



Date : Friday 24 February 2012

European Court declares that Italy's policy against irregular migration violates human rights

In a historic ruling, the Grand Chamber European Court of Human Rights condemned Italy for intercepting migrants in high sea and deporting them back to Libya. In *Hirsi v. Italy*, the Court considered that Italy violated several important provisions of European human rights law: the prohibition on inhuman and degrading treatment (Article 3 of the ECHR); the prohibition on collective expulsions (Article 4 of Protocol 4); and the right to an effective remedy (Article 13 of the ECHR).

<http://www.fidh.org/European-Court-declares-that-Italy>

FIDH - Worldwide Human Rights Movement

"This decision is a thunderbolt in the Italian sky", commented Anton Giulio Lana and Andrea Saccucci, from the Unione forense per la tutela dei diritti umani (UFTDU). The two lawyers filed the case to the Court on behalf of 11 Somalis and 13 Eritreans who were sent back to Libya in 2009. **"It will have a profound impact both on Italian migration policies and the common EU policy on migration and asylum"**, they added.

In May 2009, the applicants were intercepted by the Italian authorities, in the high seas, south of Lampedusa. They were transferred onto Italian ships and deported back to Libya. They were neither interrogated and identified, nor informed about their destination. Such practices of collective refoulement were based on bilateral agreements between Italy and Libya concluded in February 2009 and were at the time presented by the Italian government as an effective way of fighting irregular migration.

The Court considered that the Italian authorities are responsible for violations of the human rights of migrants which took place in the high seas before the migrants reached Italian territory. **"The redline is now clear: European States cannot escape their responsibilities under international human rights law on the pretext that they operate outside of their territory. This decision represents not only a condemnation of Italian migration policy, but is signal to all EU governments that they must radically revise EU migration and asylum policies that contribute to such grave violations,"** declared Souhayr Belhassen, FIDH President.

The Court decided that there were serious risks for the applicants of inhuman or degrading treatment in Libya, as well as in their countries of origin, Somalia and Eritrea, to which Libya risked sending them back. **"This ruling has particular strength today, now that the Khadafi regime is over and that Libya is experiencing a challenging transition to democracy"**, added Mario Lana, President of UFTDU. **"We call upon the Italian and Libyan governments to reform migration policy put in place in the past between both countries and to put human rights and respect for the rule of law at the centre of any future policy,"** he concluded.

Background

- The case was filed before the European Court of Human Rights by lawyers from Unione Forense per la Tutela dei Diritti dell'Uomo, FIDH's member organisation in Italy.
- The AIRE Centre, Amnesty International and the International Federation for Human Rights (FIDH) jointly submitted an amicus curiae, presenting legal arguments in support of the complaint.