Call for inputs: Externalization of Migration and the Impact on the Human Rights of Migrants

EMERGENCY is an independent non-governmental organisation founded in Italy in 1994 with two objectives: to provide free, high-quality medical and surgical treatment to victims of war, landmines and poverty, and to promote a culture of peace, solidarity and respect for human rights. In December 2022, EMERGENCY started a Search and Rescue (SAR) project through its own rescue vessel *Life Support*, believing that rescuing the lives of people in danger at sea is a duty. During its 31missions, *Life Support* rescued 2,783 people along the Central Mediterranean route.

EMERGENCY's input will focus on the concerning consequences of border externalisation for people on the move and SAR operations in the Mediterranean, analysing three main topics:

- The Memorandum between Italy and Libya and its automatic renewal;
- EU-Tunisia Memorandum and the establishment of a Tunisian SAR zone;
- Italy-Albania Protocol and recent developments.

1. The Memorandum between Italy and Libya and its automatic renewal

In 2017, the Italian government signed a Memorandum of Understanding (MoU) with Libya on **cooperation** in the fields of **development**, the fight against **illegal immigration**, **human trafficking** and **fuel smuggling** and on reinforcing the **security of borders** between the State of Libya and the Italian Republic. The agreement has never been ratified by the Parliament, despite article 80 of the Italian Constitution requiring that international treaties be authorised by **parliamentary vote**. The lack of ratification puts into question the legal validity of the MoU, which, nonetheless, has been automatically renewed every three years by subsequent governments.

This MoU is a key component of the European Union's (EU) broader strategy of border externalisation. Since 2012, both Italy and the EU has provided consistent support to the so-called Libyan authorities for the **control of migration flows**. Research from "The big wall" indicates that Libya has received **€480 million** in Italian and European funding.[1] In addition, the International Missions Decree- allocates conspicuous funds to border control and migration management in the central Mediterranean and Libya In 2025 alone, the Italian government has earmarked over **€150 million** for the extension of the "***Mediterraneo sicuro***" air and naval mission, one of the most expensive operations, explicitly involving collaboration with the Libyan navy. It is worthwhile noting that, despite the annual parliamentary approval of the International Missions Decree, its vote has frequently occurred months into the year. Furthermore, the plenary discussion has often focused on new missions, rather than addressing the overall scope and balance of Italy's international commitments. Consequently, parliamentary oversight has largely functioned as an *ex-post* confirmation of missions already underway.

[1] https://www.thebigwall.org/

Similarly, the EU has provided constant substantial support and funding. In October 2023, the President of the European Commission Ursula von der Leyen addressed a letter to Member States detailing the progress made in **strengthening of border management** in partner States. Noteworthy achievements included the delivery of five new search and rescue assets to Libya, along with the interception and disembarkation of 10,900 people along the Libyan coast.[2]

The ongoing cooperation continues even though Libya has never signed the Geneva Convention on the Status of Refugees, and despite numerous reports and official documents confirming widespread violations of human rights in the country, among others:

- A March 2023 report from an independent UN fact-finding mission stated that the violations committed in Libya qualify as "**crimes against humanity** [...] against migrants in places of detention under the actual or nominal control of Libya's Directorate for Combating Illegal Migration, the Libyan Coast Guard and the Stability Support Apparatus. These entities received technical, logistical and monetary support from the European Union and its member States for, inter alia, the **interception and return of migrants**."[3] In light of this, the mission called on the international community to cease any direct or indirect support to Libyan actors involved in these crimes.
- Interceptions and collective pushbacks to Libya must be considered a **violation of the principle of *non-refoulement***, as Libya cannot be qualified as a Place Of Safety (POS) for disembarking rescued people under international law.[4] The July 2023 European Parliament resolution reinforced this stance and called on the European Commission, Member States and Frontex to ensure that disembarkations occur only in POS and to provide comprehensive information and data on the support provided to Libya.[5] Regrettably, the resolution has not led to a change of strategy or policy.
- In February 2024, the Italian Court of Cassation ruled that **Libya cannot be considered a POS** for not being a signatory of the Geneva Convention and for the documented abuses and human rights violations against people on the move.[6] Four months later, the Court of Crotone upheld the Cassation's ruling during the appeal against the detention of the rescue ship *Humanity 1*. The Court reaffirmed that disembarkation in Libya is illegal because it cannot be considered a POS; likewise, operations conducted by Libyan coast guard cannot be deemed SAR operations.[7]

2. EU-Tunisia Memorandum and the establishment of a Tunisian SAR zone

Replicating the Libyan model, Italy and the EU expanded border externalisation to other coastal countries, increasing their funding to contain **irregular departures** and confine people on the move on the other side of the Mediterranean Sea. On 16 July 2023, Tunisian President Kais Saied signed a MoU

[2] Statewatch, EU planning new anti-migration deals with Egypt and Tunisia, unrepentant in support for Libya, 16/11/2023
[3] Human Rights Council, Report of the Independent Fact-Finding Mission on Libya, 27 February–31 March 2023
[4] UNHCR, UNHCR position on the designations of Libya as a safe third country and as a place of safety for the purpose of disembarkation following rescue at sea, September 2020, https://www.refworld.org/policy/countrypos/unhcr/2020/en/123326
[5] https://www.europarl.europa.eu/doceo/document/B-9-2023-0342_EN.html
[6] P_4557_2024_SENTENZA.pdf
[7] https://www.asgi.it/wp-content/uploads/2024/07/2024_06_26_Court-of-Crotone_final-decision_ITA_geschwarzt.pdf

with the EU, which rests on five pillars: macro-economic stability, economy and commerce, the green transition, the rapprochement of peoples, and migration.[8] It allocates **€150 million for fiscal support** to Tunisia and a further **€105 million for border management**.[9]

Although the MoU includes a substantial budget that should be approved by Parliament, the agreement was signed by the Commission, bypassing the assembly body. For this reason, the European Parliament passed a resolution on 14 March 2024 condemning the disbursement of €150 million to Tunisia through an **emergency procedure**.[10] The resolution highlights the deterioration of human rights, democracy and the rule of law in Tunisia, which would prevent the allocation of European funds.

This agreement is further compounded by a lack of transparency and accountability. The European Ombudsman has criticised the EU Commission's failure to identify documents related to the meeting between the Parties that took place one month before the signature.[11] In April 2024, the Ombudsman launched an investigation to seek clarification on key issues concerning the EU's **adherence to its human rights commitments**. The inquiry involved posing questions to the EU Commission about the MoU, particularly given the lack of a preceding human rights impact assessment.[12] The same concern was raised by the Commissioner for Human Rights of the Council of Europe in the aftermath of the MoU signature.[13]

Strengthening Tunisian Rescue Coordination Centre and **implementing border externalisation** policies have been the EU's ultimate goals, which includes the establishment of a Search and Rescue Region (SRR). In a 2021 document entitled "EU Support to Border Management Institutions in Libya and Tunisia," the European Commission announced its plan to set up a Maritime Rescue Coordination Centre (MRCC) and coastguard training academies in Libya and Tunisia. Three years after, on 19 June 2024, the Tunisians informed the Secretary General of the International Maritime Organization (IMO) of the **establishment of a Tunisian Search and Rescue Region** (SRR). The new Tunisian SRR encouraged a **gradual and continued disengagement** of Italian and other European rescue assets from the Central Mediterranean, normalising **violent practices** of Tunisian national guard and **shrinking the humanitarian space at sea**.

Like Libya, Tunisia cannot be considered a POS because of documented human **rights violations** against people on the move and Tunisian citizens, **violent interceptions** at sea and **collective pushbacks** to desert areas along the borders with Libya and Algeria, as denounced by several reports and UN experts' communications.[14]

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[8] https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_23_3887/IP_23_3887_EN.pdf
[9] Daniele Fassini, Francesca Ghirardelli, L'inchiesta. Memorandum Ue-Tunisia, sei mesi pieni di ombre, 16/01/2024, (avvenire.it)
[10] https://www.europarl.europa.eu/delegations/en/european-parliament-resolution-of-14-mar/product-details/20240318DPU38663
[11] https://www.ombudsman.europa.eu/en/news-document/en/196165
[12] https://www.ombudsman.europa.eu/en/opening-summary/en/184858
[13] https://www.coe.int/sr-RS/web/commissioner/-/european-states-migration-co-operation-with-tunisia-should-be-subject-to-clear-human-rights-safeguards
[14] https://www.info-cooperazione.it/wp-content/uploads/2025/03/StateTrafficking_IT_light.pdf

Finally, Italy also contributes to Tunisia's border externalisation policies through bilateral aid: the above-mentioned 2025 International Missions Decree extended the 'Bilateral Cooperation Mission with Tunisia', providing **direct defence support** aimed at containing **"illegal" immigration**.

3. Italy-Albania Protocol and recent developments

Italy's borders externalisation strategy is not limited to North African countries but has recently interested Albania. On 6 November 2023, Italian Prime Minister Meloni signed a five-year Protocol with the Albanian President Edi Rama to build **migrant detention centres** subject to Italian jurisdiction on Albanian soil.[15] The centres include a hotspot for identifying migrants at the port of Shëngjin, a detention centre, a repatriation centre, and a prison in Gjadër. Under the agreement, only people coming from designated safe countries of origin,[16] who are rescued in international waters by Italian naval assets may be transferred to Albania. These individuals are then subjected to **accelerated procedures for the evaluation of their international protection claims**. Vulnerable individuals, namely women, children, families, trafficking victims and those fragile due to illness, torture and violence, are exempted.

This operation carries extremely high costs, estimated at approximately **€800 million in public funding** over five years. This substantial funding could have been crucial to strengthen a flawed domestic reception system.

In addition, serious concerns persist regarding the **fundamental rights** of individuals detained in these centres. These include questions about the right to legal defence, the adequacy of legal guarantees within accelerated procedures, and the questionable possibility to meet the EU standards for asylum seekers, as noted by the Council of Europe's Commissioner on Human Rights, Dunja Mijatović.[17]

Another critical aspect concerns the **vulnerability screening** on board naval assets and the subsequent **selective disembarkation of the shipwrecked.** This process implies selecting who has the right to enter Italy and who shall be transferred to Albania. Nowhere in its text does the Protocol specify how vulnerability will be assessed or who will be responsible for assessing it. It is critical to highlight that mental and physical conditions cannot be properly assessed on board a boat, as many **vulnerabilities cannot immediately be identified**, such as in cases of violence or torture.[18] In any case, everyone rescued at sea must be considered **equally vulnerable** precisely because of their vulnerable condition as shipwrecked *per se*, and especially considering the terrible conditions they have had to endure on their long and dangerous journeys to the Mediterranean.

Between October 2024 and January 2025, 73 people from Bangladesh and Egypt have been brought to Albania through three separate transfers. After few days of **illegitimate detentions,** all of them were returned to Italy, as the Court of Rome could not validate their detention. The Court ordered the release of the detainees because Bangladesh and Egypt **could not be considered safe countries of**

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[15] https://www.esteri.it/wp-content/uploads/2023/12/PROTOCOLLO-ITALIA-ALBANIA-in-materia-migratoria.pdf
[16] As defined by the Decree-Law 158/2024: Gazzetta Ufficiale
[17] https://www.coe.int/it/web/commissioner/-/italy-albania-agreement-adds-to-worrying-european-trend-towards-externalising-asylum-procedures
[18] https://www.emergency.it/blog/pace-e-diritti/appello-per-una-presa-di-posizione-su-criticita-medico-sanitarie-e-rischi-di-salute-per-le-persone-migranti-inerenti-laccordo-italia-albania/

origin. The judges referred to the Court of Justice of EU's (CJEU) ruling of 4 October 2024 as their basis. CJEU stated that article 37 of EU Directive 2013/32 should be interpreted as meaning that a country cannot be considered safe if "**certain parts of its territory do not satisfy the material conditions for such designation**."[19] Specifically, there must be no persecution, torture or other form of inhumane and degrading treatment or punishment anywhere in the territory, for any category of person. For this reason, the accelerated procedure cannot be applied to people from countries such as Bangladesh and Egypt, therefore their detention in Albanian centres had to be considered illegitimate.

Pending the CJEU ruling on the concept of "safe country of origin", stemming from a Rome's court referral in a detention case in Albania, the Protocol's effects are partially suspended. To circumvent the potential failure of the Albanian model, the Italian government - through the "Albania Decree"[20] – approved converting the facilities in Albania into **repatriation centres** (CPR). Without clear selection criteria or adequate information, more than 100 people were transferred in handcuffs to Albania from Italian CPRs between April and May 2025. This occurred despite the presence of **vulnerable people** and the inherent risks to psychophysical wellbeing in the CPR system. The latest report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe corroborates these concerns.[21] Through this decree, the Italian government is **externalising the return system to a third country** in breach of the fundamental rights of people and the Italian and EU law.

Conclusions

Italy and the EU have been implementing border externalisation policies for years, delegating the management of migration flows to third countries with poor human rights records.

EMERGENCY expresses great concern regarding this securitarian approach to migration, which criminalises people on the move and fails to guarantee their fundamental rights.

For these reasons, EMERGENCY urges Italy, EU and Member States to:

- Cease all actions supporting pushbacks to Libya and Tunisia, as neither country can be considered a safe place for disembarking rescued people, revoke Memoranda of Understanding with Libya and Tunisia and refrain from replicating border externalization policies in other third countries (e.g., Egypt, Algeria);
- Revoke the Italy-Albania Protocol (Law 14/2024), and close the Albanian migrant centres, redirecting the funds to strengthen the Italian domestic reception system and providing effective paths to social inclusion.

[19] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62022CJ0406
[20] https://www.gazzettaufficiale.it/eli/id/2025/05/23/25G00083/sg
[21] https://www.coe.int/en/web/cpt/-/anti-torture-committee-publishes-report-on-ad-hoc-visit-to-italy