

A stylized illustration in shades of orange, red, and yellow. It depicts a family of five people walking from left to right. A man with a beard and a large backpack leads the group. Behind him are two children, a girl and a boy. To the right, a woman in a headscarf and a coat walks with a suitcase. The background features a large, bare tree with intricate branches. In the top right corner, a large yellow crescent moon is visible against a dark blue sky. The overall style is graphic and textured.

SCUDI

**OUTPUT OF THE
CONFERENCE ON
EUROPEAN SEA RESCUE
STATE OF THE ART**

OCTOBER 2, 2024

School of human rights: strategic litigation
to protect migrants' rights



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INTRODUCTION

On October 2, 2024, the Conference on European Sea Rescue State of the Art took place in the heart of Rome. This meeting was organised within the **SCUDI - School of human rights: strategic litigation to protect migrants' rights** project, which was jointly launched in March 2024 by Cittadinanzattiva and CILD.



The objective of the conference was to openly discuss current challenges and possible solutions in an increasingly complex and politically sensitive context. The increase in deaths at sea in the Mediterranean and the growing criminalisation of rescue operations and the NGOs that carry out these critical and life-saving rescues have made a multidisciplinary discussion necessary.

The conference addressed issues such as NGO cooperation, upsides, drawbacks and alternatives to strategic litigation, and the role of European and international institutions in these multifaceted issues.

Funded by the European Commission under its CERV program, this project aims to strengthen the protection of migrants' rights in Italy through strategic litigation, combating discriminatory policies, and promoting the use of the EU Charter of Fundamental Rights.

As the conference occurred offline, below are a collection of outputs from this insightful meeting of minds, which brought together members of the newly established SCUDI Sea Rescue Legal Network and represented a crucial moment to analyse the state of sea rescue in Europe.

Speakers included Mirka Schafer (SOS Humanity), Rachele Giorgi (Sea-Watch), Andras Lederer (Hungarian Helsinki Committee), Filipa Pacheco (JRS Malta), Neil Falzon (Aditus Foundation), Nicole Zemoz (StraLi), and Arturo Salerni (Progetto Diritti).

Moderated by Fabi Fugazza, Co-Executive Director of CILD and legal expert of the European project CERV SCUDI, the event brought together representatives of non-governmental organisations and legal experts on migration and sea rescue operations.

PANEL I: CURRENT CHALLENGES IN SEA RESCUE



The first panel addressed the current challenges in sea rescue operations, both legal and technical, including as directly experienced by our speakers. These challenges included administrative sanctions obstructing both ships and airplanes monitoring the Mediterranean and saving lives therein, or taking vessels out of commission for long periods; pullbacks and violent interception of boats by the so-called Libyan and Tunisian coast guards, including with resources donated using Italian funds; and various legal issues encountered when reacting to such circumstances.

Our speakers pointed out the importance of **aerial monitoring operations** as a key tool to detect distress situations at sea and notify authorities of the need for intervention. However, notifications sent by CSOs are often **ignored by authorities**, exacerbating humanitarian consequences and death tolls.

For instance, on September 4, 2024, a tragic shipwreck occurred near Lampedusa, within Italian territorial waters. The Italian coast guard released a video of the accident, claiming to have rescued survivors. However, it was later revealed that a

distress call had been reported two days earlier by SeaBird (one of Sea Watch’s monitoring airplanes), which sent three separate alerts when the vessel was still in Maltese waters. Despite these reports, no rescue operation was carried out by authorities. The situation deteriorated and of the 28 individuals on board originally, only 7 survived and safely disembarked on Italian coasts.

The panel also addressed how aerial monitoring operations have allowed civil society, and thus the public, to observe pullbacks occurring, especially in the search and rescue areas of Libya and Tunisia. Indeed, cooperation with the so-called local coast guards frequently results in **violent interceptions and pullbacks** rather than rescue operations. In March 2024, an operation by ship Humanity 1 (from SOS Humanity) was violently interrupted by the Libyan coast guard, who started shooting in the water and “rescued” an unknown number of people.

On top of these crucial challenges, the panel explored how the **operational effectiveness** of NGOs’ vessels and airplanes is often hindered by frequent administrative detention of vessels and associated fines. The Piantadosi Decree has led to 25 cases of administrative detention of NGO rescue

vessels, with extensions of up to 60 days. Moreover, the new Flow Decree (Law Decree No. 145/2024) seems to further tighten measures against NGOs operating in the Mediterranean, impacting both their rescue ships and aerial operations with **administrative sanctions and detention** in case of breach of the obligations. However, experience shows that **legal appeals** can be effective tools for overturning such detentions, as recently demonstrated by SOS Humanity.

In reaction to pullbacks and violent interceptions, deaths at sea, and sea rescue operational issues, **advocacy** seems to be one of the only prompt tools available to NGOs operating in the Mediterranean. Indeed, engaging in legal actions addressing those situations present complex practical challenges. Often, victims are not identified, and therefore they or their families cannot be contacted, making it almost impossible at times to find a representative of the victim which is needed to file certain legal complaints.

Moreover, there is a problem in identifying the country where it is more reasonable to file the complaint. Should it be the country to which the territorial waters belong, or the country of arrival? This concern is especially raised in light of the frequent failure of Malta to respond to rescue calls in its territorial waters, therefore shifting responsibility to Italy. This situation highlights the urgent need for greater institutional accountability. In this context, **strategic litigation** remains a powerful means to address human rights violations. Indeed, filing interim measures, despite it being ignored by the country involved, can draw media attention, contributing to public awareness.

PANEL II: SOLUTIONS AND WAYS FORWARD



The SCUDI network aims at exploring **new legal strategies** to protect migrants' rights. Lastly, **combating disinformation** is essential to change the public narrative. It is necessary to debunk propaganda linking migration and criminality, by promoting a message based on human rights and solidarity.

The second part of the discussion focused on possible solutions to the challenges highlighted above, which included improved cooperation between NGOs operating at sea and on land from the sending side, new legal proposals to pursue and advocacy strategies focusing on solidarity.

The panel discussed how, to address common challenges, **strengthening cooperation among NGOs** and legal experts is essential. In particular, links with civil society organisations monitoring pullbacks by the Libyan and Tunisian coast guards back to the Northern African coasts need to be established. Cooperation with the NGOs of the Civil Fleet would create a network able to gather valuable data needed for legal complaints to be filed. Moreover, building a **network of lawyers** willing to support NGOs in such legal actions may help fill the gap in legal expertise suffered by some sea rescue NGOs.

Q&A

In the third session, the public attending the conference was given the opportunity to ask questions and share their opinions with the panelists.



HOW DOES COMMUNICATION AMONG DIFFERENT SEA RESCUE NGOs WORK?

All NGOs of the Civil Fleet are regularly exchanging information on all topics, as operational and funding challenges. However, NGOs do not have the capability of filling up the void left by the elimination of state-led search and rescue operations.

WHAT IS THE ROLE OF INTERNATIONAL ORGANISATIONS IN THE FIELD OF SEA RESCUE OPERATIONS?

International organisations - namely, the UNHCR and IOM - embrace the EU approach towards border control, hence they do not facilitate NGOs in their work. Moreover, even though there is a clear protection mandate allocated to UNHCR, there is no efficiency in this in practice. Overall, they are not an ally to sea rescue NGOs. Their mandate comes from international law, however they may suffer from political influence.

Nevertheless, the SCUDI network showed openness to international organisations to be strategically involved in their discussions, as they should be part of the solution as well.

IS IMMIGRATION MANAGEMENT EITHER A POLITICAL PROBLEM OR OF OTHER NATURE?

Migration is not a problem itself. Hence, the government should rather allocate resources on preventing people from dying at sea, than focusing on strengthening border management. The categorisation of migrants in bad and good is constructed to legitimate restricting policies. The priority is the respect of human rights and the possibility for people to regularise their position. For example, the EU should establish specific mechanisms to welcome climate refugees, as they are ignoring predictions on this forthcoming phenomenon.

HOW CAN WE MAKE PEOPLE UNDERSTAND THE DIFFERENCE BETWEEN THE RIGHT TO MIGRATE AND THE FIGHT AGAINST HUMAN TRAFFICKERS AND SMUGGLERS?

Smugglers and traffickers exist because there are no legal options set out through legislation. While people won't stop coming to Europe to seek safety, funding "sending countries" to stop it from happening often can lead to financing activities that are contrary to the law. This is why advocacy and strategic litigation is fundamental to highlight continuous violations perpetrated by countries receiving funding by the EU and our governments. For example, all meetings between the Tunisian government and Meloni are concerning noting certain links held by members of the Tunisian government. Hence, the question could be asked: is Italy really fighting smugglers or is our country funding it?

WHAT IS THE ISSUE WITH HUMANITARIAN VISAS, HUMANITARIAN CORRIDORS AND SPONSORSHIPS?

The current availability of humanitarian visas, humanitarian corridors, and sponsorships is very limited and characterised by extremely strict criteria. However, we know that our government is capable of welcoming a larger number of people, as demonstrated in 2022 with Ukrainian refugees. This precedent shows that the implementation of broader reception mechanisms is possible, provided there is adequate political will and an approach centered on solidarity.

HOW DO YOU THINK STRATEGIC LITIGATION CAN IMPACT HUMANITARIAN VISAS?

Strategic litigation can certainly create impact with regard to visas given on humanitarian grounds. CILD, for example, has been fairly successful in strategic litigation in the field of humanitarian visas and family reunification visas, by challenging government decisions and interpretations of criteria which, when successful, can then assist future similar cases. Indeed, CILD's CIPBRA and Family Reunification initiatives, led by Loredana Leo, have also been achieving significant results since 2022 - 418 legal assistance requests were answered, directly helping more than 320 individuals, over 50% of whom were children. CILD pointed out such successful outcomes were possible thanks to extensive collaboration with various stakeholders, as strategic litigation actions take a lot of resources, which may be difficult for NGOs to gather.

CONCLUDING REMARKS

Deaths at sea represent a tragic and persistent reality, as a direct consequence of the absence of safe and legal pathways for those seeking to reach Europe and claim protection. The SCUDI Network denounces the government's policies aimed at obstructing search and rescue operations for violating international conventions and undermining fundamental human rights. Renewed commitment to legal and humanitarian principles is needed, emphasising the urgency in reestablishing state-led rescue operations and dismantling the structural barriers imposed on civil society actors.

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Produced by:



This project has been funded by the European Union's Equality, Rights and Values Programme