

Refoulement at the Adriatic ports: Italy have not yet adopted the measures established by the ECtHR and the procedure for supervising the implementation of the Sharifi ruling continues.

As part of the procedure for supervising the judgment of the EDU Court Sharifi and others vs Italy and Greece and starting from observation and scientific study, ASGI, Ambasciata dei diritti Marche, Associazione Gruppo Lavoro Rifugiati, SOS Diritti Venezia and No Name Kitchen, sent a communication in order to bring to the attention of the Committee of Ministers of the Council of Europe the profiles of substantial continuity of the current procedures implemented at the Adriatic ports with respect to detrimental practices of the rights sanctioned by the Court on 21 October 2014. The Committee therefore decided to continue the procedure for supervising the implementation of the sentence.

The Italian Adriatic ports border crossing points represent places of difficult monitoring and intervention by civil society both because of policies of refusal, containment and selection of arrivals, and as a consequence of the implementation of illegitimate practices that are still taking place in a condition of substantial discretion and invisibility. Independent civil society actors engaged in monitoring what is happening are systematically prevented from accessing border crossing points. Compared to 10 years ago migratory flows from Greek to Italian ports are currently reduced, however the number of arrivals and rejections are still consistent, especially the ports of Bari and Brindisi.

In the case *Sharifi and others. vs Italy and Greece*, the European Court of Human Rights condemned Italy for the unregistered and indiscriminate readmission to Greece of 35 foreign citizens on the basis of the bilateral readmission agreement concluded in 1999. The migrants, having arrived in Italy at the ports Bari, Ancona and Venice were immediately sent back to Greece¹. In this judgment, the European Court of Human Rights condemned Italy for violation of the prohibition of collective expulsions (Article 4 Protocol 4 to the European Convention on Human Rights), the prohibition of inhuman or degrading treatment (Article 3 of the Convention), and the right to an effective remedy against collective expulsion and exposure to inhuman and degrading treatment (Article 13 in conjunction with Article 3 of the Convention and Article 4 Protocol 4).

Following the decision, the procedure for supervising the implementation of the judgment was opened before the Committee of Ministers of the Council of Europe, in order to monitor the adoption of the necessary measures to put an end to the ongoing illegal practices condemned by ECtHR. In June 2019, the Italian government again asked the Committee of Ministers of the Council of Europe - the body responsible for supervising the implementation of the Court's decisions in the Member States - to close the ongoing supervision procedure, claiming that all measures aimed at to avoid the repetition of the violations that led to the condemnation of Italy had been adopted².

The Association for Legal Studies on Immigration (ASGI), the association Ambasciata dei Diritti Marche, the association SOS Diritti Venezia, No Name Kitchen e the association Gruppo Lavoro Rifugiati have decided to intervene for the second time in this procedure³, submitting a communication to the Committee of Ministers detailing how the critical issues and the violations still persist⁴.

Starting from the monitoring activities carried out, the document highlights how readmissions and informal rejections from Italy to Greece of people traced on ships or in the immediate landing are continuing. Such procedures are carried forward in the absence of any written and motivated measure issued by the authorities present at the crossing points, without any assessment of the individual situation also in case of

1 See: <https://www.meltingpot.org/No-ai-respingimenti-dall-Italia-alla-Grecia-storica.html#.XmkhZqhKjIU>.

2 See: [https://hudoc.exec.coe.int/eng#%7B%22EXEIdentifier%22:%5B%22DH-DD\(2019\)732F%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22EXEIdentifier%22:%5B%22DH-DD(2019)732F%22%5D%7D).

3 See: <https://inlimine.asgi.it/ombre-sui-porti-adriatici/>.

4 Document available here: [https://hudoc.exec.coe.int/eng#%7B%22EXEIdentifier%22:%5B%22DH-DD\(2020\)88E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22EXEIdentifier%22:%5B%22DH-DD(2020)88E%22%5D%7D).

situations of vulnerability - such as unaccompanied minors-, without any immediate and systematic access to adequate information regarding their rights and the request for international protection. There have been also reported several cases of people who have expressed their will to seek protection without this request being taken over by the competent authorities.

Moreover, critical issues related to the effectiveness of the service of the reception services at the border crossings provided for by internal regulations related to the information and assistance of foreign citizens who enter Italy for reasons other than tourism are confirmed. In particular with regard to the actual presence or availability of the services at the arrival times of ferries and their location: in some cases they do not even have a physical office or are even placed outside the disembarkation area. Above all, the services provided by the protection bodies are activated exclusively upon notification by the border authorities - which appear to perform a filter upon the exercise of the right to asylum and any other right with a consequence of not fulfilling its effective protection role. Therefore, there would be no guarantee that the protection body will be able to monitor what happens in most cases as it mostly does not have access to the places where the identification procedures are carried out and rejection is ordered.

Considering the alarming picture outlined, the Committee therefore decided to continue the supervision procedure⁵. And therefore invites the authorities to report updated and complete information on reception services in Adriatic ports, giving guarantees regarding the effective supply of information to incoming foreign citizens regarding their rights and asylum procedures, also through immediate access to reception services immediately after arrival, clarifying how this can be guaranteed where reception services are located outside the transit areas of the ports. The government must submit an action plan or action report by June 15, 2020.

This is a significant result also with reference to the use of communications by civil society as an intervention tool within the supervision procedure⁶, which confirms the importance of monitoring, at local and non-local level, and networking among various subjects in order to amplify the impact on arrival management practices and on the identification and channelling mechanisms towards asylum or return procedures.

This type of action appears urgent also considering the evolution of the European context and the possibility of a significant intensification of the Adriatic route in order to develop appropriate rights safeguard actions, new forms of intervention at borders, new tools for systematic observation and contrast of illegitimate border management practices, as a further potential contraction of the rights of asylum seekers and foreign citizens is at stake.

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5 See: <https://hudoc.exec.coe.int/eng#%7B%22fulltext%22:%5B%22sharifi%22%2C%22EXECDocumentTypeCollection%22:%5B%22CEC%22%2C%22EXECIdentifier%22:%5B%22004-15559%22%5D%7D>.

6 For further information on how to use this advocacy tool by civil society actors, see: <https://static1.squarespace.com/static/55815c4fe4b077ee5306577f/t/5de8e18c6e112620906bbfc6/1575543185399/2019-12+Quick+guide+to+rule+nine+submissions.pdf>.