

Press Conference: Private Companies and Italian Government Sued for Refoulements in Libya

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Border delocalization: the European strategy inside and outside Europe and the role of non-state actors

We are here today to talk about a lawsuit brought by some people who went through a terrible experience. Their ordeal is a true reflection of the complexity of mobility management policies and of the relationships among the actors involved.

Italians in Libya

The list of defendants hints at this complexity. The removals were carried out by the Augusta Offshore's Asso Ventinove. The vessel was heading for one of the main oil platforms in the Mediterranean when it was called in by the Italian Navy stationed in Libya to assist the so-called Libyan Coast Guard. This shows how many different actors contribute, for different reasons and interests, to the creation of an *assemblage of control* in which practices and dynamics of border delocalization are included and implemented.

Italy's role in Libya in relation to migration management has been known for some time: since the 2017 Memorandum, relations between the two countries have gained new momentum along with the processes of strengthening coastal control by the so-called Libyan Coast Guard and, more recently, by the GASC, the maritime police. The Italian authorities cooperate by providing equipment and training. In some circumstances, such as the one we are talking about today, they have direct and effective control over operations and intervene when Libyan means prove insufficient or inadequate to carry them out operations. The Memorandum and the many projects to assist and finance Libyan monitoring devices are not affected by voices accusing this policy of reinforcing the system of arbitrary detention, extortion and abuses of foreign nationals in Libya.

However, as demonstrated by the case at hand, the state is not the only actor involved in border delocalization policies and containing migration flows is not the only interest at stake. It is no coincidence that an Augusta Offshore's vessel carried out the pushback. Services related to the operation of oil platforms are of paramount importance in that sea area and ENI (the Italian oil and gas company) plays a very important role there. Placing border delocalization policies within this framework and recalling Italy's energy dependence can help us understand the reason why the Memorandum and the relations with Libya are untouchable.

Actors and interests on the border: where does externalization fit in?

Many other actors are involved in today's case, albeit not as defendants: the Libyan coast guard, the militias running the detention centres, international organisations dealing with migrants and refugees, and non-governmental organisations. The interaction of these actors and their interests in the specific Libyan context are not necessarily consistent and generate dynamics in which foreign nationals can be trapped. These foreign nationals have interests of their own, weave strategies and build bridges. They all have their own story to tell: some have turned to international organisations or to NGOs, others have crossed the border again independently.

Some actors in this scenario seem to move in the same direction, others in opposing directions or ambiguously. Think of the role of NGOs: what use can be made of a medical facility inside a place of detention and torture? What legitimacy do detention centres gain from working to improve conditions in the premises?

Similar reflections can be made on the role played by international organisations, the IOM and the UNHCR in Libya: if, on the one hand, evacuation and resettlement programmes allow foreign nationals to leave the country, on the other hand their presence in those centres legitimizes cooperation with Libya and financial support for mobility control mechanisms. In Libya through the ETM as well as in other contexts of the so-called transit countries, international organisations create protection systems that, although in no way comparable with European international protection, legitimize the demand of EU countries to externalize asylum. The engagement of international organisations in “securing” countries considered by the EU as transit countries on the route to Europe is part of an overall border delocalization strategy that the EU is trying to implement.

The European Strategy and the New Pact

The externalization of border control and asylum to third countries runs parallel with external border management systems and asylum processing mechanisms aimed at making access to international protection increasingly complex. The recent European Pact on Migration and Asylum sums up this strategy in a masterly way: thanks to the complex border instrument proposed, authorities will be able to determine the legal status of foreign nationals at the border, before they are granted entry to the national territory. Under this instrument, asylum applications will have to undergo an initial admissibility screening: if the asylum seeker has transited through a first country of asylum or a safe third country, the application will be deemed inadmissible. It is clear that the role of international organisations in third countries is absolutely essential for implementing this mechanism.

Responsibility

In this context – for whose analysis Paolo Cuttita suggests using the concept of *assemblage of control* – it is extremely complicated to identify responsibilities, not only political but also legal. This is why the lawsuit we are talking about today is so important. The analysis of the facts and the legal analysis of the conduct has allowed identifying responsibilities, as we have seen, not only of the state – which is only one of the actors in this system, albeit a prominent one – but also of private individuals and other actors who contribute to shaping the *assemblage of control* around the border.