

**Italy and the Push back policy:
The case of the forced repatriation and application of the
Non-Refoulement principle**

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1. Introduction

The principle of Non refoulement has long been recognized by the international community as a key facet of Refugge Law. The question I ask myself in this thesis is, "Is Italy respecting the principel of non-refoulement?"

The principle, according to Article 33 of the Geneva Convention, specifically "forbids states to expel or return refugees and asylum seekers to places where their lives or freedom would be threatened them for motions there to race, religion, nationality, membership of a particular social group or political opinion".

The United Nations Convention against Torture and other cruel, inhuman or degrading treatment (Article 3) prohibits any person to return to countries where it would be exposed to similar risks. The European Convention for the Protection of Human Rights and Fundamental Freedoms enshrines the right not to be subjected to inhuman or degrading treatment: the provision (Article 3) is interpreted as a principle that prohibits extradition, expulsion or deportation, refoulement to states in which the person would run the risk of being subjected to such treatment.

The prohibition also finds application in the case in which the rejection or removal occurs to a country defined "mid-range", ie which may in turn refer the person in an area in which it would be exposed to such treatment (such as Gheddafi's Libya).The prohibition of refoulement as an expression of a principle of humanitarian law, it is now considered as a principle of customary law, therefore, binding on those States that have not signed the conventions that specifically require it.

According to Italian Law, the protection of fundamental rights is guaranteed by:

- Article. 2 of the Constitution and the right of asylum art. 10, 3rd co. Const. The alien status (Legislative Decree no. 25.7.1998, n. 286) provides for art. 2, 1st co. the recognition of the fundamental rights of the stranger "still present at the border or in the territory of the State";
- Article. 10, 4th co. the prohibition of refoulement in cases of political asylum, recognition of refugee status, temporary protection measures for temporary reasons;
- Article. 19 the prohibition of expulsion or refoulement to a country where it can be subject to persecution for various reasons or run the risk of being dismissed to another state where it is not protected from persecution.

The obligation to ensure international protection, the wording of which more extensive than that provided for by the Geneva Convention is required by EU directives and by Legislative Decree.

2. What is the Non-Refoulement principle

The **Non-refoulement principle** is part of international law, and it forbids the rendering of a true victim of persecution to their persecutor; persecutor generally referring to a state-actor (country/government).

Non-refoulement is a key facet of **refugee law**; it concerns the protection of refugees from being returned to places where their lives or freedoms could be threatened. Unlike political asylum, which applies to those who can prove a well-grounded fear of persecution based on membership in a social group or class of persons, non-refoulement refers to the generic repatriation of people, generally refugees into war zones and other disaster areas.

It is debatable whether non-refoulement is a **jus cogens** of **international law** that forbids the expulsion of a **refugee** into an area, usually their home-country, where the person might be again subjected to persecution. Currently, the **non-refoulement principle**, seems to weaken compared with the growing importance of the principles of national security and public order.

3. EU Policy asylum seekers

Schengen countries are obliged to deploy sufficient staff and resources to ensure a “high and uniform level of control” at the external borders of the Schengen area. They must also ensure that border guards are properly trained. The Schengen area now extends along some 44,000 km of external sea borders and almost 9,000 km of land borders. Schengen comprises 26 countries (including a number of non-EU states, so-called Schengen Associated Countries), meaning free internal movement for nearly half a billion people. It should be noted that the removal of checks at internal borders makes the controls at external borders much more important, since Schengen members are thus reliant on the checks made by other members. Simply put, the Schengen area’s border is only as strong as its weakest link.

The Schengen Borders Code clearly states that the primary responsibility of border control lies with those Schengen countries that have an external border – including land and sea borders and international airports. One key requirement is that Member States having an external frontier must ensure that proper checks and effective surveillance are carried out there.

The right to asylum is governed by. 18 of the Charter of Fundamental Rights of 2000, which calls for refugee status, lay down by the Geneva Convention of 1951. Hence all the secondary discipline: Regulation 343/2003/EC of the Council, known as the "Dublin II", on the criteria for determining the Member State which holds the power to examine applications for international protection; Directive 2001/55 / EC of the Council on temporary protection, the TIP OF Directive 2003/9/EC on the reception, the Council Directive 2005/85/EC on the procedures.

These directives have originated in domestic law, four decrees from 2003 to date (D.lg s. 85/2003, Legislative Decree no. 140/2005, Legislative Decree no. 251/2007, Legislative Decree no. 25/2008 - then amended by the Legislative Decree no. 159/2008 and l. 94/2009). The human rights law

applicable in the European context is distributed on different levels, we can distinguish two, in particular, for what concerns this report: the level of the Council of Europe and the European Union level. In the framework of the Council of Europe are among the sources of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), with the following Protocols, and the Charter of Fundamental Social Rights (Italy is bound by latest version of its entry into force in 1999). These documents are binding on all participating states.

Whithin the framework of the European Union, one can identify, on the one hand, the general principles of European law, which are unwritten sources developed by the case law of the European Court of Justice; beside these, the Charter of Fundamental Rights (2000), that recognizes a series of personal rights, civil, political, economic and social citizens and EU residents.

In addition to these two levels, there are other tools for monitoring and management of migration policies. In the Italian case, the European border control operations at sea were often coordinated by the Frontex Agency, which handles relations between the Member States in the field of border security.

The picture of the relevant European legislation on immigration and asylum should also be analyzed in view of the strong "communitarization" matter, as "visas, asylum, immigration and other policies related to free movement of persons", are arranged by the Treaty of Amsterdam of 1997.

4. FRONTEX

EU and Schengen Associated Countries also assist each other with the effective application of border controls via operational cooperation, which is coordinated by the EU agency **Frontex**. Its main task is to augment and to add value to, border control activities of the Member States. Thus the agency is also mandated to assist EU countries in raising and harmonising border management standards with the aim of combating cross-border crime while making legitimate passage across the external border of the EU faster and easier.

Three are the domains for Frontex Joint Operations, which correspond to the three types of border – sea, land and air. Each operation is uniquely tailored to the circumstances identified by Frontex in one of its risk analysis products. Basing on the recommendations of the case, the operational plan is drafted. Operating environments and other specifics of an operation may be very different, but the process remains essentially the same.

While regular border control is the exclusive responsibility of the Member States, Frontex's role focuses on coordination of deployment of additional experts and technical equipment to those border areas which find themselves under significant pressure. Frontex also builds the capacity of the member states in various areas related to border control, including training and sharing of best practices.

As with all border control, sea border activities are divided into border checks (conducted at the border crossing points at sea ports) and border surveillance, which is conducted at sea. Frontex coordinated

joint operations at sea represent Europe's biggest Search and Rescue (SAR) operation. Every year thousands of migrants attempt to reach the EU by sea, often travelling in dangerously over-crowded and unseaworthy boats. Saving lives at sea and intercepting both migrants and the people who smuggle them go hand in hand as organised crime which is the leader when it comes to organize such transport, is profit-motivated and the methods employed become ever more complex and sophisticated. The main aim of Frontex is to establish more long-term solutions to joint border control such as the European Patrols Network.

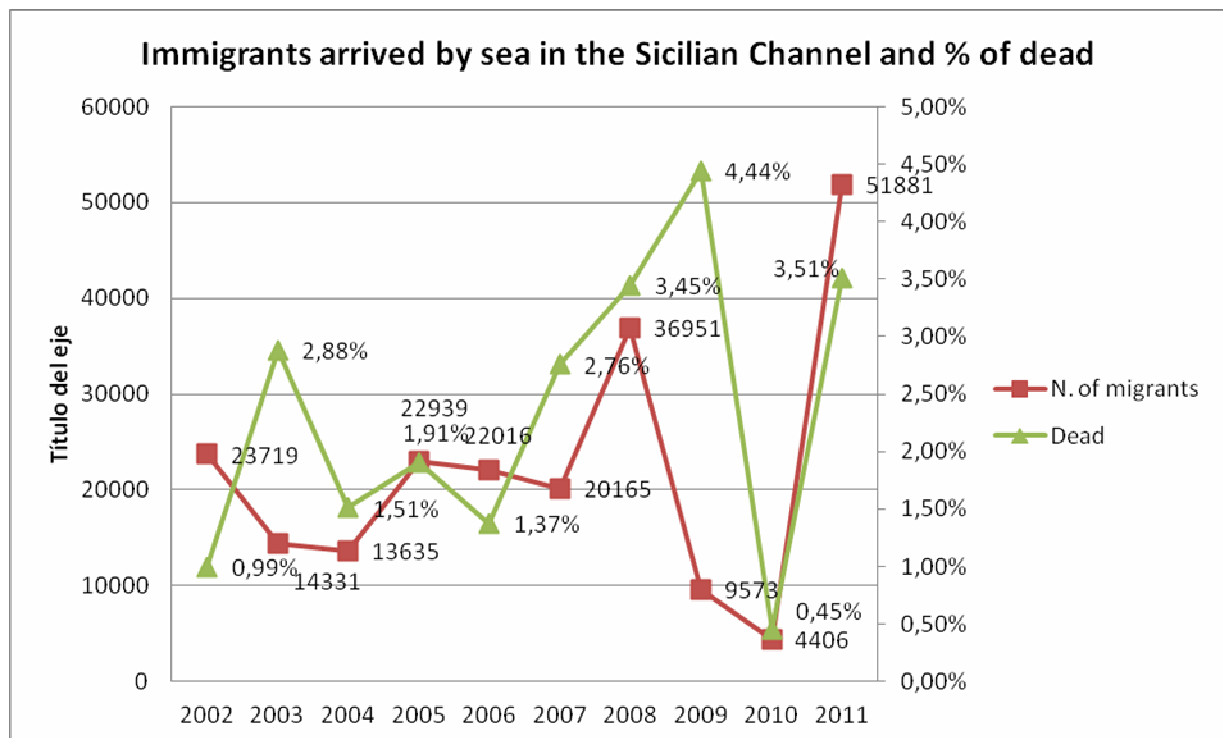
a. *European Patrols Network*

For Member States to work more closely together in the area of sea surveillance, it was necessary first to clarify how many different authorities were engaged in marine surveillance, and to what extent their activities overlapped. A Frontex survey of seven Mediterranean countries (Spain, France, Italy, Slovenia, Malta, Greece and Cyprus) plus Portugal, ascertained that a total of 50 separate authorities, under 30 ministries, were active in marine surveillance along the EU's southern borders. There was clearly a need for Member States to find areas of common interest to reduce duplicated effort and hence save time, money and other resources. As a result, in May 2007, European Patrols Network was born with the aim to create a means of coordinating the efforts between Member States and different agencies in order to tackle criminal networks in charge of irregular migrants.

Europe's southern coastline is long and varied, with different areas being targeted by irregular migrants at different times. The challenge then, is to target resources effectively, and for this intelligence and information sharing are the keys to success. EPN operations, reinforced by complementary Frontex sea operations, have had a marked effect in the Western and Central Mediterranean regions.

The job is never finished however. The networks of human smugglers and traffickers stay abreast of Frontex operations; as soon as a route is identified and closed down by an EPN or Frontex sea operation, the facilitators will adjust either the route or their modus operandi to stay ahead of the detection net. Another tangible benefit of the EPN strategy has been an increase in the amount of bi-lateral cooperation between neighbouring Member States within the Mediterranean area, increasing effectiveness, reducing costs, and saving lives.

5. Italy's situation



As noted by the Italian Ministry of the Interior, the entrance by sea "is an input channel marginal in terms of size, and contributes in a modest way, and decreasing the stock of undocumented migrants in Italy." According to the latest data inputs by sea are in fact around 13% of illegal aliens in our country. The largest share (64%) is made up of those who entered legally in Italy and then remained in irregular condition beyond the time allowed by the visa (so-called stayers). The remaining 23% is made up of people who have passed through fraud border controls. The phenomenon of the landings of illegal immigrants continues to occupy, tragically, the front pages of newspapers and raise concern on several fronts.

The growth of illegal entry into Italy is closely linked to the processes avviatisi at the end of the 90s of communitarization policies on immigration and asylum in Europe. This phenomenon has led to a transnazionalizzazione of migration policies, with some important consequences in terms of outsourcing the controls to neighboring countries.

The "Fortress Europe" has thus gradually surrounded by a buffer zone entrusting to transit countries border control and outflows. To do this, they have spread in recent years various devices of bilateral and multilateral cooperation with countries of origin and transit of migrants, with the goal of establishing agreements, border control and repatriation of deported. The migration issue has become so for these countries a real instrument of foreign policy towards Europe. On the plate of trading of migratory policies are then counterbalanced by economic and strategic interests

a. Il rapporto di Ferragosto

The Italian Government provides details of the number of illegal immigrants arriving each year by boat from North Africa in the so-called “Rapporto di Ferragosto” (Assumption day Report). According to the data circulated in 2013, from the 1st of August 2012 to the 10th of August 2013, 24.277 people have landed in Italy, of which 8.932 arrived within forty days, between the first of July and the 10th August 2013. Angelino Alfano, the Italian vice-premier, has again appealed for help from the European Union, as until today the Italian authority’s claim not enough has been done by Brussels to contribute to the management of the crisis.

Always according to the same report, the estimated number of foreigners in Italy without any kind of legal document is of 650,000 Units. According to a 2008 survey, at least 12% of the total foreigners within Italian territory had reached by Sea. The report continues with the number of people which filed for asylum in the last twelve months at 11,608 people, out of which 1,600 people were granted refugee status and another 5,500 had received some sort of international protection.

The number of migrants arrived in Italy this year is higher than that of 2012 and more or less equal to that of two years ago, according to data from the ministry; between the 1st of August 2011 and the 31st July 2012 a total of 17,365 migrants arrived in Italy, while in the same period the year before (2010-2011), 24,796 migrants arrived. Alfano explained that the situation on the island of Lampedusa, which is located in the province of Agrigento, is a problem especially European, rather than Italian: the government’s goal is to “find a balance between the duty of hospitality and need to decide who can stay on Italian soil.”

The control of the sea-borders and the irregular immigration influxes in the mediterranean is a debate that has characterized both the national and international agenda, especially the communitarian one. The biggest concern at EU level is the Italian Policy of the Push-back, which have seen in recent years the naval military forces being frequently engaged in forcefully sending back boats loaded with illegal immigrants back to their departure ports, mostly in Libya and Tunisia. More specifically, the cause of great concerns were the forced push back of boats to the Libyan coast, often loaded with illegal immigrants without even verifying the legitimacy of their asylum claims.

b. Fighting illegal immigration

In 2011, more than 18,000 immigrants have arrived on the tiny rocky outcrop of Lampedusa, which is closer to North Africa than mainland Italy, pushing resources to the limit. The Italian Government had more than once threatened to forcibly return thousands of Tunisian illegal immigrants unless other European countries accept them, as the situation is reaching a breaking point.

Many organizations and associations were back then reporting of the unusual procedure the Italian government adopted to manage the arrivals of immigrants in Lampedusa. Forced repatriations were quickly brought into act without verifying the migrants individual situation, without giving them the

chance to apply for asylum. The truth is that the government did not want to deal with the issue; they wanted to move it to places where no one will be able to verify the violations that thousands of people suffered from when they reached Italy for asylum.

Different measures had been put in place by the Italian Government in order to tackle this Humanitarian Emergency, as the need to respond to the increasing number of migrants arriving from North African countries:

- 1) Widening of the concept of '**emergency.**' Calling an emergency gives the government a wider remit to derogate from specified laws so as to resolve situations that cannot be dealt with through ordinary measures.
- 2) The second practice involves the **expulsion, refoulement or deportation of migrants** outside the limits and procedures established by legislation for this purpose. The failure to identify people, to issue formal decisions on an individual basis to refuse them entry or expel them, or to give them the opportunity to apply for asylum or other forms of protection, was a key concern when boats were intercepted at sea and either the vessels or their passengers were taken back to Libya between May and September 2009, when 1,329 people were returned.
- 3) The third practice is the **ill-treatment of migrants held in detention centres**. Without dealing with this issue in depth, it is worth noting that what could be viewed as arbitrary detention is occurring on a large scale, in the absence of formal measures decreeing detention and without the possibility of appealing against decisions. In fact, after landing, migrants are summarily identified as either 'illegal' migrants or asylum seekers, largely on the basis of their nationality...."

These rights were also denied to people arriving from Egypt and Tunisia in application of readmission agreements in the framework of the fight against illegal migration. Their presumed nationality was deemed sufficient to enact expulsions to these countries, because ongoing cooperation and good relations with Italy appeared sufficient to indicate that they were not in need of protection, regardless of the situation in their home countries.

c. *The so-called "Push-Back policy"*

When referring to the Push-Back Policy, we refer to the policy to intercept migrants at sea and send them back indiscriminately to the country they departure from. The policy was implemented in Italy under the then government of Prime Minister Silvio Berlusconi, and the country of departure was back then often Gheddafi's Libya, hardly a safe haven for asylum seekers.

These particular interventions have aroused and are of concern for the fate of the people involved, with particular regard to the protection of fundamental rights of the people. This practice also raises concerns in relation to the respect of international obligations in the field of asylum: among the migrants on board the boats intercepted in fact could be refugees in need of international protection (so-called asylum seekers), and the rejection may occur without prior verification of their individual condition. In particular, the concern is that it may be people who apply or intend to apply for asylum, "qualifying" as under the 1951 Geneva Convention relating to the Status of Refugees, as well as EU directives.

The idea of associating the countries of origin and destination of migrants objective of containment of irregular flows characterized Italian politics for over a decade and has given rise to a large number of agreements in the field of police cooperation and readmission. On the 30th August 2008, Italy and Libya signed a number of bilateral treaties, including the famous Friendship agreement between the Italian and the Libyan people. Included in this treaty, was an agreement that binded Libya to do as much as possible to stop asylum seekers leave the Libyan coast with destination Italy, and at the same time agreed that the two countries would carry out joint sea patrols, with Italy providing the hardware, and that any boat found carrying immigrants, would be forcefully taken back to Libya. Both parties began performing control operations, search and rescue in the points of origin and transit for vessels for the transport of illegal immigrants in Libyan territorial waters and in international waters. Under the pushback policy, according to UNHCR figures, more than 1,000 migrants, including pregnant women and children, were intercepted by the Italian coast guard and forcibly returned to Libya without an assessment of their need for protection.

6. European Court of Human Rights

The European Court of Human Rights is an international court set up in 1959. It rules on individual or State applications alleging violations of the civil and political rights set out in the European Convention on Human Rights. Since 1998 it has sat as a full-time court and individuals can apply to it directly. In almost fifty years the Court has delivered more than 10,000 judgments. These are binding on the countries concerned and have led governments to alter their legislation and administrative practice in a wide range of areas. The Court's case-law makes the Convention a powerful living instrument for meeting new challenges and consolidating the rule of law and democracy in Europe. The Court is based in Strasbourg, in the Human Rights Building designed by the British architect Lord Richard Rogers in 1994 – a building whose image is known worldwide. From here, the Court monitors respect for the human rights of 800 million Europeans in the 47 Council of Europe member States that have ratified the Convention.

a. Hirsi Jamaa and Others v. Italy

On the 6th of May 2009, roughly 35 miles south of Lampedusa, a rocky island nearer to Africa than mainland Italy, in the middle of international waters, Italian authorities intercepted a boat with on board

at least 200 people of various nationalities, mostly Eritreans and Somalians (some of them included children and pregnant women and a number could have been eligible for asylum). That day, for the first time, the Italian patrol was given an order to reverse course, and to take back to Libya the shipwrecked people who had been intercepted. The migrants were then taken aboard Italian ships and taken back to Tripoli, against their will, without being questioned whether they were being persecuted, tortured nor informed of their final destination.

This meant that the migrants had no idea that they were being taken back to Tripoli, nor were able to present a formal request for International Protection to Italian authorities. On the dock in Tripoli, the Libyan police were waiting for them with container trucks ready to be loaded like cattle cars, and sorted throughout the various jails in the country. Aboard those patrol boats was a photojournalist, Enrico Dagnino, who told of the violence of that operation.

Out of the 200 migrants, 24 of them (composed of 13 Somalis and 11 Eritreans, the entire group was divided in three boats) were later identified and found in Libya by Anton Giulio Lana e Andrea Saccucci, two lawyers from the dell'Unione forense per la tutela dei diritti umani. Together, they presented a formal appeal in front of the European Court of Human Rights (ECHR).

The court eventually condemned Italy over the forced rejections to Libya, causing a forced stop to the indiscriminate push backs in high sea, and condemning the practice of collective expulsions. Moreover, the ruling also opened the way for the victims of these expulsions to formally request for damages in Italian Courts. The European Court has also ordered the government to pay 15,000 Euros in damages to the plaintiffs, two of whom have since drowned trying to cross again. The Court held that Italy had violated article 3 of the Convention on human rights, on the one degrading treatment and torture, and for this reason will have to pay damages of 15,000 Euros to each migrant.

b. Court Ruling

The Court recalled that the rights of African migrants in transit to reach Europe are systematically violated in Libya. Furthermore, Libya has not provided asylum seekers adequate protection against the risk of being returned to their countries of origin where they could be persecuted or killed. Under the pushback policy, according to UNHCR figures, more than 1,000 migrants, including pregnant women and children, were intercepted by the Italian coast guard and forcibly returned to Libya without an assessment of their need for protection.

The Court found that **the applicants had fallen within the jurisdiction of Italy for the purposes of Article 1** (obligation respect human rights) of the Convention: in the period between boarding the ships and being handed over to the Libyan authorities, the applicants had been under the continuous and exclusive *de jure* and *de facto* control of the Italian authorities.

In this case the Court was **required, for the first time, to examine whether Article 4 of Protocol No. 4 applied to a case involving the removal of aliens to a third State carried out outside national territory.**

**Article 4 of Protocol No. 4 to the European Convention on Human Rights:
“Collective expulsion of aliens is prohibited”.**

“Collective expulsion” = any measure compelling aliens, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group.

The Court observed that the notion of expulsion, like the concept of “jurisdiction”, was clearly principally territorial but found that where a State had, exceptionally, exercised its jurisdiction outside its national territory - the Court found that the applicants in this case had fallen within the jurisdiction of Italy -, it could accept that the exercise of extraterritorial jurisdiction by that State had taken the form of collective expulsion. The transfer of the applicants to Libya had been carried out without any examination of each individual situation. The Italian authorities had merely embarked the applicants and then disembarked them in Libya. The Court concluded that the removal of the applicants had been of a collective nature, **in breach of Article 4 of Protocol No. 4.**

The Court also held that there had been:

- **two violations of Article 3** (prohibition of inhuman or degrading treatment) because the applicants had been exposed to the **risk of ill-treatment in Libya** and of **repatriation to Somalia or Eritrea**. The Court found that by transferring the applicants to Libya the Italian authorities had, in full knowledge of the facts, exposed them to treatment proscribed by the Convention and that when the applicants were transferred to Libya, the Italian authorities had known or should have known that there were insufficient guarantees protecting them from the risk of being arbitrarily returned to their countries of origin;
- a **violation of Article 13** (right to an effective remedy) **taken in conjunction with Article 3** because the applicants had been unable to lodge their complaints with a competent authority and to obtain a thorough and rigorous assessment of their requests before the removal measure was enforced;
- a **violation of Article 13 taken in conjunction with Article 4 of Protocol No.4** because the remedy under the criminal law against the military personnel on board the ship did not satisfy the criterion of suspensive effect.

This ruling had important consequences in particular for EU Member States, institutions and agencies in the context of border management policies that aim to interfere with migration routes outside EU territory as control implies responsibility. EU Member States, whether they act under the aegis of FRONTEX or not, will have to review their border control and return operations in order to ensure the full respect of the principle of non refoulement with regard to every individual intercepted outside their territory and rule out the possibility of collective expulsions as prohibited under Article 4 of Protocol IV to the ECHR in line with the EctHR's judgment.

c. Reaction to the ruling

Amnesty International was quick to define as a mark stone the condemnation of Italy by the European court of Human rights regarding the case Hirsi Jamma and others VS Italy. The organization has intervened as third party during the trial in front of the court, reminding everyone that the action taken by the Italian authorities had initiated a series of “push backs” which had drawn numerous condemnations and had risked to compromise the protection of certain fundamental human rights, which are recognized by International Law. According to Amnesty, the verdict would remain as a firm point in order to enhance and favor the respect of Human Rights and freedom, regarded as fundamental in Europe, and at the same time marking the end of the special measures of extraterritorial laws for the control of emigration influxes which do not implicate identification of people, which the state should in fact protect.

The ruling is "an important indication for the European states about the regulation of control measures and interception at the border." The said Laurens Jolles, the representative of the United Nations High Commissioner for Refugees (UNHCR) for southern Europe: "we hope that it represents a turning point as regards the responsibilities of States and the management of migration flows". The UNHCR includes the "irregular migration challenges facing Italy and other European Union countries, and recognizes the significant efforts made by Italy and the other states to save lives as part of their search and rescue operations into the sea." But, said the High Commissioner, "The control measures at the border do not relieve states of their international obligations; access to the territory to the persons in need of protection should therefore always be guaranteed."

7. Conclusion

Italy's agreements with Libya over rejections, signed in 2008, have been officially dropped with the end of the Gaddafi regime, on the 26 Febbraio 2011 by the Italian Minister of Defense. Although Italy is not the only state to have carried out the so-called Push Back policy (Greece pushes back regularly to Turkey, Spain pushes back to Morocco and Mauritania) it has been the only country to have racked up such a strong conviction. It would be too obvious to say that this is the just condemnation of the xenophobic policies of Berlusconi and Maroni, as the agreement on rejections was signed by previous center-left governments. Moreover, until the end of 2010 the European Commission and Frontex were working on a framework agreement with Gaddafi on the issue of immigration.

This actually gives even greater political weight to the ECHR ruling, which in fact would refute all European border control policies. Except for the fact that in the meantime Gaddafi has been killed and his regime replaced by a transitional government by no means hostile to the United Nations and international conventions. The Libya of today is not the Libya of yesterday. Sure, there are still incidents of torture in prisons and suspicious deaths. But unlike before these are becoming the exception rather than the rule. In this context of renewal, we can expect that the approach to immigration issues will change.

In short, the significance of the European Court sentence may be more historical than political. Condemning a practice of the past, while everyone is working to repeat the same policies in the present; with a new political entity, post-Gaddafi Libya, and with better material conditions. Because there is no doubt that with the opening of the Libyan prisons to the press, international organizations and NGOs, the conditions of detention are greatly improving.

Now more than ever, the Libyan authorities are aiming to clear the networks that organise the crossings, and to stop the boats departing for Italy. It seems that the days in which the regime encouraged the contraband networks when it had to participate in negotiation tables with Italy and Europe are over. Although the smuggling mafias always know how to re-invent themselves, if the revenue opportunities are worth the risk.

Nevertheless, the ECHR's important judgment ought to dissuade European immigration officials from attempting any more maritime push-back operations. To be lawful, such actions would have to ensure individualized access to a proper asylum procedure from the ship (including interpreters and legal advisors) and, in any event, there could be no forced disembarkation in a state where it was clear irregular migrants are at risk of ill-treatment. Rather than establish asylum courts at sea, Europe should

use its resources to end the deaths at sea resulting from migrants' desperate attempts to reach its shores in often inadequate boats, and instead secure safe and humane treatment for all.

In short, to answer the question on Italy's respect of the non-refoulement principle, the answer is positive. But only after being convicted. Currently Italy is among the top three countries in the EU for numbers of convictions by the European court of human rights. Does it mean that Italy is a xenophobic country which does not welcome immigrants or asylum seekers? Negative, Italy has had a long history of immigrations itself (in particular to the US, Latin America and Australia), and therefore cannot be but sympathetic, while witnessing thousands of immigrants trying to run away from a life of poverty and searching for better opportunities (and in many case running away from wars).

Accidents have occurred and will most likely re-happen again; immigrants have died but many more have been saved. Sea patrols will continue, with the aim to capture the man's involved in the smuggling (*scafisti*), and not to casue more pain and suffering to the immigrants.

Italy's situation and very questionable policies on immigration and the method to control the sea landings, have their origin in the loop holes of the EU treaties. Each border country is in charge of the external borders of the EU, therefore, there's a very strong feeling among Italians that they are left to guard the EU southern border with no resources (in reality limited resources), and when helped was asked for, most of the northern countries replied "Its not our problem".

8. Definitions

Repatriation is the process of returning a person back to one's place of origin or citizenship. This includes the process of returning refugees or soldiers to their place of origin following a war. The term may also refer to the process of converting a foreign currency into the currency of one's own country. The forced return of a person to a country where he faces persecution is more specifically known as *refoulement*.

Non-refoulement is a principle of the international law, i.e. of customary and trucional Law of Nations which forbids the rendering of a true victim of persecution to their persecutor; persecutor generally referring to a state-actor (country/government).Refugee law

Jus cogens is a fundamental principle of international law that is accepted by the international community of states as a norm from which no derogation is permitted.

International law is the set of rules generally regarded and accepted as binding in relations between states and nations. It serves as a framework for the practice of stable and organized international relations. International law differs from national legal systems in that it primarily concerns nations rather than private citizens. National law may become international law when treaties delegate national jurisdiction to supranational tribunals such as the European Court of Human Rights or the International Criminal Court. Treaties such as the Geneva Conventions may require national law to conform.

A **refugee** is a person who is outside his or her country of origin or habitual residence because they have suffered (or fear) persecution on account of race, religion, nationality, political opinion, or because they are a member of a persecuted 'social group' or because they are fleeing a war. Such a person may be called an 'asylum seeker' until recognized by the state where they make a claim.

The **European Union (EU)** is an economic and political union of 28 member states. The EU operates through a system of supranational independent institutions and intergovernmental negotiated decisions by the member states. Institutions of the EU include the European Commission, the Council of the European Union, the European Council, the Court of Justice of the European Union, the European Central Bank, the Court of Auditors, and the European Parliament. The EU's *de facto* capital is Brussels.

The **European Court of Human Rights** (*Cour européenne des droits de l'homme*) is a supra-national or international court established by the European Convention on Human Rights. It hears applications alleging that a contracting state has breached one or more of the human rights provisions concerning civil and political rights set out in the Convention and its protocols. An application can be lodged by an

individual, a group of individuals or one or more of the other contracting states, and, besides judgments, the Court can also issue advisory opinions. The Court is based in Strasbourg, France.

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