

Italian NGOs activities in Libyan detention centres

A critical overview of how Italian international cooperation funds are spent.

Report background and executive summary

The call of the Italian Agency for Cooperation and Development (IACD) to Italian non-governmental organizations to develop humanitarian interventions in Libya has caused a great stir in public opinion since the first resolution was issued in October 2017. Italian public opinion was in fact immediately polarized between those who considered the Italian intervention fundamental to improve the catastrophic conditions of the Libyan centers, and those who considered it a structural support to the functioning of these centers, and a support to the same Libyan authorities already known for terrible crimes within those same centers.

A first interpretation key is the temporal proximity between the operations at stake and the Italy-Libya agreements of February 2017, which inaugurated a season of economic, political and operational support to the Libyan authorities in charge of limiting the influx of migrants to the European continent. The IACD' projects in Libyan detention centres are thus to be analyzed in the framework of a larger design of "externalisation" of borders and asylum. Libyan detention centres for migrants are closely linked to the upgraded operational capacity of the Libyan Coast Guard (GCL), whose establishment was strongly wanted and facilitated by European countries and primarily by Italy, which has provided and still provides decisive economic, political and operational support to the GCL.

In fact, the detention centres are also intended to host migrants intercepted at sea by the GCL, subsequently landed in Libyan ports such as Tripoli and Khoms, and then transferred to centres managed, at least nominally, by the Department for the Fight against Illegal Immigration of the Libyan Ministry of the Interior (DCIM). Some of the people detained in the centres may wish to be included in programmes such as the voluntary repatriation of the IOM or the resettlement of the UNHCR (programmes which are applied in a discretionary manner, outside of a formal procedure, and in respect of which the person who may be excluded or who has seen his rights violated cannot activate any judicial control). For all other migrants, the prospect is arbitrary detention for an indefinite duration.

Almost all the Libyan centres are in conditions defined "dramatic" by a multitude of international observers and by the IACD's calls of proposals, and authorities that run them notoriously subject migrants to violence and tortures. In the words of the then director of the IACD Mario Giro, "In August, once the Italy-Libya agreement was signed, we realised that every alibi had to be dropped: something had to be done to make a situation that we know to be dramatic a little more sustainable".

These words shed light on the logic of the intervention devised by the Agency: to "improve" the conditions of the foreigners detained awaiting repatriation, without, however, aiming to decisively affect their "dramatic" situation, destined to remain, irreparably, inhuman.

Therefore, it is necessary to examine the lawfulness of the operations carried out by some Italian NGOs in Libyan detention centres with public funds. In particular, the question arises as to whether the interventions in question risk conferring not only strong external

legitimacy on the very existence of the centres and the known dynamics of abuse and exploitation perpetrated within them, but also a material contribution to the existence of such a system or even to the abuses committed in the centres.

To answer these questions, ASGI conducted a series of requests to access documents pursuant to the freedom of information act. Based on the information received, and publically available information, the present report provides a legal analysis of the activities carried out by Italian NGOs and their possible legal implications.

First, the report provides a description of the interventions envisaged by the Calls for Proposals and projects, with an indication of the centres and the NGOs involved (chapter 2). It will be shown that, by far, the centres that most benefited by the interventions are those located around Tripoli, namely Tarek al Sikka, Tarek al Matar and Tajoura, which often host migrants intercepted at sea by the GCL. Other centres concerned include Khoms, one of the main reception centres for foreigners intercepted at sea, and the centre at Nasr in Zawiya, run by the clan of notorious trafficker "Bija", and the scene of serious violences recently established by a judgment of the Court of Messina.

Subsequently, the legal analysis of the Bandi and the logic of the interventions conceived by them will be dealt with (Chapter 3). It will be observed how, to a large extent, the inhumane conditions of the

Subsequently, the report analyses the Calls for Proposals and their intervention logic (Chapter 3). As it will be shown, the inhuman conditions of the centres, which the Bandi aim in part to improve, to a large extent do not depend on a situation of contingent necessity of the government in Tripoli, but on precise choices made by the latter (extremely repressive policies of illegal immigration, lack of controls, lack of public spending for detainees' needs, etc.). Moreover, many of the shortcomings within the centres are systemic in nature and require lasting responses over time: on the other hand, the calls for proposals do not provide for any sustainability mechanisms, nor do they condition the disbursement of the services to any commitment by the Libyan government to improve the condition of the centres. The interventions are therefore implemented for the benefit of the Libyan detention system as it is, and for a limited period of time; they are therefore designed not to significantly affect detention conditions, which remain inhumane.

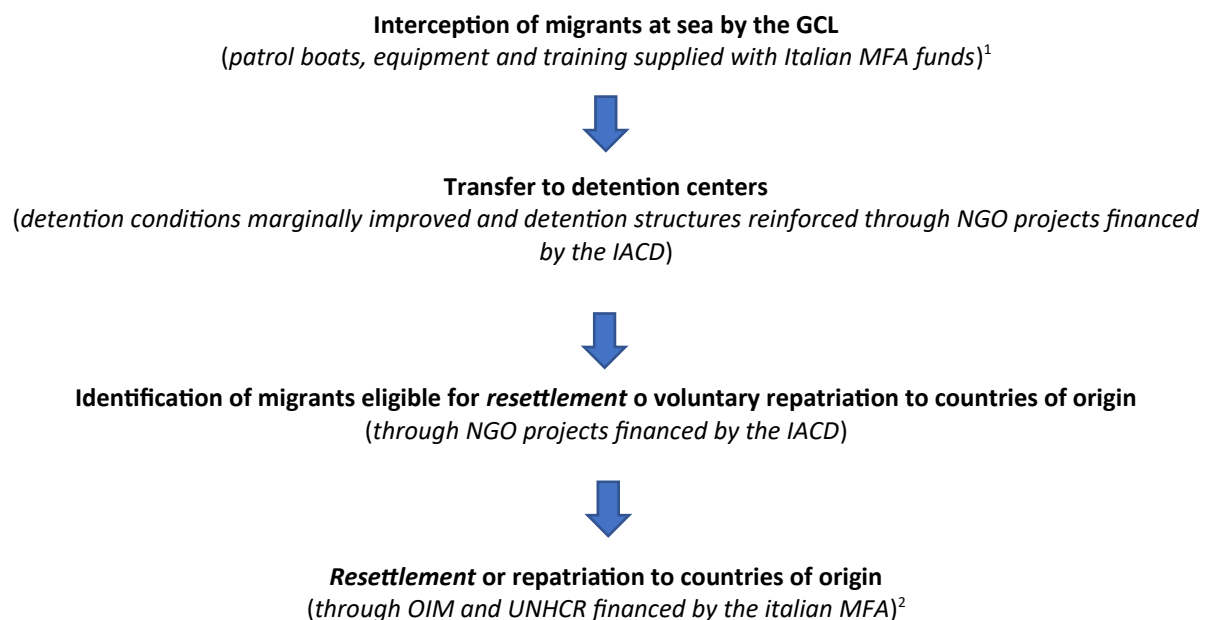
This will be followed by an analysis of the activities implemented by the selected NGOs (Chapter 4). In particular:

- In the three centres near Tripoli the NGOs are carrying out a structural activity, which partly replaces the day-to-day management responsibilities of the Libyan government. In addition, some interventions benefit not the prisoners but the detention facility, preserving its structural soundness and its capacity to house new prisoners in the future.
- In two lesser-known centres, that of Al-Khoms/Souq al Khamis and that of Al-Judeida/Sabaaa, NGOs inter alia restored and secured gates, roofs and fences. These activities are at least ambiguous from a legal point of view, as they may have contributed to maintaining prisoners at the disposal of persons known to be involved, specifically in those two centres, in serious violations of fundamental rights. Therefore, the NGOs' actions may have causally contributed to the detention of persons in the knowledge that this could have led to the commission of serious crimes against them.
- The precarious security situation in Libya, the absence of Italian staff on the ground, and the fact that the centres are largely run by militias prevent effective control over the

destination of goods purchased with public money. Moreover, as the IACD itself acknowledges, the Libyan Government exercises direct control over only a few centres affected by the Italian projects: many others are, in fact, run by armed militias. This, combined with the grave instability on the ground, diminishes the ability to monitor the effective implementation of the projects, increasing the risk that the interventions are only partially implemented and that the assets do not reach the real beneficiaries. The grossly approximate reports by some NGOs to the IACD of the expenses incurred support the hypothesis that NGOs themselves are unable to verify how the project funds were spent by their implementing partners in the field. Therefore, at least part of the funds may have ended up benefiting the managers of the centres, i.e. those militias which are sometimes also actors in the armed conflict on Libyan territory and perpetrators of the already mentioned acts of violence against prisoners.

Finally, the report contains concluding remarks on the relationship between the NGO projects and the broader externalization policies by the Italian Government (Chapter 5), noting that the projects are part of the multifaceted support by the Italian Government to Libya in order to curb migration flows. Detention centres are a crucial tile in the mosaic. Evidence of this is that one of the three calls for proposals also includes, among the activities, the referral of persons detained in IOM centres for repatriation, an activity that has nothing to do with the declared objective to improve the detention conditions in the centres.

Italy pursues an overall strategy of support to the whole chain of outsourcing mechanisms, summarized by the scheme below (*an example of material contribution to each activity provided by the Italian government is given in brackets*).



The calls for proposal are therefore directly functional to the strategy of containing flows of irregular migrants through mechanisms for their interception, transfer to Libya, detention

1 Cfr. <https://www.asgi.it/notizie/fondo-africa-sotto-esame-al-consiglio-di-stato/>

2 Cfr. <https://sciabacaoruka.asgi.it/scheda-attivita-organizzazioni-internazionali-in-libia-fondi-italiani/>

and subsequent removal from Libyan territory through repatriation to the country of origin or resettlement in third countries. The NGO projects provide a limited and temporary contribution to the functioning of Libyan detention centres, without attempting to eradicate in a sustainable manner the structural deficiencies that make detention within them irreparably inhumane.