

From the Italian *Mare Nostrum* Operation to the Frontex *Triton* Operation (November 2014-February 2018). Italy and Search and Rescue Operations. (SAR)

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Abstract

In October 2013, the Italian Coast Guard began an innovative Search and Rescue mission, known as the Mare Nostrum operation, intending to rescue migrants in distress at sea and bring to justice human traffickers and migrant smugglers. In November 2014, after only a year of activity in which all the costs were financed by Italy, Mare Nostrum was officially ended and replaced by the Frontex-led Operation Triton. This paper examines the EU's decision to implement the European Triton operation, the main objectives of this new European mission, and for a better understanding, points out the differences between these two naval operations led by Italy in the Mediterranean Sea. Launched in the Central Mediterranean, the main focus of the Triton operation was the border management control and to a lesser extent the humanitarian scope. Being a response to continuous Italy's calls for aid and the expanded Mediterranean migration crisis, Triton functioned in the same line as two other similar European operations: in Spain, the Hera operation, or in Greece, the Poseidon operation (since 2006). Each operation had a member state, as the sole host state which commanded the entire operation. In February 2018, the Warsaw-based Frontex launched a new operation in the Central Mediterranean, the Themis Operation, to assist

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Italy in the Schengen border control activity, replacing the Triton operation and removing the much-criticized obligation to bring rescued migrants only to Italy.

Over a decade, Italy is confronting a great phenomenon of sea migration, with thousands of people who departed from the coasts of North Africa, trying to reach Europe, using the so-called Central Mediterranean route. Many migrants transited Libya on their journey towards Europe, after the fall of the Kaddafi regime, contributing to the development of smuggling and human trafficking networks. The migrant flows increased significantly starting with 2011 in conjunction with the political changes called the "Arab Spring" in North African countries (especially in Tunisia and Libya) and with the intensification of the conflict in Syria (see Figure 1).

The Libyan coast represents the main departure point for migrants traveling to Europe by boat and so far, the Mediterranean Sea crossing recorded the largest number of deaths and missing cases of people who migrated worldwide. In particular, the Central Mediterranean Sea registered the highest number of these tragedies. Furthermore, 2016 was the year in which the number of deaths on the Central Mediterranean route peaked, with more than 4 thousand deaths (see Figure 2). Since 2014, Zuwarah, Sabratha, Tripoli, Garabulli, and Al Khums have represented the main departure hubs from Libya to Italy.¹

¹ For more information, see ***Altai Consulting, *Leaving Libya. Rapid Assessment of Municipalities of Departures of Migrants in Libya*, June 2017 in http://www.altaiconsulting.com/wp-content/uploads/2017/08/2017_Altai-Consulting_Leaving-Libya-Rapid-Assessment-of-Municipalities-of-Departure-of-Migrants-in-Libya.pdf

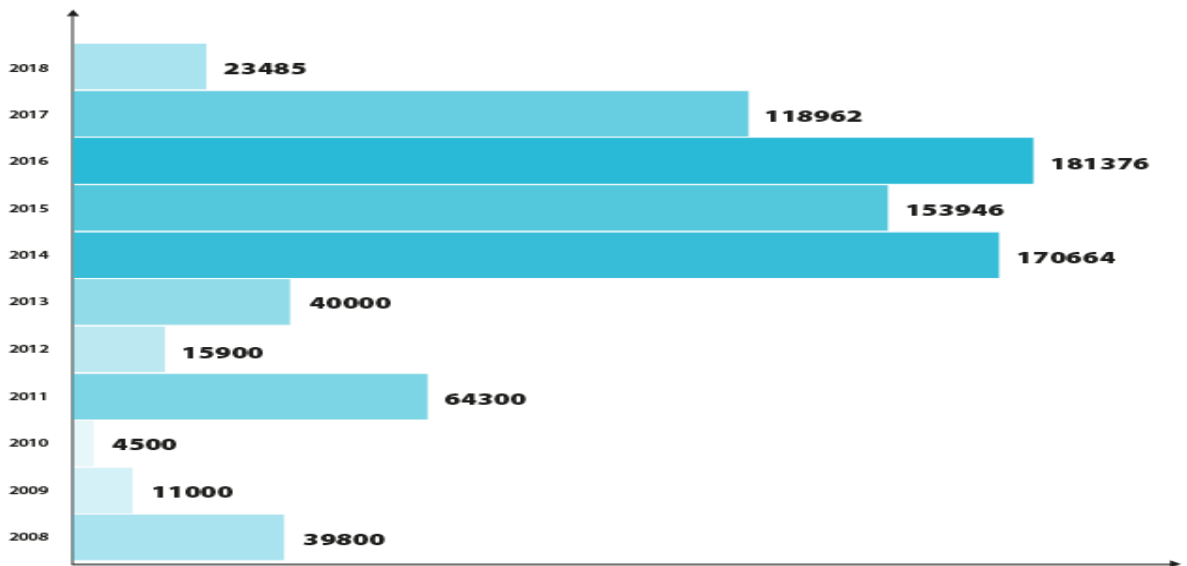
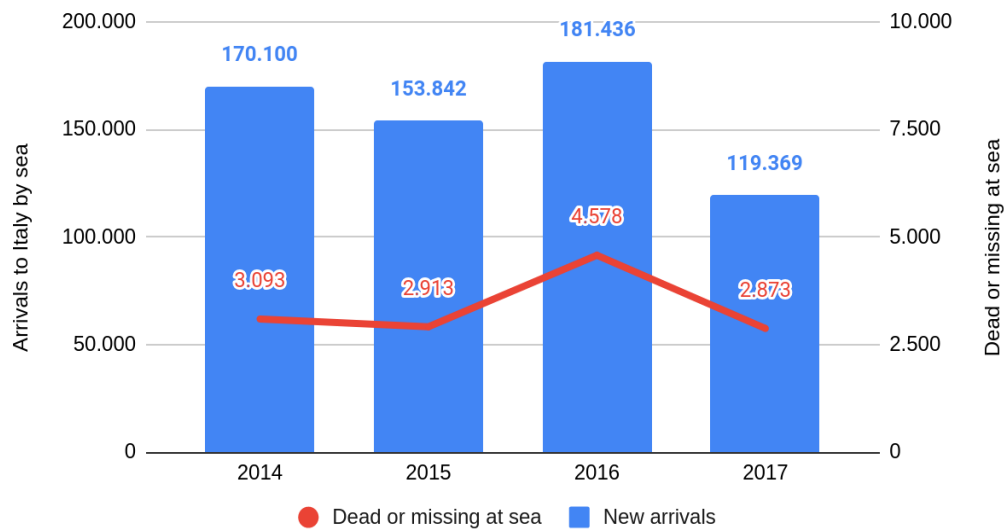


Figure 1. Illegal border crossings on the Central Mediterranean route, including Apulia and Calabria, in numbers. Source: **Frontex**

Arrivals to Italy by sea

Dead or missing at sea in the central Mediterranean



Source: **UNHCR**

Nowadays, irregular migration represents the main issue that concerns wealthy nations and poor countries alike. By the end of 2019, the number of people forcibly displaced has grown to 79.5 million, the highest number on record, according to the UNHCR annual Global trends report.²

Demographic pressures, political persecution, and wars, human rights abuses, economic poverty, and food insecurity continue to push people into undertaking risky journeys in search of protection and economic opportunities from their countries to neighboring countries, and further onward to countries outside their region. In the case of the Central Mediterranean route,³ refugees and migrants moved in large numbers from Sub-Saharan Africa to North Africa, then crossing the Mediterranean Sea to reach Italy.

On 18 October 2013, Italian authorities launched the **Mare Nostrum Search and Rescue operation** to respond to the humanitarian emergency in the Sicilian Channel. This decision has been taken by the Italian authorities, following the two tragic shipwrecks on 3rd October 2013, in the waters off Lampedusa island, when 366 migrant people died, following the second tragedy occurring only eight days later between Malta and Lampedusa, bringing the death toll to more than 600 people.⁴

The Mare Nostrum Operation enhanced the rescue capacities in the Central Mediterranean and made the Italian policy of patrolling international waters not only more effective but also much more visible.⁵ This large-scale search and rescue operation⁶ also represented a starting point of a new strategy based on a different

² *** United Nations High Commissioner for Refugees, *Global trends. Forced displacement in 2019*, p. 2, <https://www.unhcr.org/5ee200e37.pdf>.

³ The Central Mediterranean Route refers to migration movements from North Africa to Italy and, to a lesser extent, to Malta.

⁴ Jasmine Coppens, *The Lampedusa disaster: how to prevent further loss of life at sea?* in "TransNav", vol. 7, no. 4, December 2014, p. 589.

⁵ Martina Tazzioli, *Border displacements. Challenging the politics of rescue between Mare Nostrum and Triton* in "Migration studies", vol. 4, no. 1, 2016, pp. 1-19.

⁶ Alessio Patalano, *Nightmare Nostrum? Not Quite: Lessons from the Italian Navy in the Mediterranean Migrant Crisis* in "The RUSI Journal", vol. 160(3), pp. 14-19;

approach of the European immigration policy in the light of humanitarian intervention and protection of migrants.⁷

Launching a humanitarian and military operation, Italy wanted to send a strong signal to Europe and all the European institutions, asking for an expansion and improvement of the Frontex's activity, but above all, more share solidarity of the member states to resolve the migration crisis and, particularly, to set common objectives more directed towards the protection of human lives than the military protection of the European borders.⁸

It was the beginning of a new perspective in the Search and Rescue Operations, Mare Nostrum receiving important public support, especially by the non - governmental organizations and by the United Nations High Commissioner for Refugees (UNHCR). But the financial effort was massive. Italy had some help from smaller Mediterranean states like Malta⁹ or its neighbor state, Slovenia,¹⁰ but the entire program was very expensive, more than 9 million euros per month, even though the cost of the operation was initially estimated at 1.5 million euros per month, covered by the ordinary budget of the Italian Ministry of Defense.¹¹

The EU has financially supported the operation with only €1.8 million from the emergency actions under the External Borders Fund during November 2013

⁷ For more details about the concept of **humanitarian border**, see Paolo Cuttitta, *Delocalization, Humanitarianism and Human Rights: The Mediterranean Humanitarian Border between Exclusion and Inclusion* in "Antipode", 2017, pp. 783-803; also Violeta Moreno Lax, *The EU Humanitarian Border and the Securitization of Human Rights: The 'Rescue-Through-Interdiction/Rescue-Without-Protection' Paradigm* in "Journal of Common Market Studies", vol. 56, no. 1, 2019, pp. 119-140.

⁸ Steve Scherer, *DOSSIER - Mare Nostrum, l'Italia chiede all'Europa di fare di più* in <https://www.reuters.com/article/oittp-marenostrum-dossier-idITKBN0E11G720140521>.

⁹ Slovenia provided a boat for Mare Nostrum operation, Triglav, and 40 officers for a few weeks in December 2013 and January 2014, and has been the only contributor Member State to Italian operation. Malta has participated in operations in its marine area, in coordination with Mare Nostrum in Caitlin Katsiaficas, *Search and Rescue Operations in the Mediterranean. The role of Frontex Plus*, in "EU Migration Policy Working Paper", no. 13, 2014, p. 7, <https://www.peacepalacelibrary.nl/ebooks/files/385918577.pdf>;

¹⁰ www.marina.difesa.it/documentazione/comunicati/Pagine/2014_018.aspx

¹¹***Camera dei Deputati, *Documenti* 224, 7 maggio 2014 <http://documenti.camera.it/leg17/resoconti/assemblea/html/sed0224/tmp0000.htm>

and has assisted Italy through the two simultaneous Frontex operations in progress, Hermes and Aeneas, also under Italian command.¹²

Some European politicians claimed that the Search and Rescue Operations, like Mare Nostrum, have represented an unintended “pull factor“, encouraging dangerous sea crossings. A considerable number of the asylum seekers using the central Mediterranean route were economic migrants, who did not qualify for international protection to enter the EU illegally. In the UK, the Foreign Office minister, Baroness Anelay, took this stance in October 2014, explaining that the UK would not support any future search and rescue operations in the Mediterranean, referring to the “Operation Triton“, planned to be launched by the European Frontex border agency on 1st November 2014.¹³

Similar voices were heard across Europe, accusing and fearing that Mare Nostrum represented, actually, the reason why more and more migrants tried to reach the European Union, leading to more “tragic and unnecessary deaths“. Even Frontex agency has veiledly accused the Mare Nostrum Italian operation of attracting more migrants by patrolling very close to the Libyan coasts.¹⁴

Operationally, Mare Nostrum consisted of permanent patrols in the SAR zones of Libya, Malta, and Italy, representing a vast area of almost 70,000 square kilometers.¹⁵ Compared to other operations, Mare Nostrum paid more attention to

¹² *** European Commission, *Frontex Joint Operation 'Triton' – Concerted efforts to manage migration in the Central Mediterranean*, Memo, Brussels, 7 October 2014, https://ec.europa.eu/commission/presscorner/detail/de/MEMO_14_566.

¹³*** UK opposes future migrant rescues in Mediterranean in “BBC”, 28 October 2014, <https://www.bbc.com/news/uk-29799473>.

¹⁴ ***Frontex, *Africa-Frontex Intelligence Community Joint Report*, p. 13.

<https://www.statewatch.org/media/documents/news/2014/dec/eu-africa-frontex-intell-report-2014.pdf>.

¹⁵ Adopted at the Conference in Hamburg from 1979, the International Convention on Maritime Search and Rescue was aimed to develop an international SAR plan, so that, no matter where an accident occurs, the rescue of persons in distress at sea will be co-ordinated by a SAR organization and, when necessary, by co-operation between neighboring SAR organizations. Moreover, the 1979 Convention dictated that rescued migrants must be taken to a “place of safety” where migrants’ fundamental rights are preserved in [https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-\(SAR\).aspx](https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-(SAR).aspx); Claudio Deiana, Vikram Maheshri, Giovanni Mastrobuoni, *Migrants at Sea*:

the search and rescue activities rather than to protect territorial waters and the European borders. The Italian naval operation included personnel as well as sea and air assets of the Navy, Air Force, Carabinieri, Financial Police, Harbour Masters Corps / Coast Guard, personnel of the Italian Red Cross military corps and the Ministry of the Interior / State Police, embarked on Italian Navy vessels, with the contribution of all the governmental agencies involved in controlling migration flows by sea.¹⁶

In 2014 more than 165,000 migrants arrived in Europe via the Mediterranean route, compared with the 60,000 who arrived in 2013. Thus, the number of irregular migrants crossing the Mediterranean Sea has significantly increased, and the common perception was that the migrants considered the sea journey less risky than before since they were assured by the Libyan migrant smuggling networks that the objective was no longer to reach European mainland but only international waters where they would have been rescued by the Italian authorities or civil vessels.¹⁷

Academic literature has criticized this argument, showing that there is no correlation between the presence of the naval assets of Mare Nostrum in the Mediterranean Sea and the magnitude of the migratory flows. Many reasons explain the rising influx of migrants through the Central Mediterranean route, first of all, the instability in Libya, with a low level of surveillance along its coast, but also wider factors like violent conflicts and precarious economic situation in Sub-Saharan Africa.¹⁸

Moreover, the agreement between Italy and Tunisia, whereby up to 100 migrants could have been repatriated per week, and the effective readmission

Unintended Consequences of Search and Rescue Operations in https://dagliano.unimi.it/wp-content/uploads/2020/02/Mastrobuoni_migrants_at_sea.pdf, p. 8.

¹⁶***Ministero della Difesa, Marina Militare, *Mare Nostrum Operation*, <https://www.marina.difesa.it/EN/operations/Pagine/MareNostrum.aspx>.

¹⁷***UNHCR, *So close yet so far from safety*, <https://www.unhcr.org/54ad53b69.pdf>.

¹⁸ Eugenio Cusumano, *Migrant rescued as organized hypocrisy: EU maritime missions offshore Libya between humanitarianism and border control*, in "Cooperation and Conflict", 2019, vol.54 (1), p. 8.

agreement in place between Italy and Egypt, where Egyptian nationals could have been repatriated within 48 hours have influenced migratory patterns, which means that a larger number of migrants have chosen Libya as departing point to Europe.¹⁹

However, recent studies and scholarly papers have shown that the SAR operations could have had adverse and “unintended consequences”: first, the presence of the naval vessels close to the Libyan coast rather encouraged more migrants to attempt to cross the sea, which exposed more people to the risk of death; second, the presence of the naval assets of the Italian Navy not far from the Libyan Coast “encouraged”/determined human traffickers to use inflatable, unsafe rubber boats, reducing the costs because the sea crossing became shorter, (only enough to reach Mare Nostrum coverage area), and the migrants would have been rescued faster by the patrolling vessels.²⁰

On average, the price for the maritime crossing from Libya was around USD 1 300, but it rose to about USD 3 000 for departures from Egypt. Given the current average price for the sea crossing from Libya to Italy (around USD 1 300), some estimates suggest that smugglers generated up to USD 150,000 of pure profit per boat after all costs were deducted (fuel, boat, satellite phone, water, and food). In 2014, the smuggling business in Libya produced close to USD 100 million.²¹

Indeed, in comparison with 2013 (64,647), in 2014 (28,953), the number of persons intercepted by JO Hermes was reduced significantly, mainly due to the massive action of the Mare Nostrum operation that intervened more to the south, intercepting persons in the Libyan waters, before reaching the Frontex JO areas.²²

¹⁹ For more information, see Françoise De Bel-Air, *Migration Profile: Tunisia* in “European University Institute”, Robert Schuman Centre for Advanced Studies, December 2016, https://cadmus.eui.eu/bitstream/handle/1814/45144/MPC_PB_2016_08.pdf

²⁰ Claudio Deina, Vikram Maheshri, Giovanni Mastrobuoni, *op.cit.*, p. 36; Philippe Fargues, Sara Bonfanti, *When the best option is a leaky boat: why migrants risk their lives crossing the Mediterranean and what Europe is doing about it*, in Migration Policy Centre, EUI, October 2014, p. 3.

²¹ ***Frontex, *Africa-Frontex Intelligence Community Joint Report*, Warsaw, October 2014, pp.14-17, <https://www.statewatch.org/media/documents/news/2014/dec/eu-africa-frontex-intell-report-2014.pdf>

²² Sergio Carrera, Leonard den Hertog, *Whose Mare? Rule of law challenges in the field of European*

From 1 January until 15 August 2014, the number of migrants crossing the Central Mediterranean Sea towards Italy reached 98,875 persons (555% more than in 2013), a large part of them being rescued by the Mare Nostrum vessels.²³

The political response to the migratory flows was immediate: in Italy, the right-wing populist parties profited from the crisis, Lega Nord party urging the interruption of the Mare Nostrum operation, which cost 300,000 euros per day, spent by the Italians to “help the smugglers and to encourage the invasion”. According to Maurizio Gasparri (Fratelli d'Italia, a relatively new far-right party, founded in 2012), it would have been necessary to evaluate the fact that Mare Nostrum could have represented a violation of the internal and international rules:

“We are not helping asylum seekers - there will be a minority of them, but we are collaborating with the illegal trafficking, which could affect not only people but also the drugs.”²⁴

The Chief of Staff of the Italian Navy Giuseppe de Giorgi recalled that since 2004 the Italian Navy was involved in the control of migratory flows within the “Constant vigilance” operation. De Giorgi defined a “nonsense” this accusation against Mare Nostrum whereby the operation would have attracted refugees, who instead fled from war (Syria), poverty and famine. Comparing the arrivals of November 2013, under Mare Nostrum, and November 2014, without Mare

border surveillance in the Mediterranean in “CEPS Paper in Liberty and Security in Europe” No. 79 / January 2015, p. 7.

²³ ***Frontex, *Concept of reinforced joint operation tackling the migratory flows towards Italy: JO EPNF Triton to better control irregular migration and contribute to SAR in the Mediterranean Sea*, 28.08.2014, https://deathbyrescue.org/assets/annexes/2.Frontex_Concept_JO_EPN-Triton_28.08.2014.pdf.

²⁴ *** *Emergenza sbarchi. Immigrazione, scoppia la polemica nel centro-destra sull'operazione Mare Nostrum*, 21 April 2014, in <https://www.rainews.it/dl/rainews/articoli/Gasparri-ironizza-Mare-Nostrum-No-Taxi-Loro-b15685a5-bcf5-4e01-87c7-4ff6a0cba542.html>.

Nostrum, it turned out that with the end of the mission, rather than collapsing, the migrant arrivals increased by + 485% compared to the previous year.²⁵

In December 2013, 2,701 migrants and asylum seekers were registered in Italy, in comparison to 6,732 in December 2014. IOM Chief of Mission in Italy Federico Soda reiterated that the figures suggested above all, that the flows were linked to the deteriorating multiple and complex humanitarian crises near Europe's external borders, including the war in Syria and the political instability in Libya.²⁶

On the other hand, in December 2013 the Italian Mare Nostrum was just at the beginning, and its migrant rescue activity wasn't very well known. The number of migrants using the Mediterranean Sea route has continued to increase each year after Mare Nostrum ceased operation, and one of the factors would be this new European rescue approach in the border management activity.

Meanwhile, the Italian authorities constantly complained that they were abandoned by the rest of Europe and left alone to deal with this common problem. The Italian government has repeatedly called for assistance, including asking the EU to aid in or to take over the operation.²⁷ Italy has also threatened to end this operation if it did not receive more assistance. The cost of maintaining the Mare Nostrum operation became too heavy for the Italian government to carry alone and finally, during the Italian Presidency of the Council of the European Union, the Italian authorities decided to cease Mare Nostrum on October 31st, 2014,

²⁵ *** Senato della Repubblica, Legislatura 17^a, Commissione straordinaria per la tutela e la promozione dei diritti umani, Martedì, 9 dicembre 2014, 64^a Seduta, http://www.senato.it/japp/bgt/showdoc/frame.jsp?tipodoc=SommComm&leg=17&id=816042&part=doc_dc; Stefano Pasta, *Il capo di Stato Maggiore della Marina in Senato: "Mare Nostrum attirava i profughi? E' una sciocchezza"* in "La Repubblica", 16 December 2014, https://www.repubblica.it/solidarieta/immigrazione/2014/12/16/news/mare_nostrum_il_capo_della_marina_in_senato_una_sciocchezza_che_mare_nostrum_attirava_i_profughi-103071960/

²⁶ ***IOM, UN Migration, *Migrant Arrivals by Sea in Italy Top 170,000 in 2014*, <https://www.iom.int/news/migrant-arrivals-sea-italy-top-170000-2014>

²⁷ ****Barcone naufraga al largo della Libia, recuperati 17 cadaveri. Alfano: l'Europa non ci aiuta* in "Il Sole24ore", 12 May 2014, <https://st.ilssole24ore.com/art/notizie/2014-05-12/barcone-migranti-affonda-sud-lampedusa-diversi-morti-140514-PRN.shtml>;

returning to regular sea operations. However, the Italian Navy guaranteed a reduced presence in the Central Mediterranean for a two-month transition period until Frontex's Joint Operation Triton would have become fully operational.²⁸

IOM estimated that in 2014 over 3,200 migrants died at sea trying to reach Italy, an unprecedented loss of life on this deadly migration route. Thousands of lives also were saved: 85,000 by the Italian Navy's Mare Nostrum operation and more than 35,000 by the Italian Coast Guard, as well as over 40,000 by a total of 237 commercial ships contracted by the Italian authorities to provide support in emergencies. Syria was the top sending country with 42,323 migrants arriving in Italy in 2014, followed by Eritrea (34,329). Other important sending countries were Mali (9,938), Nigeria (9,000), Gambia (8,707), Palestine (6,082), and Somalia (5,756). The number of Syrians arriving in December totaled 3,202, a slight increase from the 2,950 arriving in November. In 2014, most migrants arrived from the coasts of Libya where the situation of a *de facto* failed state had created favorable conditions to flourish the migrant smuggling networks.²⁹

In place of the Mare Nostrum operation, EU officials decided to establish a new naval operation: on 27 August 2014, following a meeting with Italian Minister Angelino Alfano, Cecilia Malström, the European Commissioner for Home Affairs in the Barroso Commission, announced the new Frontex Plus Operation (later renamed the Triton Operation), planned to be launch on 1st November of that year. The Triton operation also replaced the other two Frontex Joint operations, with Italy as a host state, emerged after the outbreak of the Arab Spring and after a formal request by Italy: **Aeneas** in the Ionian Sea, created to combat irregular immigration from Turkey and Egypt via Greece to the Italian coasts of Calabria and Puglia, and **Hermes** aimed to control irregular immigration and other cross-

²⁸ *** Ministero dell'Interno, *Si conclude "Mare Nostrum", al via "Triton"* 31 October 2014, <https://www.interno.gov.it/it/notizie/conclude-mare-nostrum-triton>; Italy: end of ongoing sea rescue mission 'puts thousands at risk' in "The Guardian", <https://www.theguardian.com/world/2014/oct/31/italy-sea-mission-thousands-risk>.

²⁹ *** IOM, UN Migration, *Migrant Arrivals by Sea in Italy Top 170,000 in 2014*, <https://www.iom.int/news/migrant-arrivals-sea-italy-top-170000-2014>

border crimes from Tunisia, Libya, and Algeria to Lampedusa, Sicily, and Sardinia.³⁰

Like the two earlier operations conducted by Italy, JO Triton aimed at improving border surveillance and border control through joint patrols with the assets provided by the Member States. Its operational area covered the territorial waters of Italy and Malta, as well as parts of the search and rescue (SAR) zones of both states.³¹

But, rather than be a replacement for the Italian mission, which carried out a proactive search and rescue activity across 70,000 square kilometers of sea, very close to the Libyan coasts, Triton focused on the border surveillance and initially operated only within 30 miles of the Italian coast (56 km). Due to the few achievements that Triton made in its first year of activity (the number of victims at sea even increased), the European Commission decided to widen the scope of the operation by expanding its area of intervention to 50 nautical miles and adding further funds, personnel, vessels, and aircraft. After two more high profile shipwrecks in a single week, in April 2015 the SAR area of Triton was expanded up to 138 miles south of Sicily and tripled its operational budget, passing to the second phase of the operation.³² Initially, JO Triton functioned with a monthly operational cost of €2.9, less than a third of its predecessor, and an additional increase of 26,25 million euros was provided for 2015.³³

On 22 June 2015, Triton was complemented with the Common Security and Defence Policy (CSDP), a military operation EU Naval Force Mediterranean (EUNAVFOR Med) “Sophia”, focusing attention from the migrants themselves to

³⁰ The Italian Government requested assistance in strengthening the surveillance of the EU’s external borders in the form of a Joint Operation in 2011 and 2012, <http://www.aedh.eu/en/the-new-european-operation-frontex-plustriton-an-operation-with-differing-objectives-and-more-limited-means-than-the-mare-nostrum-operation/>

³¹ ****Frontex Annual Activity Report 2014*, p. 14, in

https://www.europarl.europa.eu/cmsdata/84687/FRONTEX%20AAR%202014_13.05.2015.pdf

³² ****Frontex General Report 2015* in <https://op.europa.eu/en/publication-detail/-/publication/474bb018-b537-11e6-9e3c-01aa75ed71a1>.

<https://www.consilium.europa.eu/en/press/press-releases/2015/04/23/special-euco-statement/>

³³ <https://www.theguardian.com/world/2014/oct/31/italy-sea-mission-thousands-risk>.

the smugglers/traffickers, countering illegal migrations by disrupting smuggling networks, and preventing people from leaving Libya.³⁴

However, the Triton operation did not receive the mandate and assets required to substitute the Italian Navy operation, Mare Nostrum. The Frontex spokeswoman Isabella Cooper declared that Triton was a border control operation, very different from Mare Nostrum, not having the search and rescue component as its primary goals.³⁵

Nevertheless, at that time Frontex estimated that the European Agency would not have sufficient resources to conduct a large-scale operation, like Mare Nostrum. Cecilia Malmström said that the new operation would rely on the contributions from the EU member states and would not be a "duplicate" of the Italian search and rescue model:

"Mare Nostrum has been a very ambitious operation and we don't know if we can find the means to do exactly what Italy has done."³⁶

³⁴ Following the extraordinary European Council of 23 April 2015, EU Foreign and Defence Ministers agreed to create a naval force, EUNAVFOR Med, and to launch a Common Security and Defence Policy (CSDP) operation in the Mediterranean on 18 May 2015. The Italian-commanded force was based in Rome and operated in the southern and central Mediterranean, in cooperation with the Libyan authorities. The operation was to undertake systematic efforts to identify, capture and dispose of vessels, as well as enabling confiscation of assets used or suspected of being used by migrant smugglers or traffickers. On 7 October 2015, the operation moved on to Phase II - now renamed Sophia, in international waters. It entailed boarding, search, seizure and diversion, on the high seas, of vessels suspected of being used for human smuggling or trafficking human beings. During its course, the mission has subsequently been extended three times, until 31 March 2019. Moreover, most of the rescued migrants have been disembarked in Italy, which prompted Italian's Prime Minister Matteo Salvini to close the ports to NGO vessels engaged in civil search and rescue operations, <https://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-eunavfor-med-operation-sophia>.

³⁵ ****UK opposes future migrant rescues in Mediterranean* in "BBC News", 28 October 2014, <https://www.bbc.com/news/uk-29799473>

³⁶ ****UN warning over Mediterranean crossing patrol force from EU* in "The Guardian", <https://www.theguardian.com/world/2014/aug/29/un-eu-mediterranean-frontex-mare-nostrum-italy>

Frontex's annual budget was approximately 89,187,000 euros, including 55,254,000 euros that were allocated to the operational activities. A 20 million euros increase of the reserve allocated to Frontex was voted under the 2015 budget to enable the Agency to react properly to the Mediterranean crisis. That means that even if the totality of the operational budget of Frontex was allocated to the Triton operation, it would only have 4.6 million euros per month, which is almost two times less than the cost of the Mare Nostrum Italian operation. The Frontex Deputy Executive Director, Gil Arias-Fernández said that the resources allocated to Triton should be approximately 3 million euros per month.³⁷

In 2016, being also an answer to the migratory crisis, the Frontex mandate has been strengthened and widened, transforming Frontex into the European Border and Coast Guard Agency. The establishment of the new Agency was a ground-breaking achievement, shifting the integrated management of the EU external borders from solely national competence towards a shared responsibility of the Member States and the Agency. For the first time, in line with what was asked for in the **European Agenda on Migration**,³⁸ the new mandate of the Agency included coast guard functions carried out in close cooperation with the European Maritime Safety Agency and the European Fisheries Control Agency, such as joint surveillance flights for fisheries and border control in the Central Mediterranean.³⁹

³⁷ *** AEDH, *The new European operation Frontex Plus/Triton: an operation with differing objectives and more limited means than the Mare Nostrum operation*, 13 October 2014,

<http://www.aedh.eu/en/the-new-european-operation-frontex-plustriton-an-operation-with-differing-objectives-and-more-limited-means-than-the-mare-nostrum-operation/>.

³⁸ The European Agenda for Migration from 2015 called for the better support of 'frontline' states in receiving irregular migrants and asylum seekers, the systematic identification of new arrivals by registration of their biometric data in the EURODAC system, and a more evenly distribution of asylum seekers among EU Member States. A redistribution key have to base on criteria such as GDP, size of the population, unemployment rate and past numbers of asylum seekers and of resettled refugees in European Commission, *A European Agenda on Migration*, Brussels, 13.05.2015, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0240&from=EN>

³⁹ ***European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions*, https://ec.europa.eu/home-affairs/sites/default/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf

A substantial boost in resources and equipment has given the Agency increased capacity to intervene, restoring at least in part, the level of intervention provided under the former Italian Mare Nostrum operation.

Compared to the Mare Nostrum Operation, the Triton operation was much more limited, in many and substantial aspects: first, its funding was only 2.9 million euros compared to the more than 9 million per month made available by Italy from October 2013 to October 2014 for Mare Nostrum operation.⁴⁰ Secondly, the equipment available to Frontex by the Member States participating in the mission was also much more limited than those used by Italy. Third, Triton had a much more limited scope than Mare Nostrum: its intervention was too restricted, reaching just 30 nautical miles from the Southern coast of Italy, whereas Mare Nostrum extended its activities to the international waters, arriving close to the Libyan coast. Fourth, the mandate of the Frontex Triton operation focused on border control, not to rescue operations at sea. As reported in the document of 28 August 2014, JO EPN-Triton, the objectives of the new operation concerned the strengthening of national efforts related to border surveillance and the mere "support" for search and rescue activities conducted by the Member States under their international obligations.⁴¹ Finally, Mare Nostrum had a simple and wide mandate, given to it by the Italian government, while Triton's mandate was, at least, an ambiguous and complex one, and in the end, it was changed to increase its involvement in search and rescue in the Maltese zone, although its primary mandate has remained EU border security at sea.⁴²

Human rights activists like Amnesty International and refugee organizations have immediately criticized the new SAR operation. Michael

⁴⁰ <http://documenti.camera.it/leg17/resoconti/assemblea/html/sed0224/tmp0000.htm>

⁴¹ *** Frontex, *Concept of reinforced joint operation tackling the migratory flows towards Italy: JO EPN/Triton to better control irregular migration and contribute to SAR in the Mediterranean Sea*, 28.08.2014, https://deathbyrescue.org/assets/annexes/2.Frontex_Concept_IO_EPN-Triton_28.08.2014.pdf

⁴² Emily Koller, *Mare Nostrum versus Triton*, Toronto, The University of Toronto, 2017, p. 11, <https://munkschool.utoronto.ca/ceres/files/2017/10/Paper-Emily-Koller.pdf>

Diedring, the Secretary-General of the European Council on Refugees, told the BBC that the EU should fundamentally change its approach to the migration problem by offering more safe and legal channels for migrants: “there are almost no safe and legal means to access European soil to file an asylum claim”.⁴³

The Italian Minister of the Interior noted that “the principle of non-refoulement had to be always applied and the migrants could not be returned to third countries where their life was at risk and therefore rescued migrants would continue to be transferred exclusively to Italy, which hosted the entire operation.”⁴⁴

Very soon, it turned out that the Triton mission was ineffective in managing the mixed migration flows, both refugee and economic migrants using the same routes while the drowning cases and fatalities in the Mediterranean Sea continued to be countless. While the EU operations at sea have increasingly focused on combating migrant smuggling and border surveillance, and existing so limited opportunities for safe and regular migration, the NGOs intervened to fill in the gap left after the end of the Mare Nostrum operation by sending rescue vessels to the unpatrolled areas for saving lives in the sea. In fact, since the launching of operation Mare Nostrum in October 2013, the Italian government accepted the disembarkation of all migrants rescued offshore Libya in its territory.⁴⁵

Since late 2014, several non-governmental organizations (NGOs) have started actively pursuing search and rescue operations in the Central Mediterranean. Their operations focused on activity close to the Libyan coast with larger vessels conducting fully-fledged search and rescue operations, picking up migrants, and bringing them to Italian ports. Smaller NGOs focused exclusively

⁴³ Naina Bajekal, *Italy to End Naval Operation That Rescued Thousands of Migrants* in “Time”, 28 October 2014, in <https://time.com/3543082/italy-navy-mare-nostrum-migrants/>

⁴⁴ *** *Immigrazione, Alfano: “Mare Nostrum e Triton sono due operazioni diverse”* in “Rai news”, 22 October 2014, https://www.rainews.it/dl/rainews/articoli/Immigrazione-Alfano-Mare-Nostrum-e-Triton-sono-due-operazioni-diverse-695e3ae3-bd26-4cd0-b4e8-4ffe1a648d48.html?refresh_ce

⁴⁵ Eugenio Cusumano, *Humanitarians at sea: Selective emulation across migrant rescue NGOs in the Mediterranean sea* in “Contemporary Security Policy”, vol. 40, 2019, p. 241, <https://www.tandfonline.com/doi/pdf/10.1080/13523260.2018.1558879?needAccess=true>.

on rescuing, distributing life jackets and emergency medical care, and relying on the larger vessels to transport migrants into Italian ports.

Migrant Offshore Aid Station (MOAS), a Maltese foundation created by an Italian–American couple in 2014, was the first who launched a rescue operation (the Phoenix vessel). The mission had to be stopped after two months because of financial constraints, but in 2015 the Amsterdam operational center of the medical-humanitarian organization Médecins Sans Frontières (MSF) allowed MOAS to resume activities by providing the necessary funding and the medical staff. In the same year, the MSF operational centers of Barcelona and Brussels (the latter also including Rome), as well as Sea-Watch, a German association created by private citizens in 2014, set up their vessel: the Dignity I, the Bourbon Argos, and the Sea-Watch, respectively.⁴⁶

In 2015, the three organizations rescued 20,063 of the 152,3432 migrants who were brought to Italy after being found in the Central Mediterranean. After the winter break, they all resumed SAR activities in 2016, with some changes regarding both the partnerships and the vessels: Sea-Watch replaced the old boat with a larger one (the Sea-Watch 2); MOAS ended its cooperation with MSF and launched its third SAR season with two ships (the Phoenix and the Responder), in partnership with the Italian Red Cross; MSF, besides running the Bourbon Argos and the Dignity I, also provided the medical staff for the ship set up by another association, SOS Méditerranée. Also, other NGOs decided to engage in SAR operations in the Central Mediterranean that year. Thus, the number of nongovernmental SAR vessels rose from 4 in 2015 to 13 in 2016, while the number of people rescued reached 46,796 (out of a total of 178,415).⁴⁷

Although they have provided a crucial contribution to rescuing migrants at sea, the NGOs became the targets for accusations of being another pull factor for

⁴⁶ Paolo Cuttita, *Repoliticization Through Search and Rescue? Humanitarian NGOs and Migration Management in the Central Mediterranean in "Geopolitics,"* no. 23 (3), pp. 632-633, <https://www.tandfonline.com/doi/pdf/10.1080/14650045.2017.1344834?needAccess=true>

⁴⁷ Ibidem.

migrants. SAR NGOs were attacked by European authorities as well. Allegations made by Frontex were followed by a series of public statements made by the public prosecutor of Catania, Carmelo Zuccaro, in early 2017. Zuccaro declared that NGOs operating next to Libyan waters act as a **pull factor** and were responsible for the use of increasingly unseaworthy vessels by smugglers. He also denounced the lack of cooperation of NGOs with police authorities and said some of them might not only have collaborated with smugglers (and even directly financed by them) but also have hidden political aims such as destabilizing the Italian economy through the mass influx of migrants.⁴⁸

In 2017, the Democratic Party Interior Minister Marco Minniti urged NGOs to sign a code of conduct that imposed several limitations on rescuing operations and threatened the closure of the Italian ports to non-signatory organizations. The NGO vessels were required to i) stay out of Libyan waters, except in situations of serious and imminent danger; ii) not interfere with the activity of the Libyan Coast Guard; iii) not send any communications to facilitate the departure of boats carrying migrants, and riskier Italian police officers to be onboard of their vessels. Seven out nine NGOs refused to sign the code of conduct, putting their vessels at risk of confiscation by the Italian authorities.⁴⁹

Moreover, the EU started training the Libyan Coast Guard and Navy in October 2016, and in 2017, EU leaders agreed on new measures to reduce irregular migration along the Central Mediterranean Sea. In line with the Malta declaration, the EU offered priority to the provision of training, equipment, and other support, with priority given to the Libyan Coastguard and Navy and other relevant legitimate Libyan agencies, under the framework of the Libyan Political Agreement.⁵⁰

⁴⁸ Paolo Cuttita, *op.cit.* pp. 648-649; The first precedent of criminalizing humanitarianism in the recent crisis was set by the Greek authorities. In January 2017 they arrested five rescuers who had been saving lives in the Aegean.

<http://www.mangiatoridicervello.com/2018/05/18/immigrazione-il-caso-zuccaro-e-la-propaganda-xenofoba/>

⁴⁹ https://www.interno.gov.it/sites/default/files/codice_condotta_ong.pdf;

⁵⁰ *** Council of the European Union, *Malta Declaration by the members of the European Council on the external aspects of migration: addressing the Central Mediterranean route* in <https://sem.gov.mt/wp-content/uploads/2018/05/malta-declaration.pdf>.

To leave more room for the intervention of Libyan patrol boats, Frontex and EUNavfor Med vessels gradually retracted from the southern part of their operational areas in the summer of 2016. As a result, the share of people rescued by governmental vessels dropped from 80.1% in the period January–May to 60.9% in the period June–December.⁵¹

At the same time, a Memorandum of Understanding between Italy and Libya signed on 2 February 2017 agreed that Italy would work with Libya's military and border control forces "to stem the influx of illegal migrants", thereby preventing migrants – as well as refugees – from reaching Europe. The Italian strategy was part of a broader European approach, and indeed was endorsed the very next day by European leaders, as we have seen, in the "Malta Declaration."⁵²

These new approaches enhanced the Libyan authorities to intercept the boats easily not only in Libyan national waters but also in international waters, and drive the passengers back to a Libyan port, turning a SAR operation into a forced return (a series of incidents from the Libyan authorities against SAR NGOs occurred in international waters, for example in April 2016, while the Sea-Watch was carrying out a SAR operation, it was boarded by Libyan officials, who shot in the air and claimed the NGO vessel was not allowed to be there). The non-governmental organizations operating in the Mediterranean Sea have documented aggressive behavior by the Libyan coast guard towards SAR NGOs⁵³

In summer 2017, Italy started to ask for the opening of the ports of the other European states in the face of the migrant emergency, and to revise the operational concept of Triton. The initial Triton Operational Plan agreed and signed with the Italian authorities, provided for Italy to be the host country "of the mission" As such, the rescued migrants during the search and rescue activities as part of the

⁵¹ Paolo Cuttita, *op.cit.*, p. 648.

⁵² https://www.repubblica.it/esteri/2017/02/02/news/migranti_accordo_italia-libia_ecco_cosa_contiene_in_memorandum-157464439/

⁵³ Paolo Cuttita, *op.cit.*, p. 646; <https://www.internazionale.it/notizie/annalisa-camilli/2017/11/29/italia-libia-migranti-accordo>

Triton operation had to be brought only to the Italian ports. The same rule was applied also for the Poseidon operation conducted by Greece, or the Indalo operation led by Spain.⁵⁴

From Frontex headquarters, the spokeswoman for the EU agency, Ewa Moncure, repeated that all the activities of Triton were coordinated by the Italian Coast Guard, which decided how to distribute the assets; Italian officers were always present on all ships and helicopters participating in the operation, and Triton operated on behalf of the Italian borders:

“The Triton operational plan says that Italy is the host country of the mission. If any other state wanted to join, from a theoretical point of view the possibility would exist. But it seems to be a very complicated scenario, also because the activities are all led by the Italian Coast Guard.⁵⁵

In February 2018, the European Union’s border agency Frontex launched a new Mediterranean operation called Themis, removing the obligation of the previous mission to bring rescued migrants only to Italy.⁵⁶

Themis was different from its predecessor Triton, in its mandate, in the setting of the operational area, in its security component, and in the possible ports in which to disembark migrants.

More than 600,000 refugees have landed in Italy between 2014-2018. The Triton operation saw the material support of 26 European nations and contributed to saving about 85,000 men and women in search and rescue operations.⁵⁷

⁵⁴ <https://www.csem.org.br/noticias/migranti-frontex-apre-alla-revisione-dell-operazione-triton/>

⁵⁵ <https://www.lastampa.it/esteri/2017/07/11/news/triton-e-una-missione-dell-italia-non-tocca-a-noi-cambiare-regole-1.34449831>

⁵⁶ <https://www.reuters.com/article/us-europe-migrants-italy-idUSKBN1FL62M>

⁵⁷ Alessandra Giada Dibenedetto, *L’operazione Themis e il suo significato per l’Italia* in “Centro Studi Internazionali”, Marzo 2018, p. 3,

<https://www.cesi-italia.org/contents/Loperazione%20Themis%20impaginato%20Ita.pdf>

Conclusions

This article underlined the sensitive nature of Frontex, getting involved in extensive SAR activities. JO Triton was launched in response to large-scale migration from Libya, intending to support the Italian efforts in combating the illegal migration. Triton was primarily a border control mission and it had no official SAR mandate. Also, did not replace or substitute Italian obligations in monitoring and surveying the Schengen external borders and in guaranteeing full respect of EU and international obligations. The mission, however, remained primarily focused on management border control rather than SAR operations. Finally, the confrontation between Italy and the European partners over the disembarking of migrants only in Italian ports alone has led to the replacement of the mission after four years of activity.