The European Court of Human Rights scrutinizes Italy’s asylum policy

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The European Court of Human Rights (ECtHR) is considering a landmark lawsuit against Italy filed by a group of asylum seekers originating from Somalia and Eritrea (Hirsi and Others v. Italy, Application no. 27765/09).

Since May 2009, Italy’s “push-back policy”, whereby mainly African people trying to reach Italian shores by boat are intercepted in international waters and then brought to other countries such as Libya, led to the return of at least 900 individuals in only two months. No guarantees were given that the situation of asylum seekers would be examined. However, according to the United Nations High Commissioner for Refugees (UNHCR), a substantial number of people from this group are in need of international protection. Several international organizations, such as the UNHCR, Amnesty International and Human Rights Watch, have criticized Italy’s push-back practices.

The lawsuit was initiated in July 2009 by twenty-four asylum seekers who were transferred to Libya after being intercepted. One of them died in an attempt to reach the Italian coast in November 2009. Some of the plaintiffs are currently living in detention centers or overcrowded prisons, susceptible to ill-treatment.

According to Anton Giulio Lana, a Rome-based lawyer representing the plaintiffs, three provisions of the European Convention on Human Rights (ECHR) are being violated by Italy: the prohibition of torture and inhuman or degrading treatment (article 3), the prohibition of collective expulsion of aliens (article 4 of protocol 4) and the right to an effective legal remedy (article 13).

Italy gave its statement to the ECtHR in April. Now the plaintiffs have one month to reply, after which the Court will make its decision. It is hoped that the latter will happen in a reasonable time.

The UNHCR has submitted a written intervention as a third party to the ECtHR. The organization concludes that “by returning persons to Libya without an adequate assessment of their protection needs, the Italian authorities appear not to have sufficiently taken into account the potential risk of refoulement, including indirect refoulement, and other possible violations of fundamental rights upon return of the affected persons to Libya”.  

This case is extremely important for it is the first time that the practice of intercepting and returning migrants without human rights guarantees carried out by countries such as Italy (but also Spain and Greece) is examined by the ECtHR. If the Court decides in favor of the applicants, many more similar cases may be filed.

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