



# Tackling the smugglers of migrants A new approach: the "Glaucò" cases

**Council of Europe – Strasbourg  
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# Trafficking/Smuggling of Human Beings: general features

- Unlimited demand / supply (“Human good”)
- Complexity of the legal framework:  
Combination of International, European and National  
legislation + Necessity of flexible tools
- Lack of reliable data
- Balance with Human Rights
- Increasing role of organized crime
- Confusion in legislation/ social analysis / practical  
experience between guilty and not guilty victims

# The gates to Europe

## \* 2013

\* 39.798 arrivals in Italy (39.798) for 450 landings (90% in Sicily)

## \* 2014 (only first quarter)

\* +823%: 26.310 arrivals (96% in Sicily)

Compared to the first quarter of 2013, in Q1 2014 Italy reported a sevenfold increase in illegal border-crossings (almost 50% in Europe).

**1 december 2013 - 30 november 2014** («[operazione Mare Nostrum](#)»)

Saved 180.000 Migrants – 756 smugglers (no high-rank) arrested

**TRITON plus** + ( EUNAVFORMED )

2015 : 169.000 ab. arrivals in Italy and change to Balkan route

2015 46,2 deaths / 1.000 migrants arrived

2014 ten times less: 4,2 deaths / 1.000 migrants

# The Lampedusa case: a turning point?

- \* On 3 October 2013 an overcrowded fishing boat caught fire, capsized and sank near the shore of the tiny rocky Italian island of Lampedusa off the North African coast.



# Lampedusa case

366 persons died, mostly Eritreans and Somalis, 155 survived.



# Lampedusa case

The alleged captain of the Lampedusa boat, a Tunisian man named Khaled Bensalam, was immediately arrested because indicated as the “skipper” by some survivors



# Muhidin / Ben Salam case: Lampedusa horror

**Investigation on the criminal group organizing the smuggling was launched.**

- Creation inside the Special Directorate for Mafia Crimes in the Office of Prosecutor in Palermo of a specialized group of Prosecutors dealing with Smuggling (aimed at identifying criminal networks)
- Adoption of special protocols involving different LEA
- Mafia cases approach (double track system):
  - protective measures and benefits for witnesses/survivors –
  - extensive use of wiretappings / telematic interceptions
  - investigative interviews with inmates –
  - support of central investigation services of the Ministry of Interior –
  - Application of legislation for former Mafia insiders ("the first smuggling turncoat")

# The Lampedusa cases: the follow-up of the investigation

The statements of survivors on their logistic supports in Europe and their contacts in the departure and transit countries

The rescue of relevant information in the material found after the shipwreck (analysis of smartphone, tablets, social networks documents and their development)

The use of traditional investigation tools together with wiretappings (even on international lines)

Use of intelligence information as inputs

No judicial/police cooperation in the departure countries



# Lampedusa case

The description of the kidnapping – tortures – rapes – killing

The identification of the routes of migrants

The identification of paramilitary units

*“They forced us to watch our men being tortured with various methods including batons, electric shocks to the feet. Whoever rebelled was tied up,”*

*“We were forced to pay up to \$3,500 (2,600 euros) for our freedom and onward journey to the Libyan coast and we paid again in Libya for the boat to Italy.*

*“The women who could not pay were assaulted,”*

*“All the women in that centre were raped by Somalis and Libyans. It was like a concentration camp.”*

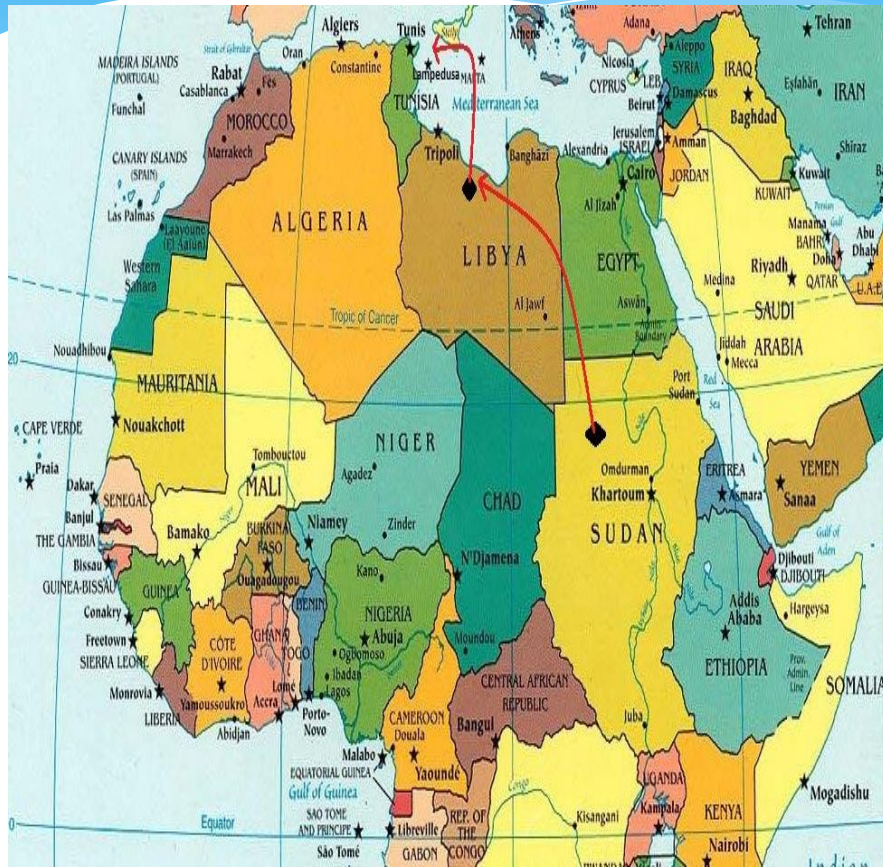
# Lampedusa case

The arrest of one of the torturer (recently convicted to 30 years)

The follow up of the investigation: how and to what purpose?



# «Operation Glauco»: organization for the reception of migrants and their displacement abroad (North Europe - USA)



# 2 July 2014 - Operazione «Glauco»

Arrest warrant against WOLDU Tesfahiweit + 8



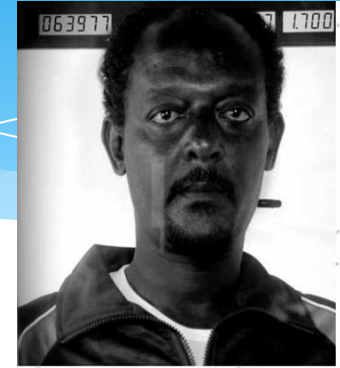
**ABKADT Shamshedin**



**AFWERKE Yared**



**ATTA WEHABREBI Nuredin**



**MELLÉS Matywos**



**SALIH Mohammed WELDEMICAEL Samuel WOLDU Tesfahiweit GHERMAY Ermias MAHRAY John**

# «Operation Glauco»: identification of the two main traffickers operating in Libia and Sudan

Intercept on 31 October 2013 Ermias (Libia) – John Mahray (Sudan)

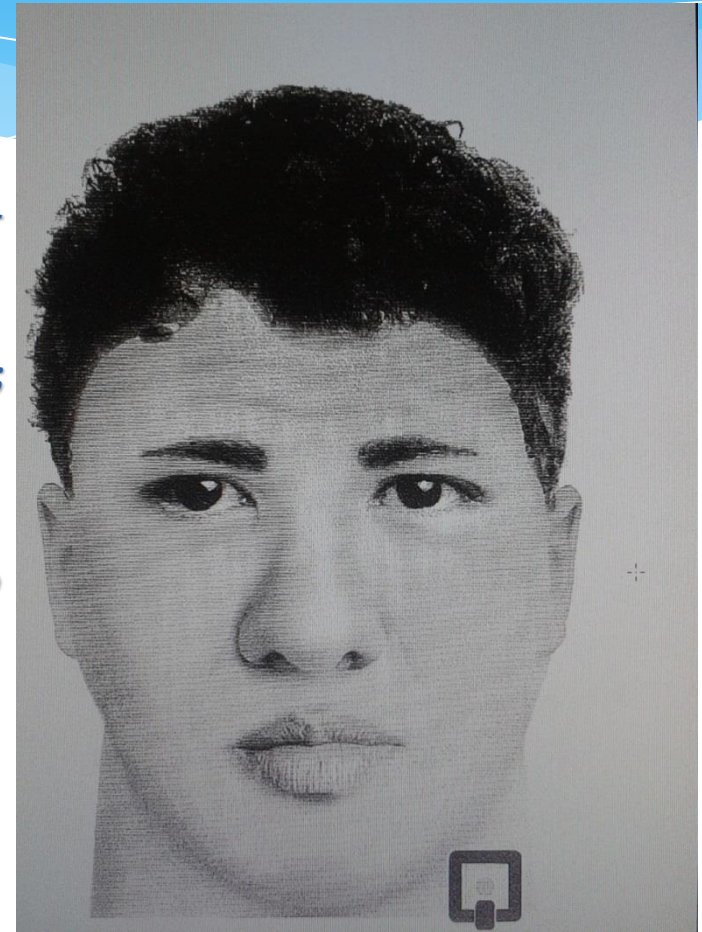
*John: when you organize a trip to Italy you must respect a number of factors because as an organizer you are the person responsible for the fate of «what» you are transporting and your bad behaviour can affect the business of other persons:*

- *The boats should not leave if the sea is not good;*
- *You must be able to deal with the complaints of the migrants;*
- *If necessary you must beat them when you are hosting them before leaving («it is good for you as well for them»)*
- *Explain them all the risks;*
- *Put two persons each 50 migrants to transfer the migrants to the small boats to the «mother-boat»;*
- *Collect the money in advance*

*«If you respect the rules and they die it means it was their fate»*

*It is important you learn through your mistakes and next time the travel will be luckier.*

*Ermias: it was their fault; they should have called for help when they were at open sea and not wait last minute burning a blanket and causing the shipwreck....*



# The routes of smuggling: judicial recognition



# Operazione «Glauco» - Indictment -

- \* **TRANSNATIONAL CRIMINAL CONSPIRACY AIMED AT AIDING AND ABETTING ILLEGAL IMMIGRATION FROM AFRICA TO EUROPE**
- \* Associazione per delinquere finalizzata al favoreggiamento della immigrazione clandestina, aggravata dal possesso di armi, dalla transnazionalità della associazione ( fatti commessi in Eritrea, Sudan, Libia, Israele ed altre località del continente africano ed in Svezia, Germania, Norvegia, Olanda, Francia, Austria, Australia e Canada) oltre che in Italia (Lampedusa, Agrigento, Roma, Mineo, Caltagirone ed altre località del territorio nazionale)
- \* Introduzione di immigrati clandestini nel territorio nazionale ( aggravata dal numero e dall'esposizione al pericolo di vita)
- \* Trasporto di immigrati clandestini all'interno del territorio nazionale ed all'estero (favorendone l'allontanamento dai centri di accoglienza dietro corrispettivo in denaro ed instradandoli anche verso Svezia, Germania, Olanda, Norvegia, Francia, Austria, Australia e Canada)
- \* Favoreggiamento della immigrazione clandestina mediante l'organizzazione, dietro compenso in denaro, di matrimoni di comodo con successiva richiesta di ricongiungimento familiare

# Smuggling investigations main issues

- witnesses or accused of illegal immigration?
- translation (shortage and confidentiality)
- prosecutability for crimes committed abroad? (Italian Supreme Court 27 march 2014) – jurisdiction?
- wiretapping for conversation abroad: admissible?
- presence of witnesses until the celebration of the trial: how to guarantee it without violating migrants rights?
- protection of victims (art. 18 Immigration Act – *infra*)
- poor cooperation in departure/destination countries



# A very controversial question: use of rescue vessels in international waters

- \* **Cassazione 27 march 2014 sezione I penale**

- \* Italian jurisdiction

- a) When migrants abandoned in international waters with the aim to provoke intervention of rescue vessels to bring them in national waters because rescuers action must be qualified as a illicit action determined by level of need created by the same traffickers and for which they are responsible even if their material behaviour was put in place out of Italian territory
- b) Transnational conspiracy (art. 7 c.p., n. 5, ex art. 5 par 1 UN Palermo Convention) based abroad but with effects spreading in Italy

# 20 April 2015 - Operazione «*Glauco 2*»

Identification of the most dangerous international smugglers (Eritrea, Sudan e Lybia) and their operative structures based in Italy (Catania – Agrigento – Milano).



# The involvement of Eurojust

- \* **Coordination meetings with 9 EU countries (destination)**
- \* **Delivery of relevant data to Europol**
- \* **Links with other investigations**
- \* **Bilateral meetings for quick exchange of information in the Eurojust framework**
- \* **Providing evidentiary material to UK – Sweden – Norway – the Netherlands – France**
- \* **Start of national investigations and execution of EAWs**
- \* **Creation of a template-case (tactical meeting at Eurojust)**
- \* **Action day?**
- \* **Fugitives in Africa : how to get them?**

# an international follow-up?

Might human trafficking be considered a crime against humanity?

Art. 7 Rome Statute (ICC) includes a list of acts that when committed as part of a **widespread or systematic attack directed against any civilian population**, with knowledge of the attack, will constitute a crime against humanity.

(a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health...”.

# an international follow-up?

DIFFERENT OPTIONS (*DE IURE CONDENDO*):

ICC COMPETENCE?

OR

AD HOC TRIBUNALS?

OR

AN EUROPEAN COURT FOR SMUGGLING CASES  
(I.e. Kosovo human organs smuggling case)?

Danke schön

Merci!

¡Gracias!

Bedankt!

Ευχαριστώ!

Obrigado!

**Dekuji!**

Vala!

Grazie!

Tak!

***Thank you!***

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