

EU naval blockade off Libya 'against human rights'

Tom Kington Rome

An EU naval campaign to halt the flow of migrants from Libya may be hamstrung by a 2012 European Court of Human Rights ruling, experts suggest.

Operation Sophia, set up last year to arrest traffickers and save migrants in international waters off Libya, is awaiting approval from the new government in Tripoli before it can be enforced in Libyan waters.

Officials are still undecided whether the EU force, which includes a Royal Navy ship, can ferry migrants back to the shore from which they set off if they are picked up within 12 nautical miles of the coastline.

Lawyers said the ships' commanders would still be duty bound to take migrants to Italy, thanks to the 2012 ruling. "If they push migrants back to Libya from the sea it will be a violation of the European Convention on Human Rights," Anton Giulio Lana, an Italian lawyer specialising in migrant issues, said. "It doesn't matter if they are in Libyan waters."

The declaration adds weight to claims that the EU naval operation will succeed only in making life easier for traffickers. It will encourage migrants to make the trip secure in the knowledge that if they get picked up even within 100 yards of the Libyan shore they will be carried on to Europe. Ital-

ian police chiefs voiced such concerns to *The Times* this month.

The Italian government began operations to send back the migrants in 2009 in league with the Libyan coastguard. That was before the overthrow of Gaddafi, however. In May that year, Italian authorities intercepted a boat carrying about 200 Somalis and Eritreans 35 miles south of the Italian island of Lampedusa, which is between Malta and Tunisia. They were handed over to Libyan authorities in Tripoli, where they were allegedly jailed and beaten.

Assisted by the Italian Council of Refugees, a humanitarian non-profit organisation, 24 of the migrants took their case to the European Court of Human Rights in Strasbourg, where they won support. The court ruled that they had been denied the right to request asylum and had been illegally forced back to an unsafe environment.

Christopher Hein, a spokesman for the council, said: "We know about terrible jails in Libya and the situation has not changed since 2012."

If EU vessels, including the Royal Navy's HMS *Enterprise*, intercepted migrant vessels and returned them to the Libyan shore, they would be in contravention of the Strasbourg ruling, Mr Hein said. Experts said that the EU fleet faced a conundrum: the closer it gets to the Libyan coast in its efforts to halt

people trafficking, the more migrants it is likely to pick up and take to Italy.

A spokesman for Operation Sophia said that any intervention in Libyan waters would be "in co-operation" with the Libyan coastguard. Asked about the treatment of the migrants, he said: "There is no agreement yet with Libya. We will be in Libyan waters to help."

A lawyer who represented the migrants in 2012 said that the EU fleet might be able to work around the Strasbourg ruling. Andrea Saccucci said that if the EU ships merely gave logistic support to Libyan vessels, which then took control of the travellers, they might get away with it. He said: "They could monitor migrants who set sail, then call in the Libyans to pick them up."

A spokeswoman for Federica Mogherini, the EU security chief who oversees Operation Sophia, said: "I am not sure what will happen but whatever is done will be in respect of international law."



Peso: 44%