Nations, Treaty Series*, 1951, vol. 189.

164 UNHCR, “Rescue at sea. A guide to principle and practice as applied to refugees and migrants”, 2015, p. 8.

165 UNHCR, “Guidelines on applicable criteria and standards relating to the protection of asylum seekers and refugees rescued at sea”, 2002, p. 5.

temporary care after a rescue operation”¹⁶⁶. Thus, we observe here the legal gap between the maritime tradition of rescuing people in distress at sea and the legal basis from which a refugee must be identified in order to be considered as such. This identification cannot be handled at sea. Thereupon, it entails the possibility to breach the *non-refoulement* principle if the refugees are taken back to the border of departure where they could have a well-founded fear of persecution.

Furthermore, the same principle applies in the European legal framework. The Article 19(2) of the Charter of Fundamental Rights of the European Union provides that “No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment”¹⁶⁷. When we look at the SAR operations that allow migrants to return back to Libya, the violation of Article 5 (“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”) of the International Declaration of Human Rights is often quoted. At the same time, the *indirect refoulement* already discussed are also proscribed by the EU Regulation 656/2014 (ruling Frontex actions and the joint maritime surveillance operations). It provides a common EU concept of “place of safety” which is protection driven¹⁶⁸ and also bears in its Article 4.2 that “intercepted or rescued persons shall not be disembarked, forced to enter, conducted to or otherwise handed over to the authorities of a third country when the host Member State or the participating Member States are aware or ought to be aware that that third country engages in practices as described in paragraph 1”¹⁶⁹. When engaging responsibilities of the EU, usually, the applicants complain under Article 2 (right to life), Article 3 (prohibition of torture and inhumane or degrading treatment) and Article 4 of Protocol 4 (prohibition of collective expulsions)¹⁷⁰ of the ECHR. Additionally, when looking at the solutions to the SAR fatalities in the Central Med and broader EU migratory policies, the Article 80 of the Treaty of the Functioning of the European Union (“TFEU”) enacting the principle of solidarity and fair sharing of responsibility is clearly lacking¹⁷¹.

IV.IV. In Practice:

Multiple breaches in international law (described in the two previous points) have already occurred regarding SAR operations in the Central Med. Some examples are relevant concerning varied legal issues at sea. As the association Alarmphone noticed, the principle of “duty to render

166 *Ibidem*.

167 Smith A., *loc. cit.*, p. 51.

168 Carrera S. & Cortinovis R., *loc. cit.*, p. 7.

169 Regulation available online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0656>

170 Eboli V., *Ibid.*, slide 17.

171 Carrera S. & Cortinovis R., *loc. cit.*, p. 9.

assistance” was breached by the Maltese authorities on the 18th of October 2019. The operation results in: “Instead, the Maltese authorities waited for the so-called Libyan coastguards to enter the Maltese SAR zone, to intercept the group of migrants in distress, and to return them to the place they had escaped from – Libya. (...) the RCC Malta refused to intervene for seven hours after receiving the alert to the distress case by the AlarmPhone. Instead of carrying out a SAR operation, RCC Malta monitored the situation merely with aerial assets (a helicopter of the Armed Forces Malta). By failing to render assistance, Malta consciously put the people’s lives at risk. This is a breach of The United Nations Convention on the Law of the Sea as well as of SAR conventions”¹⁷².

As we stand further above, the concept of *place of safety* is repeatedly discussed. Dr. Alexander Proelß ensures that “the international law of the sea cannot force coastal States to open up their ports, because they are responsible for deciding which ships they let into their ports and which not”¹⁷³. In a nutshell, there is a grey area, a loophole that allows coastal State like Italy to refuse the access of its ports, as it was the case for the *Aquarius* by example. It means that if the authorities decide to not be the “place of safety”, a private rescue organisation cannot enter into the territorial waters unless there is a “real emergency on board”¹⁷⁴. But what constitutes an emergency is open to interpretation. As we will see for the *Rackete case* for example, it seems that Italian judges “have interpreted national law in such a way that the duty to rescue people at sea takes precedence over anything else”¹⁷⁵. It is clear that there is a gap when looking at the SAR legal framework between the concept of “place of safety” and the human rights principle of *non-refoulement*. The former is not well qualified in the 2004 IMO guidelines and does not “textually or functionally incorporate the full obligations under human rights law”¹⁷⁶. This gap can therefore be used by “states seeking to evade such obligations in favour of other national interests”¹⁷⁷.

It appears that the international law of the sea has been shaped in a way that allows national sovereignty to have the final say regarding disembarkation. As we stated, there is no

172 AlarmPhone, “Back to the Libyan Warzone-How Malta Instructed Libyan Authorities to Intercept 50 Migrants within the Maltese SAR Zone”, *AlarmPhone*, 10.23.19, available online: <https://alarmphone.org/en/2019/10/23/back-to-the-libyan-warzone/>. (Accessed on 08.01.20)

173 Wallis E., “Can the Law of the Sea regulate the stormy standoffs between private rescue ships and EU governments?”, *InfoMigrant*, 07.09.17, available online: <https://www.infomigrants.net/fr/post/18037/can-the-law-of-the-sea-regulate-the-stormy-standoffs-between-private-rescue-ships-and-eu-governments>. (Accessed on 08.01.20)

174 *Ibidem*.

175 *Ibidem*.

176 Smith A., *loc. cit.*, p. 36.

177 *Ibidem*.

duty to disembark even though the national MRCC is obliged to indicate a “place of safety”. Human rights principle of *non-refoulement* is consequently hard to make respect. When looking at different incidents and cases related to SAR operations and disembarkation in the Central Med., some point out the global lack of “elementary considerations of humanity”¹⁷⁸. Different cases like the *Aquarius* disembarkation refusal or the *Rackete case* show how the legal gap (“place of safety”, “emergency interpretation”) can be instrumentalised, aiming for dissuasive immigration objectives.

IV.V. Jurisprudence:

The first important incident which resulted in a IMO Resolution on “Review of safety measures and procedures for the treatment of persons rescued at sea” was the “*Tampa*” affair in 2001¹⁷⁹. On the 26th of August 2001, a Norwegian container ship called the *Tampa* rescued 430 persons, mostly under the Australian MRCC in the waters between Indonesia and the Australian Christmas Island. An initial plan was to disembark the survivors up north. But it changed when the survivors put pressure to reach the coasts of the Christmas Island. Then, the Australian authorities informed the shipmaster that “the Australian sea had been closed to the ship”¹⁸⁰. The vessel had to wait at sea for a couple of days during which the health of some survivors started to deteriorate. After having sent a distress signal, the ship was on its way towards the Christmas Island but the Australian special military forces soon boarded the ship¹⁸¹. At the end, the people were not allowed to disembark on the Australian soil. Instead, an Australian warship would take the asylum seekers to Papua New Guinea, “where they would then be transported to Nauru and New Zealand for further processing of their asylum claims”¹⁸². It is based on this case that the 2004 IMO Resolution was prepared and negotiate in order to incorporate the concept of “place of safety “with a view to situations in which refugees and migrants are rescued at sea”¹⁸³. We already understand here that SAR issues are not a new phenomenon. The refusal of disembarkation by Italy & Malta in June 2018 against the *Aquarius* and its 630 persons follows exactly the same path. For almost a week, the conditions on board began to drastically deteriorate. And, it is only after pressure from the UNHCR and the EU Commission that the deadlock had been resolved by the Spanish acceptance of disembarkation in the port of

178 Miron A. & Taxil B., *loc. cit.*, p. 9.

179 IMO, “Unsafe mixed migration by sea”, *IMO*, 07.24.18, available online:

<http://www.imo.org/en/OurWork/Facilitation/personsrescued/Pages/Default.aspx>. (Accessed on 01.02.20)

180 Ratcovich M., *op. cit.*, p. 2.

181 *Ibidem*.

182 *Ibidem*.

183 *Ibid.* p. 276.

Valencia¹⁸⁴.

A European top precedent is the *Hirsi* case¹⁸⁵. The direct *refoulement* of a migrant boat by the Italian Navy towards Libya was condemned. The Court held that “State authorities had exercised continuous and exclusive control over the migrants” and “that Italy was required to take affirmative steps to determine whether those individuals' rights would be violated upon their return to Libya¹⁸⁶. As the Guide on Article 4 of Protocol No. 4 to the European Convention on Human Rights recalls it, under Article 4 of Protocol No. 4, the responsibility of the Italian State was engaged. Two main elements came out of this case. Firstly, the Court “found that a State had, exceptionally, exercised its jurisdiction outside its national territory, it could accept that the exercise of extraterritorial jurisdiction by that State had taken the form of collective expulsion”¹⁸⁷. Secondly, the conclusion was that “the removal of aliens carried out in the context of interception on the high seas by the authorities of a State in the exercise of their sovereign authority, the effect of which is to prevent migrants from reaching the borders of the State or even to push them back to another State, constitutes an exercise of jurisdiction which engages the responsibility of the State in question under Article 4 of Protocol No. 4”¹⁸⁸.

The other interesting case, that we have discussed earlier, is the recent *Rackete* case. In 2019, the Sea-Watch 3 captain, Carola Rackete was arrested then released for having broken a naval blockade while carrying 40 migrants. The conclusions from the *Corte di Cassazione* (Court of Cassation) are univocal. The arrest of the captain by the Italian authorities was not lawful because she obeyed to her “duty of render assistance” as codified in the international maritime law. Firstly, the Court held that “the obligation to provide assistance under the Hamburg Sar International Convention does not end with the act of rescuing shipwrecked persons from the danger of being lost at sea, but entails the accessory and consequent obligation to land them in a safe place”¹⁸⁹. Secondly, the German captain was accused of having attacked or resisted the vessel of the *Guardia di Finanzia* (Financial Police) and therefore having committed “resistance or violence” on a “warship”. But the *Corte di Cassazione*, based on the *jurisprudence*, concluded

184 *Ibid.* p. 4.

185 Judgment available online: [https://hudoc.echr.coe.int/spa#{"itemid":\["001-109231"\]}](https://hudoc.echr.coe.int/spa#{). (Accessed on 07.30.20)

186 Smith A., *loc. cit.*, p. 63.

187 Source available online: https://www.echr.coe.int/Documents/Guide_Art_4_Protocol_4_ENG.pdf. (Accessed on 08.01.20)

188 *Ibidem*.

189 Rara P., “La Cassazione sul caso Sea Watch: “Carola Rackete ha rispettato il dovere di soccorso”, *HuffPost*, 02.20.20, available online: https://www.huffingtonpost.it/entry/la-cassazione-sul-caso-sea-watch-carola-rackete-ha-rispettato-il-dovere-di-soccorso_it_5e4e5582c5b6d3f9c6c4da63. (Accessed on 08.01.20)

that the ship was well military but in a function of warship and cannot be considered as such¹⁹⁰. Notably because the shipmaster of the *Guardia di Finanzia* was not a “naval officer in the service of the State” but on the contrary, a “marshall who was not an officer in command”¹⁹¹. Lastly, and most interestingly of all, the *Corte* interpreted the notion of “place of safety”. It agreed that “a ship cannot be considered as a “place of safety” especially because it “does not allow respect for people's fundamental rights”¹⁹². This latter interpretation refers directly to the 1951 Refugees Convention. Moreover, it condemns the Italian strategy of leaving NGO rescue boats at sea considering that rescued people are safe once they are on private rescue ship. The whole Italian strategy of refusing disembarkation is therefore called into question because of this case.

In addition to these previous cases, others are still pending or in elaboration. The GLAN (Global Legal Action Network) have submitted several complaints to different Courts. For example, on the 8th of May 2018, an application was submitted to the ECHR asserting that “the agreement (between Italy and the GNA in February 2017) establishes Italy’s legal responsibility for the actions of Italian and Libyan vessels in this case”¹⁹³. The case is called the *SS case* and reports the 2017 incident during which “the Libyan Coast Guard interfered with the efforts of the NGO vessel Sea-Watch 3 to rescue 130 migrants from a sinking dinghy. At least twenty of them died”¹⁹⁴. Another example is the *Nivin* case for which the same organisation, GLAN, has filed a complaint against Italy with the UN Human Rights Committee¹⁹⁵. This case is the first complaint about “*refoulement* by proxy” or “privatised push-backs”, whereby “EU coastal States engage commercial ships to return refugees and other persons in need of protection back to unsafe locations in contravention of their human rights obligations”¹⁹⁶. Finally, another interesting example is the complaint submitted, always by GLAN, before the European Court of Auditors (ECA). According to the organisation, it requests “the body to launch an audit into EU's cooperation with Libya. Such an audit would seek to determine whether the EU has breached its financial regulations, as well as its human rights obligations, in its support for Libyan border management”¹⁹⁷. This application has been followed by a “joint statement on EU financial

190 Villafrate A., “Sea Watch: Carola Rackete, la sentenza della Cassazione”, *Studio Cataldi*, 02.21.20, available online: <https://www.studiocataldi.it/articoli/37457-sea-watch-carola-rackete-la-sentenza-della-cassazione.asp>. (Accessed on 08.01.20)

191 *Ibidem*.

192 *Ibidem*.

193 Case available online: <https://www.glanlaw.org/ss-case>. (Accessed on 08.01.20)

194 *Ibidem*.

195 Case available online: <https://www.glanlaw.org/nivincase>. (Accessed on 08.01.20)

196 *Ibidem*.

197 Joint Statement available online: https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_0f9f9fb7d3e247d79c0d5b57db362d85.pdf. (Accessed on 08.01.20)

responsibility”¹⁹⁸ signed by organisations such as Human Rights Watch, Amnesty International, ARCI, ASGI.

As we have just seen, the legal framework surrounding the SAR operations regarding migrants and refugees at sea is complex and multilevel. Behind the law, we see how the politics of SAR criminalisation and governmental disengagement is “leading to human rights violations such as the right to life and *non-refoulement*”¹⁹⁹. As described in our section dedicated to the policies (section 2), the Italian policy of NGO criminalisation, backed by the EU, resulted in the NGOs exclusion from the international waters and the possibility of criminal sanctions. The international legal SAR framework establishes States “as the primary actors in ensuring life at sea, and it incumbent on these actors to take responsibility for the ongoing humanitarian tragedy in the Mediterranean”²⁰⁰.

Second Part: Conceptualisation and Theoretical Framework

Our initial question was linked to the understanding of the stop of the *Aquarius* in June 2018. The first part of this work described the global tendencies surrounding the actors involved at sea. Indeed, after having dressed a large outline of what surrounds the SAR operations in the Central Mediterranean Sea, we find necessary to specify our research and ask ourselves: “Why did NGOs take an important role in SAR operations on the Central Mediterranean route during the so-called “refugee crisis”?”. This second part will help us understand what the academic world suggests on the question and our position in the debate. It is important to specify that this work follows a deductive approach regarding the theory and the methodology. We will firstly dress an analytical overview of the academic literature. From the concept of “crisis” related to European migratory flows to the SAR NGOs actions in the Central Med. The section “state of the art” will present the debate and the most prolific authors in these matters. It will also help us to steer our analysis through several concepts and decide in which IR paradigm we will develop this work. Therefore, the second part of the following section will present the transnational paradigm. Its relevance in our work, the principles and concepts mobilised will be at the core of this last section. It will allow us to ask ourselves the right question and develop the hypothesis linked to it. And finally, the chosen paradigm will be useful in the selection of the proper methodology in

198 *Ibidem*.

199 Carrera S. & Cortinovis R., *loc. cit.*, p. 6.

200 Smith A., *loc. cit.*, p. 69.

order to answer to it.

V. Review of the Academic Literature; From “crisis” to NGOs Criminalisation:

We started this work with the SAR operations related to the “Refugee crisis”. This review of the literature will follow the same path. Our reasoning is to deepen the academic literature according to the way we have articulated the question mentioned above (NGOs' role in SAR operations during the “crisis”). It means that we will deal with the concept of “crisis” in the European framework and then appreciate the common characteristics that come out from the studies on migration. Afterwards, SAR operations and the role of NGO will be the main research within the academic field. It will help us understand how our study case (a SAR NGO) is perceived in the academic debate. Several findings will thus help us dressing the problematic in the second section.

V.I. A “crisis”, What Crisis?

As the phenomenon that we are studying (SAR operations by civil society actors in the Mediterranean Sea) began during the so-called “Refugee crisis”, we have discovered that the notion of “crisis” has been often discussed academically, mostly with regards to the European project. Firstly, we will define the concept and follows a more “critical” view. We will be interested in what has framed the 2015 “crisis”. Moreover, the concept of “crisis” comes with a whole language and with a range of vocabularies that we will try to describe. Indeed, a “crisis” reveals a tension between two alternatives and therefore two narratives. The political responses often embody this ambivalence and, the actors mobilise different reactions. Thus, the understanding of the narratives and their political consequences will give us a good overview of what a “crisis” claim can trigger. The deconstruction of the concept of “crisis” will show that, perhaps, a “crisis” is more what we make of it. Finally, we will see how the new “emergency” migratory policies are closely linked with the framing and the definition of the 2015 “refugee crisis”.

First of all, how can we define a “crisis”? The first common meaning that comes in mind is a “sudden change, a temporal interruption of a condition of normality”²⁰¹. We can see how this definition requires a normative point. That means that there is (and there will be) a before and an after “crisis”. If we take a critical perspective (in the tradition of Cox), some authors state that the

201 Carastathis A., Spathopoulou A. & Tsilimpounidi, M., “Crisis, What Crisis? Immigrants, Refugees, and Invisible Struggles” *Refuge*, Vol. 34 n °1, 2018, p. 31.

concept of “crisis” is produced by the capitalism system and is inherent to it. It serves to categorise people and the layers of the society. They suggest that the “crisis” is endemic to capitalism and make the economic system working smoothly²⁰². Hierarchies, stereotypes, power relations and capitalist oppression would be inherent to a “crisis”. We position ourselves in this work by retaining the categorisation induced by the outbreak of a “crisis” and we will see how it is particularly relevant in the case of a migration “crisis”. A second definition, based on the etymology and used in medicine is “the turning point in an acute disease such as a paroxysmal attack of pain that requires a decision between two alternatives”²⁰³. We will see how these two alternatives are related to two different narratives and solutions regarding the “crisis” of 2015. Moreover, as sudden it is, the “crisis” put the stress on anxiety and panic due to the perception of an emergency or a threat. Just as some authors²⁰⁴ pointed out, science has the role of a “voice of reason that keeps things in perspective”. Not surprisingly, we will define a crisis as such: “a disruption that, welcome or not, has the potential to become a catalyst for long-needed change”²⁰⁵. Finally, with regards to the European project, the “crisis” is at the core of its creation. The debate in the academic field concerns the sense that a “crisis” within the European project would possess. According to some (as the former Commission President Juncker), the EU is in a, relatively constant, “polycrisis”. It would be a positive stress, based on a “permissive consensus”, that led to the European integration by example²⁰⁶. On the other side, more recent “crisis” can be perceived as deeper and more intense. New discourses are emerging. The legitimacy gap that goes with this conception of the EU “crisis” is personified by the rise of anti-EU parties in Europe. As some authors argue, a “crisis” must be analysed through factual elements, actors and the type of the crisis, all of this varying in tempo and intensity²⁰⁷. This reasoning is the one that we have adopted throughout all this work. Furthermore, we state in this section that the 2015 “refugee crisis” was only the tip of the iceberg regarding mixed migration across the Central Mediterranean and towards Europe more generally. But, in order to call attention to this iceberg tip, some lights are needed. Media usually do the job.

As Guiraudon pointed out in her well-known article “the 2015 refugee crisis was not a

202 *Ibid.*, p. 35.

203 Guiraudon, V., “the 2015 refugee crisis was not a turning point: explaining policy inertia in EU border control”, *Eur Polit Sci*, 2018, p. 151.

204 Gottlieb N. *et al.*, “Health policies and mixed migration – Lessons learnt from the ‘Refugee Crisis’”, *Health Policies*, Vol. 123 n° 9, 2019, p. 1.

205 *Ibidem*.

206 Seabrooke L. & Tsingou E., “Europe's fast- and slow-burning crises”, *Journal of European Public Policy*, Vol. 26 n° 3, 2018, p. 468.

207 *Ibid.*, p. 472.

turning point: explaining policy inertia in EU border control”, sometimes, there is a “focus event” that accompanies a “crisis”²⁰⁸. This “focus event can perturb the status in a policy domain”²⁰⁹. In our case, the media attention paroxysm was reached in 2015 after the picture of the three-year-old young Kurdish, Alan Kurdi. His body was found on a Turkish beach the 3rd of September 2015. This media attention hence focused on the situation at the South European border. It has definitely allowed “new actors to be heard and reframe the very terms of the debate in this policy area”²¹⁰. As a matter of facts, the outbreak of a “crisis” produces different features that can be applied for almost every “crisis”. The emergence of new actors, new vocabularies and new policies are the main elements that we mention for our case.

The media coverage of the “refugee crisis” in 2015 has led to the blame of the Dublin agreements, the Schengen system or the Frontex agency which was already in place for several years. From then, academics were more consulted²¹¹ and new actors such as NGOs and para-public actors were also involved in an issue which existed since the creation of the Schengen system (90s). As some authors demonstrated for the case of the Eurozone “crisis”, “think-thanks were expanding their networks”²¹². It is also the case for 2015, new non-governmental and transnational actors emerged. We state here that, in time of crisis, both institutional and non-institutional actors are using either a new transnational policy management (for the EU, through a transnational field of EU border security²¹³), either the use of transnational networks in terms of knowledges and practices (for NGOs, think-thanks, by creating “bridges between transnational policy spaces”²¹⁴). We will see in the next section that it is partly one reason for which we have decided to choose the transnationalism as our IR paradigm. The creation of the European NGO SOS Méditerranée is a perfect example.

Along with new actors that come with a “crisis”, a categorisation of the population and new “crisis” policies also came out. The categorisation of people into migrants, asylum seekers, refugees, economic migrants, irregular immigration and so on was justified by “institutionalised division”²¹⁵. It reveals that the “crisis” regarding the “uncontrollable flows of irregular

208 Guiraudon, *loc. cit.*, p. 152.

209 *Ibidem.*

210 *Ibidem.*

211 Guiraudon, *loc. cit.*, p. 152.

212 Coman R., “Why and how do think tanks expand their networks in times of crisis? The case of Bruegel and the Centre for European Policy Studies”, *Journal of European Public Policy*, Vol. 26 n° 2, 2018, p. 286.

213 Guiraudon, *loc. cit.*, p. 154.

214 Coman R., *loc. cit.*, p. 287.

215 Carastathis A. *et al.*, *loc. cit.*, p. 30.

immigrants” was also a “crisis of the reception”, a “crisis of solidarity”, an “asylum crisis” or a “humanitarian crisis”. As Seabrooke & Tsingou identified, facing a “crisis”, a two-speed thinking is developing. The “fast-thinking” characterised by strong emotional reactions to events and the “slow-thinking policy settlements where rationality prevails but ethical concerns can be repressed”²¹⁶. Furthermore, two alternatives were presented throughout two different narratives. On the one part, more populist and conservative discourses were promoting the closure of the borders mobilising a discourse of “us” (the EU citizens) against “them” (foreigners). Some said that “cowardly and opportunistic Syrians were seeking asylum in Europe rather than staying behind to defend “their” country”²¹⁷. They argue that people were coming to “take advantage of the welfare system” and also threatened the “native job opportunities”²¹⁸. On the other part, the EU discourse on the “crisis” was marked by a strong “emergency” oriented path. To this extent, political measures and particular vocabulary came with this trend. The logic of hotspots and its division of people into certain categories such as the refugee, the grantee of subsidiary protection, the asylum seeker, the vulnerable refugee, the unaccompanied minor, the economic migrant, duplicate the hierarchy induces by a “crisis” and the state of “emergency” that goes with it. As we have already seen, these policies of emergency have resulted in a strong trans-governmental management of the “crisis” (especially nowadays with the arrangements for disembarkation for example).

Lastly, a third discourse was also highlighted after the 2015 media outbreak. This discourse was more oriented on the human rights and solidarity promotion. There were “also calls for European solidarity and grassroots attempts at social inclusion”²¹⁹. As it was the case for other matters than sea rescue (in healthcare provision for example²²⁰), NGOs started to fill the institutional vacuums in the Central Med. Following this, the “crisis” was also a humanitarian “emergency” as there was no “comprehensive evaluation and overhaul of EU policy”²²¹. This interesting point highlights the fact that, in time of “crisis”, new actors also emerged from the civil society and start to take in charge the national and supranational institutional duties and responsibilities. The role of NGO is in fact at the core of the understanding of the 2015 “crisis” and the interpretation leaders give it to it. Moreover, we have just understood that, as the EU response was in the “emergency”, it was a mix of “fast-thinking” & “slow-thinking” response. It

216 Seabrooke L. & Tsingou E., *loc. cit.*, p. 472.

217 Carastathis A. *et al.*, *loc. cit.*, p. 32.

218 *Ibidem*.

219 Seabrooke L. & Tsingou E., *loc. cit.*, p. 470.

220 Gottlieb N. *et al.*, *loc. cit.*, p. 2.

221 Guiraudon, *loc. cit.*, p. 156.

clearly lacks of ethics (*hotspots, EU-Turkey*) and of a comprehensive view on the issue. Therefore, we state that the stress was put on the security on behalf of the EU whereas a strong humanitarian was also developing through the role of NGO.

To sum up, the “crisis” was not new. The media coverage led to the emergence of new actors, discourses and policies, and probably to this work as well. We have seen that a “crisis” includes two narratives. The first one is characterised by the emergency and calls for control because of the dangers and the risks. The second one regards solidarity and human rights and calls for a comprehensive approach. Our third observation is that NGOs (such as SOS MED.) started to act at sea in order to fill in a vacuum led by the institutions and following the second narrative mentioned above. In addition, the sea deathly journeys across the Central Med. are not a new phenomenon. In the 90s, the creation of the Schengen system and the Dublin agreements were already shaping the intent of the EU on its borders²²². The two main policy instruments were visas and carrier sanctions and establish “hierarchies of humanities”²²³ that we are dealing with today. Thus, we will try to understand in the next section what academic research usually encompasses in the migration field.

V.II. At the Crossroad of Migration Studies:

As we are dealing with immigration in Europe, the first research of this work focused on the debate within the migration studies. Before describing more precisely the main trends within the academic field, we already state that migration studies are usually handling several key concepts. First of all, migration affects the sovereignty of States and is thus often discussed. Moreover, in the European framework, it also includes supranational or transnational governance. Secondly, a lot of research²²⁴ regard changes on identities (either national, or European) or on citizenship that migration studies induces. Regarding our case, the main European response towards migration has been turning it into a security problem. Security involves control which then results in the inclusion and exclusion of people. Thirdly, we state that, with respect to migration studies, the most discussed concept remains the border and all what it can include.

Migration is thus really broad and circumscribes several aspects. It is a phenomenon “in tension” that can be highly “politicised” as we have seen thanks to the previous section

222 Guiraudon, *loc. cit.*, p. 157.

223 Gottlieb N. *et al.*, *loc. cit.*, p. 2.

224 See, for example: Heine S. & Maignette P., « Europe, les identités troubles », *Politique étrangère*, n° 3, 2007, pp. 505-515.

throughout the concept of “crisis”. Nevertheless, through our readings, we are now able to present the main trends among migration studies. At the beginning, we have been interested by “French specialists” like C. Withol de Wenden²²⁵ or C. Balleix. They treat migration in a very “classical” way, marked by a strong historical path and as well policies-oriented. As a lot of researchers are doing, most of their works focus on migratory flows and migration data or evidence. De Wenden also reflects on the concept of borders, notably through the “negative perceptions”. The result of her long-dated analyses would be the implementation of a “universal right to mobility”²²⁶. In addition, both authors analyses situate their analyses mostly at the macro-level, regarding large European flows and tackling the asylum & solidarity problems linked to it. Just like Jaulin²²⁷, some articles²²⁸ are directly suggesting the reform of the common European asylum system and try to understand historically its main causes and dynamics. Of course, migration can be studied in a stato-centered way, by country. De Wenden is specialised in French migration whereas Balleix has published works on Italy. However, it is not the approach we chose in this work. More recently and according to the larger tendency of migration studies (namely, “securitisation”), new works prefer to follow a more individual-centered research. In this field, we quote the works of L. Lemaire²²⁹ and M. Albahari²³⁰. that are both ethnographic and anthropological works that connect with migrant experiences in detention centres. Thus, we understand through this paragraph that migration studies are developed through a large range of varieties. From policies-oriented to stato-centerism, from macro to micro analysis.

In addition, an important part of the migration studies in Europe follows the relatively recent perspective of “securitisation”. When looking closer to migration studies in Europe, we quickly understood that in line with the works of Bigo, Andersons or Huysmans, the nexus security-migration is the most explored. In order to better appreciate this tendency, we need to go back in the 90s with the establishment of the Schengen system. As Ritaine²³¹ pointed out in her

225 Her works: Withol de Wenden, C., *Faut-il ouvrir les frontières?*, Presses de Sciences Po, Paris, 2013, 100p.

Withol de Wenden C., *La question migratoire au XXIe siècle*, Presses de Sciences Po, Paris, 2017, 230p.

226 Withol de Wenden C., “Vers un droit universel à la mobilité”, *Migrations Société*, Vol. 121, n° 1, 2009, pp. 39-43.

227 Jaulin T., *Ibidem*.

228 Balleix C., “Quelle réforme du régime d’asile européen commun ?”, *Après-demain*, Vol. 39, n° 3, 2016, pp. 22-24.

229 Lemaire L., “Islands and a Carceral Environment: Maltese Policy in Terms of Irregular Migration”, *Journal of Immigrant & Refugee Studies*, Vol. 12, 2014, pp. 143-160.

Lemaire L., “Noir et illégal’ aux frontières de l’Europe: De la construction d’un mythe à l’émergence d’une gouvernementalité transnationale des migrations. Malte-Bruxelles (2002-2013)”, Paris, 2017, Thèse de doctorat en Science politique. Sous la direction de Jean-Pierre Gaudin et de Andrea Rea.

230 Albahari M., “Crimes of Peace: Mediterranean Migrations at the World’s Deadliest Border”, *University of Pennsylvania Press*, Philadelphia, 2015, 272 p.

231 Ritaine E., “La fabrique politique d’une frontière européenne en Méditerranée. Le ‘jeu du mistigri’ entre les

article, the political control of irregular immigration was the result of the “securitisation” of borders by South Europe States. She defines “securitisation” as “a cognitive process for classifying a problem as related to “securitarian” solutions”²³². Ritaine's argument is that the border control in the Mediterranean was put to the forefront of the political agenda since the creation of the Schengen area. Guiraudon at that time had already argued that the external borders of the EU were following a securitarian logic²³³. She added that this logic was implemented through an “intergovernmental” mode of decision, lacking legitimacy and transparency. We see here how the externalisation has followed the same *modus operandi*. Guiraudon reaffirms that from Schengen and its logic, immigration was officially (in official texts for example) associated with criminality²³⁴. Huysmans mentioned, already in 2000, before the “refugee crisis”, that “immigrants and asylum-seekers were portrayed as a challenge to the protection of national identity and welfare provisions”²³⁵. We found in its article, a good explanation of what “securitisation” is and its effects. He argues that, in line with thinkers such as Buzan or Waever, “security practices actually affect social relations”²³⁶. It is notably due to the mobilisation of specific institutions and expectations when making migration a security problem²³⁷.

To conclude, we observed the prevalence and the relevance of the theory of “securitisation” regarding European immigration since the Schengen system. It has even a greater echo today with the “post Refugee crisis” era. We state that there is a lot of works regarding the EU asylum system and the EU’s immigration policies. Nevertheless, “we are only beginning to understand the reasons for the EU’s response to the refugee and migrant crisis of 2015-2016”²³⁸. And this is one of the reasons why we involved in this matter. We realise here that the “borderisation” of the Central Mediterranean Sea is partly a result of the 90s' establishment of the Schengen system. Moreover, “securitisation” allows us to understand the first narrative that we described in the previous point. “Emergency”, “control”, “securitarian migration” and the “criminal” discourse that comes with it can be better appreciate thanking the authors we mentioned. It helped us understand how the security practices put on the forefront by national or supranational institutions have affected social relations. After having deconstructed the concept

États et l’Union”, *Les Études du CERI*, n° 186, 2012, 54 p.

232 Translated by myself from: Ritaine E., *loc. cit.*, p. 8.

233 Guiraudon V., “Schengen: une crise en trompe l’œil”, *Politique étrangère*, n° 4, 2011, p. 777.

234 *Ibidem*.

235 Huysmans J., “The European Union and the securitization of migration”, *Journal of Common Market Studies*, Vol. 38, n° 5, 2000, p. 751.

236 *Ibid.*, p. 752.

237 *Ibidem*.

238 Karolewski I. & Roland B., “Europe’s refugee and migrant crisis. Political responses to asymmetrical pressures”, *Politique européenne*, Vol. 60, n° 2, 2018, p. 99.

of “crisis” in the first section of our state-of-the-art and having shed light on the security nexus linked to the migration and the Mediterranean since the creation of the Schengen system, we now go closer to our case of analysis and we will deepen the literature on SAR operations in the Central Mediterranean Sea.

V.III. SAR Operations and Migration in Central Mediterranean:

The following section will scrutinise the academic literature regarding SAR operations in the Central Mediterranean Sea. We will see that the debate is always evolving as well as the ontology, the epistemology and the methodologies used. Before the “crisis”, there were already the same criticisms that we can find today. Even though actors and practices have changed. We will start with the legal analyses of Basaran, one of the most prolific authors of the “securitisation” theory. Afterwards, several analyses use deaths borders data and they help us understand the links between fatalities, policies and SAR operations over time. In addition, a substantial part of the scholarship is directly interested in the communication of the varied actors operating at sea. Authors observed the narratives that come from those latter. We will notice that starting from a double paradigm of deterrence on the one part and of humanitarianism on the other part, the security nexus already present before the “refugee crisis” turned into a “security-humanitarian” one.

In 2014, in consonance with the “securitisation” perspective, T. Basaran was already warning on two elements about what was going on at sea. In its legal-based analysis of sea rescue, the author wrote: “Enhancing rescue efforts will remain insufficient as long as rescue of irregular migrants is not decriminalized and desecuritized”²³⁹. By taking the 2009 cases of *Cap Anamur* and *Morthada/El-Hedi*, Basaran “demonstrates the adverse effects of anti-smuggling laws on third party rescue at sea”²⁴⁰. We find the same features today: “smuggling, assistance or facilitation”²⁴¹ are some of the charges that NGOs captain are facing. At that time, Basaran was mostly speaking about private seafarers (fishers or commercial ships). In our case, the third-party has changed and is embodied by NGOs. Along with the beginning of criminalisation, Basaran added in 2015 that law practices coming with sea rescue have a “potential to produce collective indifference”²⁴². By observing the deterrence paradigm produced by EU legislation, he criticises

239 Basaran T., “Saving Lives at Sea: Security, Law and Adverse Effects”, *European Journal of Migration and Law*, 2014, Vol.16, n° 3, p. 386.

240 *Ibid.*, p. 367.

241 *Ibidem*.

242 Basaran T., “The saved and the drowned: Governing indifference in the name of security”, *Security Dialogue*, 2015, Vol. 46, n° 3, pp. 205-220.205

the practices that finally led to “governing compassion in the public space” and characterised it as “a technique of separation to prevent unwanted contact and communication between two population groups so as to reduce possible acts of solidarity”²⁴³. This technique of governance will be denounced more recently by the “sea rescue” legal specialist V. Moreno-Lax. She describes the new “consensual containment” that has been putting in place by the EU and its MS²⁴⁴. The deterrence paradigm detailed by Basaran becomes hereto a “contactless control of cross border migration”²⁴⁵. She defines it as: “inducement by countries of destination of countries of transit, so that the latter exert the necessary control in the former’s stead and/or for their benefit”²⁴⁶. As we described in the legal framework section, this kind of control raises questions regarding its conformity with international law. It is surely one of the reasons for the author's involvement in the GLAN²⁴⁷.

In 2016, a group of scholars from the Vrije Universiteit of Amsterdam, with amongst them the recognised Spijkerboer, studied the 2015 Human Cost of Border Control project, the first “Deaths at the Borders Database for the Southern EU”²⁴⁸. It is, at that time, the first database that is not sourced from news media (among them UNITED and the Fortress Europe blog)²⁴⁹. Today, as we mentioned in the first part of this work, we have the IOM database “missing migrants”. Moreover, this quantitative data research led to great improvements. Firstly, the paper shows that the “use of death records as an official source of data about border deaths”²⁵⁰. Secondly, as there is no official death toll, the Database contributes to the literature on death borders, irregular migration and boat migration in general. The Spijkerboer's group did not choose to link border death quantitative data with border control policies and only argue that deaths borders data are a valid scientific source of analysis. But other authors did. It is the case of M. Saleh and E. Steinhilper. Aligned to statistical research, Saleh's quantitative-qualitative study focuses on the “causal relationship between policies and fatality rate in the Mediterranean”²⁵¹. Her hypothesis regards the strength of the border control policies or practices and assesses their influence on sea fatalities. The border control policies at stake are the EU-Turkey agreement and

243 *Ibid.*, p. 215.

244 Moreno-Lax V., *loc. cit.*, p. 1.

245 *Ibid.*, p. 4.

246 *Ibidem.*

247 See website: <https://www.glanlaw.org/> (Accessed on 07.08.20)

248 Spijkerboer T. *et al.*, “Deaths at the borders database: evidence of deceased migrants’ bodies found along the southern external borders of the European Union”, *Journal of Ethnic and Migration Studies*, Vol. 43 n° 5, pp. 693-712.

249 *Ibid.*, p. 709.

250 *Ibid.*, p. 695.

251 Saleh M., “Border Control and Migration Fatalities in the Mediterranean Sea”, *E-International Relations*, 2017, p. 1.

the changes in SAR policies (from *Mare Nostrum* to 2016 Frontex operations). Her review of the academic literature confirms ours. She highlights 4 themes confirming that “Mediterranean Sea route for irregular migration to Europe is anything but new”, there is “relation between border controls and the places of disembarkation and irregular migration routes”, “sea routes to Europe have always been increasingly lethal” and “EU’s response (...) has always been intensifying border control”²⁵². More interestingly, the two outcomes of her study vary. The EU-Turkey agreement and the closure of the Eastern Med. route did not result in an increase in fatalities on the Central Mediterranean route. On the contrary, the change in SAR operations is “one of the causes of the increased rate of fatalities in the Central Mediterranean in 2016”²⁵³. Finally, as her peer Spijkerbroer suggested, she ends her article by mentioning the need for a Database for the Deaths at the Borders for Southern EU. Many academics seem to share the same idea. It is the case for Steinhilper & Gruijters who claim that: “For families left behind, this (unidentified/never found missing migrants) creates additional pain and complicates the grieving process. Against this background, we can only express our support for the call to establish a European Migrant Death Observatory”²⁵⁴. The authors also deconstruct the deterrence-based concept of “pull factor”. They show that even in low-SAR period (so less SAR capabilities and actors at sea), the number of arrivals was not lower. And, on the contrary, during high-SAR periods, the number of arrivals was not higher than during low-SAR period, as claimed by the “pull-factor” hypothesis²⁵⁵. The last main feature that the article outlined is the observation of two opposite “policy narratives”²⁵⁶, the deterrence on the one part and the humanitarian on the other. Those narratives are not abstract discourses and “they inform and legitimize policy decisions”²⁵⁷. And an important part of the academic literature is interested in this object of study, especially when dealing with the communication of the actors involved.

The narratives emanating from the different actors operating in the Central Mediterranean Sea allow us to understand the roles that they pretend to take. The main authors are E. Cusumano, P. Cuttitta and P. Musarò among others. In its 2018 article²⁵⁸, E. Cusumano decided to place its discourse analysis at the European level. He introduces the concept of

252 *Ibid.*, p. 4.

253 *Ibid.*, p. 9.

254 Steinhilper E. & Gruijters R., “A Contested Crisis: Policy Narratives and Empirical Evidence on Border Deaths in the Mediterranean”, *Sociology*, Vol. 52, n° 3, p. 530.

255 *Ibid.*, p. 519.

256 *Ibid.*, p. 515.

257 *Ibidem*.

258 Cusumano E., “Migrant rescue as organized hypocrisy: EU maritime missions offshore Libya between humanitarianism and border control”, *Cooperation and Conflict*, Vol. 54, n° 1, 2018, pp. 3–24.

“organized hypocrisy” throughout a multi-method analysis. He argues that there is a “gap between the European Union missions’ humanitarian rhetoric and an operational conduct primarily focusing on curbing irregular migration as a form of organized hypocrisy”²⁵⁹. For his study, the author recalls the rhetoric of both *Triton* and *Eunavfor Med (Sophia)* actors. In the same vein, his Italian peer P. Musarò, changed the scope and decided to focus on Italy. The narrative of the *Mare Nostrum* operation sheds light on the transformation of discourses that occurred in the Italian media. He demonstrates that the “migrant invasion” described prior in the medias turned into a “humanitarian battlefield”²⁶⁰. He treats concepts such as “war imaginary” and “emergency imaginary” and concludes its article by reflecting on the “double sided humanitarian governance”²⁶¹. On the one part, it is inclusive (through the inclusion of migrants into the European space) and “at the same time, this humanitarian process of inclusion appears as an act of compassion towards victims deserving pity rather than solidarity”²⁶². In its chapter²⁶³, P. Cuttitta reaches the same conception when analysing the “fragmented space of the sea”, the Mediterranean. This latter is “governed by these two logics: the logic of inclusion, allowing for migrants to physically enter Europe, and the logic of exclusion, preventing people from arriving on EU soil”²⁶⁴. The same type of analysis has also been covered for the period of 2012-2018 but including three actors (EU, Italy & NGOs). The work of Groninger describes the “relationship between migratory flows and the EU's and Italy's narratives”²⁶⁵. She argues that before 2016, the common goal was “to save lives” meanwhile since 2016, “(inter-governmental) actors' (EU/Italy) narratives and response diverge from those of non-governmental actors”²⁶⁶. Moreover, it seems interesting to deepen the conflictual relationship that escalated in 2016, with its climax in 2017 through the Code of Conduct.

At this point in our literature review, it seems important to specify our findings. When we look at the most recent academic works on SAR operations, the stress is put on two things. On the one part, as a particular feature of the “refugee crisis”, the nexus security-humanitarian seems to be the most relevant and appropriate perspective. As Waerp detailed in her article, “recent

259 *Ibid.*, p. 1.

260 *Ibid.*, p. 1.

261 *Ibid.*, p. 24.

262 *Ibidem*.

263 See chapter: Cuttitta P., “Inclusion and Exclusion in the Fragmented Space of the Sea. Actors, Territories and Legal Regimes between Libya and Italy”, in: Burroughs E. & Williams K., (Eds.), *Contemporary Boat Migration: Data, Geopolitics and Discourses*, 2018, pp. 75-94.

264 *Ibid.*, p. 75.

265 Groninger, G., “From Humanitarian Rescue to Border Security: Managing Migration in the Central Mediterranean”, *European Journal of Migration and Law*, Vol. 21, n° 4, 2019, p. 461.

266 *Ibidem*.

emphasis on humanitarianism in border control came about both as a response to criticism from civil society actors for lack thereof; and as a result of mounting deaths in the Mediterranean due to the closing down of safe and legal routes into the EU²⁶⁷. On the other hand, the role played by humanitarian NGOs has been criticised, reassessed, delegitimised and criminalised. Consequently, the last part of this literature review will focus on the SAR NGOs and what their presence trigger regarding the Central Mediterranean migration.

V. IV. NGOs in Tension, New (de/re-politicised) Humanitarianism at Sea:

The proliferation of SAR NGOs in the Central Mediterranean Sea is a quiet recent phenomenon. In 2014, the first SAR NGO, Migrant Offshore Aid Station (MOAS), started its operations. Two years later, ten NGOs were operating while rescuing about 40% of the total number of migrants saved. This proliferation of a new NGO type has been discussed academically by several authors such as Cusumano, Cuttitta or Modoni. Before starting with the works on NGOs especially, the 2019 article of E. Waerp already enlightens us on the ambivalence that SAR actors embodied. As a matter of fact, the concept of “humanitarian borderwork” is recent and academically related to the “refugee crisis” in Europe but has roots in the “humanitarian border enforcement discourse that developed in the US post-9/11”²⁶⁸. The author analysed Frontex's discourse and demonstrated that the security-humanitarian nexus was present when comparing narratives and actions. Frontex did not meet the only humanitarian criteria whereas its communication was focused on this narrative. The authors explain “new humanitarianism” emerged after the end of the Cold War – where state actors play a larger role, and militarization and securitization of borders increasingly shape humanitarian action”²⁶⁹. But how do NGOs position themselves in this new configuration of humanitarianism? The fragmentation of the humanitarian space in the Central Mediterranean Sea led to a mix of both fields: security and humanitarianism. The role played in practice and the role they intend to take in this space is therefore complex and not linear.

The SAR NGOs proliferation in the Central Med. has been theorised for the first time in 2016 by E. Cusumano. His 2016 article introduces the “first empirical analysis of SAR NGOs, outlining their structure and operating models”²⁷⁰. Two models resulted from its study, the MOAS

267 Waerp E., “Humanitarian Borderwork? An Analysis of Frontex’s Discourses and Practices”, *MIM Working Paper Series*, Vol. 19, n° 3, 2019, p. 1.

268 Waerp, *Ibidem*.

269 *Ibidem*.

270 Cusumano E., “Emptying the sea with a spoon? Non-governmental providers of migrants search and rescue in the Mediterranean”, *Marine Policy*, Vol. 75, 2017, p. 91.

model and the Sea-Watch model. Furthermore, he explained through five key points (visibility, legitimacy, feasibility, financial viability and emulation) the 2014 proliferation of SAR NGOs. The concept of emulation is primarily understood as: “the tendency for both public and private organisations to develop similar structures and procedures”²⁷¹. The authors drew some precision in a more recent article²⁷². Cusumano goes further through its NGOs' analysis and argues that “differences in material capabilities and organizational role conceptions are crucial to explain why newer SAR NGOs have imitated most but not all of their predecessors' policies, engaging in a process of “selective emulation”²⁷³. This selection of the aspects that NGOs will adopt depends on the “organizations' varying material capabilities and their different role conceptions”²⁷⁴. We perceive here that the NGO's role conception will have consequence on its structure and on the NGO model that this latter will follow in the Mediterranean space. At the same time, it will have consequences on its relationships with other actors.

Moreover, as we described in the first part of this work, NGOs are facing a lot of troubles, mostly since 2016. For Wilkins, we can partly understand the criminalisation that NGOs face because they are contesting and challenging the control of sovereign authorities. Nevertheless, in line with the critical border studies, we state that there is also some cooperation between NGOs and (inter-)governmental authorities. The fact that NGOs have to cooperate with the MRCC Rome is a good example. According to Cusumano, the MOAS model of SAR NGOs can be “clearly identified as a Wilsonian organization to mitigating suffering by cooperating with government authorities rather than addressing its root causes”²⁷⁵. On the contrary, “Dunantist organization, whose much stronger commitment to independence from political actors prevented them from accepting state funding and cooperating too closely with Italian authorities”²⁷⁶. SAR NGOs are thus facing an “ethical dilemmas”²⁷⁷ when operating their SAR activities. Of course, since 2014, the humanitarian aspect was put on the forefront by a large media coverage. But can we really speak of a humanitarian space? E. Modoni speaks about a “quasi-humanitarian” space “in which the humanitarian logics at the base of the activities usually produce securitarian effects”²⁷⁸. As described by several authors, the Italian *Mare Nostrum* operation and the European

271 *Ibid.*, p. 96.

272 Cusumano E., “Humanitarians at sea: Selective emulation across migrant rescue NGOs in the Mediterranean sea”, *Contemporary Security Policy*, Vol. 40, n° 2, 2019, pp. 239–262.

273 *Ibid.*, p. 239.

274 *Ibid.*, p. 241.

275 *Ibid.*, p. 255.

276 *Ibidem*.

277 Modoni E., “Compasses or chains? The SAR NGOs and ethical dilemmas in the EU mis-management of the migration crisis in the Mediterranean”, *EUMedEA Online Working Paper Series*, n°1, 2018, p. 4.

278 *Ibidem*.

Frontex's operations are clearly falling under this logic. But what about NGOs operating in SAR zones? Which logic do they follow? And how do they conceive their humanitarian activities and the “space” in which they are operating? Cuttitta outlined that NGOs entered in a “depoliticized” space and thereafter “repoliticized” it.

What seems to be really interesting and particularly recent in the academic field with concerns to the humanitarian aspects of SAR NGOs in the Central Mediterranean is that there is always two logics in tension. When SAR NGOs entered into the Mediterranean waters in order to save lives in 2014, they were repoliticise the EU migration management and highlighting the failure of border policies²⁷⁹. Cuttitta and Modoni explain that, the ambivalent role of NGOs is characterised by on the one part, the attempt of repoliticisation in the depoliticised Central Med. and at the same time, the contribution to its depoliticisation (notably because EU migration & border policies have not changed so far). For example, the fact that SAR NGOs are “relieving States from their SAR responsibilities, thus allowing them to focus on border enforcement”²⁸⁰. Thus, what is the role that SAR NGOs pretend to take and effectively take into this complex environment which is the Mediterranean? We saw that the Central Mediterranean route has been “humanitarianised” and can be considered as a “humanitarian borderwork”²⁸¹. The “humanitarian governance” led by EU operations such as Frontex has put the *INI* (Impartiality, Neutrality and Independence) humanitarian scheme at default but to what extent? Subsequently, do SAR NGOs function as a force multiplier for EU border authorities? In addition, the ethical dilemmas raised by the SAR activities in the Central Med. is also affected by a more societal tendency of distrust and stigmatisation as described by Reggiardo²⁸². The accusations, the criminalisation and, more factually, the number of SAR NGOs still in activities (close to 0), are well representative of the complex role and the ambivalent place that humanitarian NGOs take in the Central Mediterranean Sea. Consequently, at the end of this state-of-the-art, we are asking ourselves the following question: “What humanitarian role SAR NGOs intend to take in the Central Mediterranean space?”.

Regarding our topic, we find that the transnationalism theory is perfectly relevant in order to better understand the relationships amongst different actors at sea. Thus, this section will

279 Cuttitta P., “Repoliticization Through Search and Rescue? Humanitarian NGOs and Migration Management in the Central Mediterranean”, *Geopolitics*, Vol. 23, n° 3, 2018, p. 633.

280 *Ibidem*.

281 Waerp E., *Ibidem*.

282 Reggiardo A., “Distrust and stigmatization of NGOs and volunteers at the time of the European migrant crisis. Conflict and implications on social solidarity”, *PACO*, Vol. 12, n° 2, 2019, pp. 460-486.

observe how this theory can be useful in this work, in particular with regards to principles such as “complex interdependence” & “reciprocal effects”. As we have decided in this work to focus only on one actor (NGOs), we will follow a comprehensive perspective and explain why we did not analyse all actors at sea. Then, we will present the other concepts that we will mobilise.

Borrowed to theories of humanitarianism and critical border studies, we will see that concepts such as the traditional “humanitarian role”, the “*INI* principles”, “the depoliticization”, “the repoliticization” will help us understand the different aspects that SAR NGOs take on in the Central Mediterranean.

VI. Problematisation of Our Questioning:

VI.I. Transnationalism, An Original and Useful Perspective:

The transnationalist IR (International Relations) paradigm was born in the 60s during the so-called “third inter-paradigmatic debate”²⁸³ opposing stato-centric theories such as realism and the non stato-centric theories (marxism, transnationalism). One of its epistemological postulates is therefore the comprehension of the international society but not in a stated-oriented way. It means that individuals or individuals in group are full-fledged actors on the international scene. Because we consider NGOs as actors in the same way as (inter-)governmental actors in the Central Med., this postulate echoes our thoughts. As our analysis is placed at the *meso* level (NGOs), this theory fits perfectly with our subject. At the same time, it appears that this theory is not often used. Thus, the originality of my work can also be found in the choice of this IR paradigm. In addition, we observe two phenomena at the basis of the transnationalism, namely globalisation and interdependence. As noted by Keohane & Nye, “globalisation refers to an intensification of what in 1977 we described as interdependence”²⁸⁴. Given that the past decades have only strengthened the globalisation worldwide, we find relevant to use an IR paradigm that appreciates this international trend. Moreover, technologies improved drastically and allow people to move worldwide more easily: “people do have access and share information from almost anywhere and within no time (...) an increasing share of the world population has the means to travel across countries and continents”²⁸⁵. We consider the links between globalisation, transnational and international migration as fairly recent and interesting from a societal point of view. On the one part, the civil society represented by full-fledged actors (such as NGOs) take part in the international politics. On the other part, the links of interdependence amongst different

283 Battistella D., “Théories des relations internationales”, *Presses de Sciences Po*, 2015, Paris, p. 207.

284 Keohane R. & Nye R., “Power and Interdependence”, *Addison-Wesley*, New-York, 2001, p. 15.

285 Gottlieb N. *loc. cit.*, p. 1.

actors (state or non-state) are fully taken into account in the transnationalism²⁸⁶. The ontology can be appreciated as such: “the study of the reciprocal effects between transnational relations and interstate system”²⁸⁷. After having dressed our state-of-the-art, we saw that the study of SAR NGOs is underrepresented. By studying this actor especially, we thus participate to the academic enrichment for anyone interested in Central Mediterranean migration and the interdependence among actors.

In line with the view of Keohane & Nye, international relations are crossed by several global issues. The Central Mediterranean migration can therefore be conceived as a *World Politics*²⁸⁸ issue involving transnational movements of people and different types of actors. Moreover, the presence of state and non-state actors in the Central Mediterranean produces “reciprocal effects” amongst them. The authors defined the transnationalist concept of “complex interdependence” as related to 3 presuppositions²⁸⁹. A first one is related to the existence of three kinds of actors (governmental, sub-state and non-state) having three types of relations (interstate, trans-governmental and transnational). A second one regards the absence of hierarchy between fields of the global politics. And lastly, the diminishing role of military force in non-military fields. Regarding this last postulate, we could state, as we have seen in the previous section, that the “securitisation” of the Central Mediterranean route refutes it. The presence of military missions such as *Eunavfor Med & Mare Nostrum* are two contrary examples. Nevertheless, the essence of military evolved and mostly when dealing with a humanitarian issue. Thus, we could interpret this last hypothesis to the extent that military also changed, probably by adapting itself to the transnational environment. To sum up, the main concept according to the transnationalist perspective is interdependence and, “in world politics (it) refers to situations characterized by reciprocal effects among countries or among actors in different countries”²⁹⁰ or (and we will retain the following definition in this work), interdependence or mutual dependence is the “*World Politics* where all the actors including states as non-state actors, are dependent upon one other”²⁹¹.

Regarding our case, the transnational movement of people across the Mediterranean Sea has to do with several elements of the transnational IR paradigm. First of all, it is considered, if

286 Battistela D., *op. cit.*, p. 210.

287 *Ibid.*, p. 215.

288 Keohane R. & Nye R., “Transnational Relations and World Politics”, *International Organization*, Vol. 25, n° 3, 1971, pp. 329-349.

289 Battistela D., *op. cit.*, p. 217.

290 Battistela D., *op. cit.*, p. 218.

291 Rana W., “Theory of Complex Interdependence: A Comparative Analysis of Realist and Neoliberal”, *International Journal of Business and Social Science*, Vol. 6, n° 2, 2015, p. 291.

not as a *World Politics* issue, at least, as a European one. Secondly, boat migration involves several actors at sea, having some particular “reciprocal effects” on each other (between transnational NGO and interstate system like the EU operations) and maintaining a “complex interdependence” (the MRCC coordination for example). Now, if we look closer to the *World Politics* issue raised by irregular immigration in the Central Mediterranean Sea, we can conceive the Mediterranean space as a “political space in which differently situated actors negotiate – formally or informally – the social, cultural and political meanings of their joint enterprises”²⁹². This definition suggests that actors have communicative structures and they are negotiating (formally & informally) depending on their identities and interests. As a matter of fact, in every relation between governmental, supranational or non-governmental entities, some negotiations and bargaining take place. We can find, at the same time, “cooperation and competition”²⁹³ between different actors. As argued by Rana, “the policies and actions of one actor have profound impact on the policies and actions of the other actors and vice versa”²⁹⁴.

To summarise, it is according to these transnationalist principles that our reasoning has evolved. This work results in a comprehensive reflection on the relationships among different actors acting in the Central Mediterranean Sea since the beginning of the “crisis”. We found out that, according to the transnationalist principles, actors do cooperate and compete according to their identities and values. Some negotiations and bargaining between actors do happen in the Central Mediterranean Sea, but to which extent? At this point, it seems relevant to point out some relevant elements that led us to our research question. First of all, as this work is a student thesis, we are limited in means and time for our research. Thus, the criteria of feasibility imposed us a limitation in terms of actors that we could study. Initially, the relationship (negotiations and bargaining) among three actors (namely the *guardia costiera*, the *EU operations* such as *Eunavfor Med/Frontex* and NGOs) were at the core of this work. But we quickly understood that, due to the complexity of the issue and due to some methodological troubles (that we will develop in the section dedicated to it), it would have been preferable to focus only on one actor. Moreover, we discovered in our state-of-the-art that only few works were aimed at the understanding of the SAR NGOs' role in particular. And additionally, we found that this role was quiet ambiguous with respect to the presence of other actors at sea and ethically *per se*. Based upon our findings related to the “complex interdependence” and the “reciprocal effects” and in

292 Keck M.E. & Sikkink, K., “Transnational advocacy networks in international and regional politics”, *International Social Science Journal*, Vol. 51, 1999, p. 90.

293 Rana W., *Ibidem*.

294 *Ibidem*.

line with our results in our review of the literature, we are now able to ask ourselves a research question before starting to reflect on the hypotheses that could derive from it. Our research question is the following: “How do NGOs involved in the “refugee crisis” negotiate their humanitarian role in the SAR (Search and Rescue) zones of the Central Mediterranean Sea?”. In order to respond to this question we will firstly review the concept of “humanitarian” role and elaborate a first hypothesis. Afterwards, linked to the elaboration of our first hypothesis and with the transnationalist principles described further above and also the questioning of the literature, we will try to go further in our reasoning. A second hypothesis will come to analyse the SAR NGOs' role with respect to the actions of the other actors, namely the changes in EU SAR operations, the 2017 Code of Conduct, the 2018 Italian policy of disembarkation refusal the LYCG involvement and the criminalisation/prosecution of SAR NGOs.

VI.II. Humanitarian Role:

First of all, the authors M. E. Keck & K. Sikkink pointed out in their article regarding transnational advocacy network that NGOs are often part of “networks” which share several elements: the centrality of values or the principled of ideas, the use of information and the employment of “sophisticated political strategies in targeting their campaigns”²⁹⁵. Moreover, the authors added that groups in “networks” “create categories or frames within which to organize and *generate* information”²⁹⁶. This latter feature is “also central to their identity”²⁹⁷. Thus, if considering the Central Mediterranean Sea as a particular “network” and the NGOs as a particular actor, the *values*, *ideas* and the *identity* are constitutive of a particular *frame* which can be represented by the SAR “humanitarianism”. Following this socio-constructivist perspective, it allows us to reflect on how SAR NGOs are negotiating their role in the “network” depending on their identity and the particular frame that goes with it.

The proliferation of SAR NGOs started in 2014 with the previously mentioned MOAS NGO. Three reasons can explain this rise of non-state actors' involvement. Indeed, as a response to the lacks of states' responsibilities, to the increasing number of departures and deaths at sea but also to the stop of the Italian *Mare Nostrum*, non-governmental organisations started to launch their own SAR operations. Moreover, Cusumano added that this process has been observed thanks to a process of “selective emulation”²⁹⁸. In order to respond to our research question, we

295 Keck M.E. & Sikkink, K., *loc. cit.*, p. 92.

296 *Ibidem*.

297 *Ibidem*.

298 Cusumano E., *loc. cit.*, 2019, pp. 239–262.

firstly need to bring some precision. The rise of SAR NGOs or, as Stierl calls it, the “humanitarian fleet”²⁹⁹ occurred during what was called the “crisis”. The emergency response directly linked to it was developed in a security-humanitarian manner on behalf of State actors. But did NGOs reproduce this security-humanitarian nexus? The SAR NGOs role seems to be a good point of departure in order to answer this question. In order to do so, we will firstly conceive the humanitarian aspect of the Central Mediterranean basin in which those NGOs operate.

In our state-of-the-art, we gave a first definition of the “humanitarianization” of the Central Med. This “increasing deployment of moral sentiments in contemporary politics”³⁰⁰, as Fassin says, has been followed by the development of SAR NGOs. In the early years of SAR NGOs (2014-2015), the Central Mediterranean was already under a strong “humanitarian governance” characterised by “increasingly organized and internationalized attempt to save the lives, enhance the welfare, and reduce the suffering of the world’s most vulnerable populations”³⁰¹. The (inter-)governmental operations of *Mare Nostrum*, *Eunavfor Med (Sophia)* and *Triton* were the institutional examples of this governance. As we have seen in the first part of this work, the security-humanitarian nexus was already put in place during *Mare Nostrum*. The following EU operations of *Eunavfor Med (Sophia)* and *Triton* had no official “saving lives” mandate and can be considered as border control policies. On the side of NGOs, it is their humanitarian borderwork relevance that increases³⁰². To sum up, How can we conceive the “humanitarianism” and the NGOs' role in this ambivalent space? Our first hypothesis is: “SAR NGOs negotiate their humanitarian role in the Central Med. by developing a “new humanitarianism”³⁰³ with respect to the traditional *INI* scheme and the principle of *Humanity*”.

With a view to a “new humanitarianism”, it should be a basis of comparison, i.e. a “traditional humanitarianism”. We chose to anchor this analysis within the traditional *INI* scheme that we already mentioned. In addition to the *INI* scheme, Cusumano observed a first traditional humanitarian principle, *Humanity*. He defines it as “the effort to protect human life and dignity anywhere those are threatened”³⁰⁴. Of course, it is easy to apply this principle to SAR NGOs as

299 Stierl M., “A Fleet of Mediterranean Border Humanitarians”, *Antipode*, Vol. 50, n° 3, 2018, p. 705.

300 Fassin D., “Humanitarian Reason. A Moral History of the Present”, *University of California Press*, 2012, p. 1.

301 Cuttitta P., *loc. cit.*, p. 635.

302 *Ibidem*.

303 Here in the sense of new, different from the traditional.

304 Cusumano E., “The sea as humanitarian space. Non-governmental Search and Rescue dilemmas on the Central Mediterranean migratory route”, *Mediterranean Politics*, Vol. 23, n° 3, 2017, p. 389.

they are directly involved in a moment of rescue where there is an imminent risk of death. Nevertheless, when looking to different NGOs at sea, each of them develop a particular frame regarding *Humanity*. Stierl analysed three of them (MOAS, MSF and Sea-Watch) and argued that “while the rescue of precarious lives and the alleviation of suffering are central concerns, they imagine their humanitarian practices, the subjects of their compassion”³⁰⁵. Indeed, the first traditional concept of traditional humanitarianism is *Humanity*. Cusumano, along with Stierl, have reflected to the role's conception that SAR NGOs conceive for themselves. It is clear that NGOs' identities, values and interests differ from each other. Regarding the traditional humanitarian reason, the conception of *Humanity* is supposed to be linked with mankind, suggesting an entire human species and as *humaneness*³⁰⁶. The framing, the narratives used by NGOs will be at the core of this analyse. How do they perceive *Humanity* at sea? We will therefore use the indicators of *humaneness* (characterised by kindness, mercy, or compassion) in order to have a great understanding of their conception of *Humanity*. Moreover, the *subjects of their compassion* will help us observe the framing and the narratives that NGOs develop along with their operations. The concept of *Humanity* will be directed towards the presence of two indicators: *humaneness* and the *subjects of their compassion*

We can now move forward with the *INI* principles in itself. The three initials correspond to *Impartiality* *Neutrality* and *Independence*. These longstanding humanitarian principles usually guarantee the acceptance of NGOs by local communities & warring parties³⁰⁷. When comparing NGOs on dry land and NGOs at sea, it was expected that these latter would operate in full accordance with the *INI* scheme. Indeed, as Cusumano highlighted, there are some differences that could allow SAR NGOs to comply more easily with the traditional humanitarian principles. Indeed, the fact that operations does not take place in conflict scenarios, so without warring factions are good examples. In addition, SAR operations “take place in international waters, where no state jurisdiction applies”³⁰⁸. Thus, NGOs would be more able to operate without political interference.

The first initial of the *INI* scheme refers to *Impartiality* which we define as: “the tenet that aid should be delivered based on need alone, irrespective of the race, nationality, and political status of those in need”³⁰⁹. In line with our transnationalist perspective, we suggest that

305 Stierl, *loc. cit.*, p. 705.

306 *Ibid.* p. 707.

307 Cusumano, *loc. cit.*, 2017, p. 390.

308 *Ibidem.*

309 *Ibidem.*

there are some exchanges of informations between actors in the network. Or it should be some cooperation and competition between actors. As SAR NGOs are dealing with (inter-)governmental authorities that wish to control their borders, we can ask ourselves: do NGOs participate in an early process of identification on the behalf of (supra)national authorities? Regarding the first principle of *Impartiality*, we will therefore look for a “(non-)participation of SAR NGOs in a early identification process”³¹⁰ that would allow Italy or the EU to rely on a cooperation with SAR NGOs with regards to the asylum prospect. To sum up, regarding our concept of *Impartiality*, our indicator will be the (non-)participation of SAR NGOs in the early process of migrants identification, notably by asking and giving information about the status of the people rescued. If it is the case, the principle of *Impartiality* would be affected.

The second initial of the humanitarian *INI* principle means *Neutrality* that is outlined as such: “the effort to refrain from taking part in hostilities and political controversies”³¹¹. This principle seems directly more problematic to comply with. Mostly because the Central Med. is also a high political space and many political controversies emerged over the years. We have already observed several cases in the first part of this work for which NGOs were the subject of political controversies (namely the accusations of collusion with smugglers or the pull-factor accusations). But on what basis can we found an analysis regarding the *Neutrality* of SAR NGOs at sea? As Stierl pointed out “finding a way to balance operational neutrality with a willingness to speak out”³¹² is not an easy task. Several elements regarding SAR operations can be taken into account in order to observe the humanitarian *Neutrality* at sea. The way the cooperation with the MRCC is established (what exchanges of informations, neutral, conflictual or cooperative), the willingness to disembark migrants on land/conduct fully-fledged SAR operations (or on the contrary only the rescue) and the disembarkation in process in itself, the relationship with EU operations' actors (presence or aid of the EU military protection) and the relationship with Italian and Libyan authorities (Coastguards and judicial powers as neutral, conflictual or cooperative) can be conceived as the indicators of the *Neutrality* principle at sea.

Our last traditional humanitarian concept is *Independence*. We define it as: “the commitment to operate autonomously from political actors and refrain from supporting their economic and security agendas”³¹³. Firstly, we should specify that “operate autonomously” is not

310 Indicator taken from Cusumano, *Ibid.*, p. 393.

311 Cusumano, *loc. cit.*, 2017, p. 390.

312 Stierl, *loc. cit.*, p. 718.

313 Cusumano, *loc. cit.*, 2017, p. 390.

possible at sea given the legal framework that we observed in the first part of this work. Nevertheless, the fact that SAR NGOs would operate independently from an economic point of view is more or less easy to wonder. It is sufficient to look for the contributors of the SAR NGOs. Is there a public (maybe European) funding? If so, the humanitarian principle of economic *Independence* would be challenged. As we stated in this work and accordingly with the academic literature, when looking at the security agendas of the political actors, we can argue two things. Firstly, the control of the Mediterranean and by the EU has been demonstrated. The “externalization” of the EU borders is exemplified by the Libyan case. But, to which extent do NGOs participate in this process? Secondly, the mandates of the European operations regard mainly the fight against smugglers and traffickers. Subsequently, the cooperation on anti-smuggling practices of the EU could therefore be conceived as a challenge of the *Independence* humanitarian principle (as well as the *Neutrality* principle)³¹⁴. The fact that NGOs could retrieve engines and makeshift boats or the presence of police personnel on board (as written in the Code of Conduct) are good indicators to assess the *Independence* of SAR NGOs. In addition, the presence of visual technologies can help the Italian authorities regarding their operations. It also indicates whether a NGO prefers to remain totally independent or chose to cooperate with State authorities.

To sum up, we have just highlighted what constitutes the “ideal-type” of the traditional “humanitarian role”. Firstly, we noticed that the “humanitarianization” of the Central Med. led to the development of a particular conception of the Central Med. as a “humanitarian space” on the one part and a particular conception of the “humanitarian” actions at sea on the other part. As a matter of fact, the nexus security-humanitarian was in place before the proliferation of SAR NGOs. Therefore, the humanitarian practices might have been influenced by the particular characteristics of the security-humanitarian practices at sea. By developing a traditional “humanitarian role” regarding SAR NGOs operations at sea, we intend to understand several elements. What is their own role conception? What is their effective role, mostly with regards to their practices and their narratives?

VI.III. Beyond a Traditional “humanitarian” Role:

Following our first postulate we should notice several remarks. As we stated in our review of the literature, Fassin's view on humanitarianism is interesting when dealing with humanitarian agents acting in “humanitarian space” such as the Central Mediterranean. Its

314 *Ibidem*.

postulate of NGOs as “political actors engaged in power relations, plays of alliance, and systems of negotiations”³¹⁵ recalls, on the one part, our transnationalist perspective and, on the other part, it gives us a first insight on the “humanitarian” role at sea. Our first hypothesis will confirm or infirm his statement. In addition, we should recall the work of Cusumano³¹⁶. This work uses, to a certain extent, the same indicators as the authors did. We already mentioned that this latter produced two SAR NGOs model based on two different types of humanitarianism. Nevertheless, each NGO has its own identity and is singular. In order to have a clearer view of the NGOs at sea we borrow the table1 of Cusumano. As we can see below, the proliferation of SAR NGOs took place between 2014 & 2016. They were approximately ten in 2017 following two types of rescuing model: a first one regards “rescue and disembarkation” and a second one provides “patrolling and rescuing”.

Figure 3³¹⁷:

Table 1. NGOs providing SAR off the coast Libya (August 2014–August 2017).

NGO	Capabilities	Starting date	Rescuing model
MOAS	40 m <i>Phoenix</i> 51 m <i>Responder</i>	August 2014 October 2015	Rescue and Disembarkation
MSF	50 m <i>Dignity 1</i> 68 m <i>Bourbon</i> <i>Argos</i> 77 m <i>Prudence</i>	April 2015 May 2015 March 2017	Rescue and Disembarkation
Sea-Watch	27 m <i>Sea-Watch1</i> 33 m <i>Sea-Watch2</i> 50 m <i>Sea-Watch3</i>	April 2015 March 2016 October 2017	Patrolling and Rescuing
Sea-Eye	23 m <i>Sea-Eye</i> 26 m <i>SeeFuchs</i>	May 2016 June 2017	Patrolling and Rescuing
LifeBoat Project	23 m <i>Minden</i>	June 2016	Patrolling and Rescuing
Pro-Activa	30 m <i>Astral</i> 37 m <i>Golfo Azzurro</i> 37 m <i>Open Arms</i>	June 2016 December 2016 March 2017	Patrolling and Rescuing
SOS-Méditerranée	77 m <i>Aquarius</i>	February 2016	Rescue and Disembarkation
Jugend Rettet	37 m <i>Iuventa</i>	July 2016	Patrolling and Rescuing
Boat Refugee Foundation	37 m <i>Golfo Azzurro</i>	September–November 2016	Patrolling and Rescuing
Save the Children	57 m <i>Vos Hestia</i>	September 2016	Rescue and Disembarkation

Our first hypothesis suggests that SAR NGOs' role may differ from the traditional *INI* principles. Moreover, as we have already said, the role of SAR NGOs and their compliance with the *INI* principles are not fixed and evolved over time. Subsequently, following our transnationalist principle of “reciprocal effects”, we state that actors have (in)direct effects on the actions of the other actors. In addition, our literature on SAR NGOs lacks of research regarding the most recent events that occurred in the Central Med. Following these two statements, our second hypothesis is: “SAR NGOs involved in the “refugee crisis” negotiate their role in the

315 Cuttitta P., *loc. cit.*, p. 636.

316 Cusumano, *loc. cit.*, 2019, p. 254.

317 Figure taken from *Ibid.*, p. 250.

Central Med. differently over time, depending on the actions of other actors”. The “selective emulation” and proliferation of NGOs started in 2014 and ended in 2016. As Cuttitta observed, the SAR “network” at that time can be conceived as in “repoliticization”. This latter defines the concept as “the process that restores the conflictual character that Schmitt identified as the essence of the political”³¹⁸. This latter argues that NGOs tried to “repoliticize” migration and border management by “questioning, influencing and contrasting governmental policies”. From 2017 and onwards, we can conceive the Central Med. as more and more “depoliticized”. The “depoliticization” can be understood as “the marketization of policy-making processes and the rise of technocratic forms of governance”³¹⁹. SAR NGOs would provide a humanitarian legitimation for “exclusionary policies and practices”³²⁰. Of course, both phenomena were not exclusive and both were/are present varying in intensity. We consider here the “depoliticization” as one of our main concepts. We understand this term in a wide definition which includes all “deterrence” actions and policies at sea.

Firstly, we will keep the same concepts and indicators as for our first hypothesis in order to analyse where NGOs place themselves. It means that their conception of *Humanity*, their participation in an early process of identification, their relationships with EU, Italian authorities and their economic and political independence will be our basic indicators in order to analyse their “humanitarian” role conception and practices. We formulate here a sub-hypothesis linked to it: more the Central Med. is “depoliticised”, more SAR NGOs will conceive their humanitarian role as political and distant from the *INI* principles. Subsequently, more the rise of deterrence actions and policies will arise, more the SAR NGOs will embody a role of political actors that will be reflected in their discourses and practices.

Regarding the actions of other actors at sea, we have decided to select the most relevant events in accordance with the literature that we review and its shortcomings. The “depoliticization” of the Central Med. and its restrictiveness is blatant. The 2017 Code of Conduct, the changes in SAR operations in 2018, (*Triton* to *Themis*), the 2018 Italian new policy of disembarkation, the operational activity of the LYCG and the criminalisation of NGOs (judicial prosecutions) will be the “depoliticized” actions that we have selected in order to observe the NGOs humanitarian response. And if they do, to which extent do they negotiate their role in order to keep their rescues at sea? To sum up, our second hypothesis is related to the

318 Cuttitta P., *loc. cit.*, p. 634.

319 *Ibidem*.

320 *Ibid.*, p. 633.

effects of the “depoliticized” actions of other actors (namely the EU, Italy and Libya) on the NGOs role as we described in our first hypothesis. What is their “humanitarian role” response towards the elements of “depoliticization” that we mentioned? What consequences do those events have on the role and the humanitarian practices of the SAR NGOs? Thanks to this hypothesis and following a multi-crossed sources analysis, we aim to enrich the literature on SAR NGOs and provide an in-depth analysis of one SAR NGO.

VII. Research Question and Hypotheses:

At this point, it seems important to remind our research question and the hypotheses we have formulated in our problematic as we situate ourselves in a deductive approach. Following the presentation of our IR paradigm, its relevance and its principles, we asked ourselves a new question: “How do NGOs involved in the “refugee crisis” negotiate their humanitarian role in the SAR (Search and Rescue) zones of the Central Mediterranean Sea?”. Then, with respect to the “humanitarian role” conception, we firstly postulate that: “SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. by developing a “new humanitarianism” with regard to the traditional *INI* principles and the principle of *Humanity*”. Afterwards, we decided to go further and ask ourselves if the most recent context has an influence on the “humanitarian role” (always with regard to the traditional *INI* principles and *Humanity*). Therefore, our second hypothesis became: “SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. differently over time depending on the actions of other actors”. As this second hypothesis remains broader and less clear, we decided to formulate a sub-hypothesis claiming that: “more the Central Med. is “depoliticised”, more SAR NGOs will conceive their humanitarian role as political and distant from the *INI* principles”. In other words, more the rise of deterrence actions and policies will arise, more the SAR NGOs will embody a role of political actors that will be reflected in their discourses and practices. We are aware that our hypotheses can be perceived as affirmative and lacking a clear interrogation. Nevertheless, these “affirmative” hypotheses and sub-hypothesis allow us to develop some comprehensive interrogation which we find totally in line with our transnationalist theoretical reasoning and our methodological case study.

Third Part: Research Design, Methods, Analysis & Results

This part will present our reasoning regarding the methods in order to collect and

analyse our data. Firstly, we will briefly mention the impact of the *COVID-19* outbreak on our work and methodology. Secondly, we will dress our research design through the selection of our case study, the recall of our indicators and our data collection and analysis. We decided in this work to follow a constructivist epistemology through a qualitative analysis combining two collects of data, namely discourse analysis and interviews. Lastly, we will present our findings and a discussion will come to close this empirical part.

VIII. Research Design:

Our research design came to our mind easily thanks to our theoretical framework, our research question and our hypotheses. Nevertheless, it was not the case a few months ago at the beginning of the *COVID-19* outbreak and we will explain why. Afterwards, we will present our case study, the NGO SOS Méditerranée, its societal and academic relevance. The operationalisation of our hypotheses will be observed and facilitate (in order to more easily analyse our material). The originality of our choice in the selection of two data collection methods will be modestly explained. Finally, the analyses will test our empirical development. Our findings and a small discussion will be ending this research.

VIII.I. *COVID-19* Impact:

Before starting the actual methodology and related to the particular international context due to the coronavirus, we find necessary to add a point explaining, to which extent, this work has been affected. As we stated previously, our first objective was to analyse the interactions amongst three actors at a macro level. But quickly, due to the *COVID-19* (but not only), we understood that it would be complicated to pursue this methodology. Moreover, the European bureaucracy answered us in two ways. Frontex was only available by mail and refused an interview. *Eunavfor Med Irini* told us by phone that they had no SAR mandate and were nowadays only dealing with the UN arms embargo on Libya. In addition, we have contacted the EU in order to get information about the *Eunavfor Med Sophia* but unsuccessfully.

Furthermore, travelling and going on site (for the EU or the *guardia costiera*) was necessary but really compromised. Therefore, with the help of our state-of-the-art and after consideration, we decided to modify and adapt our methodology. Due to the lockdown and the unpredictability of the evolution of the situation during the “crisis”, we chose to modify the methodology. As I was in exchange in Italy, I had to fly back to Belgium. The duration of the trip, the rush of emotions, the move of my belongings and finding a new home were some of the difficulties I faced when I

returned. Even though we know that these recent times have been difficult for everybody, we assert here that this work would have been totally different without the *COVID-19* outbreak. Since spatial mobility was not allowed, we opted for a qualitative work that focused on document analysis and non-physical interviews. To sum up, along with the psychological effects and the waste of time induced by the outbreak, the main effects on our work were the change of the actors studied and a “distanced” methodological preference.

VIII.II. Case Study, the NGO SOS Méditerranée:

Our case selection was influenced by several elements that we will depict here. On the one part, it has been selected according to “external” factors and on the other part, we will explain the academic features of this selection. First of all, this work stems from an initial question regarding the refusal of disembarkation of the NGO's boat, the *Aquarius*, by the Italian government. Therefore, it was clear for us that the NGO which conducted the operations would be at the core of our analysis. Moreover, SOS MED is one of the most active NGO at sea. For example, in 2016, it conducted about 20% of all SAR NGOs operations³²¹. In fact, for that year, SOS MED was the third (behind MOAS and MSF) SAR NGOs which rescued most migrants. The three NGOs together conducted about 70% of all SAR NGOs operations which represent about 40% of all migrants rescued at sea all actors taken together. Along with its importance in terms of operations and rescues, SOS MED is also one of the most active NGO with regard to the citizen awareness campaign. It also has a huge media coverage in French-speaking countries and is still in 2020 one of the last NGOs which operate at sea. To sum up, as we detailed in the introduction to our case study in the first part, SOS MED is one of the most active and best-known SAR NGOs. In consequence, it appears totally relevant to consider the NGO SOS MED as a typical and emblematic case of the situation. Finally, we should precise that our research regards the French branch of SOS MEDITERRANEE. As a matter of fact, the accountability of the rescue boat has been transferred to SOS MED France in 2017. Thus, we suggest that the office in France has more information regarding the operations of the rescue boat. In addition, given that French is my mother tongue, it would be easier for me to communicate with them. We believe that a qualitative research needs an excellent understanding of the language within the discourse. Thus, it seems logical that we have preferred to remain in our native language. Nevertheless, one of our main purposes is to transcribe these language particularities in English.

Academically, we opted for a one case study for several reasons. First of all, our state-

321 Cusumano, *loc. cit.*, 2019, p. 251.

of-the-art confirmed that SAR NGOs are not a well-researched issue among migration studies. Being a relatively new phenomenon (2014), this particular type of NGOs is not well documented. The specialist authors interested in this precise subject (the humanitarian role of SAR NGOs in the Central Mediterranean Sea) are not many. We stated previously that two SAR NGOs model have already been conceptualised by Cusumano. But, in order to compare qualitatively more than one study case, it requires a lot of time and some resources such as an address book or a “name” which is recognised by the “field”. Given that this is a student thesis, we preferred to focus on a single case. By doing this way, we pursue a double objective. On the one hand, we wish to follow Cusumano's work on the humanitarian role of SAR NGOs in the Central Med. His critical point of view helped us a lot in the elaboration of our problematic. It is one of the reasons why we chose to develop some critical border studies concepts in order to implement our transnationalist questioning. On the other hand, we aim at producing a qualitative in-depth work on one SAR NGO. It can be legitimised academically by two ideas. On the one side, it is justified by the identity of each NGO at sea. As we have already shown, according to our transnationalist perspective, each actor in a network has a particular identity and some particular interests and values. In addition, the authors of the critical border studies reached the same conclusions: “NGOs as “purposive actors with their own identities and interests” rather than passive carriers of transnational norms”³²². We appreciate here how the critical border concepts that we selected come to complement our transnationalist initial perspective. It allows us to emancipate and go further in our analysis on the role of SAR NGOs. Thus, we conceive the focus on a one case study as something particular and unique in relation with the special situation of NGOs operating in SAR zones. On the other side, we state that a qualitative in-depth research is also legitimised by the fact that we participate to the small amount of research related to SAR NGOs. The enrichment of the literature is aimed at anyone interested in boat migration and in SAR NGOs' (humanitarian) role.

After having dressed the outline surrounding our one case study, it is appropriate to specify the temporality of our research. It is clear, notably through our second hypothesis and its sub-hypothesis that we will use a longitudinal analysis. As a matter of fact, our research regards the “humanitarian” role of NGOs over time. But, first of all, we should notice that our broad topic temporality, “the refugee crisis”, started in 2014/2015. We also highlighted in our problematic that the proliferation of NGOs started at that time and reached its peak in 2016. Nevertheless, as we described in the “introduction to our study case” section, SOS MED operations began in

322 Cusumano, *loc. cit.*, 2019, p. 244.

February 2016. The *Ocean Viking* is still operating and we have selected several events which cover almost the date of these writings. We think here to the *Ocean Viking* which must remain docked because of the “technical irregularities” accusations of the Italian authorities.

In a nutshell, the analysis of our case study will start in 2016 until 2020. Nevertheless, we should specify what it includes and where it comes from. As we stated, 2016 marks the peak in terms of NGOs proliferation and the beginning of SOS MED. activities at sea with the *Aquarius*. It seems perfectly relevant to start with this period. Our problematic led to two hypotheses. The first one regards the *INI* humanitarian ideal-type and will be observed through a discourse analysis methodology. Additionally, we have decided to conduct some semi-structured interviews in order to make a comparison with our main corpus and to add more specific information. Our epistemology follows a constructivist view of the reality. As we are studying the role's conception (along with the practices of the NGO), we consider logic and useful to possibly asking questions that go outside our temporal framework (2016-2020). Indeed, in order to properly understand the frame, the narrative used by SOS MED regarding the *INI* ideal-type, we consider that asking question on its role's conception even regarding the start of the “refugee crisis” is legitimised. It is also confirmed by our state-of-the-art (point 4.1 “a crisis, what crisis?”). Our problematic further confirmed this trend with the principle of *Humanity* which regards the role conception on the “subject of their compassion” and therefore also on their role's conception. The perception of the start of the “crisis” is therefore justified. Nevertheless, apart from this point, our whole analysis will concern the following temporality: “2016-2020”. As a matter of facts, our corpus of documents (that we will detail further below) regards only those years. But we consider that for the interviews for example, it would be interesting to go outside this framework. To summarise our temporality in a few words: our corpus and our case study concern exclusively the period 2016-2020. Nevertheless, we consider that our analysis perspective can encompass the broader “refugee crisis” issue.

The second hypothesis is even more concerned by the temporality of our analysis. Indeed, the “action of other actors” or, more precisely, the “depoliticization” related to them are directly involving a notion of time and causality. What is at the core of this second hypothesis is the postulate that there is a causal relationship between the “depoliticization” policies and the traditional “humanitarian” role throughout its conception and its practices. It seems therefore perfectly appropriate to use some elements of process tracing in order to test this hypothesis. We will keep the same methods of collect as for our first hypothesis, the 2016-2020 corpus of

documents mixed with interviews. We will try to understand the most recent phenomena at sea and their consequences on the humanitarian role at sea. We will describe the “actions of other actors” selected in the next section dedicated to the operationalisation of our indicators.

To conclude, our research is an in-depth qualitative and reflexive research situated at the *meso* level. Due to the coronavirus situation and in line with our state-of-the-art and our problematic we opted for a case study alone. We are aware that it lacks of scientific abstraction. Nevertheless, we believe that this research could be useful for anyone interested in Central Mediterranean migration and constitutes a typical case of SAR NGOs in the Central Med. Moreover, we have highlighted the original character of this study. By crossing the transnationalist perspective with critical border studies concepts, it allows us to have a particular grid in order to analyse the “humanitarian” situation at sea. In addition, our problematic led us to a particular questioning which regards a period of 4 years (2016-2020) even though our broader subject also includes the start of the “refugee crisis” (but to less extent).

VIII.III. Operationalisation:

The operationalisation of our hypotheses has already been introduced in our problematic. Nonetheless, we find necessary to recall in this section the concepts and their indicators in order to better appreciate our selection of collect and analysis methods. At the same time, we will already abbreviate our indicators as a way of reducing the complexity of our research.

As we recalled in “section VII.”, our research question regards the negotiations of SAR NGOs humanitarian role. Our first hypothesis postulates that SAR NGOs negotiate their humanitarian role in the Central Med. by developing a “new humanitarianism” with respect to the traditional *INI* scheme and the principle of *Humanity*. We saw in the academic literature that the humanitarian role is traditionally conceived as *Impartial*, *Neutral* and *Independent* and including the principle of *Humanity*. By applying the traditional humanitarian ideal-type of *INI & Humanity* to our case study, we hope to grasp the particularities of our NGO in relation to its role conception and practices. Through a comprehensive posture, we aim at observing, or not, a “new” humanitarianism developed at sea. As we have already stated in our problematisation, the principle of a particular *Humanity* conception can be related to two indicators: the “humaneness” (from now also Hum1) and how do they conceive the “subjects of their compassion” (from now also Hum2). The first *INI* principle, *Impartiality*, will be tested through the (non)participation of

NGO in an “early process of identification by asking and giving information about the status of the rescued” (from now also Imp1). The second *INI* principle, *Neutrality*, will be applied thanks to several indicators such as: the cooperation with the MRCC (from now also Neut1), the moment of disembarkation (from now also Neut2, in order to understand which (non)cooperation is at stake), the relationship with other actors operating at sea, namely the EU operations (*Eunavfor Med Sophia/Irini* and the change *Triton to Themis*), the Italian and Libyan Coast guards (from now also Neut3). We will ask ourselves whether there have ever been any cases of protection, transshipment (cooperation) or conflict and conflict potential(competition). Our last *INI* principle, *Independence*, is operationalised by two indicators. The first one regards the economic independence and will look for the presence of public funding (from now also Indep1) and the second one regards the political independence by wondering if the NGO cooperate and participate to anti-smuggling European policies (from now also Indep2). Therefore, the second indicator will ask if the NGO retrieve engines and makeshift boats (Indep2.1), if the NGO is willing to accept police staff on board (Indep2.2) and lastly, if it uses visual technologies and gives visual contents to (supra-)State authorities (Indep2.3).

Our second hypothesis regards the “actions of other actors” and the “depoliticization” (deterrence policies and actions) that comes with them. We postulate that humanitarian role is not fixed and evolved over time and that the actions of “depoliticization” are the cause of the differentiation to the traditional humanitarian role (if one exists). It means that by applying our ideal-type model, we will look for differentiation to the *INI* principles over time depending on several actions put in place by other actors. We will keep the same eight indicators mentioned regarding the *INI* model and we will research, to which extent, those indicators have changed over time. By doing that, we had to select the “depoliticised” policies at stake that will give a good account of the evolution of the humanitarian role and the global situation of the Central Mediterranean. Therefore, we aim at finding a causal relation between the “depoliticized” actions of other actors and the traditional humanitarian role of our NGO. The actions at stake are the 2017 Code of Conduct (from now also 2017Code), the European changes in SAR operations (from now also EUSAR) the 2018 Italian policy of refusal of disembarkation (from now also 2018refusal), the LYCG operational activity (from now also LYCGacti) and the criminalisation/prosecution by State authorities.

To sum up, we have two hypotheses related to our grid of eight indicators deriving from our ideal-type of “humanitarian role”. Following a comprehensive posture, we will work on this

humanitarian role throughout the years and try to comprehend every aspect of the humanitarian role of our NGO. The second hypothesis allows us to reflect on the external factors which could influence the traditional humanitarian role of the NGO and its principles. In order to apply this research design, we still need to develop how we will collect and analyse the data.

VIII.IV. Methods of Data Collect and Data Analysis:

We saw in our theoretical framework that the transnationalist perspective gives an important place to the “frame” and the narrative of the actor. This type of reasoning allows us to reflect on the identity and the values of one actor in a network. Following this statement and in line with our first hypothesis which aim to understand the particular identity of our NGO through its humanitarian role, we find perfectly relevant to use some discourse analysis. Thereafter, in order to collect some useful and relevant documents, we have decided to collect a uniform corpus of documents belonging to the NGO. Our selection was soon directed towards the website of the NGO³²³. Thanks to our research and the availability of the sources, we have decided to gather a corpus of 7 documents. This corpus includes: three “activity report” (2016, 2017 and 2019) and four official press release files regarding 2018, 2019 and 2020 (three basic press release and a 2020 “women press release”). We detail in “Appendix I” the corpus that we will use. The relevance of this document selection holds in the fact that both hypotheses could be tested. On the one part the temporality is more than well represented (we have at least one document for each year) and on the other part, it induces a good timeline for our second hypothesis.

Our second method of data collection is the interview. We state that our qualitative research would be really relevant only if we had some direct contact with the NGO. Thanks to their availability, we were able to conduct two qualitative semi-structured interviews. We opted for the “semi-structured” form because it leaves some freedom for the interviewer. The first interview was a three-people interview (including me). We interviewed two members of the advisory board, one regional representative of the NGO and a specialist in citizen mobilisation. The second interview was conducted with another advisory board member. This latter is also the official spokesperson of SOS MED France. We used the “Skype” calls platform and put the transcriptions in the “Appendix III” of this work. Moreover, the “interview guide” as well as the “consent document” are available in the “Appendix II”, at the end of this thesis. The eight indicators and the five “depoliticized” events have been translated as questions. We have decided to choose the interview as a second method of data collection for two reasons. First of all, we

323 See: <https://www.sosmediterranee.fr/> (Accessed on 08.16.20)

considered our corpus only as non-sufficient in order to generalise our results. Our corpus was too “poor” for being scientifically valid. Secondly, the fact that we have two methods of collect will allow us to compare the results and to generalise them. The comparison between the data obtained from two different methods of collect enhances the possibility of finding data for our questioning. Therefore, we gain in abstraction and in generalisation.

Before starting our analysis and present our results, we should specify several elements. From a theoretical point of view, we follow here a constructivist epistemology. The socio-construction of the reality will be analysed through elements of discourse analysis. Initially, we wish to test our hypotheses on the corpus material. The interviews will come to confirm/infirm compare and generalise the results of our documents analysis. Moreover, following the qualitative-deductive methodology that we use in this work, the discourse analysis will follow on the one part a “frame” method (notably for the *Humanity* indicators). On the other part, in line with our state-of-the-art and our problematisation, we aim at providing a rather critical analyse in order to “emancipate” the NGO from its negative aspects of the “humanitarian” label, notably through its (non-)participation to the EU anti-smuggling policies. On the other part, thanks to the particular “framing” discourse analysis, we want to give an idea of the identity and the values of SOS Méditerranée. To summarise, both types of discourse analysis (“frame” and “critical”) will help us in the analyse of our material (both our corpus and the interviews). In addition, regarding our second hypothesis, we will try to provide a process tracing analysis. We will also keep the discourse analysis for this hypothesis by trying to analyse the causal implication of the 5 “depoliticized” policies on the “humanitarian” role and practices of the NGO. In conclusion, theoretically, our analysis methods entail elements of “framing” and “critical” discourses as well as some elements of process tracing. But what does it means more practically?

More practically, we will use the grid of eight indicators that we described previously. A simple deductive application of our “ideal-type” theoretical model of a humanitarian role will help us in the understanding of the identity and values of the NGO. Therefore, we will firstly review our corpus of texts thanks to this grid. At the same time, we will test it also regarding the events of our second hypothesis. The same grid will be applied qualitatively regarding the discourse of the NGO on the 5 events mentioned. Afterwards, the answers of our participants will come to complete what we find in our documents. Logically, the same analysis will be followed towards their responses.

The results will be presented in the same way as our analysis. By finding or not the indicators and the influence of the 5 events on these 8 indicators, we will be able to answer both hypotheses. Therefore, the analysis will present both material one after the other. Then, our results section will present the combination of these latter.

IX. Analyses & Results:

In this section, we will present the first findings of both data material we analyse. We will begin with the document analysis. Then, we will pursue with the interviews that we have conducted. At the end of each material, we will link it to our hypotheses in order to have a first draft response. The ensuing section will combine both findings in order to present our final results. The analytical grid that we apply to our collect of data is available at the end of this work in “Appendix IV”.

IX.I. Documents Analysis:

Before starting to test our theoretical *INI* grid to our NGO documents, we should specify that the traditional humanitarian principles are clearly mentioned by the NGO in its documents. We find in several “Activity Report” (from now also date+REP and date+DOS for “Press Release” documents) the direct promotion of those principles. It is written in 2016REP that the NGO has “the task to act outside the political agendas”³²⁴. It corresponds to the political *Independence* of our *INI* scheme. The NGO claims to be a “humanitarian association independent of any political party”³²⁵. In addition, regarding our first hypothesis, they seem to be perfectly aware of the *INI* humanitarian principle. The values that it promotes “are those of a humanitarian and impartial association, independent of any political party and of any denomination”³²⁶. We can already state here that the NGO officially position itself in line with the traditional humanitarian principles. Its official missions and values are written as such: “**humanity**, transparency, **independence**, civic commitment, **non-discrimination**, solidarity, protecting the people rescued and directing them to appropriate resources”³²⁷.

The first humanitarian principle that we identify is *Humanity*. The frame in which the

324 All translations are made by the author of this work. Every direct quote will be referenced with the name we assigned to the doc. (cf. Appendix I) and the number of the page. Here: 2016REP, p. 9. Moreover, every principle and its indicator(s) could be written according to the abbreviations we described in the operationalisation (cf. section VIII.III)

325 2016REP, p. 18.

326 It is written in the Charter of the NGO, available in 2016REP, p. 26.

327 2017REP, p. 14 and 2019REP, p. 5.

NGO is situated will tell us more about how they conceive the human essence of its actions at sea and the people that it rescues. To do so we will use the two indicators that we developed. Namely, Hum1: “humaneness” and Hum2: ‘the subjects of their compassion’. Regarding Hum1, each document brings to the fore several elements. The first one is the NGO stress on the morality and legality of their actions. It conceives its mission as a “moral and legal imperative”³²⁸. Moreover, three main guidelines come along with the NGO ethical-legal view on humaneness at sea. The first conception is the non-acceptance³²⁹ of the tragedy occurring at sea. It is more linked to the ethical view on this shame, this “scandal”³³⁰ on behalf of the European society (States and citizens). The second idea is placing life above all as “Saving lives” is its core mission³³¹. This latter is also conceptualised as a universal³³² mission which clearly show their particular view on humaneness. This idea is reinforced by its view on humaneness as in need of empathy and solidarity³³³. Along with this idea of empathy & solidarity, the main aim is to bring dignity³³⁴ and sustainability³³⁵. All this conception of the particular humaneness present at sea come with feelings of benevolence³³⁶. Thus, we see here that the humaneness is related to a ethical-legal conception of life which allow to reflect on the non-acceptance of tragedy³³⁷, the conception of life above all through values of empathy and solidarity. This narrative totally fits with a particular sense of humaneness in a humanitarian sense. We can also add that a call to the “soul”³³⁸ of the European citizens (along with the universality that we mentioned) almost gives a metaphysics interpretation of humaneness at sea. It includes an idea of cosmopolitanism and perceives the humankind as a whole interconnected system where the liberty of movement should prevail.

Furthermore, we notice that the “emergency”³³⁹ is one of the features highlighted by the NGO. It seems to be in line with the traditional humanitarian view on their actions. The second interesting element regarding SOS MED's vocabulary is that they also often use a special lexicon which brings to the fore its professionalism. They call for efficiency³⁴⁰ and, from 2017, start to speak about a “capitalisation of their experience”³⁴¹. We observed, sporadically, a neoliberal

328 Present in every document: 2016REP, 2017REP, 2018DOS, 2019DOS, 2019REP, 2020DOS, 2020FEM.

329 *Ibidem*.

330 2016REP, p. 5.

331 Present in every document analysed.

332 2017REP, p. 7.

333 2019REP, p. 3.

334 *Ibid.*, p. 16.

335 2016 REP, p. 26.

336 *Ibid.*, p. 7.

337 *Ibid.*, p. 5.

338 *Ibidem*.

339 Present in every document.

340 2016REP, p. 26.

341 2017REP, p. 5.

vocabulary (also for example with the expression of “mass rescue guide”³⁴²) in the documents. In line with our critical view in the analyse of our documents, we recall here the concept of appropriateness borrowed to critical border studies. “NGOs’ organizational structures and actions are not solely informed by a logic of consequences aimed at minimizing human suffering, but also shaped by a logic of appropriateness”³⁴³. It seems to be one of the collateral consequences of the humanitarian actions of the NGO. At the same time, our Hum2 will allow us to reflect on this issue and to perceive to a broader extent how the NGO is considering the “subjects of their compassion”.

Our second indicator, Hum2, is interested in how the NGO frames its conception on the people they rescue, “for whom it has compassion/empathy” (as we have just described above). Firstly, we should notice that the NGO refers almost every time to neutral forms (with regards to compassion/empathy) such as: migrants, refugees, survivors, people or persons. In every document we analysed, these five words are the most employed for describing the “subjects of their compassion”. In line with what we wrote in the previous point, they “save people's lives without judging what life it is”³⁴⁴. Nevertheless, besides this “neutral” lexicon, we found terms directly involving the compassion for the people rescued at sea. The NGO put several times the stress on the “hope that the NGO represents for them”³⁴⁵. Through its missions of testimony and sensitisation, the NGO give a voice to the survivors³⁴⁶. In line with our critical perspective, we can see this mission as “perpetuating, to some extent, the neo-colonial image of the ‘good’ Europeans helping the suffering victims of the ‘bad’ smugglers”³⁴⁷. Indeed, we find in several cases, the description of the migrants as in need of help and of European (in a large sense) protection, “rather than as subjects who, in trying to realize their projects, are contesting and defying the political construct of the EU border regime”³⁴⁸. This image of the neo-colonial rescuer can be exemplified by this extract: “I was the one helping her, not the one being helped, so I tried to put myself mentally in her place. But what could your life be to make this choice and embark on this journey, taking all these risks?”³⁴⁹. The depiction of migrants in suffering, “fleeing misery”³⁵⁰ can participate, but only to a certain extent, to the images of the “good” Europeans and

342 *Ibidem*.

343 Cusumano, *loc. cit.*, 2019, p. 244.

344 2017REP, p. 16.

345 2016REP, p. 5.

346 *Ibidem*.

347 Cuttitta P., *loc. cit.*, p. 645.

348 *Ibidem*.

349 2018DOS, p. 57.

350 *Ibid.* p. 18.

the poor third-country people. Nonetheless, we will come back to our critical stance in the discussion part of this work. We also mention here the particular attention given to women (for example both “women press files” in 2019 and 2020). The distinction between men and women seem to be really important in the humanitarian action. The creation of special “shelter” on board, the specific protection needs for women and children are realised by the NGO and by the migrants themselves (they put women and children at the centre of the boat).

To conclude our first principle, *Humanity*, we argue that the analyse of our corpus suggest that the NGO has a traditional humanitarian perception for both our indicators. Therefore, we argue that its conception of *Humanity* is in line with the traditional humanitarian conception of this principle. Hum1 is characterised by a sense of ethical and legal obligation which results in three main ideas: the non-acceptance of tragedies, saving lives as the highest priority and the needs for empathy and solidarity. We dress a first criticism through the neoliberal vocabulary and the possible appropriateness of the migrants by the NGO. Then, we analyse Hum2 which we qualified mostly as neutral even though feelings of hope, suffering and misery were brought to the fore by the NGO regarding their compassion for migrants. We replace this particular frame in a critical perspective by arguing that it perpetuates, only to some extent, a neo-colonial image of the European saviours.

The first principle of the *INI* scheme previously described is *Impartiality*. We named one indicator Imp1 in order to apply this principle to our case. An “early process of identification” or “requesting and giving information to (inter-)State authorities about the status of the persons rescued”, would be considered as a non-respect of the *Impartiality* principle. What came out regarding this matter is non-ambiguous. The NGO officially only “protect and accompany towards the migrants information and assistance systems in place on the European territory”³⁵¹. This suggests that the NGO provides information about the European asylum system but we do not know, to which extent, that goes. It seems important to notify that this possibility of giving information to migrants was only present in the first “Activity Report” (the early days of the NGO) that we analyse. Therefore, we assume that the NGO strategy has probably changed because it could hamper their impartial image. At the same time, we are not able to verify this information. It is one of the reasons why we chose to focus on another indicator.

Regarding Imp1, we saw that, over the years, people rescued were requested different

351 2016REP, p. 10.

elements. In 2016, the “strict” criteria were: registration, distribution of welcome kits, medical screening³⁵². Still, we do not have further information regarding the details of this information and if some were given to authorities or not. From 2017 onwards, following the “professionalisation”³⁵³ of the NGO, more detailed information started to be described in the documents. The NGO mentions it as a “anonymous census” in which “gender, age, injured or vulnerable persons, pregnant women and children, minors travelling alone, country of origin” are observed³⁵⁴. This trend is confirmed in the 2019REP, the registration is made according to “gender, age, country of origin, screening of injured or vulnerable people, pregnant women and children, unaccompanied minors”³⁵⁵. Therefore, we assume that an “early identification process” is made on board. Nevertheless, nothing in our corpus indicates that any information was given at any time to any sort of authority. To sum up, based on the reading of our corpus, we argue that the principle of *Impartiality* is respected by the NGO. The NGO well request information which can be considered as an “early identification process” but nothing indicates that it gives any information to any authority.

Our second *INI* principle is *Neutrality*. We operationalise three indicators (Neut1, Neut2, Neut3) in order to test the *Neutrality* of our SAR NGO. Neut1 concerns the relationship with the MRCC (Rome) and the JRCC (Tripoli). As we have already stated, a minimum of cooperation had to take place at sea between actors and a centre of coordination. This is linked to the legal framework of the SAR operations at sea. But, to which extent this relationship is neutral or not? Regarding the MRCC Rome, we found out several elements from our corpus. The NGO is well aware of its necessity to cooperate (and have good relationship) with the MRCC Rome. Indeed, it describes the relationship with this latter as a relationship that is simply one of “coordination”³⁵⁶. In 2016, there has been a meeting between both actors but only with regards to the coordination of the operations³⁵⁷ (which we recall is mandatory in order to act under international law). Moreover, the contacts between the NGO and the MRCC is made by phone, Inmarsat and mail. Two different scenarios are usually explained by the NGO. Either the MRCC sends the information about the boat in distress to the NGO or the NGO locates a boat in distress and informs the MRCC before intervening³⁵⁸. The findings that came out from our corpus regarding

352 2016REP, p. 15.

353 From 2017REP and onwards.

354 2017REP, p. 22.

355 2019REP, p. 25.

356 Taken from 2016REP, p. 13. & 2017REP p. 21.

357 2018DOS, p. 4.

358 2016REP, p. 14. & 2019REP p. 21.

Neut1 is a neutral relationship which remains to a state of “coordination” and courtesy. Nevertheless, we should note here that the 2018 “Activity Report” is missing from our corpus. We suggest that the NGO discourse on the MRCC Rome would differ from that date. As we read in the 2019REP, “there is a total confusion about the coordination of rescue operations in the area since the MRCC Rome transferred coordination to the Libyan JRCC”³⁵⁹.

Our indicator Neut1 seems pretty harder to apply to the relationship with the Libyan JRCC. As a matter of facts, the NGO describes its relationship with the JRCC Tripoli has not coordinated at all. They describe the situation unilaterally: “the JRCC hardly ever answer the calls and does not have an English-speaking interlocutor”³⁶⁰. Thus, the relationship is more characterised by non-coordination (“almost total lack of coordination”³⁶¹), unreachability and complexity³⁶². In response to this complicated relationship, the NGO develops its legal narrative: the breaches in international law, these serious shortcomings. The NGO takes here a role which is more “politicized”. Denunciation, whistleblowing and accusations characterised more the NGO attitude towards its absent Rescue Coordination Centre. We argue that the NGO does not have a neutral discourse regarding its relationship with the Libyan JRCC. Nevertheless, factually, the relationship remains neutral as they are respecting the maritime law regarding the coordination of the operations. The NGO declares in our corpus of documents to always contact the JRCC. Regarding this latter indicator, we perceive a more “political” stance in which the NGO reports the problem facing at sea by denouncing and directly accusing. Indeed, the NGO denounces “the lack of adequate means of rescue” and “of an effective control over the entire LYCG”³⁶³.

Our second indicator regarding *Neutrality* is Neut2 and regards the “disembarkation process” of the NGO. Our results concerning this indicator are constant and unequivocal. The NGO always refers to the disembarkation in Italian ports. We suggest here that its implicit intention is always to disembark the people on the Italian territory. Most likely because it is the closest and therefore the safest solution for the NGO and the people they carry. The reference to disembarkation is always the same: “The Italian authorities (Ministry of Health and Ministry of the Interior), assisted by international organisations such as the International Organisation for Migration (IOM), the Office of the United Nations High Commissioner for Refugees (UNHCR), Frontex and local or international humanitarian associations present on Italian soil (Italian Red

359 2019REP p. 12.

360 2019REP p. 8.

361 *Ibid.*, p. 22.

362 *Ibid.*, p. 15.

363 2017REP, p. 22.

Cross, Save the Children, etc.), take full responsibility for reception on land in the ports of destination”³⁶⁴. We state here that, regarding Neut2, the NGO fully respect the *Neutrality* principle. Indeed, as the operations are coordinated by a national agency (the MRCC) and because entering the port remains a State sovereign competence. The fact that several entities are waiting on land seems logical. The principle of *Neutrality* could be considered as breached in the *Rackette* case for example. Therefore, an ethical question arises because of the lives-threatened on board. We perceive all the complexity and the paradox of humanitarian SAR actions in the Central Med. The degree of cooperation on land with the different entities could also be considered as a contrary to our Neut2. Nevertheless, nothing indicates in our readings that SOS MED. has, at any time, cooperate with authorities except for legal obligations respect.

The final indicator regarding *Neutrality* is “the relationship at sea with other actors, namely the EU operations, Italian Coast Guards and the LYCG”. Neut3 analyses this relationship in terms of *Neutrality* according to the protection of one actor, transshipment with one actor and the conflict potential. Based on our readings, we did not find any mention of protection at sea on behalf of any actor. Regarding the transshipment, we found only one mention of a case of transshipment from the *Ocean Viking* towards an “Italian ship”³⁶⁵. We have also found other mention of transshipment but without specifying the actor³⁶⁶. Regarding the conflict potential with actors at sea and the (non-)competition coming with it, we found unsurprisingly a conflictual relationship with the LYCG. Indeed, the NGO describes LYCG's errors as direct “threat for migrants”³⁶⁷. The NGO also mentions “confusing and delicate operations” due to the LYCG presence. Along with a criticism regarding the legality of the actions of the LYCG (interceptions, the compliance with the notion of “port of safety” and more broadly the respect of the maritime international law³⁶⁸), the LYCG is seen as an “unpredictable actor”³⁶⁹. As a matter of facts, several events such as the “SAR operation interrupted by gunshots and migrants racket on the 23rd of May 2017”³⁷⁰, “the non-response of the Libyan vessels to the *Aquarius* calls”³⁷¹ show the particular conflictual relationship between the NGO and the LYCG at sea. But we should specify two points. Firstly, “the *Aquarius* rescuers systematically offer their assistance to carry out rescues, but this assistance is almost systematically refused by the Libyan authorities, who order

364 Same sentence in 2016,2017 and 2019 REP.

365 2017REP, p. 24.

366 2016REP, p. 18.

367 2017REP, p. 15.

368 *Ibid.* p. 22.

369 *Ibid.* p. 39.

370 2018DOS, p. 18.

371 *Ibidem.*

humanitarian vessels to move away”³⁷². We see here that the *Neutrality* principle can be seen as compromised since the start of the LYCG operational activity in 2017. The maritime competition between both actors raises an ethical dilemma for the NGO in pursuing its activities. On the one part, the NGO proposes its assistance to the LYCG when it witnesses a tragedy. On the other part, the conflictual competition with the LYCG about where to bring the migrants rescued come to a deadlock. Secondly, the NGO response to this operational trouble has been a denunciation of the LYCG practices. To sum up, we argue that SOS MED *Neutrality* at sea has been affected by the arrival of the LYCG in the SAR operations in the Central Med., either by the NGO proposal of assistance (raising a possible cooperation with the LYCG which we conceive as really hard to apply) or by its non-relationship with this latter resulting in a conflictual process.

In addition, with regards to Neut3 and the (non-)conflict potential with actors at sea, we should add that both for European operations and for Italian ones, we did not find any sign of effective, operational conflict potential in our corpus. As a matter of facts, the conflict potential coming out from our corpus is more discursive. Regarding Italy, the NGO pointed out the “the insufficient means implemented by the Italian authorities”³⁷³. Along with the operational means, it also criticises the 2018 “stiffening of Italy”³⁷⁴. The same observation applies also to the EU. The “lack of short-term response and long-term strategy” is used by the NGO to characterise the European (in-)action at sea. We state that the principle of *Neutrality* is respected effectively by the NGO towards both actors (the EU & Italy). We also mention the discursive political denunciation regarding European and Italian policies on behalf of the NGO. We did not find any data mentioning protection, transshipment for the three actors. As we have already described, the conflictual potential comes along with the LYCG actors. We mention here, the injunctions of moving and the air gunshots by the Libyan patrols. Nevertheless, the NGO seems to have always been *Neutral* in its operative actions.

To conclude our second *INI* principle, *Neutrality*, our three indicators have shown different features. Regarding the *Neutrality* of our NGO, we argue that it has a neutral operational relationship with the EU and Italy. The cooperation with the MRCC, the disembarkation in Italian ports and the non-protection, a one case of transshipment and non-operational conflict potential allows us to state this result of *Neutrality*. Nevertheless, discursively, the NGO advocates for changes on behalf of these two actors. The change of coordination to the JRCC, the operational

372 2017REP, p. 22.

373 2016REP, p. 8.

374 2017REP, p. 15.

lack of means are some of the political points that the NGO denounced. The main results regarding *Neutrality* is the operational conflictual relationship with the LYCG and the quasi-nonexistent relationship with the JRCC. We argue that the establishment of the Libyan operational activity in SAR activities raises *Neutrality* troubles for SOS MED. Thus, the NGO is operationally neutral except in its relationship with Libyan authorities. Furthermore it advocates discursively for political changes on behalf of three actors.

Finally, the *Independence* principle comes to close our first analysis. As the NGO stated, “the association is apolitical with only one imperative: to save lives at sea”³⁷⁵. On the one hand, by looking to the funding, we are able to say if the NGO is economically independent or not. It is *Indep1*, our first indicator. On the other hand, the political independence (with regards to our critical border perspective) will be interested in the NGO (non-)participation in anti-smuggling policies. This second indicator, *Indep2*, is subdivided in *Indep2.1* (engines & makeshift boats), *Indep2.2* (police personnel on board) and *Indep2.3* (visual technologies content + give visual content to authorities). Then, based on the first results of this document analysis, we will be able to dress a first response to our first hypothesis.

The funding of the NGO is described at the end of almost every document. The NGO put the stress on the fact that, each year, the private funding represents more than 90% of its total funding. Thus, we had a look to the public part of its funding. It is only in 2016 that the NGO received a state public donation from the Principality of Monaco³⁷⁶. Given that Monaco is part of the EU, we can understand, to a certain extent, a conflict of interest. Nevertheless, we assume here that it was the first the year of the NGO and that this latter then started to refuse any kind of “polemical” funds. Indeed, when looking at other public power or institutional funding from 2017 onwards, they all come from regional or local power such as Paris City Hall³⁷⁷, the region of Occitanie³⁷⁸, the Loire-Atlantique department³⁷⁹ and more recently the Miramas municipality³⁸⁰. In addition, the granting of French parliamentary reserves come to complete the public part of the NGO's funding. The NGO seems transparent on its public funding. It corresponds each year to less than 10%. To sum up, the weak proportion of French public powers funding allows us to conclude that the NGO is economically independent from any (inter-)state entity (except in 2016

375 2018DOS, p. 32.

376 2016REP, p. 22.

377 *Ibid.*, p. 30.

378 2017REP, p. 35.

379 2019REP, p. 39.

380 *Ibid.*, p. 41.

with Monaco).

Regarding our second indicator, Indep2, we only found one case of cooperation between the NGO's boat, the *Aquarius*, and the anti-smuggling operation, *EUNAVFORMED (Sophia)*. The position of a boat in distress was indicated to the former by an operational plane of the latter³⁸¹. Following this kind of process, we state that a certain degree of operational cooperation might have happened. Therefore, it also concerns the *Neutrality* of our NGO because we could suggest an operational cooperation between EU operations and the NGO. Nevertheless, we consider this case as isolated and we do not consider a clear participation in European anti-smuggling policies. And with good reason, despite this event described by the NGO, we have not found any positive or negative result for our sub-indicators Indep2.1, 2.2 and 2.3. The NGO usually only describes the types of boats used by the smugglers³⁸². In conclusion, we argue that the NGO is economically independent. Despite some small public funding (with regards to its total budget amount), we have not found any funding which could interfere with the independence of the NGO. Additionally, we did not find any of our indicators regarding a direct participation of the NGO in anti-smuggling policies. Subsequently, we cannot clearly confirm or infirm the (non-)participation of our NGO to anti-smuggling policies.

At this point, it seems reasonable to recall our first hypothesis. We postulate that SAR NGOs negotiate their “humanitarian role” in the Central Med. by developing a “new” humanitarianism with respect to the *INI* traditional principles & the *Humanity* principle. Based on the results of our discourse analysis regarding our 2016-2020 corpus, we are able to argue that the *INI* principles and the *Humanity* principle are almost all fully respected by the NGO. We should notify that we cannot confirm or infirm the political independence of the NGO regarding our three sub-indicators (Indep.2.1,2.2,2.3). We hope that the data provided by our interviews will help us fill the gaps of our documents analysis. Additionally, it will be interesting to compare both results regarding our case study.

Our second hypothesis regards the effects of five “events” (2017Code, EUSAR,2018Refusal, LYCGacti and criminalisation) that occurred in the past few years. We apply the same analytical grid in order to understand if the traditional (*INI+Humanity*) humanitarian role of the NGO has been affected by these “actions of other actors”. Through the

381 2018DOS, p. 32.

382 2016REP, p. 15.

analyse of our corpus of documents, we were not able to find all the indicators for the events mentioned above. Therefore, we will only present which (if there is) indicator(s) of the analytical grid has/have been affected by the events. Moreover, we will present the specific discourse of the NGO regarding these (non-)causal phenomena in order to understand the consequences on the NGO.

Regarding the 2017Code event, we did not find any indicator directly affected by the signature of the Code. Related to our readings, we found out that the NGO mentions to “have signed an amended version”³⁸³ of this code and that “several NGOs refused to sign this text”³⁸⁴. The NGO discourse turns the 2017 year into an “increase in complexity”³⁸⁵ which started with the Malta declaration and including the 2017 NGO Code. Confusion, complexity³⁸⁶ seem to characterise the year during which the Code has been written. Our second event, the changes in European SAR operations (EUSAR), cannot be tested on our corpus. Indeed, the NGO describes the European “insufficient rescue resources” and mentions Frontex Triton operation as a “border control operation” which “does not affect the number of people trying the journey”³⁸⁷. Therefore, our hypothesis cannot be analysed as there is no mention of the humanitarian role and the humanitarian practices influences that could have this change. The only interesting fact is that, when the NGO wrote about these first two events, it is often accompanied by a political criticism of these “policies”. The third action that we chose to test is the 2018 new Italian policy regarding disembarkation refusal (2018refusal). The direct consequences that we found regarding the humanitarian practice is the fact that there was already a “difficulty to find a port of disembarkation” and the “distances to be covered to get there are all factors that further diminish the rescue capabilities off Libya”³⁸⁸. Nevertheless, the accessibility of a “port of safety” and “the distances to be covered” were not indicators that we considered in our “humanitarian” analysis. Therefore, as for the first two events, our corpus of data does not allow us to ensure that the 2018Refusal directly affected the traditional humanitarian principles of the NGO according to the indicators we selected. Nevertheless, the discourse of the NGO highlighted the fact this event was highly media covered. Moreover, SOS MED pointed out that this policy became the “new norm”³⁸⁹ and participate to the “criminalisation campaign”³⁹⁰ of this period. Our fourth event,

383 2017REP, p. 18.

384 2018DOS, p. 18.

385 2018DOS, p. 7.

386 2018DOS, p. 18.

387 2017REP, p. 14.

388 2017REP, p. 20.

389 2019REP, p. 8.

390 *Ibidem*.

LYCGacti, was already discussed in our first hypotheses. We argued that the operational activity of the LYCG has direct influence on the Neutrality principle. Firstly, because of the bad relationship with the JRCC. Secondly, because of the dangerous behaviour of the LYCG vessels. As there is no clear coordination and no safety about the Libyan operations. The NGO says to propose its help and put, to a certain extent its *Neutrality* at play. In fact, this event can be seen as redundant as we have already analysed the relationship with the LYCG in our first hypothesis with our indicator Neut3. We add that no other indicators seem to have been affected by the launch of the LYCG activities. Nevertheless, the NGO put the stress on the fact that it is dangerous, unlawful (Libyan interception, no port of safety, confusion). We argued that a relationship of conflict potential emerged between the actors. Finally, we have the same result for our last event, namely the criminalisation of NGOs. We did not find any of our indicators directly mentioned as affected by the NGO. Nevertheless, we can suggest that if the criminalisation comes into effect (direct prosecution of the NGO), all indicators would be in fact affected. As a matter of facts, if a boat remains blocked at the port, the criminalisation renders our indicators inoperative. The NGO has to stop (for some NGOs temporarily, for others permanently) its traditional humanitarian role. Moreover, as we argued here above, the NGO states that its boat change (from *Aquarius* to *Ocean Viking*) is a direct result of “strong hindrance to sea rescue actions and harassment of NGOs”³⁹¹. Therefore, linked to our hypothesis, we believe that the criminalisation of NGOs could have direct result on our traditional humanitarian role and practices because it makes the whole humanitarianism at rest. But we did not find it in our data.

In conclusion, regarding our second hypothesis: “SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. differently over time, depending on the actions of other actors”, we argue that our data only allow us to confirm that the LYCG operational activities and the criminalisation have direct effect on the SAR NGOs traditional humanitarian role. Moreover, regarding the first three actions (2017Code, 2018Refusal, EUSAR and criminalisation), the corpus selected does not allow us to confirm or infirm our hypothesis and subsequently its sub-hypothesis.

IX.II. Interview Analysis:

Before starting the analysis of our interview data, we should specify several elements. Firstly, the interview transcripts are available in the “Appendix III” of this work. We conducted both interviews in French and all translations are made by the author of this work. The first

391 2019REP, p. 14.

interview was done with two participants whereas the second interview was conducted “one-to-one”. Moreover, our contact person in the NGO asked us to send the topic before the interview in order to find the “right person” within the NGO. Nevertheless, this person was a journalist and we suggest that both actors had “prepared” a particular discourse together (more or less the same that we had analysed through our documents analysis). It creates a small bias for our first interview. We quickly felt that the first interview turned into an “advocacy communication”. Indeed, both participants were answering one to each other and sometimes avoiding the question that we asked them. Nevertheless, this “attitude” makes sense and we will develop why in our discussion part. Fortunately, our second interview gave further information for our research. Secondly, related to the results of our interviews, we found the same problems as for our document analysis regarding the second hypothesis. The “humanitarian role” or the “humanitarian practices” are hardly directly bondable with the events that we had selected. In addition, the results of the interviews are more linked to the “advocacy side” of the NGO. We did our best to keep asking the “humanitarian role and practices” but it was not an easy task because the participants were mostly focused on the presentation of the political context in which they operate. Nevertheless, we found relevant and interesting results for our indicators. Given that we have already well described our indicators, we will use more often the abbreviations in order to go quicker “straight to the point”.

The *Humanity* principle has been less found in the interview data. Nevertheless, the three main conceptions emerged from our analysis of Hum1. The dignity, the sustainability and efficiency that the NGO actions aim. Participant 1/2 highlights that it comes from two main ideas, on the one hand, a necessary solidarity and, on the other hand, the maritime values. He names it as “seafarers' solidarity”. This led V. Klaus, president of the NGO, to “not accept what is happening”. Thus, we found two (non-acceptance and empathy & solidarity) of the points we highlighted in our first analysis. Moreover, the maritime values seem to play an important role in the identity of the NGO. We also find the particular vision of humaneness. Notably when Participant 2 declares: “It's unbearable. This is not the idea I have of civilization, of life, of human beings”. The universal, metaphysics vision of *Humanity* in a large sense is totally in line with what we found previously and with the traditional humanitarian principle of *Humanity*. Additionally, we should notice that we did not find any “neoliberal” vocabulary (despite “efficiency”) as we found in our document analysis. The “appropriateness” was neither highlighted in our analysis because the discourse of the participants was not focused on “the people rescued” but mostly on the geopolitical context. Nevertheless, we found the

professionalism brought to the fore by the NGO already in the corpus. This “professionalism legitimisation” is summarised by this sentence of Participant 2: “We were even considered, well let's put it this way, we were even considered the most professional rescue organisation”³⁹².

Regarding Hum2, as stated above, the participants were not willing to really speak about their perceptions of the people they rescue and were more focused on the depiction of the “actions of the other actors”. We found one sentence from one participant that can be related to our indicator: “usually, we say that we save human beings, not migrants or refugees”. This is totally in line with a traditional humanitarian view on the “subjects of their compassion” but it differs slightly from what we found in our first analysis.

At the end of the analysis of our first principle, *Humanity*, we state the particular identity of the NGO is confirmed by Hum1. Moreover, the interview data allow us less to respond to this principle as the NGO perceived the (at least first) interview more in a political advocacy sense. Nevertheless, we argue that there is no contradiction with the traditional view on the *Humanity* principle.

The *Impartiality* principle of the *INI* scheme has found direct response from participants of both interview. It is confirmed that the NGO is not at sea for “legal status” as Participants 1 and 3 declared. Participant 1 states that “the only thing we do on board is a social and medical service”. A survival kit through food distribution and hygiene are the main focus. Regarding the information they request, “it is only to make a men-women-child classification”. The *Impartiality* principle is therefore totally respected. Of course, we should notice that these information are really “sensitive”. The information requested or given to the “irregular” people on a border zone such as the Mediterranean is particularly important for sovereign (supra-)entities. In the scope of this research, we could not go further on this point. Even if the NGO could have information regarding a “early process of identification” (Imp1), as we have seen in our document analysis, the essential point is that there is no cooperation with authorities regarding the status of the people rescued. The NGO seems to be in line with the traditional humanitarian principle of *Impartiality*.

The principle of *Neutrality*, as we have seen, is much harder to analyse. Regarding Neut1 and the cooperation with the MRCC/JRCC (Rome or Tripoli), we discovered several

³⁹² See Appendix III for the interview transcripts.

elements. Firstly, regarding the MRCC Rome, the participants have shown that the cooperation with this latter was more than normal, even “good” before 2017. As we stated in our discourse analysis, notably through Neut2 (disembarkation), the Italian actor is the favourite “partner” of the NGO. As says Participant 1, “we (NGO/MRCC) saw each other before putting the boat at sea, we had a good coordination”. The participants added: “if the *Aquarius* saved more than 29 thousand it is because the SAR zone was well-functioning and there was a more or less good relationship”. In addition, Participant 2 recalled the international Conventions enacting the MRCC but without specifying the practices. Nevertheless, what seems to change from 2017, is that the MRCC Rome starts to “disengage more and more”. It is “more and more absent”. Furthermore, Participant 2 points out that the “MRCC Rome is increasingly deaf to our calls, does not answer”. We see here that the legal cooperation starts to deteriorate. The NGO states that there is no “SAR coordination centre”. The discourse of our NGO regarding the MRCC Rome is tougher in our interviews than our corpus. The neutral coordination of the early days seems to have fallen off to the extent that there is almost no more coordination. In practice, we suggest that the relationship with the MRCC Rome remains neutral as the NGO always sends call or mail before and after intervening.

The results regarding Neut1 and the JRCC Tripoli are different. The actions of the NGO remain neutral as they always call the JRCC. Participants highlighted that: “we are obliged to call the JRCCs, we have no choice, it's the customs, it's the procedures”. Our indicator is therefore effectively in line with the traditional humanitarian neutral role of a NGO. Nevertheless, the non-response to the calls or mail, the non-communication in English make the basic relationship compromise. The NGO seems therefore to prefer to contact the Italian or Maltese MRCC. This non-relationship and non-cooperation does not have a consequence on the *Neutrality* principle but well on migrants lives. The discourse highlighted is related to the inefficiency, confusion and unlawfulness of the JRCC. Nevertheless, despite a conflictual discourse on the relationship with this actor, nothing indicates that the NGO does not respect the *Neutrality* principle. We argue that the NGO respect the minimal legal cooperation (by sending mails for example). Nevertheless, we found that the NGO does not respect the indications of disembarkation in a Libyan port. It is the principal conflict between the two actors (or even between every actor now). As the participants mentioned, if the JRCC Tripoli indicates a Libyan port for disembarkation, the NGO does not follow its instructions. Therefore, we argue here that the NGO is neutral as it respects the international and maritime law. But the NGO is politically not neutral in its decision of not respecting the JRCC instructions of port of disembarkation. Of course, we should say that this

refusal of disembarkation in Libyan port is in total accordance with the international law regime at stake.

Regarding Neut2 and the disembarkation in the ports, Participant 2 ensures that “we don't take the role on land, we transfer them into the right hands, so to speak”. It is clear that national authorities are present but the NGO prefers to “transfer” the people to other NGOs that will deal with their status. We do not have further information about this relationship. Subsequently, we argue that the NGO respects the *Neutrality* once it disembarks in a port.

Our third indicator, Neut3, regards the direct relationship with actor at sea. It concerns the protection, the transshipment or the conflict potential with one of the operational actor at sea. Firstly, regarding the EU, we did not find any case of protection or conflict potential. We argue here that the relationship is more distant with this particular actor. On the one part, discursively, the NGO criticises the EU operations. The relationship is ambiguous because on the one part, Participant 1 declares that *Sophia* saved many lives, about 46 thousand between 2014 and 2018 (and at the same time is a “big failure”). At the beginning of the interview, this same participant suggested that “there were many transshipments made between them and us”. Then, later in the interview, I suggest the same cooperation to Participant 2 but this latter corrected me saying that it regarded transshipment between the Italian Coast guards and the *Aquarius* and not European vessel. Therefore, regarding possible transshipment between *Sophia* and the *Aquarius* we do not know where to position ourselves. In addition, when we clearly ask the question to Participant 3. This latter answered: “Uh, I don't remember that, no”. As a matter of fact, some cooperation does take place at sea. As we have shown, the European aerial asset of *Sophia* has already indicated boat in distress to the NGO. Nevertheless, based on our interviews, we can only argue that the relationship is neutral. Even if we have highlighted its ambiguous trend (varying from strong criticism to success acknowledgment through some contradictions).

A possible relationship with the Italian Coastguards with respect to protection and conflict potential are not present in our data. We found only some results about transshipment. It seems that before 2018, transshipment between both actors was actually a normal process in order to ensure SAR secure operations. The NGO discourse acknowledges this cooperation. The last transshipment of 2018 for example regards the *Aquarius* wandering for which “two-thirds of them (people rescued) were recovered by transshipment from Italian Coast Guard vessels”. It is clear that the NGO has a political preference for a cooperation with the Italian navy.

Lastly, regarding the LYCG, the first two sub-indicators of protection and transshipment are even unthinkable (even though our discourse analysis showed that the NGO always requested to the LYCG if it needs assistance). Our results point out that the relationship is conflictual and that the *Neutrality* of the NGO is consequently put into question. Participant 2 describes this relationship. They (Libyan Coastguards) “interpose and disrupt the rescues”. They interpose “trying to recover the shipwrecked”. If the LYCG asked them to pull-back the migrants, the NGO does not obey and “comply with international conventions”. In its discourse, the NGO always refers to third February Malta Summit as the beginning of the LYCG era. The NGO denounces the money and the material taken from the EU, Italy and Malta.

To conclude our *Neutrality* principle, we saw that the interviews gave us more information about the operational (non-)cooperation with other actors at sea. Whereas Neut1 allowed us to say that the NGO is neutral from a legal point of view, it takes a political stance towards the lack of coordination arising at sea. We have highlighted an absent relationship with the MRCC Rome and a conflictual (disobedience for example) relationship with the JRCC Tripoli. This trend has been confirmed by our second indicator, Neut2. The Italian preference for Italian disembarkation is clear. Moreover, we argue that once on land, our data allow us to think that the NGO is neutral. Finally, regarding the relationship at sea with other actors, we saw that there was no case of protection. The relationship of our NGO with Italian Coastguards is not conflictual but allowed several transshipment. Furthermore, the relationship with EU operations is more ambiguous. We did not find any result regarding a protection. We mentioned the contradictory and unclear information regarding some possible transshipment. And lastly, we characterised this relationship as ambiguous because of the contradictory discourse regarding the operation. On the one part, the NGO put the stress on the European lack of adequate means and the failure of the operations. On the other part, it highlighted the good maritime values and rescue efficiency of some operations. Regarding our last actor at sea, the LYCG, a protection is unthinkable with it. The relationship at sea between both actors is conflictual and has an influence on the NGO *Neutrality*. The NGO deliberately does not consider this actor as a reliable and neutral actor. It leads to a competition in SAR rescue practices.

Our fourth humanitarian principle, *Independence*, has been divided into two indicators. *Indep1* regards the public funding of the NGO. Our Participant 2 indicates that “no European credit was allowed to the NGO”. The only State donation was the one given by Monaco the first

year of the NGO. The participant stated that 98% of the funding is private and the only public subventions are given by French localities, regions or Town Hall. We can argue that, according to our data, the NGO is economically independent.

Regarding the second indicator, *Indep2* and its sub-indicators *Indep2.1*, *2.2* and *2.3*, our interviews provided different interesting results. We are now able to better answer to this matter. Regarding the engines and makeshift boats (*Indep.2.1*), Participant 1 says that the NGO “follows the procedures it must”. It means that they (NGO members) put a “number on the boat, a code and then drill it to prevent these boats from being used again by smugglers”. We see here that NGO follows procedures against smuggling. Moreover, if the NGO spots an empty boat without code, they know that people are drowned. Participant 3 added that “No, take anything back to the authorities, no”. Thus, this participation in anti-smuggling policies through *Indep2.1* seems to stop at sea and can be considered as such only to a certain extent. The second sub-indicator, *Indep2.2* is totally refuted by the NGO. Participant 2 explains: “we refuse to carry weapons and we refuse to put on a disguise”. As a matter of facts, the participants explained that the 2017 Code of Conduct was refused by the NGO for this matter. Lastly, regarding the visual technologies on board, we perceived that the NGO is embarrassed by this question and prefers not respond. Participant 2 said “I would rather not deal with these technical questions, we are not at all operational” whereas Participant 2 stated: “I don't know how to answer this question”. In conclusion, regarding our second indicator and the participation of the NGO in anti-smuggling policies, we argue that the NGO has, to some extent, participate to anti-smuggling policies. The fact that *EunavforMed. (Sophia)* indicates the localisation of a boat in distress to the NGO, different procedures that the NGO had to follow (regarding makeshift boats) can be considered as, even if small and unconscious, a participation to anti-smuggling policies.

After this first analysis of our interview, it seems relevant to apply our findings to our first hypothesis. Based on the results of the interviews that we conducted, we argue that the *INI* principle & the *Humanity* is, to some extent, respected by the NGO. Firstly, the *Humanity* principle was not questioned. We found less information than in our document analysis. But the NGO views on the principle of *Humanity* is totally in line with a traditional humanitarian one. Furthermore, as expected, the principle of *Impartiality* is fully respected by the NGO. Interestingly, we found different elements that allow us to state that the *Neutrality* principle differ depending on the actor at sea. The cooperation is not the same between the MRCC and the JRCC, the NGO discourse neither. Moreover, disembarkation on land is neutral for the NGO but its

relationship with the actors varies from a more or less distant/ambiguous relationship with the EU, a more cooperating willingness relationship with Italy and a conflictual relationship with Libya. Finally, thanks to this new collection of data, we were fully able to answer our last principle *Independence* and argue that, the NGO can, to some extent, participate to anti-smuggling policies. Therefore, we argue that the SAR NGO, SOS MEDITERRANEE, negotiates its humanitarian role as a “new humanitarianism” with respect to the traditional humanitarian ideal-type (INI scheme & Humanity principle).

Our second hypothesis is harder to test on our empirical data. The interviews did not allow us to fully answer to all indicators of our traditional humanitarian grid. As a matter of facts, when we asked the interviewed about the implications of the events on their humanitarian principles, either they were more in an advocacy perspective or they were directly refuting our hypothesis. The first event that we suggested that would have had an influence on our indicators was the 2017Code. As Participant 1 stated, the initial Code of Conduct mentioned the possibility to have gunmen on board and no transshipment. These two points have been refused by the NGO indicating on the one part that it wanted to remain independent with no authority on boat and, on the other part, it preferred to keep cooperating for transshipment. Thus, the *Independence* principle of our NGO is reinforced by this statement (Indep2.2) but the *Neutrality* principle can be considered as altered (Neut3, transshipment). Therefore, these two points having been negotiated, the NGO signed a Code of Conduct which “has not influenced practices at sea”. Subsequently, we can argue here that the 2017 Code of Conduct had no direct influence on the traditional humanitarian role of the NGO. Our second event, EUSAR, did not find any result in our interviews. Thus, we are not able to confirm or infirm a causal link between the changes in European SAR operations (*Triton* to *Thémis* or *Sophia* to *Irinì*) with the humanitarian role & practices of our NGO. The only findings that came out related to these operations are the denunciation of the mandates of the three operations (*Triton*, *Thémis* and *Sophia*) and the move of EU military assets further East on the Libyan route. Thirdly, the Italian refusal of disembarkation was directly mentioned by the participants as having an influence on their practices and their role. But according to their explanations, one point can be mentioned regarding the possible effect of this policy on one of our indicators. Indeed, from 2018 onwards, as we have highlighted previously, the “coordinated” relationship with the MRCC Rome starts to deteriorate. Therefore, we can assume that 2018Refusal has an influence on our Neut1 (regarding disembarkation). Nevertheless, to recall, never the NGO seems to have acted against the indications of the MRCC. We can only assume that it developed a more political stance in order to pressure to find a place

of disembarkation for the people in danger on board. Thus, we argue that 2018Refusal has, to some extent, an influence on the *Neutrality* principle (Neut3) of our NGO.

Regarding the effective activity of the LYCG, we have already described the particular conflictual relationship between both actors. The Libyan Coastguards “have already ordered that rescued and shipwrecked had to be transfer to them”. Thus, the LYCGactivity, has an influence on the *Neutrality* principle of our NGO. Their political positioning in this respect is that “not to hand over people whom we have rescued to the Libyan coastguard to take them back to places of detention”. At the same time, the NGO (following its priority of “saving lives”) also ask the LYCG for assistance if the former is witnessing an operation. This act also regards the *Neutrality* of our NGO because it could allow transshipment and cooperation. Nevertheless, this case never happened until now and does not seem to happen within short time. Lastly, our interviews confirmed what we had suggested in our document analysis regarding the consequence of the criminalisation on the traditional humanitarian role. The 2017-2018 criminalisation has been effective for the NGO through “Panama-Gibraltar de-flagging”, “blockage of rescue vessel”, “inspection” and “seizure”. In practice, the NGO changed its boat the *Aquarius* because of these actions. With regards to our humanitarian principles, the consequence is that the SAR humanitarian means are out of service. As Participant said: “the hindrance to humanitarian action is effective”. Thus, the traditional humanitarian role becomes meaningless as it is non-operational. We argue that criminalisation/prosecution have direct influence on all of our traditional humanitarian principles because it makes them ineffective.

To conclude this second hypothesis, we argue that the data did not allow us to apply the whole analytical grid to the events we selected. Therefore, we should precise that a direct causal relationship between all our indicators and the “depoliticized” policies cannot be established (sub-hypothesis2). We are not able to confirm or infirm our second hypothesis and its sub-hypothesis because the data does not correspond to our questioning. They are insufficient for being scientifically valid. We argue that we can not established a causal relationship between the “depoliticized” policies and the traditional humanitarian role as we described in our analytical grid. It is not possible for us to clearly demonstrate that the NGO's role has evolved over time depending on the actions of other actors. Nevertheless, we find some relevant elements of response regarding some aspect of the events selected and a direct relationship with some of the indicators we had operationalised. Regarding Code2017, we argue that the initial Code has a direct implication on the *Neutrality* and *Independence* principles of the NGO through (on Neut3

and Indep2.2). But, thanks to the findings of our interviews, we can argue that the amended Code of Conduct “has not influenced practices at sea”. Secondly, we argue that EUSAR cannot be evaluated in the scope of this work. Thirdly, we argue that 2018Refusal has, to some extent, an influence on the *Neutrality* principle (Neut3) of our NGO. Fourthly, we observed that the LYCGactivity, has an influence on the *Neutrality* principle of our NGO (Neut3, conflict potential mostly). Finally, we argue that criminalisation/prosecution have direct influence on all of our traditional humanitarian principles because it makes them ineffective. Nevertheless, we are not able to link all those results among themselves.

IX.III. Final Results:

This section will cross the findings of both our analyses. The main arguments of each indicators will be presented and crossed with the other data material results in order to have our final results. We will present the eight actors one after each other and the “5 events” results, before looking back to our hypotheses.

The first traditional humanitarian principle of *Humanity* was clearly identified in both our analyses. Regarding humaneness (Hum1) at sea, the NGO discourse is based on an ethical-legal conception of their action. We observed three main results which were present in both material and constitutes the particular identity of the NGO. The non-acceptance, a conception of “life above all” and the values of empathy and solidarity. We also highlighted the metaphysics reference to the humane “soul” and the “universality”. Our interviews confirmed this discursive trend, even though we had less results regarding our first principle. We also find that, unsurprisingly, a particular “seafarers' solidarity” characterised the values of the NGO. Furthermore, sustainability and efficiency were at the core of the discourse brought to the fore by the NGO. In line with our critical perspective, we add that a neoliberal vocabulary can be seen when looking closely to our data. The willingness of the NGO to legitimise its actions through a “professionalism” was found in both our analyses. In addition, we recall the critical border concept of appropriateness which give an enlightenment to our observation. Our second indicator, “the subjects of their compassion” was mostly found in the document analysis. We state that the NGO use, most of the time, neutral forms when referring to “the subjects of their compassion”. Nevertheless, we also found that the depiction of “migrants in suffering” or “fleeing misery” participate, to a certain extent, to the neo-colonial image of the white European saviour. In conclusion, we argue that, despite the particular identity of the NGO, its conception of the principle of *Humanity* is in line with a traditional view on this concept.

The results regarding the principle of *Impartiality* point towards the same direction. Even if, what we can call, an “early identification process” is carried out on board, nothing indicates that any information has ever been given to any authority. On the contrary, we could imagine that some information could be given to “the right hands” meaning NGOs on land. Nevertheless, a field-study would be necessary in order to go further on this point. Subsequently, we argue that the NGO is totally in line with the traditional humanitarian principle of *Impartiality*.

We subdivided our *Neutrality* principle into three indicators. Regarding the cooperations with the MRCC Rome (Neut1), we firstly found that the cooperation was well coordinated. We characterised the relationship with the MRCC Rome as “coordination” and “courtesy”. Nevertheless, from 2019, our documents announced that the “MRCC Rome transferred coordination to the Libyan JRCC”. Secondly, we found that the cooperation starts to deteriorate to the extent “there is no SAR coordination centre”. Nevertheless, we state that the relationship with the MRCC Rome remains neutral as the NGO always sends call or mail before and after intervening. Thus, we argue that the NGO attitude regarding the MRCC Rome is neutral even if they have a preference to cooperate with this RCC.

The cooperation with the JRCC Tripoli is not the same at all. Firstly, we highlighted that the NGO did not have a neutral discourse regarding its relationship with the Libyan JRCC. Along with our document analysis, we showed that the NGO uses a more “politicized” discourse regarding this actor (denunciation, whistleblowing and accusations). Then, thanks to our interviews, we found if the JRCC Tripoli indicates a Libyan port for disembarkation, the NGO does not follow its instructions. We argue here that, regarding the cooperation with the JRCC, both actors are not neutral. The cooperation is absent and the relationship results in a competition. Thus, the NGO is not politically neutral anymore with respects to its cooperation with the JRCC. Of course, we should say that this refusal of disembarkation in Libyan port is in total accordance with the international law regime at stake.

The second indicator, Neut2 , concerns the disembarkation process of the NGO. The document analysis provided constant and unequivocal results as they always mention the same sentence with the same entities (Italian authorities, IO organism, NGOs) once on land. But we also remark that the NGO only refer to the Italian territory when speaking about disembarkation.

The interviews added that it was clear that there was only a legal compliance of the NGO regarding disembarkation. We see here all the complexity of the SAR operations as they are coordinated by State agency for disembarkation. We suggest here that State political agendas are therefore affecting this coordination and consequently the NGO SAR operation. *Neutrality* is ambiguous and hard to apply at sea. Nonetheless, we argue that the NGO “transfer” the people with neutrality when it disembarks. As for indicator Imp1, further field-research could better describe this moment.

The application of Neut3 has found several interesting elements which calls the NGO *Neutrality* in question. But first of all, our data allow us to argue that there is no NGO protection on behalf of any of our three actors. Secondly, regarding the transshipment cooperation, we firstly found that Italian transshipment towards NGO's boat was a normal process before 2018. The same operation with the LYCG has never happened and does not seem likely to be. Nevertheless, we found that the NGO already proposed assistance to the LYCG when intervening. The *Neutrality* could be considered as affected. Transshipment with EU operations did not find any result in our research. Nevertheless, the answer of our participant leaves us perplex (“Uh, I don't remember that, no”). We will develop in our discussion part why we think the contrary. Regarding the last questioning of Neut3, we did not find any sea conflict potential with the Italian Coastguards. Even though we state that there is an ambiguous feature in the relationship between EU operations and the NGO discourse (varying from strong criticism to success acknowledgment through some contradictions), we argue that there is no conflict potential with this actor. Lastly, regarding the conflict potential with the LYCG, our results pointed out that the relationship is conflictual (“injunctions of moving” and “air gunshots” by the Libyan patrols). Consequently, we argue that the LYCG relationship as direct influence on the NGO *Neutrality* principle.

The *Neutrality* principle of our NGO has been described. It evolves over time and differs depending on the actor. Our interviews have complemented the suggestions from our first analysis. We are now able to argue that the NGO is not clearly *Neutral* regarding its relationship with actors at sea. We even consider that this latter has a humanitarian agenda which can be conceived in terms of operational cooperation and conflict potential. Whereas our corpus analysis argued that the NGO was neutral with regards to the MRCC/JRCC, we are now able to argue that an absent relationship with the MRCC Rome is at stake since 2018. A conflictual (disobedience for example) relationship with the JRCC Tripoli calls the *Neutrality* of the NGO into question. The results of Neut2 confirmed this trend by the NGO moral (but also political) preference to

only disembark in Italy. But, we argue that once on land, our results confirmed that the NGO is neutral. The third *Neutrality* indicator allow us to argue that there is no case of protection with any actor. Most of the transshipments were/are made with Italian Coastguards. We found some contradictory results regarding transshipment with EU operations (*Sophia*). Finally, the conflict potential did not affect the relationship at sea with the Italian and European actors but is well established with the LYCG. Therefore, we argue that, even though the SOS MED. humanitarian practices are legal and preserve human lives, its relationship at sea are not neutral and shape a political commitment.

The *Independence* of our case study was based on two indicators. Firstly, the economic *Independence* came with the same results in our two analyses. On the one part, we stated that, despite some small public funding (with regards to its total budget amount), we have not found any funding which could interfere with the independence of the NGO. On the other part, the participants declared that 98% of the funding is private and the only public subventions are given by French localities, regions or Town Hall. Both outcomes allow us to argue that the NGO is economically independent.

We found different results regarding the political *Independence*. Our three sub-indicators, Indep2.1,2.2 and 2.3 were not present in the documents selected. Nevertheless, regarding the broader Indep2, we found one case of cooperation between the NGO's boat, the *Aquarius*, and the anti-smuggling operation, *EUNAVFORMED (Sophia)*. The position of a boat in distress was indicated to the former by an operational plane of the latter. Thus, at the end of our corpus analysis, we were not able to clearly confirm or infirm the (non-)participation of our NGO to anti-smuggling policies. Then, our interviews data provided relevant results regarding Indep2.1,2.2 and 2.3. The NGO is independent regarding Indep2.2 as it does not allow “weapons on board”. The NGO did not want to answer Indep2.3. But, we suggest that it is not directly linked with anti-smuggling policies but mostly to avoid judicial requests on possible visual content. Nevertheless, we could interpret this silence as a distant positioning towards authority cooperation which reinforces the *Independence* of our NGO. But, at the same time, the NGO follows the anti-smuggling procedures regarding Indep2.1. Consequently, regarding the results of our principle, we argue that the NGO respect the *Independence* principle even though it participates, to a minimal extent, to anti-smuggling policies. The highly securitised framework in which the SAR operations of the NGO take place seem to have an influence, to a certain extent on its humanitarian principle and practices.

The first hypothesis consisted of understanding whether the SAR NGOs negotiate their role in the Central Med. through a traditional or a “new” humanitarianism. Linked to the results we have just described, we are now able to argue that the NGO, SOS MED, negotiates its humanitarian role by developing, to a certain extent, a “new” humanitarianism with respect to the traditional *INI* scheme and the *Humanity* principle. We showed that principles such as *Humanity* and *Impartiality* were traditionally respected by the NGO in its conception and practices. Furthermore, regarding the *Neutrality* and the *Independence*, our results point out that the NGO is not neutral with respect to its relationship with other actors. Its conflictual potential with the LYCG and the JRCC Tripoli, its ambiguous relationship with EU actors and its preference for an Italian cooperation make the NGO make us think that the NGO has a particular “humanitarian agenda”. Moreover, we argue that its actions are not neutral and shape a full-fledged political aspect. The traditional *Independence* principle is respected by the NGO to a certain extent. Whereas its economic *Independence* is respected, we argue in this work that the NGO practices can be partly seen as participating to anti-smuggling policies. This is linked to the *Neutrality* troubles that the NGO face when operating in the particular environment of the Central Mediterranean.

The second hypothesis did not find the expected data. We identified two problems. Firstly, the causal relationship was inverted by our method of analysis. Indeed, the causal relationship was event-humanitarian role and, in the opposite way, we analysed the humanitarian discourse looking for the events. Secondly, the material at our disposal did not provide enough data in order to properly apply our analytical grid. Consequently, the data we collected did not enough respond our hypothesis for being considered as scientifically valid. In addition, some of our suggestions have been directly refuted by our data. Therefore, we have some mixed results which can sometimes confirm, sometimes infirm our hypothesis.

Regarding the 2017Code, our first analysis did not find any indicator which could be linked to our analytical grid. The second analysis results stated that the 2017 could have an influence on both indicators, *Indep2.2* and *Neut3*. Nevertheless, at the end of this analyse, we argue that 2017Code “has not influenced practices at sea”. Therefore, it refutes our hypothesis.

Our second event postulate did not find any result in our two data analyses. Therefore, we are not able to confirm or infirm a causal link between the changes in European SAR

operations (*Triton* to *Thémis* or *Sophia* to *Irini*) with the humanitarian role & practices of our NGO.

The result of our third event 2018Refusal did not find any result in our first data analysis. Then, the interviews highlighted that 2018Refusal has an influence on our Neut1 (regarding disembarkation). Nevertheless, to recall, never the NGO seems to have acted against the indications of the MRCC. We can only assume that it developed a more political stance in order to pressure to find a place of disembarkation for the people in danger on board. Thus, we argue that 2018Refusal has, to some extent, an influence on the *Neutrality* principle (Neut3) of our NGO. This result confirms our first hypothesis result which state that the NGO does develop a “new” humanitarian role (mostly regarding *Neutrality*) in order to act at sea.

The results of our fourth event are the same than the the results pointed out in our first hypothesis related to the *Neutrality* principle (Neut3). The conflictual relationship at sea, the proposal of assistance and the “disobedience” let us argue that LYCGacti does have an influence on the *Neutrality* of our case study.

Lastly, the criminalisation of the NGO does have an influence on our analytical grid. Indeed, we argue that criminalisation, through direct prosecution has direct influence on all of our traditional humanitarian principles because it makes them ineffective. Therefore, criminalisation as “turning the NGO humanitarian actions into criminal actions” can make its whole role as ineffective.

Our second hypothesis postulates that SAR NGOs negotiate their role differently over time depending on the actions of other actors. In order to specify this questioning, we formulated a variable which could have influenced this negotiation of SAR NGOs role. Our sub-hypothesis was “more the Central Med. is “depoliticised”, more SAR NGOs will conceive their humanitarian role as political and distant from the *INI* principles”. Along with the results we have just described, we argue that our data and results cannot validly either confirm or infirm this second hypothesis. Indeed, as we do not have enough result for all our indicators, we were not able to dress a causal relationship between the events and the NGO humanitarian role. Consequently, our process tracing analysis was not possible in this research.

IX.IV. Discussion:

We find relevant and necessary to add a short discussion section in order to take distance with our methodology and our final results. It is clear that our analyses can be criticised on several aspects. Firstly, we are fully aware that the humanitarian role described above and the NGO practices are hard to conceive based on discourse analyses only. We believe that further research made directly on board would provide better results. For example, Neut3, disembarkation, could have better results through a field-research. In addition, the interviews that we conducted lack authenticity because of two points. Firstly, because it was conducted at distance (obviously because of the pandemic). We think that a direct interview would have totally change the way the interview (at least the first) occurred. We believe that face-to-face interview would allow the interviewer to better “manage the situation”. Secondly, we gave the topic of the interview to the first two participants (first interview only) and we felt that it created a slight bias in their response. One participant was journalist and a large part of its discourse was already found in our document analysis. The journalist flow of speech was fast and unstoppable which turned the interview in a quasi monologue. Moreover, the fact that they were two during the interview gave less space for our questions. As mentioned in our results, they avoided some questions and also they contradicted each other.

Another methodological element that we observed in the previous sections is the wrong selection data for our second analysis. Indeed, we think that in order to better test the second hypothesis, it would require to analyse each “event” independently and then link it to its possible “humanitarian consequence”. Further research would be needed. But, we discovered lately, at the time of these writings, that Cusumano published an article on our last “event” only, “criminalisation/prosecution”³⁹³. Consequently, we state that our second hypothesis was too ambitious and not properly formulated in the scope of this work. Nevertheless, some results are interesting.

Our last criticism regarding our methodology holds in the fact that we combine different methods of analysis. When we analyse the principle of *Humanity*, we decided to anchor this discourse analysis according to the frame in which the NGO present its role. We mix this method of analysis with some critical positioning in order to highlight different aspects of the NGO identity. We could be blamed of paradigmatic error but we believe that it allowed us to deepen the particular identity of our case study. Furthermore, when we stated that the NGO pursues, to some

393 See: Cusumano, E. & Villa, M., “From “Angels” to “Vice Smugglers”: the Criminalization of Sea Rescue NGOs in Italy”, *European Journal on Criminal Policy and Research*, 09.2020, forthcoming.

extent, the neo-colonial image of the European saviours, we also take distance with our critical stance. Indeed, we suggest here that the NGO knows that its actions could be interpreted as such. Nonetheless, we believe that its “saving lives” priority prevails over this criticism. More broadly, we situate ourselves in a comprehensive approach which pretends only to reduce the complexity of our topic by highlighting the main aspects surrounding SAR NGOs actions.

When looking closer to our results, it seems relevant to add several remarks. We did not speak about the large part of the NGO dedicated to citizen sensitisation (more than a about a third of each document content we analysed). Of course it is linked to the advocacy section of the NGO. As Participant 3 said when speaking about the NGO reaction against criminalisation: “There are two theoretical ways of dealing with this. The first is the appeal to European public opinion, which we have done several times and are still doing at the moment with the online petition against the immobilisation of the *Ocean Viking*.” As a matter of fact, public opinion seems to be one of the most important legitimacies when speaking about migration (for each actor NGO, EU, Italy). The NGO seems to have well understood this feature. Its communication is well constructed and brings to the fore its professionalism (which we do not call into question). The fact that we interviewed a journalist and an official spokesman allow us to state that the NGO is also professional in its communication. It is known that media coverage and public support are really important for non-state organisation as they “do not have means” as stated Participant 1. We argue through this short discussion that the NGO has a “humanitarian agenda”. Therefore, the NGO should be careful when it communicates publicly or privately. It has surely an impact on our results but we find that it describes well the functioning of the NGO and some of the main features of the Central Med. migration field. Indeed, our Participant 2 confirmed us (when asking for transcripts) that “it is not for us, but we have a very delicate mission, and as I tell you we have many enemies waiting for us to make small mistakes. And we try not to make any mistakes so that this mission can continue at sea”.

Finally, with respect to the results we suggested and to what we just discussed, we argue that SOS MED humanitarian role is marked by “**delicateness**”. Both our second data collection and the data analyses, the words of Participant 2, the essence of SOS MED missions are all marked by this idea of **delicateness**. The fact that the participants could not “admit” a cooperation with EU operations is a good example. Indeed, on the one part, the NGO actions contain an ethical elegance full of nobility and admirability. On the other part, we showed that its actions are fragile and evolve in an ambiguous environment which can, at any time, have direct

influence on the essence of the NGO (by criminalise, prosecute). Given that on one side, SAR NGOs challenge the (supra-)national sovereignty and the institutional powers in place, Their actions can be quickly perceived as competing the security agenda of official authorities. Since 2017 and the LYCG increasing operational activity, it seems that SAR NGOs are not welcomed any more. The delicate mission of SAR NGOs is turned into a criminal one by different State authorities. Moreover, we will come back to it in our conclusion but the transnationalist perspective that we use in this research seem to have its relevance only theoretically. The predominance of States on the international scene seems to be effective on the Central Mediterranean route. Official authorities (EU, Italy, Libya) have been relieved of their obligations during several years. Now, they seem to have the last words in order to reimpose the restrictive Central Med. border.

Conclusion:

We initiate this work with one question: “Why an actor, not supposed to save people at sea and carrying about 600 rescued, had to wait about ten days before disembarking?”. A large contextualisation highlighted the actors at stake, the relevant policies and the main issues surrounding the so-called “refugee crisis”. The first part of this work introduced the legal framework regarding our case study, the NGO SOS MEDITERRANEE. Given that our topic is made of human, humanitarian, legal and political complexity, the aim of this work was reducing it by developing a comprehensive and reflexive approach regarding SAR operations on the Central Mediterranean route. We aspired to provide a qualitative in-depth study of one of the SAR NGOs operating at sea. As SOS MED is one of the three NGOs which provides most of the rescues (MOAS, Sea-Watch and SOS MED conducted about 70% of all SAR NGOs operations), we find perfectly relevant to choose this NGO as an emblematic case study. In addition, humanitarian non-governmental actions at the south border of the EU is a recent phenomenon which started in 2014. This deductive study aims at participating to the enrichment of the literature on SAR NGOs in line with the recent works of Cusumano and Cuttitta.

At the end of our context, our questioning evolved. We specified it by asking ourselves: “Why did NGOs take an important role in SAR operations on the Central Mediterranean route during the so-called “refugee crisis” ?”. It is according to this question that we reviewed the literature. We found out that the particular conception of a “crisis” induces several elements. An “emergency” narrative calling for more control on one part and a “solidarity and human rights” narrative asking for a comprehensive approach. Following the large number of migrants trying to

cross the Mediterranean, we understood that it is in response to the lack of comprehensive institutional means that the NGOs started to act at sea. Moreover, our review of migration studies highlighted the “hierarchies of humanity” that the Schengen EU border system induced since the 90's. The Central Mediterranean border seems to be the perfect field for research on “securitisation” theory. Indeed, we observed that “borderisation”, “securitarian migration” and “criminalisation” were not new phenomena within the European migratory framework. We state, in line with authors like Basaran, Huysmans and Bigo, that security practices put on the forefront by national or supranational institutions have affected social relations. This security nexus linked to Mediterranean migration on behalf of institutional actors will be retained for the whole research. The European operations of Frontex with *Thémis*, *Triton* and of the EUEA with *Eunavfor Med Sophia* (now *Irini*) are considered as such.

Then, by going closer to our subject, we discovered that SAR operations were mostly studied in two ways. Several studies are interested in the links between SAR operations and deaths border data. The other substantial part of the literature aims at studying the communication of the varied actors at sea. The operation *Mare Nostrum* turned the security nexus present before the “refugee crisis” into a “security-humanitarian” nexus. As this operation stopped in 2014 and the proliferation of NGOs started thereafter, we understood that humanitarian actions in the Central Mediterranean Sea would be particular. Related to these findings, we reconceptualised the humanitarian role in the Central Med. We were wondering to which extent the presence of “securitarian” operations (Frontex, *Eunavfor Med*) on the one part, and, the relics of the security-humanitarian Italian mission (*Mare Nostrum*) on the other part, would have effects on the humanitarian practices at sea.

In view of SAR NGOs operations in the Central Mediterranean, we found out that an ambivalence was surrounding their humanitarian actions. As a matter of fact, on the one side, SAR NGOs repoliticise the EU migration management, highlighting the failure of border policies³⁹⁴. And, on the other side, SAR NGOs contribute to its depoliticisation (notably because EU migration & border policies have not changed so far). The fact that SAR NGOs are “relieving States from their SAR responsibilities, thus allowing them to focus on border enforcement” is a good example. The accusations, the criminalisation, the blockage at sea and, more factually, the number of SAR NGOs still in activities (close to 0), are well representative of the complex role

394 Cuttitta P., “Repoliticization Through Search and Rescue? Humanitarian NGOs and Migration Management in the Central Mediterranean”, *Geopolitics*, Vol. 23, n° 3, 2018, p. 633.

and the ambivalent place that humanitarian NGOs take in the Central Mediterranean Sea. Consequently, at the end of this state-of-the-art, we were asking ourselves the following question: “What humanitarian role SAR NGOs intend to take in the Central Mediterranean space?”. Subsequently, we decided to base our analysis through a crossed-theoretical basis. Concepts borrowed to transnationalism, humanitarianism and critical border studies were at the core of our problematic.

We anchored this research in an IR paradigm which allowed us to go further in our reasoning. The transnationalist perspective gave us a good insight of what interdependence or mutual dependence is: “*World Politics* where all the actors including states as non-state actors, are dependent upon one other”³⁹⁵. We found it perfectly relevant for the study of our case. An IR paradigm which legitimises the place of non-state actor on the international scene would allow us to study the interdependence amongst actors within a “network” (which we considered being the Central Med.). It suggests that actors have communicative structures and they are negotiating (formally & informally) depending on their identities and interests. Indeed, in every relation between governmental, supranational or non-governmental entities, some negotiations and bargaining take place. Subsequently, our research question became: “How do NGOs involved in the “refugee crisis” negotiate their “humanitarian role” in the SAR (Search and Rescue) zones of the Central Mediterranean Sea?”.

Thanks to the work of Cusumano, we showed that two models of SAR NGOs were operating at sea. The MOAS model, corresponding to a Wilsonian humanitarian organisation which is more cooperative and pragmatic with the authorities. And, the Sea-Watch model, closer to a Dunantist type of humanitarian organisation meaning that NGOs adopt a confrontational attitude which is closer to an activist organisation. Furthermore, the Central Mediterranean basin has been “securitised” and “humanitarianised”. Therefore, how can we conceive the “humanitarianism” and the NGOs' role in this ambivalent space? Our first hypothesis was that SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. by developing a “new humanitarianism” with regard to the traditional *INI* (*Impartiality, Neutrality, Independence*) principles and the *Humanity* principle. Secondly, along with our transnationalist principle, we postulated that the “actions of other actors” would have (in)direct effects on the “humanitarian role” of SAR NGOs. In addition, our literature on SAR NGOs lacks of research regarding the most recent events that occurred in the Central Med. Following these two

395 Rana W., “Theory of Complex Interdependence: A Comparative Analysis of Realist and Neoliberal”, *International Journal of Business and Social Science*, Vol. 6, n° 2, 2015, p. 291.

statements, we postulated that SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. differently over time, depending on the actions of other actors. As this hypothesis was too large, we decided to specify it: “more the Central Med. is “depoliticised”, more SAR NGOs will conceive their humanitarian role as political and distant from the *INI* principles”.

In order to respond these two hypotheses, we selected a uniform corpus of texts and conducted two semi-directed interviews. These double data collect and a crossed-results analysis would allow us to fully answer our questioning. Nevertheless, we quickly understood that our second hypothesis was not fully applicable to our data material. We did not find enough results to establish a causal, valid and scientific relationship between the “depoliticised” actions of other actors and the traditional humanitarian role of our NGO.

Our in-depth qualitative and reflexive research on the NGO SOS Méditerranée demonstrated that the NGO was fully in line with a traditional view on the humanitarian principles of *Humanity* and *Impartiality*. Thanks to the frame discursive analysis of our empirical material, we gave the identity of the NGO with respect to its conception of *Humanity*. Its ethical-legal conception of its humanitarian actions is based on three main humanitarian ideas. The non-acceptance (of the tragedy), its “saving lives” priority and a solidarity made of dignity, sustainability and efficiency. They represent the values of the NGO and are totally in line with a traditional humanitarian conception of the concept of *Humanity*. We also argue that the sensitive principle of *Impartiality* was traditionally respected by the NGO. Nevertheless, our results put the principle of *Neutrality* and *Independence* into question when looking closer to the humanitarian practices and role conception. Our results pointed out that the NGO is not neutral with respect to its relationship with other actors. Its conflictual potential with the LYCG and the JRCC Tripoli, its ambiguous relationship with EU actors and its preference for an Italian cooperation make us argue that the NGO has a particular “humanitarian agenda”. The traditional *Independence* principle is respected by the NGO to a certain extent. Whereas its economic *Independence* is traditionally respected, we argue in this work that the NGO practices can be seen as participating, to a minimal extent, to anti-smuggling policies.

Regarding the 5 “depoliticized” actions of other actors, we found different outcomes, sometimes refuting our causal hypothesis, sometimes confirming partly this latter or not finding valid data to answer. The results are the following: the 2017 Code of Conduct impact is refuted

by our participant (“has not influenced practices at sea”). The EU SAR changes did not find any result. The 2018 Italian refusal of disembarkation has, to some extent, an influence on the *Neutrality* principle of our NGO. The LYCG operational activity has an influence on the *Neutrality* principle of our NGO. And the criminalisation/prosecution of NGOs have direct influence on all our traditional humanitarian principles because it makes them ineffective.

In conclusion, our results allow us to argue that, since 2017, the Central Mediterranean turned into a “quasi non-humanitarian” space. The “externalization” of the EU border in Libya, the anti-NGOs media and judicial campaign have direct influence on the humanitarian role that NGOs traditionally take in classic humanitarian space. We found out in our results the “ethical dilemma” (cooperation or competition) that NGOs face in the particular environment which is the Central Mediterranean. SOS MED is fully aware that its mission of “saving lives” in this recently “non-humanitarian” space is made of delicateness. The contradictions of its discourse regarding EU operations cooperation, the non-response to our questions about visual content, its professional advocacy communication make us argue that SOS MED has to deal with the tension of inclusion/exclusion that the Central Med. contains deriving from EU restrictive border enforcement. In addition, public opinion support (through media coverage, sensitisation and citizens funding) is the main response that NGOs have in order to legitimise their actions.

Finally, we link our results to the work of Cusumano and we confirm that the NGO, SOS MED, can be considered as a Dunantist type of humanitarian organisation following a confrontational attitude which is closer to an activist organisation. But, in line with our critical stance, we position our research closer to Fassin statement. We argue that SOS MED role and actions in the Central Med. are closer to “political actors engaged in power relations, plays of alliance, and systems of negotiations”³⁹⁶. As a matter of fact, the SOS MED. humanitarian role conception and practices confirmed that the humanitarian NGO role is not “outside politics”. On the one part its operational role is not neutral. It can be conceived as either participating, to a certain extent, to the EU restrictive border management or challenging the control of sovereign authorities. On the other part, its discourse contains political activism which places it in a strong advocacy position.

More generally, do SAR NGOs can be conceived as acting in line with a strict application of the traditional humanitarian principles in the Central Mediterranean Sea? We argue

396 Cuttitta P., *loc. cit.*, p. 636.

in this work that, due to the high-political aspect, the complex legal framework, the highly-media coverage that SAR operations encompasses and because of the security-humanitarian nexus embodied by other actors, SAR NGOs cannot act in a strict traditional humanitarian way in the Central Med. SAR NGOs are a new phenomena within an ambiguous space where humanitarian neutrality does not seem practicable until “rescue of irregular migrants is not decriminalized and desecuritized”³⁹⁷.

397 Basaran T., *loc. cit.*, p. 386.

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XI. Appendix I: Corpus of Documents:

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as 2020FEM

XII. Appendix II: Interview Guide & Consent Documents:

The following questions have been asked to the participants (with some room of manoeuvre because we conducted semi-structured interviews and we had to follow the flow of discussion)


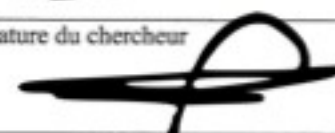
- Why did you start operating at sea? (How do you see the "2014/2015 migration crisis"? And can we still speak of a "crisis" today?)
- What information do you ask for from the persons rescued? (Have you ever given information about the status of asylum seekers, refugees or migrants to the authorities)?
- What are your relations with the MRCC Rome/Tripoli?
- How are your disembarkation in Italy or elsewhere? Have you ever needed protection from other actors at sea? Have you ever transhipped migrants on a boat of a national or supranational authority? What are your relations at sea with the different actors?
- Do you have any funding, public donations?
- Do you recover engines & makeshift boats?
- Do you have visual technologies on board? Have you ever given visual content to state authorities?
- How would you describe the evolution of the humanitarian role of SOS MED in the Mediterranean since 2016?
- What has been the impact of the 2017 Code of Conduct on your humanitarian role and practices?
- What has been the impact of the change in European operations (Triton-Thémis) on your humanitarian role and on your practices?
- What has been the impact of the change in Italian landing policy in 2018? on your role and practices?
- What has been the impact of the arrival of the Libyan coast guard on your humanitarian role and practices?
- Are you affected by the criminalisation campaigns of NGOs? Does this have an impact on your humanitarian role and on your practices?

Je SAMAR MAWAZINI, consens à participer au projet de recherche intitulé Mémoire,
 mené par Waldo Raineri, sous la direction de Mme C. Torrekens et M. C. Hein dont
 l'adresse est _____ et le courriel est SAMARDAMLA KHJ@yahoo.com
27 Boulevard du Dr. parini 13012

En signant ce formulaire, je reconnais que :

1. Je participe volontairement à ce projet.
2. Le chercheur m'a informé par écrit des objectifs du projet de recherche, de son déroulement, des avantages et inconvénients possibles.
3. Aucune rémunération ne me sera versée pour ma participation à ce projet de recherche.
4. Je peux refuser de répondre à certaines questions
5. L'entretien sera enregistré sur support numérique. À tout moment, je peux demander que l'enregistrement soit arrêté, temporairement ou définitivement.
6. Cet enregistrement et sa transcription seront conservés sous clé dans les bureaux de _____, seul(es) _____ y auront accès et ils seront détruits après l'expiration d'un délai de _____.
7. Les publications écrites et les présentations orales qui résulteront de ce projet pourront inclure des citations tirées de la transcription de l'entretien. Par contre, en aucun cas, mon identité, ma fonction, et toute autre information pouvant indiquer mon identité ne seront révélées. Je serai simplement présenté comme un/une membre du CA de SOSmediterranée
8. Une copie du rapport final me sera envoyée par courrier à l'adresse SAMARDAMLA KHJ@yahoo.com
9. Je peux à tout moment retirer mon consentement sans avoir à donner de raisons et sans être pénalisé.
10. Je ne renonce à aucun de mes droits juridiques.

Fait à Bruxelles, le 07 septembre 2020, en deux exemplaires.

Nom du participant <u>Samar Mawazini</u>	Signature du participant 
Nom du chercheur Raineri Waldo	Signature du chercheur 

FORMULAIRE DE CONSENTEMENT POUR LES ENTRETIENS

Je soussigné Jean-Yves Abécassis, consens à participer au projet de recherche intitulé Mémoire, mené par Waldo Raineri, sous la direction de Mme C. Torrekens et M. C. Hein dont l'adresse est _____ et le courriel est _____.

En signant ce formulaire, je reconnais que :

1. Je participe volontairement à ce projet.
2. Le chercheur m'a informé par écrit des objectifs du projet de recherche, de son déroulement, des avantages et inconvénients possibles.
3. Aucune rémunération ne me sera versée pour ma participation à ce projet de recherche.
4. Je peux refuser de répondre à certaines questions
5. L'entretien sera enregistré sur support numérique. À tout moment, je peux demander que l'enregistrement soit arrêté, temporairement ou définitivement.
6. Cet enregistrement et sa transcription seront conservés sous clé dans les bureaux de _____, seul(es) _____ y auront accès et ils seront détruits après l'expiration d'un délai de _____.
7. Les publications écrites et les présentations orales qui résulteront de ce projet pourront inclure des citations tirées de la transcription de l'entretien. Par contre, en aucun cas, mon identité, ma fonction, et toute autre information pouvant indiquer mon identité ne seront révélées. Je serai simplement présenté comme un membre du conseil d'administration de SOS MEDITERRANEE France
8. Une copie du rapport final me sera envoyée par courrier à l'adresse j.abecassis@sosmediterranee.org
9. Je peux à tout moment retirer mon consentement sans avoir à donner de raisons et sans être pénalisé.
10. Je ne renonce à aucun de mes droits juridiques.

Fait à Bruxelles, le 07 septembre 2020, en deux exemplaires.

Nom du participant <u>Jean-Yves ABECASSIS</u>	Signature du participant <u>Jean-Yves ABECASSIS</u>
Nom du chercheur Raineri Waldo	Signature du chercheur Raineri Waldo

XIII. Appendix III: Interview Transcripts:

First Interview:

Waldo: Ma première question, comment est-ce que l'ONG conçoit la crise migratoire, en 2014-2015, et pourquoi avoir lancé les opérations en mer ? Comment est-ce qu'elle conçoit le concept de crise ? »

Participant 1 : « Donc, pourquoi 2015, d'abord parce que il y avait l'opération Mare nostrum qui est une grande opération qui est lancée entre 2013 et 2014 avec des moyens de plus de 110 millions d'euros, plus de 900 hommes mobilisés et qui a pu pendant un an sauver plus de 150 milles personnes. Fin de 2014, cette opération elle est arrêtée parce que l'Europe elle trouve que ça peut être un pont qui facilite le passage des migrants vers l'Europe et remplacée par Frontex, l'opération Triton. Cette opération elle avait le mandat limité à la surveillance des frontières européennes, il a plus le mandat de sauvetage, il mobilise les gardes côtes nationaux pour faire cette surveillance. On arrive aussi en 2015, c'est la guerre en Syrie, les conséquences du printemps arabe. Ca devient une crise migratoire sans précédent, on voit plus d'un million de migrants qui tentent d'arriver en Europe par les voies maritimes essentiellement. Beaucoup de morts. L'année 2015 surtout, il y avait à peu près 3700 et quelques personnes mortes, sans compter ceux qui sont disparues en mer. Rajouté à tout cela, l'Europe pour trouver un moyen entre le Frontex et le Mare nostrum annulé, ils ont mis un dispositif, l'opération Sophia. Encore une fois l'opération Sophia n'a pas les mandats de sauvetage en mer, elle n'a pas les mêmes moyens comme Mare nostrum, elle est positionnée dans l'eau internationale assez loin dans la zone de détresse où la plupart des naufragés prennent place. On arrive à une année où il y a beaucoup de morts, beaucoup de migrants qui passent, presque aucun dispositif dédié au sauvetage. Donc l'idée d'avoir une association humanitaire, européenne, de sauvetage en mer devient indispensable. Ou si le hasard fait que Sophie Beau, une demande humanitaire, et Vogel, demande maritime, ils se réunissent par hasard quelque part. Les deux, ils ont cette idée de faire quelque chose en mer, avec les deux compétences. Ce projet il a pu être mis en place, l'idée aussi surtout de faire un sauvetage digne, pérenne, tout le temps pas saisonnière, juste en été ou quand il y a des migrants dépassés et efficaces. C'est cela qui a amené vers la création de SOS Méditerranée. Qu'est-ce que tu penses **participant 2?**»

Participant 2 : « C'est tout à fait ce que j'aurais répondu. Peut être rajouté la dimension

humaine. Tu as très bien décrit le contexte, se sont effectivement au départ de SOS Méditerranée, l'idée vient de Klaus Vogel, qui est un officier de la marine marchande allemande, et Klaus ne supporte pas l'idée que des sociétés d'armement, avec lesquelles il travaille, puissent lui dire à lui, officier de marine ; « N'empruntez pas telle route parce que il y a un fort risque qu'il y ai des embarcations de migrants en détresse ». Ce qui obligerait à détourner tant le cargo et couterait l'argent à la compagnie. »

Waldo : « C'était les coutumes d'un peu de dire ça à l'époque ? »

Participant 2 : « Oui absolument. Et aujourd'hui encore, franchement aujourd'hui encore. Les compagnies ne vont pas le dire clairement, bien sûr, ne vont jamais le reconnaître, il faut être de l'intérieur pour le savoir, il faut travailler. Et Klaus travaillait pour ces compagnies, et il savait ce qu'on lui disait, ce qu'on lui recommandait. Bien sûr, on ne peut pas exiger d'un capitaine de navire qu'il change comme ça de route, il est quand même le seul maître à bord, mais on peut quand même

lui faire d'amicales pressions pour lui dire ; « Attention, il y a un cout économique ». Voilà. Et Klaus ne peut pas supporter ça parce que Klaus est un marin, et quant on est marin, on est attaché à des valeurs, ces valeurs majeures. C'est ceux qui font SOS Méditerranée, ça il faut bien le comprendre. C'est cette défense des valeurs, cette solidarité des gens de mer. La solidarité des gens de mer, c'est sur cette valeur que s'est bâtie tout le droit maritime, toutes les conventions internationales ; SOLAS, Convention de Hambourg. On ne laisse jamais quelqu'un en péril en mer. »

Waldo : « C'est ce qu'il manque aux opérations européennes ou non ? Puisqu'elles n'ont pas le mandat de sauver des vies mais pourtant elles sont quand même présentes. Est-ce une forme de solidarité ou pas qu'elles incarnent? »

Participant 2 : « A juste titre, participant 1 a parlé de mandat, le mandat des opérations en aval qui ont succédées à Mare nostrum, mais le premier mandat n'est plus le sauvetage. C'est clair. L'opération d'EUNAVFOR Med a pour objectif de démanteler les réseaux de passeurs. Ca c'est le premier objectif. On se donne les moyens que cette tache, donc ça ne nécessite pas énormément de moyens maritimes, ça nécessite quelques moyens aériens et sur cette tache là.. Il faut bien dire les choses d'ailleurs, l'amiral italien qui commandait Sophia l'a reconnu lui-même, c'est un échec. On ne démantèle pas des réseaux de passeurs sur les routes maritimes. Les

passeurs ne sont pas en mer, ils n'embarquent pas sur ces embarcations de fortune qui sont en situation de naufrage dès qu'elles quittent les côtes. Le passeur reste à terre. »

Waldo : « Vous avez jamais eu de cas? »

Participant 2 : « On en a déjà eu, parfois quelques sous-fifres qu'on a récupéré à bord de quelques embarcations en bois, celles qui portent le plus de passagers. Il y a eu des arrestations, il y a eu des procès. Mais c'était les sous-fifres, franchement. »

Waldo : « Ca se passait comment dans ces cas-là quand il y a un membre criminel qui est découvert, comment est-ce que vous le découvrez et comment est-ce que vous alertez ou pas les autorités ? »

Participant 2 : « Non mais pardon, excusez-moi d'intervenir là-dessus, on parle de l'action de l'EUNAVFOR Med qui est donc le démantèlement des réseaux de passeurs et de son bilan qui est un bilan globalement négatif, c'est-à-dire qu'ils n'ont jamais vraiment rempli leur mission de ce point de vue. Il leur est arrivé parfois, effectivement, de récupérer une fois l'embarcation où les migrants arrivaient, débarquaient, d'identifier par le billet d'enquête, des passeurs qui étaient à bord et qui étaient la plupart du temps des larbins, des sous-fifres. »

Waldo : « C'est eux qui s'occupent de cette identification et de ces arrestations. Et ils le font directement sur les bateaux alors ? »

Participant 2 : « Et ils le font assez souvent par le billet d'enquête à terre, lorsque les navires sont arrivés. Lorsque les naufragés ont été débarqués, par des interviews, par des interrogatoires. Une fois arrivé à terre, en Europe. Il y a eu des arrestations, il y a même eu des procès. Mais c'est l'arbre qui cache la forêt, en réalité EUNAVFOR Med est un échec. Ca c'est pour répondre à la question que tu disais concernant, comment dirais-je, le fait que les conventions maritimes sur le sauvetage s'appliquent à tout le monde, dans n'importe quel type de navire, et elles s'appliquent également aux navires d'EUNAVFOR Med et aux navires des opérations Frontex. Donc, ils ont une mission de sauvetage mais ils ne le disent pas, ils ne le revendiquent pas vraiment. Néanmoins, EUNAVFOR Med a beaucoup de sauvetages, ça a été même, par moment avec les navires de gardes côtes italiens, le premier, comment dirais-je, c'est eux qui étaient les premiers ??»

Participant 1 : « En fait ils font des sauvetages pas de manière systématique, mais quand même, ils ont pu sauver 46 milles personnes entre 2015 à 2018, qui est un chiffre, on ne peut pas le négliger. Il y a pas mal aussi de coordination avec les NGO qui agissent en mer pour les transbordements. Tu es d'accord avec moi **participant 2**, pour ces bateaux qui ne sont pas dédiés au sauvetage, ils le font par des valeurs maritimes et humaines, bien sûr, tout ça. Ils transfèrent les rescapés vers d'autres navires dédiés à ça. Nous, il y a beaucoup de transferts qui étaient fait entre nous et eux. »

Waldo : « Ca veut dire que eux transbordaient les migrants secourus parfois sur l'Aquarius ou sur l'Ocean Viking ? »

Participant 2 : « On peut te livrer une petite anecdote, ce point de vue, elle est tout à fait intéressante. Tu te souviens de juin 2018 quand nous nous retrouvons en mer, au moment où les choses commencent à basculer politiquement en Italie avec l'arrivée de la coalition cinq étoiles des ligues de Salvini. Donc Salvini c'est un ministre de l'intérieur à Rome, et il a dit que lui a ce poste, il n'y aura plus de migrants, plus aucune ONG qui débarquera le moindre migrant en Italie. Une déclaration très très va-t'en guerre à ce moment-là. Comment dirais-je, nous à ce moment-là, on est en mer. Quand je dis nous, c'est l'Aquarius, à cette époque-là c'était l'Aquarius que nous avions. On est en mer avec pratiquement plus de 600 naufragés à bord de l'Aqua. Plus de 600 naufragés, ces naufragés ont les récupérer pratiquement en une nuit. La plupart d'entre-eux ont été récupéré en une nuit, et les deux-tiers d'entre-eux ont été récupéré par transbordement depuis les navires des gardes côtes italiennes. Comment mener des opérations de sauvetage, l'opération initiale avait été faite par des gardes côtes, et ensuite ces gardes côtes ont transféré les naufragés sur l'Aquarius. Cette nuit-là ce sont des gardes côtes italiens qui ont chargés à bloc, excuse-moi d'employer ce terme mais il correspond à la réalité, l'Aquarius pour ensuite que l'Aquarius s'entende dire, on ne vous ouvre pas le moindre port d'embarquement en Italie. Et on a dû partir à Valence, en Espagne, puisque seule l'Espagne a répondu à notre demande de torture, plus exactement a répondu à l'Italie au centre de coordination de Rome en disant qu'il ouvrirait le port de Valence à l'Aquarius. Et le comble de cette histoire, c'est que nous ne pouvions pas nous acheminer plus de 600 naufragés sur 1500 kilomètres de mer pour aller jusqu'à Valence. On ne pouvait pas le faire. Donc on est revenu vers le centre de coordination, le centre de coordination de Rome nous a envoyé deux navires de garde côtes italiens et nous avons, comment dirais-je, transférer une partie de nos naufragés sur deux navires de garde côtes italiens. Tu vois, on est

parti à trois navires ; l'Aquarius plus deux navires des garde côtes italiens vers Valence. Et ce qu'on a appris ensuite, c'est que cette opération d'accompagnement de l'Aquarius vers Valence par les deux gardes côtes italiens, ont été financés sur crédit européen. »

Waldo : « C'est intéressant cette période-là parce que à ce moment-là votre rôle d'humanitaire en mer comment vous le percevez ? Quel changement vous voyez à partir de 2018? Ca c'était déjà un peu amorcé en 2017, ça c'est la deuxième partie de mes questions. C'est vrai que c'est d'abord le code de conduite, je ne sais pas où ça en est aujourd'hui, si vous l'avez signé ou pas? »

Participant 2 : « Il y a quand même une date qui est quand même importante qu'il faut retenir, c'est celle du 3 février 2017, le 3 février 2017, se tient à Malte un sommet européen. Et si tu vas voir sur internet, les conclusions sont encore en ligne, on peut les récupérer assez facilement. On voit très bien, la ligne de conduite des Etats européens en matière d'immigration au travers la Méditerranée centrale. C'est dans cette déclaration de Malte, des chefs d'Etats européens, qu'ils vont notamment demander à la Libye d'assurer le ménage sur ses frontières maritimes, et de prendre en charge le sauvetage dans sa zone détresse. En fait, tout est dit quoi. Tout est convenu là-dedans, et c'est probablement à ce moment-là, ça avait commencé un tout petit avant, que on voit que la situation est en train d'évoluer. Mais nous on le ressent. Participant 1, tu te souviens de ça? »

Participant 1 : « Oui tu as raison, c'est le terrain préparé. Les gens ils ne savent pas quelles sont les conséquences de cet accord, mais maintenant on a compris. »

Participant 2 : « Oui on voit de plus en plus intervenir des gardes côtes libyens par exemple. A partir de ce moment-là, on voit arriver assez souvent les gardes côtes libyens qui s'interposent et qui viennent perturber les sauvetages, ça c'est très net. On voit cette montée en puissance, en fait cette montée, ce changement, on voit le MRCC Rome se désengager de plus en plus, nous renvoyer vers la Libye, ou nous renvoyer vers notre pavillon. Fin bref, on sent que les choses commencent à bouger à partir de ce moment-là, 2017 mise en place vraiment d'une stratégie européenne, d'une stratégie des Etats européens. C'est le sommet de Malte, c'est le sommet des chefs d'Etat qui détermine ça. Bon voilà, les choses changent, elles deviennent très très compliquées quand arrive au pouvoir en Italie évidemment... Comment dirais-je, la coalition cinq étoiles ligue avec Salvini au pouvoir. Là c'est très net vraiment, là on est dans le dur quoi. On est dans le dur. Ca va durer quasiment un an puisque Salvini a fait la coalition s'installe à Rome

début juin 2018. Et elle va être mise en minorité et quitter les affaires, exposé en septembre 2019, donc un peu plus d'un an. Là on est dans un contexte très compliqué, mais 2017 c'est ça ; le 3 février, le sommet de Malte, on voit l'attitude des gardes côtes libyens changer. Ils sont de plus en plus présents, évoluer en tout cas. De plus en plus présent sur la zone. On voit le MRCC Rome de plus en plus absent. Et, comment dirais-je, on apprend que le ministre de l'intérieur italien Minniti à l'époque, du parti démocrate, ancien PCI d'ailleurs, qui va négocier en direct avec les chefs de gangs libyens. Ils vont passer des accords, la presse va dévoiler qu'il y aura eu des accords financiers de conclure sur plusieurs millions d'euros en direct entre l'Italie et la Libye. Bon, pour tenter d'indiquer les départs. »

Participant 1 : « Juste pour compléter les idées du participant 2, il faut voir l'évolution de ce qu'il se passe en mer Méditerranée l'a pris cinq temps différents. On peut dire jusqu'à 2017 aussi, il y avait que les gardes côtes italiens qui faisaient le sauvetage. Après, il y avait le Mare nostrum qu'on a dit. Après, les légions qui ont rejoint le sauvetage en mer et Sophia, on était un des premiers. Et d'un coup, on arrive à un moment, où il n'y avait plus de ONG et maintenant on peut dire plus personne. Comment on est arrivé à ça? D'abord, les navires marchands ils ont subi beaucoup beaucoup de contraintes. Comme on dit, eux par hasard ils voient un bateau en détresse, c'est certain qu'ils décident de faire le nécessaire. Et eux, ils ont subi beaucoup de contraintes comme quoi d'avoir un délai avec tous ces rescapés en mer. Par exemple, on a le SAVOSA qui est resté en mer avec 40 rescapés plus de quinze jours. On a un autre bateau avec sept jours. Donc tu imagines le coût financier pour tous ces bateaux de marines marchandes qui ne sont pas censés être là pour les sauvetages. Et beaucoup d'autres aussi. On a en 2019, le HUBLLOT qui a fait le sauvetage de 108 rescapés, qui a annoncé qu'il allait débarquer en Italie. Le lendemain, les gens se trouvent devant la côte Libyenne. Donc ils commencent à crier, à pleurer. C'est pas la décision du capitaine du bateau, c'est la décision des hommes qui viennent des centres de coordination de sauvetage. Donc là, les bateaux de marins marchands ils ne voulaient plus participer. Après, on a arrêté Mare nostrum. Sophia a fait un échec comme a dit le participant 2, et finalement il finit par faire des surveillances aériennes. Ils ont posés à l'Est de la côte libyenne, très loin de la zone de sauvetage qui est située à l'Ouest. On leur donne des moyens rien que pour faire les surveillances et on voit l'information à Frontex et à d'autres agences de surveillances. Donc, c'est totalement éloigné du sauvetage mais c'était pas sous mandat comme on a dit dès le début. On arrive avec ce fameux accord en février 2017 et le code de conduite qui a divisé les ONG entre ceux qui ont signés et ceux qui n'ont pas signés. Nous, SOS Med, on a décidé de pas signer parce qu'il y avait deux points fragiles qu'on ne pouvait pas accepter. D'abord, le personnel avec des armes sur le bateau

et la deuxième c'était lié à compliquer les transbordements, mettre beaucoup de contraintes. C'est la raison pour laquelle on a refusé de signer. On arrive à un moment en 2017-2018, on considère les ONG comme elles jouent le rôle de passeur, elles deviennent des cibles de criminalisation. On ferme les ports italiens devant les bateaux de sauvetage. On allonge la durée de l'immobilisation de ces bateaux en mer, c'est-à-dire quand on fait les sauvetages on doit attendre plusieurs jours (7 jours, 12,19). Ca devient insupportable. Avec Sea-Watch, cela se termine avec la capitaine qui entre en force dans le port italien. Après, on a commencé une nouvelle aire avec le blocage des navires de sauvetage saisir, pavillon, inspection. Ils trouvent toujours des moyens techniques pour que ces bateaux soient où en escale technique chez eux, ou qu'ils soient bloqués dans les ports européens. On finit par la création des gardes côtes libyens, on comprend pas comment ils ont créé cette instance. Les gardes côtes, ils ont transféré la zone de sauvetage de la MRCC italienne vers les libyens, et une fois qu'ils sont arrivés en mer, ils commencent l'interception. Ils ont fait beaucoup en 2017 : 18 900 personnes ont été interceptées en 2017. Et en 2019, parce qu'il n'y avait pas beaucoup de départs par rapport à 2017, il y avait : 9035 personnes. Donc, l'interception, les transferts de sauvetage en mer, a bloqué les sauvetages en mer et pas seulement ça, on a l'impression qu'il n'y a plus de centre de coordination de recherche et de sauvetage en mer. Par exemple, quand on fait les sauvetages, si on appelle, on est obligé d'appeler les JRCC, on a pas le choix, c'est les coutumes, c'est les procédures. Si on appelle, il ne répond pas, s'il y répond, il parle pas anglais donc il n'y a pas de moyen de communiquer, donc dans ce cas-là, on retourne vers Malte et l'Italie. On l'appelle, il nous renvoie à nouveau sur les libyens et ainsi de suite. Donc ça devient très très compliqué les sauvetages. S'ils n'ont pas bloqués notre bateau. Donc on est arrivé à un moment, pour le moment, où il n'y a personne qui fait les sauvetages en mer. »

Waldo : « Donc ça c'est les contacts avec le MRCC à Tripoli? Vous essayez de les contacter, il y a des contacts avec eux. »

Participant 2 : « Peut être faut-il rappeler ce que prévoit de ce point de vue, c'est la convention SAR, dites convention de Hambourg de 1979 qui organise le sauvetage au plan international. Cette convention elle dit des choses très très simple, elle dit que les mers du globe, les eaux internationales, les mers et les océans du globe sont divisées en zones de détresse, ce qu'on appelle des zones SAR. Et qui appartient aux pays riverains de ces zones, on parle bien des eaux internationales, de comment dirais-je, d'assurer la coordination des sauvetages sur ces zones là. La coordination de sauvetage implique que l'Etat en question va mettre des moyens appropriés

pour couvrir électriquement la zone, c'est-à-dire savoir ce qu'il s'y passe, être en mesure de capter des appels de détresse, être en mesure d'y répondre, avoir des radars, être en mesure de rentrer avec les navires qui croisent la zone, etc. C'est ce qu'on appelle les MRCC ou les JRCC. En France, ce sont les cross qui font ça. Ça c'est ce que dit la convention SAR, la convention SAR elle dit aussi qu'un sauvetage commence, pour l'autorité coordinatrice, à partir du moment où l'appel est reçu par ces MRCC et s'achève lorsque le MRCC a indiqué au navire sauveteur la borne de destination. Dans le texte, le terme de « safe place » est employé, c'est-à-dire un endroit sûr. C'est une terminologie juridique, qui a un sens juridique très fort. Et que le sauvetage s'achève dès lors à partir du moment

où le dernier naufragé est débarqué dans ce port sûr. Il est fait d'obligation aux navires qui sont contactés par le MRCC pour aller porter secours de rendre compte en permanence au MRCC. Il est également fait d'obligation de dire à un navire qui croise, dans la zone de sécurité, dans la zone de détresse, s'il est témoin ou s'il a connaissance d'un bâtiment en détresse de prendre contact avec le MRCC en question. Voilà, ce que dit le droit, enfin la convention SAR, c'est donc quelque chose d'extrêmement simple. Il y a une obligation de porter secours, c'est le droit de la mer, c'est une obligation générale de porter secours. Et cette obligation elle est déclinée, elle est organisée dans le cadre de cette convention. On le voit en permanence, être en contact avec l'autorité coordinatrice. Qui désigne l'autorité coordinatrice ? Comment elle est désignée ? Par qui elle est enregistrée ? Qui gère ça au plan international ? C'est l'organisation VANTIM international. De ce point de vue là, traduit les conventions. Ce qui se passe c'est que pendant toute la période qui a suivie la dépendance de la Libye, puis l'arrivée au pouvoir de Kadhafi, puis toute la période de la dictature de Kadhafi jusqu'au printemps de 2011. La Libye ne s'est jamais préoccupée, n'a jamais revendiquée la coordination des secours dans sa zone SAR, c'était loin d'être sa préoccupation. Donc on avait là une zone grise, la zone SAR Libye, qui est immense, qui était une zone grise. Mais il fallait bien que quelqu'un fasse le job de coordination et par convention, compte tenu du fait qu'on est là sur une zone géopolitique d'influence de l'Italie, c'était l'Italie qui assurait donc la coordination du MRCC Rome, qui assurait la coordination des secours, étendant sa compétence de sa propre zone SAR à elle jusqu'aux zones libyennes, jusqu'à la zone SAR libyenne. Le sommet de Malte, dont on parlait, de la Valette, donc du 3 février 2017, dit clairement qu'on attend de la Libye qu'elle revendique sa compétence sur la coordination des secours dans sa zone SAR et qu'on va l'aider à le faire. On va lui fermer ses gardes côtes, on va lui fournir des moyens matériels, on va donner de l'argent, etc, etc. On va débloquer à partir de là, on va débloquer des crédits du fond judiciaire européen. On parle de plusieurs centaines de millions d'euros pour équiper les gardes côtes. Là on parle évidemment des aides européennes,

mais il y avait aussi dans le cadre des accords bilatéraux avec l'Italie, il y avait déjà des aides italiennes. L'Italie a fourni la plupart des moyens nautiques aux gardes côtes libyens. Et on va mettre en place, toute une stratégie de formation des gardes côtes. On sait, par exemple, qu'ils viennent se former en Slovénie, dans les ports slovènes avec des compétences européennes qui sont là pour ça. Et donc, le 27 juin 2018, on apprend en catimini, par un communiqué de l'organisation maritime internationale, que enfin la Libye est reconnue comme autorité coordinatrice sur sa zone SAR libyenne. Et que de ce fait, elle a créé un JRCC qui est basé à Tripoli. On rendra compte, comme a très bien dit participant 1, que ce JRCC est totalement inefficace. »

Waldo : « En pratique ça donne quoi ce nouveau JRCC ? »

Participant 2 : « On en revient à la lettre de la convention de Hambourg, donc nous quand on est dans la zone on maraude, parce que nous on fait de la maraude dans les eaux internationales. A environ 30-40 milles des côtes libyennes. La limite des eaux territoriales étant à 12 milles. Lorsqu'on a connaissance d'un, on est informé d'un navire en difficulté, des embarcations en difficulté. Et bien on contacte le JRCC Tripoli, par tous les moyens possibles (mails, etc...). On envoie toujours en copie au MRCC voisin (Malte, Rome, etc). Et, très souvent, on se rend compte que le JRCC Tripoli, on a constaté que le JRCC Tripoli ne répondait pas. Très très souvent. Quand il répond, il répond effectivement en arabe, ils pratiquent peu l'anglais. Or l'anglais, ça aussi c'est dans les textes. Les centres de coordination que doivent installer les Etats, la langue c'est l'anglais. C'est dit dans les textes, dans la convention internationale. L'arabe est une très belle langue, c'est pas une langue de communication sur les sauvetages internationaux, c'est l'anglais. Donc ils doivent le parler, mais ils ne parlent pas anglais, assez souvent ils devraient. L'observation nous fait penser, moi me fais penser, qu'ils sont dans une sorte de névrose, c'est un peu compliqué. D'une part ils touchent du pognon de l'Europe, de l'argent, donc ils sont obligés de rendre des comptes, ils sont super actifs sur certaines opérations. On les voit débarquer à fond les canons, ils s'interposent entre nos bateaux et les bateaux des naufragés assez souvent. Il y a un bel exemple avec le Sea-Watch3 où on voit très bien la vedette libyenne qui vient s'interposer, qui met de la panique, qui ajoute de la panique à la panique et qui ajoute, comment dirais-je, de la catastrophe à la catastrophe. Les images sont sur internet, on peut les voir. Donc, ils sont hyper actifs à certains moments, puis à certains autres, on sent qu'ils ont la tête ailleurs. Et d'ailleurs, récemment encore, on a entendu des déclarations officielles de la part du porte-parole du garde-côte de la

marine libyenne, qui mettait en garde les pays européens en disant « Nous nous pourrions pas accomplir nos missions parce que nous sommes un pays en guerre et qu'aujourd'hui nos moyens doivent être utilisés à défendre la patrie, la nation ». C'est très paradoxal. Il en demeure pas moins que, comme le disait très justement le participant 1, on voit bien que depuis cet accord de Malte, on voit bien les interceptions, on parle bien d'interception et pas de sauvetage, par les gardes côtes libyens ont augmenté de manière importante. »

Participant 1 : « Mais moi je pense que leur stratégie est ; ok ils ne répondent pas à l'appel de coordination de sauvetage dont nous on a besoin qu'ils répondent. Mais ils font l'interception, mais des fois ils font l'interception hors de leurs zones de sauvetage, dans les eaux maltaises hors de droit maritime. Ils n'ont pas le droit. Ma pensée à moi, ils disent « Allez on va faire l'interception et pas casser la tête de répondre aux radars »

Waldo : « Et vous, il y a jamais eu de transbordement vers les gardes côtes libyens ? »

Participant 2 : « Non, je voulais ajouter quelque chose à ce que disait participant 1. Comment dirais-je, l'attitude des gardes côtes libyens, par rapport à Malte, effectivement elle a raison de dire ça, ils sortent de leurs zones de compétences, c'est-à-dire qu'ils vont dans les eaux de la zone SAR maltaise pratiquer des interceptions. Mais que ça résulte d'un accord avec Malte qui est intervenu, un accord bilatéral comme il y en a eu avec l'Italie à plusieurs reprises. L'accord bilatéral entre Malte et la Libye, en mai de cette année. Regardez, il y a eu pas mal de papiers dans la presse sûrement pour dénoncer. A la suite du rapport de la ligue des droits de l'homme, la ligue internationale des droits de l'homme, qui pointe le comportement tout à fait scandaleux de Malte avec des push-back permanents vers la Libye et avec justement le fait qu'elle laisse rentrer des gardes côtes libyens dans sa zone. Mais ça ça résulte d'un accord. »

Waldo : « Et donc, il y a le JRCC qui s'est mis en place en Libye, les gardes côtes qui ont pris une énorme importance, puisqu'on voit maintenant qu'ils vont jusqu'à Malte. Et quand vous vous avez des interactions avec eux, qu'est ce qu'il s'est déjà passé dans la pratique ? Vous me disiez au début que vous avez déjà fait des transbordements de l'opération Sophia vers Aquarius. »

Participant 2 : « Pardon, des gardes côtes italiens vers l'Aquarius. Je pense qu'on était pas dans l'opération Sophia là. On parle des sauvetages de juin 2018 là, c'est des gardes côtes italiens vers l'Aquarius. »

Waldo : « Ok gardes côtes italiens, et gardes côtes libyens vers l'Aquarius non? Puisqu'il les ramène de toute façon.. »

Participant 2 : « Absolument pas, non. C'est clair. Les libyens ont exigés qu'on leur livre des rescapés, des naufragés. Ca oui. Ils se sont interposés pour, comment dirais-je, tenter de récupérer les naufragés. Oui. Ils nous ont intimé l'ordre, la JRCC Tripoli nous a intimé l'ordre de venir débarquer en Libye, plus exactement les gardes côtes, c'était la vedette des gardes côtes. Quand on a du faire un sauvetage sous leur nez, ils nous ont intimés l'ordre d'aller débarquer en Libye. Donc, nous on a répondu qu'il est évidemment totalement impossible et inenvisageable qu'on aille débarquer des naufragés en Libye, on se mettrait ainsi en contravention avec les conventions internationales. Voilà le type de rapport que nous avons avec eux. »

Waldo : « Et alors, le MRCC Rome, là aussi il y a eu un changement qui s'est passé plus ou moins, parce qu'il y avait une certaine coopération qui s'est mis au moment où il y avait toutes les ONG en 2016, là il était plutôt actif le MRCC Rome et il répondait, et c'était relativement bien agencé. Et donc, là en 2018, quel changement il y a eu là dans la pratique ? »

Participant 2 : « D'abord il y a eu cette période qui a, comment dirais-je, on est quand même dans un processus évolutif. Il y a eu un moment où on a formalisé les choses, ce moment c'est le 3 février 2017, c'est le sommet de Malte et c'est là où l'Europe, en vérité les européens disent clairement les choses. Ils disent en clair la frontière européenne aujourd'hui c'est plus 12 milles des eaux, des côtes européennes, mais c'est sur la limite des eaux territoriales libyennes. Donc, elle demande aux libyens de faire le boulot de surveillance de sa frontière maritime. Elle va lui donner les moyens, là c'est 3 février 2017. La volonté des Etats européens, je dis bien des Etats européens, est clairement exprimé. Après, commence une période de transition qui va durer un peu plus d'un an puisqu'en gros, 3 février 2017, les choses sont posées. Mais la zone SAR libyenne sous coordination libyenne, là on est 27 juin 2018. C'est là qu'on a un JRCC Tripoli, que donc on ne peut plus en référer quand on fait le sauvetage dans la zone de détresse lybienne, on a plus comme autorité coordinatrice le MRCC Rome mais le JRCC Tripoli. Donc les choses sont très claires à partir de ce moment-là. A partir de juin 2018, mais pendant toute cette période de transition, on voit bien que les choses commencent à se mettre en place, c'est-à-dire que le MRCC Rome est de plus en plus sourd à nos appels, ne répond pas. On renvoie vers Tripoli, vers le gardes côtes de Tripoli, on nous donne même des numéros de téléphone, des numéros de fax,

etc. Alors qu'ils n'ont pas encore de compétences de coordination sur cette zone, pas encore! Mais on sent que les choses se détériorent, se délitent. »

Participant 1 : « Moi j'aimerais bien aussi rappeler que nous quand on a commencé la première opération de sauvetage, on a mis le bateau en mer en février 2016. On a un rapport plutôt bon avec le MRCC italien. Je m'en rappelle, avant de mettre le bateau en mer, on était aller les voir pour parler avec eux que l'on a cette association de sauvetage et on avait plutôt une bonne coordination. En 2016, jusqu'à la date, pour vous signaler l'accord en 2017, on a bien fait les choses. Si l'Aquarius a pu sauver plus de 29 milles personnes c'est parce que la zone de sauvetage et de recherche fonctionne bien et qu'il y a plus ou moins une bonne relation. »

Participant 2 : « On était même considéré, enfin on va dire les choses comme ça, on était même considéré comme l'organisation de sauvetage la plus professionnelle. »

Participant 1 : « Mais même, on était bien vu aussi. Je sais pas, j'avais l'impression, on était bien vu par eux. Ils reçoivent des appels de détresse, ils ne savent pas quoi faire donc, au moins il y a quelqu'un qui leur dit « Ah fais ça! ». »

Participant 2 : « Oui je voudrais rajouter une chose aussi, on a vécu une période complètement folle avec Salvini. Alors bon, c'est évident. Salvini arrive au ministère de l'intérieur, là on touche le fond quoi. Excusez cette expression qui est vraiment très maladroite. Et là, l'Italie organise une véritable résistance dans les milieux maritimes et notamment dans le corps des gardes côtes. Parce que Salvini qui dit : « Moi, ministre de l'intérieur, plus aucun migrant ne saura débarquer en Italie ». Il le dit pour tout le monde et pas seulement pour les ONG. Il le dit aussi pour les gardes côtes italiens, qui eux vont continuer malgré tout en accord, répondant ainsi aux conventions maritimes et internationales et au principe de solidarité des gens de mer. Lui, eux vont continuer à faire les sauvetages. Et vous avez la fameuse épopée, triste épopée de Diciotti, qui est un gros bateau des gardes côtes qui, je ne sais plus où est-ce que c'était, dans quel port italien. Le Diciotti rentre dans un port italien, il est bateau pavillon italien quand même, c'est-à-dire des gardes côtes. Il a plusieurs centaines de naufragés à bord, et Salvini lui a interdit le débarquement de ses naufragés. D'ailleurs, Salvini sera ensuite poursuivi, il est toujours d'ailleurs, l'affaire continue. Il va être poursuivi pour ça et on va entendre à ce moment-là le porte parole des gardes côtes italiens prendre très courageusement la parole pour défendre les principes du droit international. Donc il y a une résistance qui s'opère y compris en Italie. Et là,

on est bien toujours toujours dans l'application de la convention SOLAS dans toute sa force. C'est-à-dire que le sauvetage est une obligation faite à tout garde côte, capitaine de navire, qui ne peut s'y soustraire, qui doit les sauver sans mettre en péril son propre équipage et son propre navire. Il doit les sauver et on est dans une opération d'urgence, le débarquement doit se faire rapidement d'ailleurs de ces naufragés. Dans un port sûr, le texte dit cela c'est clair, à distance raisonnable de la zone de naufrage. Voilà ce que disait le texte. Et donc, on fait une application totale, les gardes côtes italiens sont sur cette conception, ils l'a défendent bec et ongles face à Salvini, qui lui dit « Moi je ferme toutes mes portes ». »

Waldo : « Je voulais peut être passer aux questions un peu plus précises, c'est-à-dire les technologies visuelles que vous auriez à bord. Est-ce que vous avez des vidéos? »

Participant 2 : « Moi ces questions techniques je préfère pas, on est pas du tout dans l'opérationnel. »

Waldo : « L'évolution des donations publiques depuis 2016, est-ce que vous avez déjà eu une fois un quelconque financement européen ou pas ? »

Participant 2 : « Non »

Waldo : « Et vous l'accepteriez ou pas ? »

Participant 2 : « C'est un silence éloquent. »

Participant 1 : « C'est personnel, en général quand quelqu'un voulait aider dans ce domaine là, je cherche la bonne foi, s'il y a une bonne foi derrière, on est pas manipulé par une autre stratégie ou une autre politique, oui pourquoi pas. Bien sûr. Nous, on a mis ce bateau en mer pour pas rester longtemps. On est là, l'idée de SOS Méditerranée c'est de faire le nécessaire jusqu'à ce que l'Etat rempli leur mandat. C'est à l'Etat de faire ça, c'est pas à une ONG. D'ailleurs, on a pas de moyens. Nous, on est en mer, jusqu'à ce que l'Etat prenne sa responsabilité de faire le nécessaire. Bien sûr, quand l'Etat revient et dit « D'accord là on a compris, il faut faire quelque chose », on va faire quelque chose. Mais bien sûr, on accepte. »

Participant 2 : « Je dirais moi tout simplement, que la question évidemment ne se pose pas. Je

pense que si un jour on a un sommet européen à Malte ou ailleurs, dont l'une des conclusions serait « Nous allons financer une vaste opération de secours en Méditerranée centrale pour arrêter la barbarie et pour mettre un terme à la barbarie, et on va s'appuyer sur des organisations non-gouvernementales pour le faire ». Je pense qu'on sera ravi. Franchement on aura atteint notre but. C'est la ligne principale de notre plaidoyer que de demander à l'Europe aujourd'hui de mettre en place les moyens nécessaires pour faire cesser le scandale. Voilà, non mais pour répondre très directement à ta question, nous n'avons pas bien sûr de crédit européen. Nous n'avons pas d'ailleurs de crédit d'Etat, de subvention d'Etat. On en a eu une à un moment donné mais on ne l'a plus, je crois que ça a été un oneshot, c'était la Principauté de Monaco qui a financé à un moment donné, nous a donné quelques milliers d'euros. C'était assez dérisoire et c'était un one shot. On a plus eu ça jusqu'à ces derniers budgets, une très très forte proportion de notre budget était fourni par des particuliers, des dons privés : 98% de financement privé. Pour l'essentiel des dons de particuliers et une partie d'aide d'entreprise amies, par exemple Voyageur du Monde. On ne va pas tendre le cou à une rumeur que les milieux identitaires font courir disant que nous serions financés par Georges Soros. Bon, non, on est pas financé par Georges Soros. Je ne vois pas ce qu'il y aurait de scandaleux à l'être mais on ne l'est pas. Non, on a quelques partenaires privés qui nous soutiennent mais se ne sont pas des grands groupes, ce sont des petites entreprises qui ont dans leurs valeurs la fraternité et la solidarité. Ils le font. Voilà ce que c'est la structure de notre budget, essentiellement des dons de particuliers. »

Participant 1 : « Oui mais on a des subventions publiques grâce à vos efforts participant 2. »

Participant 2 : « C'est ce que j'allais ajouter, ça ces derniers budgets, on était à 98%. Cette proportion est en train de diminuer parce qu'augmente, effectivement, grâce au travail que nous conduisons dans les antennes, les subventions des collectivités territoriales AMI qui veulent nous soutenir parce qu'elles considèrent que nos valeurs sont aussi les leurs. »

Waldo : « D'accord, c'est aussi des localités ? »

Participant 2 : « C'est des collectivités territoriales qui peuvent être... Alors, excusez-moi, mais je vais parler pour ma propre paroisse. La région Occitanie qui a été, historiquement, la première région de France à financer SOS Méditerranée. Elle en est à la quatrième subvention, la région Occitane, 60 milles euros cette année, les années précédentes on était à 50 milles. On a réussi à augmenter un peu. Comme autre région qui, je parle des régions, on a la région Nouvelle-

Aquitaine qui a apporté un financement l'année dernière sur l'exercice 2019. Pardon, 2020, parce que le vote a eu lieu en 2019 et la subvention versée en 2020. Le vote a été contesté d'ailleurs par des élus du rassemblement national. Ca c'est la deuxième région. »

Participant 1 : « On parlait des communes de Miramas qui est pas loin de chez nous, qui a donné 5 milles euros. Des fois on a des petites sommes. La mairie de Paris qui a donné pour la première fois 10 milles euros, la deuxième 20 milles, après je ne sais pas.. »

Participant 2 : « Ce que je peux dire aussi pour être prêcheur de ma paroisse si je peux m'exprimer ainsi. La ville de Montpellier, à la suite des élections municipales, il y a eu un changement de municipalités à Montpellier. Et la première subvention votée par cette nouvelle municipalité, donc lors de la réunion du premier conseil municipal qui a suivi l'élection du maire, a été une subvention pour SOS Med. Ils ont voulu marquer symboliquement cet acte en votant pour la première subvention pour SOS Med. Le conseil départemental de l'Hérault, le département de Loire-Atlantique qui a financé de manière considérable, 400 milles euros. C'était une subvention considérable qui va être renouvelée. On a un certain nombre de collectivités territoriales aujourd'hui qui s'agrègent, auxquelles on a proposé de travailler en réseau sur, notamment, sur le plaidoyer, parce que ce sont des relais en terme de plaidoyer importants. »

Waldo : « Alors la dernière petite question, le futur de l'ONG, vu la situation en mer, les opérations SARs, c'est quoi vos intuitions pour le futur ? »

Participant 1 : « Moi je dis, on arrête pas de passer d'un obstacle à l'autre. D'abord, quand on a commencé cette mission, le premier obstacle c'était le financement, garantir 14 milles ou 16 milles euros par jour pour une petite association, c'était un grand défi. Mais petit à petit on a compris que non, le défi était plus grand que ça. On arrête pas de subir des pressions du monde politique, administratif et judiciaire de la part de l'Etat italien ou autre. L'opération en mer, elle diminue considérablement. On a vu avec l'Aquarius, on a pu sauver entre 2016 et 2018 plus de 29 milles personnes. Avec Ocean Viking, depuis juillet 2019 jusqu'à maintenant, on a pu sauver 2200 et quelques personnes. Et donc, vous avez vu les chiffres... Déjà notre mission en mer, elle a beaucoup subi d'obstacle, on a pas pu faire le nécessaire. On voit le chiffre d'arrivée des migrants en Europe, il a diminué entre 2017 et maintenant. Mais il faut qu'on voit les autres chiffres, les chiffres de morts qui ont augmentés par rapport aux chiffres d'arrivée. Ca, personne ne le dit. Il y

a beaucoup de besoins en mer, on arrive pas à faire le nécessaire. Les bateaux ils sont en blocage total en Sicile et on ne sait pas de quelle manière on peut libérer le Ocean Viking. »

Participant 2 : « Je complète un tout petit ce que dit très justement participant 1. Nous, on est soumis au régime de la douche écossaise. On a l'habitude de prendre des tempêtes en plein la figure. Et, on a l'habitude d'y faire face. Moi je suis incapable de dire de quoi sera fait l'avenir. Simplement, de quoi sera fait l'avenir, parce qu'effectivement aujourd'hui on est dans une situation qui peut paraître bloquée. Mais quand on avait Salvini au pouvoir en Italie et qu'on a été obligé de débarquer à Valence, et qu'on est revenu dans la zone SAR dans ce contexte-là, on s'est dit que ça serait plus possible et qu'on pourrait plus bosser. Et on a continué à faire des sauvetages, comme tu le rappelais participant 1. Quand l'Italie s'acharnant sur SOS Méditerranée a fait pression sur nos états de pavillons pour qu'ils nous retirent le pavillon ainsi perdu le pavillon de Gibraltar, le pavillon de Panama, etc. On s'est retrouvé dans une situation administrative complexe, complètement nouée. On s'est dit qu'on ne s'en sortirait pas et on s'en est sorti. On est revenu avec l'Ocean Viking etc. Donc, en fait, ce régime de la douche écossaise, du chaud et du froid, des tempêtes qui déferlent sur nous et auxquelles nous résistons, on y est habitué. On est très résilient et on est évidemment très déterminé. Alors, résilient parce que sans doute très déterminé. Il y a une situation qui est désastreuse en méditerranée centrale. Moi personnellement je vis sur le bord de la méditerranée. Je ne peux pas supporter ce qu'il se passe là-bas. C'est pas supportable. Ce n'est pas l'idée que je me fais de la civilisation, de la vie, de l'humain. Et donc, moi personnellement, je continuerai à me battre. Et on est tous comme ça à SOS Méditerranée. Déterminé. Et cette agrégation de détermination qui fait qu'on s'en sort à chaque fois. »

Waldo : « Ok, j'espère pour vous. Merci beaucoup participant 2 pour vos réponses, je sais que vous devez vous libérer, je vais continuer alors avec participant 1 pour ne pas vous retenir plus longtemps. »

Participant 2 : « N'hésitez pas à me recontacter pour quelconque question. Vous avez mes coordonnées. »

Waldo : « Une fois que vous recevez les migrants, je sais qu'ils sont dans un état psychologique assez grave, quelles informations vous leur demandez et est-ce qu'il y a des informations relatives à leur statut de demandeur d'asile ou de réfugié ? »

Participant 1 : « A ma connaissance, on est pas du tout dans cette démarche. On est en mer pour sauver les gens. D'ailleurs on dit qu'on sauve des êtres humains, pas des migrants ou des réfugiés. On est pas là pour tout ces statuts judiciaires. Une fois qu'on sauve les gens, on les amène au bateau, et les seules choses qu'on fait, on leur donne comme formation liées à leur survie, c'est-à-dire la distribution de nourriture, l'hygiène. Bien sûr, le seul tri qu'on fait sur le bateau c'est séparer ceux qui sont très blessés de ceux qui sont moyens blessés, ou pas. Et séparer aussi ceux qui sont très traumatisés et ceux qui ne le sont pas. Ca c'est notre contrainte sur le bateau. On donne des bracelets en fonction de leur état de santé comme ça les médecins ou l'équipe médical peuvent repérer ceux qui ont besoin d'une aide médicale rapidement. C'est la seule chose qu'on fait. Service social et médical sur le bateau. »

Waldo : « Et une fois que vous les débarquez en Italie, vous laissez les autorités montées sur le bateau ? »

Participant 1 : « Je ne sais pas si l'autorité monte sur le bateau. Je n'ai pas remarqué ça. Ce que je vois, c'est que les gens commencent à descendre sur le port italien. Dans le port, il y a l'autorité, il y aura d'autres ONG tels que ; la Croix-rouge, tous les ONG qui s'occupent de ces rescapés une fois qu'ils sont à terre. Mais pas que l'autorité. C'est à eux, c'est pour ça que nous on prend pas le rôle à terre, on les transfère dans les bonnes mains si on peut dire. Mais on ne peut pas garantir que ces gens-là ils ne vont pas être renvoyés chez eux ou qu'ils ne vont pas être dans un centre de détention. Ca on ne peut pas garantir. Il y en a beaucoup qui subit le renvoi. »

Waldo : « Vous avez jamais eu besoin de protection de la part d'autorité à bord? Il n'y jamais eu la police, les autorités italiennes ou européennes qui sont venues pour vous protéger. »

Participant 1 : « Non, non, non. On refuse de porter des armes et on refuse de mettre un déguisement. Je ne sais pas si vous remarquez quand, par exemple, Sophia fait des sauvetages, ils s'habillent d'une manière particulière pour se protéger. Et donc, nous on refuse ce traitement vis-à-vis des rescapés de les considérer tout de suite criminels ou de les considérer tout de suite malade, contagieux. Nous on essaye de faire les choses de la manière la plus humaine possible. Bien sûr, avec le Covid tout est changé, c'est une autre dimension. »

Waldo : « Pour les bateaux, que devez-vous faire avec le moteur et les bateaux ? »

Participant 1 : « C'est pas nous qui décidons bien sûr, c'est les procédures qu'on doit suivre. Une fois qu'on fait le sauvetage complet, on donne un chiffre au bateau, un code et on l'a percé. On sait qu'il y a beaucoup d'associations environnementales qui font encore cette pratique mais c'est pas nous qui décidons de cette procédure, c'est fait pour pas que ces bateaux soient utilisés encore une fois par les passeurs. Et aussi, après qu'on l'ait percé, on lui donne un code pour les comptabiliser. Parce que des fois, on croise des bateaux où il n'y a personne, si il n'y pas de code, ça veut dire que les personnes sont noyées. Pour faire la distinction entre les bateaux qui sont sauvés ou les bateaux qui ont juste coulés. »

Waldo : « Concernant la coopération avec les autorités italiennes, parce que si j'ai compris avec les autorités libyennes il y a eu juste le JRCC, mais c'est assez compliqué et il n'y a rien de constant. Avec les autorités italiennes par contre, avec le MRCC ça se passait bien, une fois que vous débarquez... »

Participant 1 : « Attention, avant. Au début de 2016 et un peu 2017. Mais toutes les communications politiques, elles sont arrivées à partir de 2017. Comme le 3 février 2017, il y a eu la signature d'accord, mais nous on a pas constatés la différence. Nous on a commencé à constater la différence par le code des conduites. C'était la première démarche qui voulait contrôler les ONG en mer. Donc c'était le premier signe comme quoi l'autorité n'est pas contente. Ils sont pas contents. Et ça divise les ONG sauvetage en mer, entre ceux qui ont signés et ceux qui n'ont pas signés. Donc, cela a aboutit sur une division. Après, le code de conduite, il y avait ce qui s'appelle la fermeture des ports des sauvetages de bateaux. Donc on fait le sauvetage et Salvini a décidé de fermer le port italien pour les bateaux de sauvetage, les ONG. On est en mer avec des rescapés et là qu'est-ce qu'il se passe, une initiative franco-allemande a décidé de se réunir et de mettre un système de répartition des rescapés entre plusieurs pays européens, je crois que c'est : l'Italie, Malte, France, Allemagne et je ne sais pas.. En tout cas c'était sept pays. Et c'est-à-dire de faire les débarquements au cas par cas. Donc on ne peut pas débarquer les gens avant qu'ils décident dans quel pays européen ils doivent partir. Et ça rajoute des jours et des jours en mer, c'est-à-dire nous on a des rescapés sur le bateau. On dirait par exemple 200 rescapés. On attend jusqu'à ce que ces pays se réunissent entre eux et qu'ils décident : la France elle prend 100, l'Allemagne prend 60, machin. Une fois qu'ils décident ces pays, combien ils prennent des rescapés, là l'Italie accepte le débarquement mais pas avant. Et donc tout ça, ça

prend beaucoup de temps, beaucoup de temps qui démuni les opérations de sauvetage. Pendant qu'il y a d'autres bateaux qui sont en mer en train de se noyer, nous on est bloqués avec notre bateau qui est saturé. Notre bateau il peut être saturé à 500 personnes, je dirais. Mais d'autres bateaux de sauvetage ont des capacités plus petites que ça. Sauf qu'ils font des sauvetages de 80 personnes et ils ne peuvent plus le faire, il n'y a plus de place. Donc, ils attendent en mer deux semaines jusqu'à ce que les autorités des pays européens décident de comment ils font la répartition. Après ça, malheureusement récemment, après le COVID, on a pas encore l'image que c'est après le COVID, mais on a l'impression que l'autorité italienne ils vont fouiller beaucoup dans des questions techniques des bateaux de sauvetage, est-ce qu'il y a assez de personnel de sauvetage par rapport aux personnes sauvées. Est-ce qu'il y a assez de place hygiène. Donc ils vont aller dans les petits détails. Vous savez, que l'Etat il veut faire quelque chose, c'est facile de trouver des petites choses minuscules pour arrêter le bateau. Comme l'Europe ne voulait plus répartir ces rescapés, j'ai l'impression que l'autorité italienne va tout faire pour bloquer la plupart des bateaux de sauvetage. »

Waldo : « Et quand ils demandent de venir sur le bateau pour des raisons judiciaires, vous êtes obligés de le faire ? Vous les laissez? »

Participant 1 : « Bien sûr, bien sûr. C'est pas eux qui viennent. Ils font qu'on débarque les rescapés, après le COVID on subit la quarantaine et après il y a un contrôle technique. Ils nous disent, ils nous préviennent qu'il y a un contrôle. Le dernier contrôle il a pris 9 heures, et donc c'est 9 heures de contrôle. »

Waldo : « Et ils disent quoi après ça ? »

Participant 1 : « Ils préparent un rapport et ils disent, je pense pour le cas de Ocean Vicking, je ne suis pas sûre de cette information, c'est pour ça que je ne voulais pas l'annoncer mais ça reste entre nous. On est pas dédiés à faire des sauvetages répétitifs. Il faut un statut particulier, c'est comme une voiture de titulaire. Il faut un statut particulier si on fait des sauvetages répétitifs, il faut un statut particulier. Mais ça je préfère que vous posiez cette question à mon collègue. Pourquoi l'Ocean Vicking il est actuellement en détention, moi je sais qu'il y a certains éléments, on a peut être beaucoup de rescapés par rapport aux personnes de sauvetages. Et aussi, on a cette question d'autorisation de faire des sauvetages répétitifs. Et on a obtenu ce statut mais maintenant pourquoi on est toujours en détention, ça je ne peux pas vous répondre. »

Waldo : « Savez-vous si vous avez déjà du donner des informations aux autorités italiennes contre des trafiquants qui auraient été à bord et tout ça? »

Participant 1 : « Non, non. Pas du tout. Comme a dit le participant 2, les passeurs ils ne montent pas avec le même bateau des migrants. Déjà le bateau a une certaine précarité et en plus, tu imagines les migrants, le passeur est avec eux au milieu de la mer. La relation elle va déjà pas bien entre les deux. Donc, c'est le gros ménage pour le passer d'être parmi les migrants, ils sont pas bêtes quand même. Il te fait payer 1000 euros pour te faire monter dans un bateau pneumatique après il part avec eux. »

Waldo : « Avez-vous le sentiment que, parce que vous étiez presque 10 ONG en 2016, il y avait beaucoup de bateaux, est-ce que ça a permis à l'Union Européenne de fermer et de se concentrer sur autre chose? »

Participant 1 : « Pas du tout, c'est l'inverse. Il y a un moment donné, c'est vrai, vous l'avez remarqué, il y a pas mal de bateaux ONG qui font les sauvetages en mer. Des fois, il y a des bateaux de sauvetages en mer avec des moyens faibles, ils repèrent les bateaux en détresse et ils l'appellent le centre de coordination parce qu'ils n'ont pas le moyen de faire les sauvetages eux-mêmes. A un moment donné, ok il y a beaucoup de bateaux, mais l'Union Européenne, elle n'a pas tournée le dos, elle a fait l'inverse. Elle voulait débarrassée toutes les ONG en mer, ils ne se sont pas concentrés sur autre chose, ils se sont concentrés sur comment débarrasser de tous les bateaux. Ils ne voulaient plus qu'ils opèrent en mer, ils n'arrivent pas à nous dire clairement qu'est-ce que vous faites ici parce que c'est le droit maritime. L'Union Européenne elle est fondée sur des droits fondamentaux, le droit à la protection, le droit maritime et d'autres. Donc, il n'y a pas de moyen direct de nous dire « Qu'est-ce que vous faites ici, allez rentrez chez vous! ». Donc, ils ont été se concentrés, mettre un planning, de créer les gardes côtes libyennes, de ne pas laisser fonctionné les MRCC italiens, de nous obliger d'aller débarquer les gens ailleurs qu'en Europe. Et récemment, récemment, si vous avez remarqué ils ont décidés de faire plein des plateformes pour étudier les statuts judiciaires de ces rescapés, des migrants. Flottants .. Sur mer. Avant que ces gens-là mettent les pieds en Europe, on va faire le tri, si ils méritent le statut de réfugié, s'il y a pas. Après qu'est-ce qu'il se passe avec ceux qui ne méritent pas le statut de réfugié, ça je ne sais pas. Mais il fait le maximum possible pour soutenir les pays d'origine, les pays de transit, pour empêcher les migrants. Mais maintenant de mettre des plateformes flottants.

De faire le tri en mer. Ils se concentrent seulement sur comment arrêter ce sauvetage. D'ailleurs je comprends pas pourquoi... De garder leur argent pour faire mieux, plus efficace et plus humain.
»

Waldo : « Merci beaucoup pour vos réponses. Les témoignages vont être anonymes. Les entretiens seront supprimés après que j'ai fait mes résultats et les entretiens seront retranscrits mais tout cela restera dans le milieu académique. »

Participant 1 : « Tu sais ce qu'on va faire, quand tu as fini tes retranscriptions, tu me les envoies et je l'envoie à ma directrice comme ça on est sûr de ce qu'on dit. Pourquoi ? C'est pas pour nous, mais on a une mission très délicate, et comme je te dis on a beaucoup d'ennemis qui attendent qu'on fasse des petites fautes. Et on essaye de ne faire aucune faute pour que cette mission puisse continuer en mer. A part ça, il n'y a aucun problème. »

Waldo : « Vous voulez que je vous renvoie la retranscription? Pas de problème, je le fais la semaine prochaine avant que ça soit publié et vous me faites un retour, pour voir si vous voulez changer quelque chose ou non. »

Participant 1 : « Parce que des fois, on dit quelque chose et l'autre partie il peut comprendre à sa manière. Pour être sûr qu'on est bien entendu entre nous. »

Waldo : « Je comprends que ça soit délicat, je sais très bien. Du coup voilà, il n'y aura pas de mauvaise manipulation. »

Second Interview:

Waldo : « Tout d'abord je voulais vous remercier d'avoir accepté cet entretien. Vos collègues m'ont déjà bien expliqué le contexte dans lequel les opérations étaient menées. Je voulais préciser que l'interview peut rester anonyme et qu'elle n'est publiée que dans le cadre académique, ça ne sera pas rendu public. Moi je m'intéresse vraiment au rôle humanitaire de l'ONG mais plus précisément les pratiques humanitaires en mer avec les différentes bateaux Aquarius et Ocean Viking. J'ai déjà lu les rapports d'activité et j'ai déjà eu une interview. J'ai des questions vraiment plus précises pour vous. Si vous ne pouvez pas répondre ce n'est pas grave du tout, c'est un peu les petites précisions que je voulais faire avant de commencer.

La première, j'ai déjà eu des informations sur les bateaux de fortune en plastique que vous perciez en mer et que vous laissez là. Mais je voulais savoir, les bateaux de fortune, qu'est-ce qu'il en était et est-ce que vous avez déjà rendu un moteur ou un bateau, ou est-ce que vous avez déjà dû ramener un bateau aux autorités ? »

Participant 3 : « Non, ramener aux autorités quoi que ce soit, non. Pour les bateaux en bois je ne sais pas vous répondre. C'est extrêmement rare quand même maintenant. »

Waldo : « Ok, ensuite la période 2016-2018, il y a eu beaucoup plus de transbordements qu'il y en a maintenant, de quelle autorité précisément il y a eu ces transbordements ? »

Participant 3 : « Bon, vous savez qu'il y a, on est amené à être en contact avec trois autorités étatiques : les autorités italiennes, les autorités maltaises et les autorités libyennes. Aucune opération de sauvetage et de débarquement ne peut être réalisée sans être sous la régulation d'un de ces centres. Donc, c'est avec eux qu'on a coopéré depuis le début de l'Aquarius, maintenant l'Ocean Viking. Evidemment, vous savez que la coopération avec les autorités libyennes a été erratique pour le moins. Donc c'est surtout avec les autorités italiennes et maltaises. Et entratique dans toute l'histoire dans sauvetages, c'est avec l'autorité italienne, qui ont effectué l'écrasante majorité même des opérations de coordination des sauvetages. »

Waldo : « Et lors de l'opération Sophia, il est arrivé qu'il y ait des transbordements de l'opération Sophia vers l'Aquarius? »

Participant 3 : « Euh, je ne me souviens pas de ça, non. »

Waldo : « La troisième question, l'enregistrement des migrants à bord, qui est précisé comme anonyme, est-ce que vous avez déjà été contraints de donner une liste aux autorités une fois débarqués ? »

Participant 3 : « Les informations qu'on recueille c'est pour pouvoir faire une classification homme-femme-enfant. Parmi les enfants : mineurs accompagnés-non-accompagnés, état de santé pour la coordination sanitaire locale et c'est tout. »

Waldo : « Au niveau des technologies visuelles, est-ce que vous avez des caméras à bord? »

Participant 3 : « Je ne sais pas répondre à cette question. »

Waldo : « Quelles sont les raisons du changement de l'Aquarius à l'Ocean Viking ? »

Participant 3 : « Il y a eu successivement trois entraves à l'opération de l'Aquarius. Les deux premières c'est des dépavillonnements Panama-Gibraltar. Et la troisième c'était une menace de procédure judiciaire pour un prétendu non-tri des déchets. Ces trois entraves ont conduit au fait qu'il fallait se séparer de l'Aquarius qui n'avait plus aucune chance de pouvoir naviguer en faisant des opérations de sauvetage. »

Waldo : « De là, vous avez pris la décision d'arrêter affréter l'Aquarius? »

Participant 3 : « On a pris la décision d'arrêter l'affrètement. Oui, oui. »

Waldo : « Ok, pour le code de conduite de 2017, c'est quels points qui ont été négociés et la version amendée que vous avez signé ? »

Participant 3 : « Alors les deux points qu'on a négocié et pour lesquels on a indiqués que c'était une condition sine qua non de notre signature, c'était la possibilité que des transbordements existent justement. Puisque le code de conduite dans sa version initiale prévoyait de ne plus pouvoir recourir à des opérations de transbordements. Et c'était, la présence d'un officier de police judiciaire armé à bord. Donc, dans notre refus de cette close-là, il y a évidemment pas le refus de coopérer avec les autorités policières italiennes au moment du débarquement parce que ça existe depuis l'origine par construction. Il y avait le refus d'avoir un homme en arme. Ces deux closes ont été proposé au ministère de l'intérieur italien et il a accepté de revenir sur le texte initial. Ce qui au passage conduit à une interprétation assez précis du rôle qu'avait le code de conduite dans la stratégie de l'Union Européenne parce qu'en fait le ministère de l'intérieur italien tenait surtout à ce qu'il y ait des ONG qui signent. Etant lui-même persuadé que le texte du code n'allait pas changer la pratique parce qu'en fait le reste du texte rappelle des points de droit maritime auxquels les ONG se conforment depuis le début. Comment dire, en pratique ça n'a pas eu d'effet, ça a eu un effet surtout médiatique vis-à-vis des opinions publiques et puis un effet de faire voler en éclat aussi le front des ONG puisque les unes ont signé, les autres pas, un

certain nombre ont arrêté à cette période-là aussi de faire des opérations en Méditerranée. »

Waldo : « L'effet médiatique recherché vous pensez que c'était lequel ? »

Participant 3 : « L'effet médiatique, d'ailleurs alors je ne sais pas si vous le connaissez, vous devez connaître le texte du code de conduite, par contre il y a des documents qui indiquent que c'est une opération pas italienne mais européenne, le code de conduite. Avec des documents qui datent d'avant, je ne sais pas si vous avez lu ce texte, c'est un communiqué de presse du 3 juillet 2017 du ministère de l'intérieur de France, où il indique clairement que de manière concertée la France, l'Allemagne et l'Italie travaillent à un code de conduite en même temps que le soutien aux gardes côtes libyens, etc. Cette opération a permis aux dirigeants de l'Union Européenne de prendre une posture vis-à-vis de leur opinion publique indiquant qu'ils maîtrisaient le flux migratoire. »

Waldo : « D'accord, ça l'objectif un peu implicite c'est de la part de l'Union Européenne et de ses états-membres, c'était un effet de dissuade des flux et de l'action des ONG même? »

Participant 3 : « Oui, c'est ça, de manière à indiquer que les ONG n'allaient pas pouvoir agir sans limites. Mais en pratique, le contenu du texte n'a pas influé sur les pratiques en mer. »

Waldo : « Pas pour vous, pour d'autres ONG peut-être, il y en a qui ont accepté tel quel le code ? »

Participant 3 : « Ah bah ça, ça, puisqu'il a été amendé, certaines l'ont signé, d'autres ne l'ont pas signé. Si on regarde ensuite ce qui arrive aux ONG, on voit qu'il y a un certain nombre qui ont renoncé pendant cette période-là. Mais c'est aussi une période où il y en a d'autres entraves à l'action des ONG. Il ne faudrait pas faire un raccourci disant qu'à cause du code de conduite certaines ONG ont arrêté. Il faut l'intégrer dans un ensemble d'entraves de cette période-là 2017-2018 qui ont conduit certains ONG à arrêter. »

Waldo : « Dans cette période-là, les conséquences de la criminalisation des ONG sur les pratiques en mer, quelles ont été les principales conséquences directes? »

Participant 3 : « La première conséquence c'est de raréfier les moyens de sauvetage en mer

puisque pendant de longues périodes, un grand nombre de bateaux d'ONG ont été immobilisés dans des ports européens. Alors, avec divers motifs de procédures judiciaires ou administratives mais qui ont conduit au fait que les bateaux ne soient plus en état de faire du sauvetage pendant toute cette période. Et si on regarde la somme de toute cette durée d'immobilisation, on voit qu'il y a un effet qui extrêmement pratique sur la raréfaction des moyens de sauvetage. »

Waldo : « Là-dessus, comment est-ce que l'ONG peut réagir dans cette période-là, dans cette phase-là au vu de ce qui arrive ? »

Participant 3 : « Il y a deux façons théoriques qui peuvent permettre de faire face à ça. La première c'est l'appel à l'opinion publique européenne, ce que nous avons fait plusieurs fois et ce que nous faisons encore en ce moment avec la pétition en ligne contre l'immobilisation de l'Ocean Viking. Et puis, il y a évidemment des possibilités de procédures judiciaires. L'avantage des procédures judiciaires c'est que ça permet d'avoir gain de cause à la fin puisque très souvent les procureurs qui ont été loin dans les annonces de la procédure judiciaire ont dû finalement conclure que le dossier était vide. Mais l'inconvénient c'est que les procédures sont longues et que pendant tout ce temps, l'entrave à l'action humanitaire est effective. »

Waldo : « Les procédures judiciaires qui, en général, du coup se déroulent en Italie, vous avez eu d'autres recours? »

Participant 3 : « Les procédures judiciaires, la plupart ont lieu en Italie, dans les tribunaux italiens. Oui, oui. Vous pouvez voir, pas que des ONG, des bateaux de marine marchande, toutes sortes de capitaines de navire qui ont pu être inquiétés pour leurs actions de simplement de sauvetage avec des procédures quelques fois qui ont pris plusieurs années devant ces tribunaux. »

Waldo : « Mais ce n'est pas vous qui intéressez une procédure judiciaire en contre partie, en réaction... »

Participant 3 : « Ah, il y a cette possibilité. Il y a cette possibilité bien sûr, d'intenter une procédure pour faire lever le séquestre. C'est ça? C'est une procédure longue aussi enfin, dans les deux cas, quelque soit le résultat du jugement c'est au moins plusieurs mois voire plusieurs années. »

Waldo : « Ma dernière question, c'était concernant les gardes côtes libyens. Vous avez déjà vu les gardes côtes libyens participer à un sauvetage, votre mission c'est de sauver des vies en mer, lorsque vous voyez des sauvetages des gardes côtes libyens, comment et quelle aide vous pouvez lui proposer ? J'avais vu dans des dossiers de presse qu'il y avait déjà eu, vous êtes arrivés, par exemple, après que les gardes côtes arrivent. Alors à ce moment-là, comment se passe l'acte de proposer de l'aide ? Qui est souvent refusé, je suppose... »

Participant 3 : « Alors il faut reciter peut-être l'intervention des gardes côtes libyens. C'est une autorité étatique compétente dans la zone de recherche et de sauvetage qui a été créée devant l'organisation maritime internationale en 2018. L'enregistrement de cette zone SAR, à partir de juin 2018 c'est une autorité compétente, c'est-à-dire que toute situation de détresse de qui est signalée à l'intérieur de cette zone relève de la compétence des gardes côtes libyens. C'est-à-dire qu'en droit, nous devons nous rendre aux, disons, arguments, ou en tout cas à l'orientation que donnent les gardes côtes libyens sur la façon de faire le sauvetage. En pratique, très souvent ils ne nous répondent pas, ou ils répondent avec un grand retard. A partir d'août 2018, lorsqu'on a repris la mer après Valence. On a très clairement annoncé qu'on aurait une ligne rouge, c'est-à-dire que si le délai de non-réponse des gardes côtes libyens engendrait une perte de chance de survie pour des personnes en détresse, nous ferions, nous procéderions aux opérations de sauvetage en dépit de l'absence de consignes de l'autorité étatique compétente. Ensuite, deuxième chose, deuxième ligne rouge, on a annoncé, et on s'est tenu à cette ligne, de ne pas livrer des personnes que nous aurions secourues aux gardes côtes libyens pour qu'ils les ramènent dans des lieux de détention. Ensuite, lorsque des gardes côtes libyens procèdent à leur sauvetage interception eux-mêmes, c'est-à-dire, évidemment, en excluant l'ONG par définition. On ne fait pas un sauvetage ensemble en pratique. Soit on fait un sauvetage et ils coordonnent les opérations, soit ils le font et on est simplement témoin. Si on est témoin, on peut toujours leur proposer de faire monter à bord du bateau de l'ONG les personnes rescapées. Eux, ils ont une mission précise de les intercepter, c'est-à-dire de les ramener dans un port libyen. C'est à ça qu'ils servent. »

Waldo : « J'ai vu les chiffres que les personnes ramenées en Libye ça avait plus que doublé, on est à 18 milles il y a deux ans ou l'année passée... »

Participant 3 : « Je ne sais pas quelle est votre source. Sur les niveaux d'interception, il y a eu en 2017, je crois, de l'ordre de 18 milles, 19 milles personnes. 2018, de l'ordre de 15 milles et 2019

à peu près 10 milles. Voilà, je pense qu'on en est là. Mais le fait qu'il y ai une baisse du nombre de personnes interceptées, c'est très difficile à interpréter parce qu'il y a la raréfaction des moyens de sauvetage sur la zone fait qu'on a de moins en moins de sources pour documenter ce qu'il se passe. C'est-à-dire ne serait ce que savoir le nombre de personnes noyées qui n'ont pas été sauvé. »

Waldo : « Mes chiffres c'était peut être le passage de 2016 où c'était 9 milles personnes et en 2017, 18 milles, comme quoi ça avait doublé... »

Participant 3 : « A ce moment-là, oui. Bah c'était le moment du monté en charge du dispositif libyen, il est parfaitement opérationnel. »

Waldo : « Mais donc c'est déjà arrivé que vous leur proposiez de l'aide parce que vous étiez à côté en fait, mais toujours resté sans réponse... »

Participant 3 : « Par définition, on est toujours disponible dès qu'on est sur la zone et qu'on est informé, on est toujours disponible pour faire du sauvetage. On attend simplement d'avoir leur feu vert pour faire les opérations sauf si le feu vert tarde à venir. Voilà, c'est ça notre ligne de conduite. Mais en pratique, ce que vous imaginez comme cas où on pourrait aider les gardes côtes libyens n'existe pas, ça ça n'existe pas. »

Waldo : « Pour le futur, ça n'existera pas tout de suite non plus... »

Participant 3 : « Oui ça c'est bien possible, oui »

Waldo : « Merci beaucoup, vous m'avez bien aidé, c'est la fin de mes questions. J'en ai peut-être une dernière. Quel a été l'impact du changement pour vous des opérations européennes, pas les opérations militaires, mais de Triton a Thémis en 2018, est-ce qu'il y a eu un changement ? »

Participant 3 : « Si on veut avoir un point d'inflexion en ce qui nous concerne dans les diverses opérations militaires, européennes, enfin de Frontex ou autres qui se sont succédées. On peut dire que les navires militaires quelles qu'étaient leurs missions, c'est-à-dire que ce soit la mission chasse aux passeurs, ou la mission sécurisation des frontières. Il y a eu des missions successives comme ça qui ont eu des objectifs. Chaque fois qu'ils ont été confronté à une information

d'embarcation en détresse dans une zone où ils pouvaient être concernés par le sauvetage, ils l'ont fait. C'est-à-dire que indépendamment de l'objectif, les navires militaires se sont comportés comme des bateaux qui respectent la loi maritime du point de vue de l'obligation, fin du devoir d'assistance. Par contre, le grand point d'inflexion finalement, on peut le voir maintenant, c'est depuis que la fin de l'opération Sophia et la prise de relais par l'opération Irini, il y a un déplacement géographique du positionnement des bateaux militaires qui fait qu'ils se déplacent de la Libye de l'Ouest vers la Libye de l'Est. De ce fait là, puisque l'opération Irini a pour mission le contrôle des armes, le respect de l'embargo, donc ça se passe plutôt à l'Est. Dans la zone de détresse qui est plutôt à l'Ouest, il y a plus de bateaux militaires. Et ça, ça a une conséquence sur tout. D'une part, sur les possibilités, fin sur les disponibilités de capacité de sauvetage mais au final sur l'information de ce qui se passe dans la zone. Voilà. Vous avez vu peut-être que le dernier bateau, fin pas bateau, avion d'ONG vient d'être immobilisé par les autorités étatiques donc on a plus de possibilité d'avoir un signalement systématique de ce qui se passe dans la zone. Et ça, c'est le grand point d'inflexion, le passage opération Irini en fait c'est une raréfaction supplémentaire des moyens d'observation et de sauvetage. »

Waldo : « Il reste qui sur la parcelle Ouest de la route libyenne, il y a qui comme bateau pour l'instant? »

Participant 3 : « Il y a d'une part les bateaux marchands qui passent. Mais vous avez vu avec ce qui arrive à l'Etienne Maersk que en fait, après un mois d'immobilisation de non-débarquement des personnes, c'est un signal très fort envoyé à la marine marchande pour la dissuader en fait de se lancer dans les opérations de sauvetage et de passer donc dans des chemins plus éloignés de la zone de détresse pour ne pas avoir à le faire. Il y a ça, il n'y a plus de bateaux militaires et au niveau des ONGs, vous savez où elles sont actuellement. Vous avez l'Aita Mari qui est à San-Sébastien, la Purlie qui est à Valence, le Louise-Michelle qui est à Palma de Majorque, le SeaWatch4 qui est à Palerme, le Marie-Jonio qui est à Malte, et voilà il y a l'Open Arms qui vient de faire un sauvetage qui est dans la zone. Et nous, évidemment on est bloqué en Sicile. »

Waldo : « Merci pour ce bel aperçu de la situation. Et je vous souhaite une bonne journée. »

Participant 3 : « Petit détail, on lira volontiers ce que vous écrivez, si possible avant que vous ayez mis un point final à votre travail. De manière à ce qu'on puisse éventuellement, sur des détails préciser des choses. J'ai vu que vous avez besoin d'un texte de critique que vous nous

avez interviewé. »

Waldo : « D'abord, je vais retranscrire la discussion, je vous la renvoie si vous voulez avant, avec le participant 1, on a fait la même chose. Et oui, ça serait juste de remplir et de signer le document que je vous ai envoyé. »

Participant 3 : « Merci. »

Waldo : « Merci beaucoup, au revoir. »

XIV. Appendix IV: Analytical Grid:

First principle: HUMANITY:

HUM1: “humaneness”

HUM2: “subjects of their compassion”

Second principle: IMPARTIALITY:

IMP1: “early process of identification”//”requesting & giving status of the rescued”

Third principle: NEUTRALITY:

NEUT1: “cooperation with MRCC” (ROME or TRIPOLI)

NEUT2: “disembarkation”

NEUT3: “relationship other actors at sea” EU operations, Italian Coast guards, LYCG (protection, transshipment, conflict potential)

Fourth principle: INDEPENDENCE:

INDEP1: “public funding”

INDEP2: “participation anti-smuggling policies”

2.1: “engines & makeshift boats”

2.2: “police personnel on board”

2.3: “visual technologies” and “give visual content to authorities” (anti-smuggling)

Actions of the other/”depoliticization” policies:

2017Code: same principles and same grid as mentioned above

EUSAR: same principles and same grid as mentioned above

2018refusal: same principles and same grid as mentioned above

LYCGacti: same principles and same grid as mentioned above

criminalisation/NGO prosecution: same principles and same grid as mentioned above

XV. Appendix V: Plagiarism Regulation:



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I, Raineri Waldo, confirm having read this regulation and certify that I have not committed plagiarism for this research.

Done in Brussels

Date 21.09.2020

Signature of the student

XVI. Appendix VI: Executive Summary:



Département de Science politique

Department of Political Science

Course Subject: International Organization
and Human Rights

— DOUBLE DEGREE PROGRAM —

Master en Sciences politiques, orientation
relations internationales, Finalité Monde

Master in International Relations, with major
Global Studies

SUMMARY OF THE THESIS

Transnationalism in times of “crisis”:
the case of the NGO SOS MEDITERRANEE

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Introduction:

The proliferation of Search & Rescue (SAR) NGOs started in 2014 and reached the number of ten in 2016. They have played an important role as they rescued almost 120,000 migrants between 2014 and 2019. Nevertheless, this new “humanitarian fleet” does not act without consequences on the particular EU South border. In June 2018, facing an anti-NGOs campaign and, due to the Italian political context at that time, the *Aquarius*, the NGO vessel of SOS Méditerranée, is refused to dock in an Italian port. This first case led us to the following questioning at the basis of this work: “Why an actor, not supposed to save people at sea and carrying about 600 rescued, had to wait about ten days before disembarking?”.

We decided to start this work with a broad contextualisation of the Central Mediterranean migration and the “refugee crisis”. Indeed, the European migration and its “crisis” involve many actors, several level of powers and different types of organisations. Subsequently, the first part of this research aims at providing a good insight of the 2014-2018 Central Med. situation. After having described the general tendencies surrounding the actors involved at sea, we will review the literature on the basis of the following questioning: “Why did NGOs take an important role in SAR operations on the Central Mediterranean route during the so-called “refugee crisis” ?”.

The second part of this research initiate with a state-of-the-art in line with the reasoning of this work. We will start from the broadest towards the most specific. Firstly, we will question the concept of “crisis” itself. Secondly, the differences amongst migration studies will help us to position ourselves in the academic debate. Lastly, the literature on SAR operations and more precisely on SAR NGOs in the Central Mediterranean will come to give us the right angle in order to participate to the enrichment of the literature. We will see that humanitarianism and critical border studies will give us the right tools to analyse the role of SAR NGOs in the Central Mediterranean. As a matter of facts, the Central Med. contains a particular tension and SAR NGOs are facing an “ethical dilemma” when operating at sea. Consequently, at the end of our state-of-the-art, we will ask ourselves the following question: “What role SAR NGOs intend to take in the Central Mediterranean space?”

The transnationalism perspective has a great relevance regarding our subject as it allows the study situated at the *meso* level. It legitimises scientifically our in-depth study of one SAR NGO, SOS Méditerranée, in *Worlds Politics*. Moreover, its ontological concepts of “complex

interdependence” and “reciprocal effects” regarding relationships amongst actors in a “network” are useful as we aim at analysing the role of a non-state actor and its relationship with other actors.

The problematisation of our questioning finally result in: “How do NGOs involved in the “refugee crisis” negotiate their humanitarian role in the SAR (Search and Rescue) zones of the Central Mediterranean Sea?” Therefore, we firstly postulate that “SAR NGOs negotiate their humanitarian role in the Central Med. by developing a “new humanitarianism” with respect to the traditional *INI* scheme and the principle of *Humanity*”. Indeed, the traditional humanitarian ideology represented by the principles of *Impartiality*, *Neutrality* and *Independence* and the principle of *Humanity* will be at the basis of our analysis in order to understand the humanitarian role of the NGO SOS Méditerranée. Its role conception and its humanitarian practices will be observed in order to better apprehend the actions of SAR NGOs at sea.

Secondly, in line with our transnationalist perspective (notably through the “(in-)direct effects of actors” within a “network”) and our state-of-the-art (notably through critical border studies concepts of “(de-),(re-)politicization”), we postulate that “SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. differently over time, depending on the actions of other actors”. This second hypothesis suggests that “the actions of other actors” will have an influence on the humanitarian role that SAR NGOs intend and effectively take in the Central Med. Subsequently, we postulate a sub-hypothesis that will, in our view, complement this second hypothesis: “more the Central Med. is “depoliticised”, more SAR NGOs will conceive their humanitarian role as political and distant from the *INI* principles”.

The third part of this work will present the particular research design according to which our questioning will be tested. Firstly, we will briefly discuss the impact of the *COVID-19* pandemic on this research. Thereafter, the selection of the NGO SOS Méditerranée as a case study will be justified. The operationalisation of our hypotheses and the abbreviations that we will use in our analyses will be described for reason of understanding. Our empirical analysis will be based on two different data collection. One the one part, we will analyse the NGO official documents (a particular corpus made of “activity report” and “press releases”). And, on the other part, we will conduct semi-structured interviews with advisory board members of SOS Med. in order to have a basis of results comparison allowing us to gain in scientificity. Our crossed data collection methods will be translated in our analyses.. The qualitative analyses of both our data material will follow a frame discourse analysis in order to fully appreciate the identity of our case

study. In addition, we will follow a critical positioning in the analysis of our discourse as we know that SAR NGOs operations include a high degree of delicateness. The results of the humanitarian ideal-type that we apply to our data will come to answer our first hypothesis. In order to test the second hypothesis and the causal relation between “depoliticised” actions and the humanitarian role at sea, we will apply the same analytical grid as for our first hypothesis crossed with some elements of process tracing. The presentation of our findings and a short discussion will come to close this last part, just before our conclusion.

First Part: Context of Migration Across the Central Mediterranean

I. Contextualisation: European Migratory “Crisis” and Actors at Sea:

Migration is not a new phenomenon. People have always had some reasons for leaving their birth place. Nowadays, the EU is one of the three most migrants flowing regions³⁹⁸. But it was not the case during the 19th and 20th centuries during which Europe was a region of net emigration³⁹⁹. In the 90s, Mediterranean countries such as Spain, Italy and Greece enjoyed an economic increase and were in need of unskilled labour. Facing the arrival of economic migrants, the European response at that time was already the militarisation of its external borders and the externalisation of migrants' flows control⁴⁰⁰. At the same time, the EU Schengen started its implementation. But those policies did not stop the growing number of irregular entries across the Central Mediterranean Sea. In fact, from the 90s until 2013 included, the numbers of migrants crossing the Central Mediterranean route remained relatively stable except the 65 000 entries in 2011 following the Arab Springs⁴⁰¹. A tragedy took place in October 2013 off the coast of the Lampedusa island. It costed the lives of 366 persons⁴⁰² and has resulted in the launch of the military-humanitarian operation *Mare Nostrum* by the Italian government. The Italian operation led by the *Marina Militare* saved 91 000 lives, has recuperated 499 dead bodies and arrested 718 smugglers⁴⁰³. However, a new discourse started to develop at that time: rescue vessels would be a pull factor of irregular migrants trying to reach the European coasts⁴⁰⁴.

398 Data available online: <https://migrationdataportal.org/themes/international-migrant-stocks>. (Accessed on 07.17.20)

399 *Ibidem*.

400 Jaulin T., « Migrations en Méditerranée : la crise de l’asile », *Politique étrangère*, 2016, p. 30.

401 Cf. **Figure 1.**, p. 5 in this work.

402 Yardley J. & Povoledo E., “Migrants Die as Burning Boat Capsizes Off Italy”, *The New York Times*, 30.03.13, available online: <https://www.nytimes.com/2013/10/04/world/europe/scores-die-in-shipwreck-off-sicily.html>. (Accessed on 07.22.20)

403 Cecinini S., “Tutte le operazioni di salvataggio nel Mediterraneo: da Mare Nostrum a Themis”, *Sicurezza Internazionale*, 06.18.18, article available online: <https://sicurezzainternazionale.luiss.it/2018/06/18/le-operazioni-salvataggio-nel-mediterraneo-mare-nostrum-themis/>. (Accessed on 07.22.20)

404 Balleix C., « Migrations : l’Europe à l’épreuve de la crise italienne », *Notes de l’Ifri*, 2018. p. 1.

Asking for a European solidarity, the Italian operation *Mare Nostrum* was succeeded by the EU operation *Triton* in 2014⁴⁰⁵. *Triton* had the official and theoretical objective of intervening “in border control in an area around 30 nautical miles from the Italian coast.”⁴⁰⁶. As the operations and their instruments (vessels, airplanes and helicopters) started being numerous, the Italian Maritime Rescue Coordination Centre (MRCC Rome) took on an overall coordinating role. The year 2015 is the deathliest year in the Mediterranean (all routes combined) and the most numerous in terms of arrivals in Europe. From April 2015, the death rate in the Central Mediterranean Sea fell to 1 out of 427 which is far below the 1 out of 16 of the previous months⁴⁰⁷. More people were embarking on boat but many actors were present in the Mediterranean in order to save them and the SAR zones were extended closer to the Libyan coasts. But despite all these efforts, about 3000 people lost their lives in 2015⁴⁰⁸. Another big step of 2015 is the creation of the *European Navy For Mediterranean (Eunavfor Med)* or *Sophia* mission. The set objective was “the surveillance and assessment of human smuggling and trafficking networks”⁴⁰⁹. With regard to the migrant flows of 2016 (**Figure 1**), Central Med. flows were still reaching more or less 181 000 people whereas the Eastern Mediterranean route backslid to 182 000⁴¹⁰. Indeed, the 18th of March 2016 EU-Turkey agreement acted as a deterrent for irregular migrants on the Eastern Mediterranean route.

In the first semester of 2017, it is more or less 100 000 that disembarked in Italy, coming mainly from Libya. In February 2017, an informal meeting of EU heads of State was held in Malta. The main aim of this meeting was to find “measures to stem the flow of irregular migrants from Libya to Italy”⁴¹¹. The main point stated that “In particular, they agreed to step up

405 European Commission, “Europe's migration and asylum policy – Small steps to make a big difference”, *European Agenda on Migration – Factsheets*, 3.2.17., text available online: https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-migration/background-information_en. (Accessed on 07.22.20)

406 Gros-Verheyde N., “L’opération Triton en Méditerranée : combien de bateaux ?”, *B2-Bruxelles2*, 04.25.15, article available online: <https://www.bruxelles2.eu/2015/04/lagence-frontex-combien-de-bateaux/>. (Accessed on 07.23.2020)

407 Amnesty International, “Une mer plus sûre. Les effets du renforcement des opérations de recherche et de sauvetage en Méditerranée centrale”, 07.09.15., p.1.

408 Bléjean H., « EUNAVFOR Med Sophia : opération militaire européenne en mer Méditerranée », *Revue Défense Nationale*, Vol. 4, n°789, p. 58.

409 Council of the European Union, “Council launches EU naval operation to disrupt human smugglers and traffickers in the Mediterranean”, 06.22.15., press release available online: <https://www.consilium.europa.eu/en/press/press-releases/2015/06/22/fac-naval-operation/>, (Accessed on 07.22.2020)

410 Source Frontex: <https://frontex.europa.eu/along-eu-borders/migratory-routes/eastern-mediterranean-route/>, (Accessed on 07.22.20)

411 Council of the European Union, “Informal meeting of EU heads of state or government”, 02.03.17, press release available online: <https://www.consilium.europa.eu/en/meetings/european-council/2017/02/03/>. (Accessed on 07.23.20)

cooperation with the Libyan authorities”⁴¹². As it was the case in 2011, during the *Mare Nostrum* operation, NGOs such as MSF or SOS MED. were subject to criticism and accused of “appel d’air”⁴¹³. In parallel, one main event directly involved NGOs activities at sea. The Italian “Code of Conduct” aimed at SAR NGOs which disembark in Italian ports. This twelve points⁴¹⁴ official decision has been directly and fully supported by the European Commission⁴¹⁵. But several NGOs refused to sign the “Code” imposed by the Italian authorities. The year 2018 marked the “lowest number of arrivals registered in the last five years”⁴¹⁶ (Cf. **Figure 1**). It is a decrease of almost 80% compared to 2017 and 2016. The first of February 2018, a new joint operation called *Themis* replaced the 2014-launched *Triton* operation. The area was extended to “waters covering flows from Algeria, Tunisia, Libya, Egypt, Turkey and Albania”⁴¹⁷. On 4 March 2018, “*Lega*” (formerly “*Lega Nord*”) and the “*Movimento Cinque Stelle*” won the Italian legislative elections. The new policy of refusing disembarkation to vessels carrying rescued migrants, have rendered the search and rescue system unreliable, unpredictable, and punitive⁴¹⁸. In addition, SAR NGOs, which in 2017 and until May 2018, have carried out about 40 percent of rescues, face slander, intimidation and court cases. We just have seen that the relationships between actors in the Central Mediterranean Sea are really complex because it concerns many actors, coming from different levels of power, acting in accordance with national and/or international legal framework.

Second Part: Conceptualisation and Theoretical Framework

After having dressed a large outline of what surrounds the SAR operations in the Central Mediterranean Sea, we find necessary to specify our research and ask ourselves: “Why did NGOs take an important role in SAR operations on the Central Mediterranean route during the so-called “refugee crisis” ?”. Our reasoning is to deepen the academic literature according to the way we have articulated the question mentioned above (NGOs' role in SAR operations during the “crisis”)

412 *Ibidem*.

413 “Appel d’air” means that the presence of vessels in the international waters contribute to the development of the migrant smuggling.

414 “Code of conduct” available online: <https://www.statewatch.org/media/documents/news/2017/jul/italy-eu-sar-code-of-conduct.pdf>. (Accessed on 07.23.20)

415 Rettman A., “EU backs Italy on NGO rescues”, *euobserver*, 07.14.17., article available online: <https://euobserver.com/migration/138540>. (Accessed on 07.23.20)

416 Amnesty International, *loc. cit.* p.1.

417 Source available online: <https://frontex.europa.eu/along-eu-borders/main-operations/operation-themis-italy-/>. (Accessed on 07.24.20)

418 Amnesty International, *loc. cit.*, p.5.

II. Review of the Academic Literature; From “crisis” to NGOs Criminalisation:

As we are also witnessing today, a “crisis” outbreak comes with a particular language and with a range of vocabularies. Moreover, it includes several aspects and can be defined and interpreted in different ways. We have decided to retain this definition: “a disruption that, welcome or not, has the potential to become a catalyst for long-needed change”⁴¹⁹. With regards to the “refugee crisis”, we understand that the disruption was reinforced by a “focus event” which perturb the status in a policy domain”⁴²⁰. The picture of the three-year-old young Kurdish, Alan Kurdi, and the large media coverage led to the emergence of new actors, discourses and policies (and probably to this work as well). As stated “the potential to become a catalyst change” is embodied by two different narratives and solutions regarding the “refugee crisis”. On one side, many conceive the “crisis” as an emergency and calls for control because of the dangers and the risks. On the other side, others promote solidarity and human rights and calls for a comprehensive approach. Moreover, in line with the words of Guiraudon, we understand that sea deathly journeys across the Central Med. are not a new phenomenon. In the 90s, the creation of the Schengen system and the Dublin agreements were already shaping the intent of the EU on its borders⁴²¹. What we argue in this section is double. Firstly, in line with a critical view, we argue that a “crisis” is more what we make of it. Secondly, the stress was put on the security on behalf of the EU whereas a strong humanitarian was also developing through the role of NGO.

Migration studies are developed through a large range of varieties. From policies-oriented to stato-centerism, from macro to micro analysis. Whereas many authors (“French specialists” like C. Withol de Wenden⁴²² or C. Balleix for example) work on migration in a “classical” way (marked by a strong historical path and/or policies-oriented focusing on migratory flows and migration data), others (like L. Lemaire⁴²³ and M. Albahari⁴²⁴) situate their research on the individual level. Nevertheless, we observed the prevalence and the relevance of the theory of “securitisation” regarding European immigration since the Schengen system. In line

419 Gottlieb N. et al., “Health policies and mixed migration – Lessons learnt from the ‘Refugee Crisis’”, *Health Policies*, Vol. 123 n° 9, 2019, p. 1.

420 Guiraudon, V., “the 2015 refugee crisis was not a turning point: explaining policy inertia in EU border control”, *Eur Polit Sci*, 2018, p. 152.

421 *Ibid.*, p. 157.

422 Her works: Withol de Wenden, C., *Faut-il ouvrir les frontières?*, Presses de Sciences Po, Paris, 2013, 100p.
Withol de Wenden C., *La question migratoire au XXIe siècle*, Presses de Sciences Po, Paris, 2017, 230p.

423 Lemaire L., “Islands and a Carceral Environment: Maltese Policy in Terms of Irregular Migration”, *Journal of Immigrant & Refugee Studies*, Vol. 12, 2014, pp. 143-160.

Lemaire L., “Noir et illégal’ aux frontières de l’Europe: De la construction d’un mythe à l’émergence d’une gouvernementalité transnationale des migrations. Malte-Bruxelles (2002-2013)”, Paris, 2017, Thèse de doctorat en Science politique. Sous la direction de Jean-Pierre Gaudin et de Andrea Rea.

424 Albahari M., “Crimes of Peace: Mediterranean Migrations at the World’s Deadliest Border”, *University of Pennsylvania Press*, Philadelphia, 2015, 272 p.

with the works of Bigo, Andersons or Huysmans, the nexus security-migration is the most explored. Ritaine's argument is that the border control in the Mediterranean was put to the forefront of the political agenda since the creation of the Schengen area. At that time, Guiraudon had already argued that immigration was officially (in official texts for example) associated with criminality⁴²⁵. She added that this logic was implemented through an “intergovernmental” mode of decision, lacking legitimacy and transparency. We state that there is a lot of research regarding the EU asylum system and the EU’s immigration policies. Nevertheless, “we are only beginning to understand the reasons for the EU’s response to the refugee and migrant crisis of 2015-2016”⁴²⁶. Moreover, “securitisation” allows us to understand the first narrative that we described in the previous paragraph. “Emergency”, “control”, “securitarian migration” and the “criminal” discourse that comes with it can be better appreciate thanking the authors we mentioned.

SAR operations have been discussed academically by several “securitisation” authors. T. Basaran is one of the most prolific authors in the field. He argues (and we follow his path in this work) that “Enhancing rescue efforts will remain insufficient as long as rescue of irregular migrants is not decriminalized and desecuritized”⁴²⁷. In addition, he analyses the “potential to produce collective indifference”⁴²⁸ and observes the deterrence paradigm produced by EU legislation. He is joined by the legal specialist V. Moreno-Lax who describes the EU technique of governance as a new “consensual containment”⁴²⁹. Moreover, other authors like Spijkerboer or Saleh choose to based their research on border death quantitative data. They worked on a possible causal relationship between policies (like the EU-Turkey agreement or SAR changes) and fatality rate in the Mediterranean⁴³⁰. These authors also deconstruct the deterrence-based concept of “pull factor”. Lastly, the narratives emanating from the different actors operating in the Central Mediterranean Sea allow us to understand the roles that they pretend to take. Cusumano introduced the concept of “organized hypocrisy” (which recalls Basaran “collective indifference”) when studying rhetoric of both *Triton* and *Eunavfor Med (Sophia)* actors. Furthermore, the narrative of the *Mare Nostrum* operation has been studied by Musarò. It sheds

425 Guiraudon V., “Schengen: une crise en trompe l’œil”, *Politique étrangère*, n° 4, 2011, p. 777.

426 Karolewski I. & Roland B., “Europe’s refugee and migrant crisis. Political responses to asymmetrical pressures”, *Politique européenne*, Vol. 60, n° 2, 2018, p. 99.

427 Basaran T., “Saving Lives at Sea: Security, Law and Adverse Effects”, *European Journal of Migration and Law*, 2014, Vol.16, n° 3, p. 386.

428 Basaran T., “The saved and the drowned: Governing indifference in the name of security”, *Security Dialogue*, 2015, Vol. 46, n° 3, pp. 205-220.205

429 Moreno-Lax V. & Giuffré M., “The Raise of Consensual Containment: From ‘Contactless Control’ to ‘Contactless Responsibility’ for Forced Migration Flows”, 03.31.17, 26p. In: S. Juss (ed.), “Research Handbook on International Refugee Law”, *Edward Elgar*, Forthcoming.

430 Saleh M., “Border Control and Migration Fatalities in the Mediterranean Sea”, *E-International Relations*, 2017, p. 1.

light on the transformation of discourses that occurred in the Italian media. We notice that starting from a double paradigm of deterrence on the one part, and of humanitarianism on the other part, the security nexus already present before the “refugee crisis” (more precisely before 2013) turned into a “security-humanitarian” one.

The role played by humanitarian NGOs has been criticised, reassessed, delegitimised and criminalised. Consequently, the last part of this literature review focuses on SAR NGOs and what their presence trigger regarding the Central Mediterranean migration. In 2014, the first SAR NGO, Migrant Offshore Aid Station (MOAS), started its operations. Two years later, ten NGOs were operating while rescuing about 40% of the total number of migrants saved. The SAR NGOs proliferation in the Central Med. has been theorised for the first time in 2016 by E. Cusumano. His 2016 article introduces the “first empirical analysis of SAR NGOs, outlining their structure and operating models”⁴³¹. According to Cusumano, two models of humanitarian organisation are operating at sea. On the one part, Wilsonian organisation which aims at “mitigating suffering by cooperating with government authorities rather than addressing its root causes”⁴³². On the other part, “Dunantist organization, whose much stronger commitment to independence from political actors prevented them from accepting state funding and cooperating too closely with Italian authorities”⁴³³.

SAR NGOs are thus facing an “ethical dilemmas”⁴³⁴ when operating their SAR activities. Cuttitta and Modoni explain that, the ambivalent role of NGOs is characterised by on the one part, the attempt of repoliticisation in the depoliticised Central Med. and at the same time, the contribution to its depoliticisation (notably because EU migration & border policies have not changed so far). The accusations, the criminalisation and, more factually, the number of SAR NGOs still in activities (close to 0), are well representative of the complex role and the ambivalent place that humanitarian NGOs take in the Central Mediterranean Sea. Consequently, at the end of this state-of-the-art, we are asking ourselves the following question: “What humanitarian role SAR NGOs intend to take in the Central Mediterranean space?”.

III. Problematisation of Our Questioning:

431 Cusumano E., “Emptying the sea with a spoon? Non-governmental providers of migrants search and rescue in the Mediterranean”, *Marine Policy*, Vol. 75, 2017, p. 91.

432 Cusumano E., “Humanitarians at sea: Selective emulation across migrant rescue NGOs in the Mediterranean sea”, *Contemporary Security Policy*, Vol. 40, n° 2, 2019, pp. 255.

433 *Ibidem*.

434 Modoni E., “Compasses or chains? The SAR NGOs and ethical dilemmas in the EU mis-management of the migration crisis in the Mediterranean”, *EUMedEA Online Working Paper Series*, n°1, 2018, p. 4.

Firstly, we have decided to anchor this work in a useful and original IR paradigm. The transnationalism perspective epistemology legitimises scientifically our research situated at the *meso* level. Its particular view on globalisation and interdependence make us state that the links between globalisation, transnationalism and international migration as fairly recent and interesting from a societal and scientific point of view. On the one part, the civil society represented by full-fledged actors (such as NGOs) take part in the international politics. On the other part, the links of interdependence amongst different actors (state or non-state) are fully taken into account in the transnationalism⁴³⁵. The paradigm ontology can be appreciated as such: “the study of the reciprocal effects between transnational relations and interstate system”⁴³⁶. The Central Mediterranean migration can therefore be conceived as a *World Politics*⁴³⁷ issue involving transnational movements of people and different types of actors. Moreover, the presence of state and non-state actors in the Central Mediterranean produces “reciprocal effects” amongst them. The main transnationalist concept is interdependence or mutual dependence. And we define it as a “*World Politics* where all the actors including states as non-state actors, are dependent upon one other”⁴³⁸. Therefore, the Central Mediterranean space can be conceived as a *World Politics* “in which differently situated actors negotiate – formally or informally – the social, cultural and political meanings of their joint enterprises”⁴³⁹. Actors have communicative structures and they are negotiating (formally & informally) depending on their identities and interests. We can find, at the same time, “cooperation and competition”⁴⁴⁰. Some negotiations and bargaining between actors do happen in the Central Mediterranean Sea, but to which extent? Based upon our findings related to the “complex interdependence” and the “reciprocal effects” and in line with our results in our review of the literature, we are now able to ask ourselves a research question before starting to reflect on the hypotheses that could derive from it. Our research question is the following: “How do NGOs involved in the “refugee crisis” negotiate their humanitarian role in the SAR (Search and Rescue) zones of the Central Mediterranean Sea?”.

Secondly, M. E. Keck & K. Sikkink pointed out NGOs are often part of “networks” which share several elements: the centrality of values or the principled of ideas, the use of information and the employment of “sophisticated political strategies in targeting their

435 Battistella D., “Théories des relations internationales”, *Presses de Sciences Po*, 2015, Paris, p. 210.

436 *Ibid.*, p. 215.

437 Keohane R. & Nye R., “Transnational Relations and World Politics”, *International Organization*, Vol. 25, n° 3, 1971, pp. 329-349.

438 Rana W., “Theory of Complex Interdependence: A Comparative Analysis of Realist and Neoliberal”, *International Journal of Business and Social Science*, Vol. 6, n° 2, 2015, p. 291.

439 Keck M.E. & Sikkink, K., “Transnational advocacy networks in international and regional politics”, *International Social Science Journal*, Vol. 51, 1999, p. 90.

440 Rana W., *Ibidem*.

campaigns”⁴⁴¹. Thus, if considering the Central Mediterranean Sea as a particular “network” and the NGOs as a particular actor, the *values*, *ideas* and the *identity* are constitutive of a particular *frame* which can be represented by the “SAR humanitarianism”. Following this socio-constructivist perspective, it allows us to reflect on how SAR NGOs are negotiating their role in the “network” depending on their identity and the particular frame that goes with it. In addition, we highlighted in our state-of-the-art the institutional “securitarian” practices of EU operations (*Eunavfor Med (Sophia), Triton, Themis*). The security-humanitarian nexus was already put in place during *Mare Nostrum*. On the side of NGOs, it is their “humanitarian borderwork” relevance that increased⁴⁴². To sum up, How can we conceive the “humanitarianism” and the NGOs' role in this ambivalent space? Therefore, our first hypothesis is “SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. by developing a “new humanitarianism”⁴⁴³ with regard to the traditional *INI* principles and the principle of *Humanity*”. Indeed, a first concept regarding traditional humanitarianism is *Humanity*. The conception of *Humanity* is supposed to be linked with mankind, suggesting an entire human species and as *humaneness*⁴⁴⁴. The framing, the narratives used by NGOs will allow us to correctly analyse this principle. The first initial of the *INI* scheme refers to *Impartiality* which we define as: “the tenet that aid should be delivered based on need alone, irrespective of the race, nationality, and political status of those in need”⁴⁴⁵. The second initial of the humanitarian *INI* principle means *Neutrality* which is outlined as such: “the effort to refrain from taking part in hostilities and political controversies”⁴⁴⁶. This principle seems directly more problematic to comply with. Mostly because the Central Med. is also a high political space and many political controversies emerged over the years. Our last traditional humanitarian concept is *Independence*. We define it as: “the commitment to operate autonomously from political actors and refrain from supporting their economic and security agendas”⁴⁴⁷. To sum up, we have just highlighted what constitutes the “ideal-type” of the traditional “humanitarian role”. Our first hypothesis postulates that SAR NGOs negotiate their humanitarian role by differing from this traditional humanitarian “ideal-type”.

Thirdly, our first hypothesis suggests that SAR NGOs' role may differ from a traditional

441 Keck M.E. & Sikkink, K., *loc. cit.*, p. 92.

442 Cuttitta P., *loc. cit.*, p. 635.

443 Here in the sense of new, different, from the traditional.

444 Stierl, *loc. cit.*, p. 707.

445 Cusumano, *loc. cit.*, 2017, p. 390.

446 *Ibidem*.

447 *Ibidem*.

humanitarian role. As we have already said, the role of SAR NGOs and their supposed compliance with the *INI* principles are not fixed and evolved over time. Following our transnationalist principle of “reciprocal effects”, we state that actors have (in)direct effects on the actions of the other actors. In addition, our literature on SAR NGOs lacks of research regarding the most recent events that occurred in the Central Med. Following these two statements, our second hypothesis is: “SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. differently over time, depending on the actions of other actors”. From 2017 and onwards, we can conceive the Central Med. as more and more “depoliticized”. The “depoliticization” can be understood as “the marketization of policy-making processes and the rise of technocratic forms of governance”⁴⁴⁸. We formulate here a sub-hypothesis linked to it: “more the Central Med. is “depoliticised”, more SAR NGOs will conceive their humanitarian role as political and distant from the *INI* principles”. Subsequently, more the rise of deterrence actions and policies will arise, more the SAR NGOs will embody a role of political actors that will be reflected in their discourses and practices.

Third Part: Research Design, Methods, Analysis & Results

IV. Research Design (*COVID-19*, Case Study, Operationalisation, Data Collection/Analysis):

First of all, we should briefly mention the methodological changes induced by the *COVID-19* disease outbreak. We know that these recent times have been difficult for everybody, we assert here that this work would have been totally different without the *COVID-19* outbreak. Since spatial mobility was not allowed, we opted for a qualitative work that focuses on document analysis and non-physical interviews. Along with the psychological effects and the waste of time induced by the outbreak, the main effects on our work were the change of the actors studied and a “distanced” methodological preference.

Our state-of-the-art confirmed that SAR NGOs are not a well-researched issue among migration studies. Given that this is a student thesis, we preferred to focus on a single case. We are aware that it lacks of scientific abstraction. Nevertheless, we pursue a double objective. On the one hand, we wish to follow Cusumano's work on the humanitarian role of SAR NGOs in the Central Med. On the other hand, we aim at producing a qualitative and original in-depth work on one SAR NGO. It can be legitimised academically by two ideas. On the one side, it is justified by the identity of each NGO at sea. As we have already shown, according to our transnationalist perspective, each actor in a network has a particular identity and some particular interests and

448 Cuttitta P., *loc. cit.*, p. 634.

values. In addition, the authors of the critical border studies reached the same conclusions: “NGOs as “purposive actors with their own identities and interests” rather than passive carriers of transnational norms”⁴⁴⁹. We appreciate here how the critical border concepts that we selected come to complement our transnationalist initial perspective. Thus, we conceive the focus on a one case study as something particular and unique in relation with the special situation of NGOs operating in SAR zones. On the other side, we state that a qualitative in-depth research is also legitimised by the fact that we participate to the small amount of research related to SAR NGOs. The enrichment of the literature is aimed at anyone interested in boat migration and in SAR NGOs' (humanitarian) role. Furthermore, the temporality of this research follows this path: our corpus and our case study concern exclusively the period 2016-2020. Nevertheless, we consider that our analysis perspective encompasses the broader “refugee crisis” issue.

We saw in the academic literature that the humanitarian role is traditionally conceived as *Impartial, Neutral, Independent* and including the principle of *Humanity*. By applying the traditional humanitarian “ideal-type” of *INI & Humanity* to our case study, we hope to grasp the particularities of our NGO in relation to its role conception and practices. Through a comprehensive posture, we aim at observing, or not, a “new” humanitarianism developed at sea. Firstly, The concept of *Humanity* will be directed towards the presence of two indicators: *humaneness* and the *subjects of their compassion*. Secondly, regarding our concept of *Impartiality*, the indicator is “the (non-)participation in the early process of migrants identification”, notably “by asking and giving information about the status of the people rescued”. If it is the case, the principle of *Impartiality* would be affected. Thirdly, the way the cooperation with the MRCC is established (what exchanges of informations, neutral, conflictual or cooperative), the willingness to disembark migrants on land/conduct fully-fledged SAR operations (or, on the contrary, only the rescue) and the disembarkation process in itself, the relationship with EU operations' actors (presence or aid of the EU military operation) and the relationship with Italian and Libyan authorities (Coastguards and judicial powers as neutral, conflictual or cooperative) are the indicators of the *Neutrality* principle at sea. Fourthly, the fact that SOS MED could retrieve engines and makeshift boats or the presence of police personnel on board are good indicators to assess the *Independence* of the NGO. In addition, the presence of visual technologies can help the Italian authorities regarding its operations. It also indicates whether the NGO prefers to remain totally independent or chose to cooperate with State authorities. Regarding the “actions of other actors at sea” (second hypothesis), we have decided

449 Cusumano, *loc. cit.*, 2019, p. 244.

to select the most relevant “events” (actions and policies) in accordance with the literature that we reviewed and its shortcomings. The “depoliticization” of the Central Med. and its restrictiveness is blatant. The 2017 Code of Conduct (2017Code), the changes in SAR operations (EUSAR, *Triton* to *Themis*), the 2018 Italian new policy of disembarkation (2018Refusal), the operational activity of the LYCG (LYCGacti) and the criminalisation of NGOs (criminalisation/prosecution) will be the “depoliticized” actions that we have selected in order to observe the NGO humanitarian response. And if they do, to which extent do they negotiate their role in order to keep their rescues at sea? To sum up, our second hypothesis is related to the effects of the “depoliticized” actions of other actors (namely the EU, Italy and Libya) on the NGOs role as we described in our first hypothesis.

We saw in our theoretical framework that the transnationalist perspective gives an important place to the “frame” and the narrative of the actor. Following this statement and in line with our first hypothesis, we find perfectly relevant to use some discourse analysis. We gathered a corpus of 7 documents. This corpus includes: three “activity report” (2016, 2017 and 2019) and four official press release files regarding 2018, 2019 and 2020 (three basic press release and a 2020 “women press release”). We detail in “Appendix I” the corpus that we use. Our second method of data collection is the interview. We were able to conduct two qualitative semi-structured interviews. From a theoretical point of view, we follow here a constructivist epistemology. The socio-construction of the reality is analysed through elements of discourse analysis. Moreover, the discourse analysis follows on the one part a “frame” method (notably for the *Humanity* indicators). On the other part, in line with our state-of-the-art and our problematisation, we aim at providing a rather critical analyse in order to “emancipate” the NGO from its negative aspects of the “humanitarian” label, notably through its (non-)participation to the EU anti-smuggling policies. On the other part, thanks to the particular “frame” discourse analysis, we want to give an idea of the identity and the values of SOS Méditerranée. In addition, regarding our second hypothesis, we provide elements of process tracing analysis.

V. Analyses and Results:

The first traditional humanitarian principle of *Humanity* was clearly identified in both our analyses. We observed three main results which were present in both material and constitutes the particular identity of the NGO. The non-acceptance (of human tragedy), a conception of “life above all” and the values of empathy and solidarity. We also highlighted the metaphysics reference to the humane “soul” and the “universality”. Our second indicator, “the subjects of their

compassion” was mostly found in the document analysis. We state that the NGO use, most of the time, neutral forms when referring to “the subjects of their compassion”. Nevertheless, we also found that the depiction of “migrants in suffering” or “fleeing misery” participate, to a certain extent, to the neo-colonial image of the European “white saviour”. In conclusion, we argue that, despite the particular identity of the NGO, its conception of the principle of *Humanity* is in line with a traditional view on this concept.

The results regarding the principle of *Impartiality* point towards the same direction. Even if, what we can call, an “early identification process” is carried out on board, nothing indicates that any information has ever been given to any authority. On the contrary, we could imagine that some information could be given to “the right hands” (as said participant 2) meaning NGOs on land. Nevertheless, a field-study would be necessary in order to go further on this point. Subsequently, we argue that the NGO is totally in line with the traditional humanitarian principle of *Impartiality*.

We subdivided our *Neutrality* principle into three indicators: Neut1, Neut2, Neut3⁴⁵⁰. We argue that the NGO attitude regarding the MRCC Rome is neutral even if they have a preference to cooperate with this RCC. We argue here that, regarding the cooperation with the JRCC, both actors are not neutral. The cooperation is absent and the relationship results in a competition. Thus, the NGO is not politically neutral anymore with respects to its cooperation with the JRCC. Of course, we should add that this refusal of disembarkation in Libyan ports is in total accordance with the international law regime at stake. The second indicator, Neut2, concerns the disembarkation process of the NGO. We suggest here that State political agendas are therefore affecting this coordination and consequently the NGO SAR operation. *Neutrality* is ambiguous and hard to apply at sea. Nonetheless, we argue that the NGO “transfer” the people with neutrality when it disembarks. As for indicator Imp1, further field-research could better describe this moment. The application of Neut3 has found several interesting elements which calls the NGO *Neutrality* in question. But first of all, our data allow us to argue that there is no NGO protection on behalf of any of our three actors. Secondly, regarding the transshipment cooperation, we firstly found that Italian transshipment towards NGO's boat was a normal process before 2018. Transshipment with EU operations did not find any result in our research. Nevertheless, the answer of our participant leaves us perplex (“Uh, I don't remember that, no”). We will develop in our discussion part why we think the contrary. Regarding the last questioning of Neut3, we did

450 In order to understand the abbreviations of our indicators, see the “Analytical Grid” at the end of this summary.

not find any sea conflict potential with the Italian Coastguards. In addition, we state that there is an ambiguous feature in the relationship between EU operations and the NGO discourse (varying from strong criticism to success acknowledgment through some contradictions), we argue that there is no conflict potential with this actor. Lastly, regarding the conflict potential with the LYCG, our results pointed out that the relationship is conflictual (“injunctions of moving” and “air gunshots” by the Libyan patrols). Consequently, we argue that the LYCG relationship as direct influence on the NGO *Neutrality* principle and the NGO is not neutral in its relationship with the LYCG. We are now able to argue that the NGO is not clearly *Neutral* regarding its relationship with actors at sea. We even consider that this latter has a humanitarian agenda which can be conceived in terms of operational cooperation and conflict potential. Therefore, we argue that the NGO is not clearly *Neutral* regarding its relationship with actors at sea. Even though the SOS MED. humanitarian practices are legal and preserve human lives, its relationship at sea are not neutral and shape a political commitment.

The *Independence* of our case study was based on two indicators. Firstly, the economic *Independence* came with the same results in our two analyses. On the one part, we stated that, despite some small public funding (with regards to its total budget amount), we have not found any funding which could interfere with the independence of the NGO. On the other part, the participants declared that 98% of the funding is private and the only public subventions are given by French localities, regions or Town Hall. Both outcomes allow us to argue that the NGO is economically independent. Regarding the political *Independence*, at the end of our corpus analysis, we were not able to clearly confirm or infirm the (non-)participation of our NGO to anti-smuggling policies. Then, our interviews data provided relevant results regarding Indep2.1, 2.2 and 2.3⁴⁵¹. SOS MED is independent regarding Indep2.2 as it does not allow “weapons on board”. We found that the NGO did not want to answer Indep2.3. At the same time, the NGO follows the anti-smuggling procedures regarding Indep2.1. Consequently, regarding the results of our principle, we argue that the NGO respect the *Independence* principle even though it participates, to a minimal extent, to anti-smuggling policies. The highly “securitised” framework in which the SAR operations of the NGO take place seem to have an influence, to a certain extent, on its humanitarian principle and practices.

The first hypothesis consisted in understanding whether the SAR NGOs negotiate their role in the Central Med. through a traditional or a “new” humanitarianism. Linked to the results

451 See the “Analytical Grid” in the Appendix of this summary

we have just described, we are now able to argue that the NGO, SOS MED, negotiates its humanitarian role by developing, to a certain extent, a “new” humanitarianism with respect to the traditional *INI* scheme and the *Humanity* principle. We showed that principles such as *Humanity* and *Impartiality* were traditionally respected by the NGO in its conception and practices. Furthermore, regarding the *Neutrality* and the *Independence*, our results point out that the NGO is not neutral with respect to its relationship with other actors. Its conflictual potential with the LYCG and the JRCC Tripoli, its ambiguous relationship with EU actors and its preference for an Italian cooperation make the NGO make us think that the NGO has a particular “humanitarian agenda”. Whereas its economic *Independence* is respected, we argue in this work that the NGO practices can be partly seen as participating to anti-smuggling policies. This is linked to the *Neutrality* troubles that the NGO face when operating in the particular environment of the Central Mediterranean.

The second hypothesis did not find the expected data. The material at our disposal did not provide enough data in order to properly apply our analytical grid. Consequently, the data we collected did not enough respond our hypothesis for being considered as scientifically valid. In addition, some of our suggestions have been directly refuted by our data. Therefore, we have some mixed results which can sometimes confirm, sometimes infirm our hypothesis. Regarding the 2017Code, our first analysis did not find any indicator which could be linked to our analytical grid. The second analysis results stated that the 2017 could have an influence on both indicators, *Indep2.2* and *Neut3*. Nevertheless, at the end of this analyse, we argue that 2017Code “has not influenced practices at sea” (participants 2 stated). Therefore, it refutes our hypothesis. Our second (EUSAR changes) postulate did not find any result in our two data analyses. Therefore, we are not able to confirm or infirm a causal link between the changes in European SAR operations (*Triton* to *Thémis* or *Sophia* to *Irini*) with the humanitarian role & practices of our NGO. In addition, we argue that 2018Refusal has, to some extent, an influence on the *Neutrality* principle (*Neut3*) of our NGO. This result confirms our first hypothesis result which state that the NGO does develop a “new” humanitarian role (mostly regarding *Neutrality*) in order to act at sea. The results of our fourth event are the same than the the results pointed out in our first hypothesis related to the *Neutrality* principle (*Neut3*). The conflictual relationship at sea, the proposal of assistance and the “disobedience” let us argue that LYCGacti does have an influence on the *Neutrality* of our case study. Lastly, the criminalisation of the NGO does have an influence on our analytical grid. Indeed, we argue that criminalisation, through direct prosecution has direct influence on all our traditional humanitarian principles because it makes them ineffective.

Therefore, criminalisation as “turning the NGO humanitarian actions into criminal actions” can make its whole role as ineffective. Along with the results we have just described, we argue that our data and results cannot validly either confirm or infirm the entire second hypothesis. Indeed, as we do not have enough result for all our indicators, we were not able to dress a causal relationship between the events and the NGO humanitarian role. Consequently, our process tracing analysis was not possible in this research.

VI. Discussion:

Finally, with respect to the results we just observed, we argue that SOS MED humanitarian role is marked by “**delicateness**”. Both our second data collection and the data analyses, the words of Participant 2 (““it is not for us, but we have a very delicate mission, and as I tell you we have many enemies waiting for us to make small mistakes. And we try not to make any mistakes so that this mission can continue at sea”), the essence of SOS MED. missions are all marked by this idea of **delicateness**. The fact that the participants could not “admit” an operational cooperation with EU operations is a good example. Indeed, on the one part, the NGO actions contain an ethical elegance full of nobility and admirability. On the other part, we showed that its actions are fragile and evolve in an ambiguous environment which can, at any time, have direct influence on the essence of the NGO (by criminalise, prosecute).

Conclusion

We initiate this work with one question: “Why an actor, not supposed to save people at sea and carrying about 600 rescued, had to wait about ten days before disembarking?”. A large contextualisation highlighted the actors at stake, the relevant policies and the main issues surrounding the so-called “refugee crisis”. Given that our topic is made of human, humanitarian, legal and political complexity, the aim of this work was reducing it by developing a comprehensive and reflexive approach regarding SAR operations on the Central Mediterranean route. We aspired to provide a qualitative in-depth study of one of the SAR NGOs operating at sea. At the end of our context, our questioning evolved. We specified it by asking ourselves: “Why did NGOs take an important role in SAR operations on the Central Mediterranean route during the so-called “refugee crisis” ?”. It is according to this question that we reviewed the literature. We found out that the particular conception of a “crisis” induces a double discourse (control or comprehension) regarding the adequate response towards it. We argued that a “crisis” is, perhaps, what we make of it. Moreover, our review of migration studies highlighted the “hierarchies of humanity” that the Schengen EU border system induced since the 90's. The

security nexus linked to Mediterranean migration on behalf of institutional actors will be retained for the whole research. Then, by going closer to our subject, we discovered that SAR operations were mostly studied in two ways (deaths border data and communication narratives). Related to these findings, we reconceptualised the humanitarian role in the Central Med. We were wondering to which extent the presence of “securitarian” operations (Frontex, *Eunavfor Med*) on the one part, and, the relics of the security-humanitarian Italian mission (*Mare Nostrum*) on the other part, would have effects on the humanitarian practices at sea. As a matter of fact, on the one side, SAR NGOs repoliticise the EU migration management, highlighting the failure of border policies⁴⁵². And, on the other side, SAR NGOs contribute to its depoliticisation (notably because EU migration & border policies have not changed so far). Consequently, at the end of this state-of-the-art, we were asking ourselves the following question: “What humanitarian role SAR NGOs intend to take in the Central Mediterranean space?”.

We anchored this research in an IR paradigm which allowed us to go further in our reasoning. The transnationalist perspective gave us a good insight of what interdependence or mutual dependence is. An IR paradigm which legitimises the place of non-state actor on the international scene would allow us to study the interdependence amongst actors within a “network”. It suggests that actors have communicative structures and they are negotiating (formally & informally) depending on their identities and interests. Indeed, in every relation between governmental, supranational or non-governmental entities, some negotiations and bargaining take place. Subsequently, our research question became: “How do NGOs involved in the “refugee crisis” negotiate their “humanitarian role” in the SAR (Search and Rescue) zones of the Central Mediterranean Sea?”.

Our first hypothesis was that SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. by developing a “new humanitarianism” with regard to the traditional *INI* (*Impartiality, Neutrality, Independence*) principles and the *Humanity* principle. Secondly, along with our transnationalist principle, we postulated that the “actions of other actors” would have (in)direct effects on the “humanitarian role” of SAR NGOs. In addition, our literature on SAR NGOs lacks of research regarding the most recent events that occurred in the Central Med. Following these two statements, we postulated that SAR NGOs involved in the “refugee crisis” negotiate their role in the Central Med. differently over time, depending on the actions of other actors. As this hypothesis was too large, we decided to specify it: “more the Central Med. is

452 Cuttitta P., *loc. cit.*, p. 633.

“depoliticised”, more SAR NGOs will conceive their humanitarian role as political and distant from the *INI* principles”. In order to respond these two hypotheses, we selected a uniform corpus of texts and conducted two semi-directed interviews. These double data collect and a crossed-results analysis would allow us to fully answer our questioning.

Our in-depth qualitative and reflexive research on the NGO SOS Méditerranée demonstrated that the NGO was fully in line with a traditional view on the humanitarian principles of *Humanity* and *Impartiality*. Our results put the principles of *Neutrality* and *Independence* into question when looking closer to the humanitarian practices and role conception. Our findings pointed out that the NGO is not neutral with respect to its relationship with other actors. Its conflictual potential with the LYCG and the JRCC Tripoli, its ambiguous relationship with EU actors and its preference for an Italian cooperation make us argue that the NGO has a particular “humanitarian agenda”. Moreover, whereas its economic *Independence* is traditionally respected, we argue in this work that the NGO practices can be seen as participating, to a minimal extent, to anti-smuggling policies.

Regarding the 5 “depoliticized” actions of other actors, we found different outcomes, sometimes refuting our causal hypothesis, sometimes confirming partly this latter or not finding valid data to answer. The results are the following: the 2017 Code of Conduct impact is refuted by our participant (“has not influenced practices at sea”). The EU SAR changes did not find any result. The 2018 Italian refusal of disembarkation has, to some extent, an influence on the *Neutrality* principle of our NGO. The LYCG operational activity has an influence on the *Neutrality* principle of our NGO. And the criminalisation/prosecution of NGOs have direct influence on all our traditional humanitarian principles because it makes them ineffective.

In conclusion, our results allow us to argue that, since 2017, the Central Mediterranean turned into a “quasi non-humanitarian” space. The “externalization” of the EU border in Libya, the anti-NGOs media and judicial campaign have direct influence on the humanitarian role that NGOs traditionally take in classic humanitarian space. We found out in our results the “ethical dilemma” (cooperation or competition) that NGOs face in the particular environment which is the Central Mediterranean. SOS MED is fully aware that its mission of “saving lives” in this recently “non-humanitarian” space is made of delicateness. The contradictions of its discourse regarding EU operations cooperation, the non-response to our questions about visual content, its professional advocacy communication make us argue that SOS MED has to deal with the tension

of inclusion/exclusion that the Central Med. contains deriving from EU restrictive border enforcement. In addition, public opinion support (through media coverage, sensitisation and citizens funding) is the main response that NGOs have in order to legitimise their actions.

In line with our critical stance, we position our research closer to Fassin statement. We argue that SOS MED role and actions in the Central Med. are closer to “political actors engaged in power relations, plays of alliance, and systems of negotiations”⁴⁵³. As a matter of fact, the SOS MED humanitarian role conception and practices confirmed that the humanitarian NGO role is not “outside politics”. On the one part its operational role is not neutral. It can be conceived as either participating, to a certain extent, to the EU restrictive border management or challenging the control of sovereign authorities. On the other part, its discourse contains political activism which places it in a strong advocacy position. We argue in this work that, due to the high-political aspect, the complex legal framework, the highly-media coverage that SAR operations encompasses and because of the security-humanitarian nexus embodied by other SAR actors, SAR NGOs cannot act in a strict traditional humanitarian way in the Central Med. SAR NGOs are a new phenomena within an ambiguous space where humanitarian *Neutrality* does not seem practicable until “rescue of irregular migrants is not decriminalized and desecuritized”⁴⁵⁴.

453 Cuttitta P., *loc. cit.*, p. 636.

454 Basaran T., *loc. cit.*, p. 386.

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VI. Appendix I: Analytical Grid:

First principle: HUMANITY:

HUM1: “humaneness”

HUM2: “subjects of their compassion”

Second principle: IMPARTIALITY:

IMP1: “early process of identification”//”requesting & giving status of the rescued”

Third principle: NEUTRALITY:

NEUT1: “cooperation with MRCC” (ROME or TRIPOLI)

NEUT2: “disembarkation”

NEUT3: “relationship other actors at sea” EU operations, Italian Coast guards, LYCG (protection,transhipment, conflict potential)

Fourth principle: INDEPENDENCE:

INDEP1: “public funding”

INDEP2: “participation anti-smuggling policies”

2.1: “engines & makeshift boats”

2.2: “police personnel on board”

2.3: “visual technologies” and “give visual content to authorities” (anti-smuggling)

Actions of the other/”depoliticization” policies:

2017Code: same principles and same grid as mentioned above

EUSAR: same principles and same grid as mentioned above

2018refusal: same principles and same grid as mentioned above

LYCGacti: same principles and same grid as mentioned above

criminalisation/NGO prosecution: same principles and same grid as mentioned above