



ITALY: EXTRATERRITORIAL MIGRATION DETENTION AND HUMAN RIGHTS OBLIGATIONS

THE AGREEMENT WITH ALBANIA

RESEARCH
BRIEFING

AMNESTY
INTERNATIONAL



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A navy boat leaves the Shengjin port in Albania on October 16, 2024, after bringing migrants intercepted in Italian waters to a centre in the northern port of Shengjin for registration and health checks, and then to a centre in nearby Gjader to await processing of their asylum claims. A navy boat carrying migrants intercepted in Italian waters docked at Shengjin port in Albania on October 16, AFP journalists saw, the first arrivals under a new deal between Rome and Tirana. The Italian navy vessel arrived after a 36-hour voyage carrying 16 men from Bangladesh and Egypt who will be settled in prefabricated housing where their asylum requests will be processed.

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The briefing examines the impact of the Italy/Albania Agreement on migration on the human rights of the people it affected since its entry into force in January 2024. It also documents the challenges faced by lawyers, courts, monitoring mechanisms and civil society in exercising their role for the people affected.

1. INTRODUCTION

Amnesty International expressed concern at the human rights risks that the Italy-Albania Agreement implied from its inception, including for the safety and liberty of the individuals subjected to it.¹ The organization also criticized the measure as a form of externalization of migration management and asylum processing. Amnesty International has long warned that initiatives aimed at externalizing migration management set out an unprecedented curtailment of the right to asylum in the EU, risk resulting in a series of human rights violations ranging from arbitrary detention to refoulement, demonstrate the bloc's weakened commitment to sharing responsibility over refugee protection globally, amount to a departure from international and regional human rights standards and could undermine the integrity of the global international protection framework.²

Between October 2024 and January 2025, Italy carried out three maritime interceptions/rescues and forcibly transferred 74 people directly from international waters to Albania under the Agreement. Following the numerous Italian court rulings which did not validate the orders of detention for these people in Albania, Italy stopped the transfers to Albania from the high seas. In March 2025, the Italian government amended the law of ratification of the Agreement to use the Gjader centre to detain also male foreign nationals with expulsion orders in Italy, allowing for their forcible transfer from repatriation detention centres in Italy to Gjader.³ As a result, hundreds (reportedly over 500) men have been forcibly transferred to Gjader from Italy in the past 15 months.

In this briefing we take stock of the information now available regarding the impact this risk rife Agreement has had on the human rights of the mostly racialized people subjected to it, as well as on the integrity of the legal framework that should protect them. It draws on the reports issued by authoritative sources who have been investigating human rights concerns for example in the forcible transfer of people rescued at sea to Albania. This briefing also describes some of the challenges that lawyers, courts, monitoring mechanisms and civil society report facing in exercise of their role to ensure that people affected by the Agreement can access their human rights without discrimination and are treated in line with national, regional and international laws and standards.

The briefing indicates that the people being subjected to - and harmed by - this Agreement are predominantly racialized people including from North Africa, Bangladesh, Ivory Coast, Gambia. Finally, we make recommendations to the Italian authorities to end the Agreement with Albania, which in and of itself jeopardizes human rights and is resulting in violations of Italy's human rights obligations.

BACKGROUND TO THE AGREEMENT

In the past two years, EU member states and institutions have been considering so-called "new and innovative solutions"⁴ to counter irregular migration. These proposals consist primarily of mechanisms that would allow EU member states to externalize – that is, to shift onto other countries – migration and asylum responsibilities.⁵ They include 'safe third country' arrangements, 'return hubs' located in third countries, as well as so-called 'place of safety' arrangements.

¹ Amnesty International, "The Italy-Albania Agreement on Migration: Pushing Boundaries, Threatening Rights", 19 January 2024, <https://www.amnesty.org/en/documents/eur30/7587/2024/en/>

² Amnesty International, "More than 200 Organisations: Inhumane Deportation Rules Should be Rejected", 15 September 2025, <https://www.amnesty.eu/news/deportation-rules-should-be-rejected/>; Amnesty International, "Joint statement: EU 'safe country' and return proposals would seriously undermine protection and human dignity", 1 July 2025, <https://www.amnesty.eu/news/eu-safe-country-and-return-proposals-would-seriously-undermine-protection/>

³ Testo del decreto-legge 28 marzo 2025, n. 37 (in Gazzetta Ufficiale - Serie generale - n. 73 del 28 marzo 2025), coordinato con la legge di conversione 23 maggio 2025, n. 75 (in questa stessa Gazzetta Ufficiale, alla pag. 2), recante: «Disposizioni urgenti per il contrasto dell'immigrazione irregolare». (25A03118) (GU Serie Generale n.118 del 23-05-2025)

⁴ Council of the European Union, "Presidency Paper on new and innovative solutions to prevent and counter irregular migration: Place of Safety Arrangements", 7 November 2025, <https://statewatch.org/wp-content/uploads/2026/05/14360-2025-place-of-safety-arrangements.pdf>

⁵ For an articulated analysis of the risks of externalization in migration management, see: Michael O'Flaherty, Council of Europe Commissioner for Human Rights, "Externalized asylum and migration policies and human rights law", September 2025,

EU countries have long been criticized for using various forms of externalization of migration control, from the long-standing cooperation with Libya in the management of movements across the Mediterranean, to the EU-Türkiye statement on migration, which relies on Türkiye as a safe third country for Syrian asylum seekers. Yet, the introduction of ‘return hubs’ and the expanded use of the ‘safe third country’ concept represent an alarming escalation of the externalization agenda and pose new legal questions.

Amnesty International has warned that such initiatives set out an unprecedented curtailment of the right to asylum in the EU, risk resulting in a series of predictable human rights violations ranging from arbitrary detention to refoulement, demonstrate the bloc’s weakened commitment to sharing responsibility over refugee protection globally, amount to a departure from international and regional human rights standards and could undermine the integrity of the global international protection framework.⁶

Italy has been amongst the first countries to attempt externalization of its obligations within the EU, as it sought to reach an agreement with Albania to process migration cases outside of Italian territory devising an arrangement which is legally distinct from a ‘safe third country’ arrangement or a ‘return hub’.

On 6 November 2023, the two countries signed the “Agreement between the Government of the Italian Republic and the Council of Ministers of the Republic of Albania for the strengthening of cooperation on migration” (the Agreement).⁷ The Agreement allows for the establishment of an Italian migration detention site located in Albania, but over which Italy retains jurisdiction and comprising of a migration detention centre in Gjader as well as a hotspot/identification centre in Shengjin, which has capacity for up to 3,000 people.

Italy’s stated original plan was to use the structure in Albania for the fast-tracked processing, in detention, of asylum claims from people presumed to come from countries that Italy regards as ‘safe countries of origin’ (SCO). They would be forcibly transferred to Albania after being intercepted or rescued by Italian authorities in international waters. On the Italian authorities’ assumption that most of their asylum claims would be rejected, the detention site in Albania includes a separate area for the detention of people who, after receiving a rejection to their request of international protection, are issued with an expulsion order.

According to Italy’s plans, this system is intended to provide for the seamless, extraterritorial processing of asylum claims and expulsions of people, who, from the start, would be under the direct control of the Italian authorities and would potentially never access Italian territory, until the time of their deportation (the Agreement does not mention the possibility of deporting people directly from Albania). Soon after the announcement of the Agreement, Amnesty International expressed concern at the human rights risks that it entailed, including for the safety and liberty of the individuals involved. The organization also criticized the measure as a form of externalization of migration management and asylum processing.⁸

Between October 2024 and January 2025, Italy carried out three maritime interceptions/rescues and forcibly transferred 74 people directly from international waters to Albania. Following numerous Italian

<https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-european-states-to-refrain-from-actions-in-externalised-migration-policies-that-may-lead-to-human-rights-violations-1>

⁶ Amnesty International, “More than 200 Organizations: Inhumane Deportation Rules Should be Rejected”, 15 September 2025, <https://www.amnesty.eu/news/deportation-rules-should-be-rejected/>; Amnesty International, “Joint statement: EU ‘safe country’ and return proposals would seriously undermine protection and human dignity”, 1 July 2025, <https://www.amnesty.eu/news/eu-safe-country-and-return-proposals-would-seriously-undermine-protection/>

⁷ Gazzeta Ufficiale - Serie generale - n. 118, LEGGE 21 febbraio 2024, n. 14, Ratifica ed esecuzione del Protocollo tra il Governo della Repubblica italiana e il Consiglio dei ministri della Repubblica di Albania per il rafforzamento della collaborazione in materia migratoria, fatto a Roma il 6 novembre 2023, nonché norme di coordinamento con l’ordinamento interno. (24G00028) (GU n.44 del 22-2-2024), 27 February 2004, at: https://www.gazzettaufficiale.it/atto/stampa/serie_generale/originario

⁸ Amnesty International, “The Italy-Albania Agreement on Migration: Pushing Boundaries, Threatening Rights”, 19 January 2024, <https://www.amnesty.org/en/documents/eur30/7587/2024/en/>

court rulings invalidating detention orders for people in Albania, Italy stopped the direct forcible transfers to Albania from the high seas.

In March 2025, the Italian government amended the Law of ratification of the Agreement with a view to using the Gjader centre to detain also male foreign nationals with expulsion orders in Italy, allowing for their forcible transfer from repatriation detention centres in Italy to Gjader.⁹ As of 11 November 2025, 237 men, about half of them from countries in North Africa, had been forcibly transferred to Gjader from Italy.¹⁰ According to a delegation of members of parliament belonging to the Prime Minister's party, Fratelli d'Italia, which visited the centres in Albania in April 2026, in one year some 536 people who they alleged posed an "extremely high social risk" ['con profili di altissima pericolosità sociale'] had transited through them.¹¹ There has been no judicial monitoring of the transfers, raising the risk that they could be used arbitrarily or in a discriminatory and punitive manner.

In tandem with the entry into force of new EU rules on asylum – the Pact on Migration and Asylum – in June 2026, and as new EU rules to facilitate deportations and advance a legal framework on return hubs undergo final approvals (the Return Regulation, which saw a political agreement between the Council and the Parliament on 1 June 2026¹²), Italy has indicated that it intends to resume the use of the centres in Albania for the original purpose the authorities desired for them, namely the accelerated processing of asylum claims, while holding asylum seekers in detention.¹³

2. METHODOLOGY

This briefing is based on desk research conducted between January 2024 and June 2026 which included the review of official documents, court rulings, reports from the visits carried out by members of the Italian and European parliaments, as well as by the national, regional and city of Rome ombudsman for the rights of people deprived of personal liberty¹⁴; and NGOs' and media reports. In addition, it is based on correspondence with the Italian Ministry of Interior; interviews with the regional and national ombudsman for the rights of people deprived of personal liberty; the representatives of the International Organization for Migration (IOM) and of the United Nations High Commissioners for Refugees (UNHCR) in Italy; and with two lawyers of people detained in Gjader. The document is based also on information exchanged within the civil society network *Tavolo Asilo e Immigrazione* (TAI, Asylum and Immigration Table), of which Amnesty International Italy is a member. TAI's members, who include lawyers and other experts, have accompanied members of the Italian and European parliaments in numerous monitoring visits to the detention centres in Albania.

The Italian Ministry of Interior has repeatedly denied requests by Amnesty International for a delegation to have access to Gjader, alleging security and public order reasons. Amnesty International first requested to visit the centres in Albania in May 2025, asking that its delegation be allowed to access the centres for three days, to conduct confidential interviews with detainees wishing to speak

⁹ Gazzetta Ufficiale - Serie generale - n. 73, Decreto Legge 28 Marzo 2025), coordinated with Gazzetta Ufficiale - Serie generale - n. 75, pag. 2, Legge di conversione 23 maggio 2025, n. 75, recante: «Disposizioni urgenti per il contrasto dell'immigrazione irregolare». (25A03118), <https://www.gazzettaufficiale.it/eli/gu/2025/05/23/118/sg/pdf>

¹⁰ Letter of the Ministry of Interior to Amnesty International, 1 December 2025.

¹¹ Fratelli d'Italia, "Migranti: Cpr Albania funziona, smentita narrazione sinistra", 20 April 2026, <https://www.fratelli-italia.it/migranti-cpr-albania-funziona-smentita-narrazione-sinistra/>

¹² European Commission, Proposal for a Regulation of the European Parliament and of the Council establishing a common system for the return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC, Article 17, 11 March 2025, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025PC0101>

¹³ La Repubblica, "Migranti, accordo Ue sui rimpatri: ok al return hub in Paesi terzi e al foglio di via europeo", 2 June 2026, https://www.repubblica.it/politica/2026/06/02/news/migranti_accordo_ue_rimpatri_return_hub_paesi_terzi-425384819/

¹⁴ Garante Nazionale dei diritti delle persone private della libertà personale (Italian National Ombudsman "for the rights of people deprived of their personal liberty"); Garante diritti detenuti della Regione Lazio; and Garante delle persone private della libertà personale del Comune di Roma (Ombudsmen for people deprived of personal liberty of the Lazio region and of the city of Rome).

to the delegates, as well as with officials. The request was reiterated to the Ministry in July 2025, and in October 2025, in a joint letter with Human Rights Watch.

For a more thorough understanding of the impact and functioning of the agreement, we referred to reports from the monitoring visits of members of the Italian and European parliament, assisted by representatives of NGOs, namely the TAI, offering detailed descriptions of the physical structure of the centres, logistics to access the centres, and daily routines and rules regulating life in the centres.

Other organizations have also focused on important aspects that are not examined here, such as the financial costs of the implementation of the Agreement.¹⁵

3. KEY ASPECTS OF THE ITALY/ALBANIA AGREEMENT

The Italy-Albania Agreement entered into force with the Italian Ratification Law 14/2024 on 23 February 2024.¹⁶ It is set to remain in force for five years, after which time it would be automatically renewed.¹⁷ The government is reported to have set aside over 670 million euros until 2028 to finance the implementation of the Agreement, subtracting the funds from other ministries' budgets.¹⁸ Some 74 million euros were spent for the construction of the centres in Albania.¹⁹

Under the Agreement, the people forcibly transferred to and detained in the migration detention centres established in Albania, remain under Italian jurisdiction and Italian and EU laws govern the procedures implemented there.²⁰

The detention centres are defined by Italy as a "border and transit zone".²¹ This framing triggers the application of accelerated border procedures for the assessment of asylum applications submitted by people who are considered to have arrived from countries that Italy deems safe (safe countries of origin, hereinafter also: 'SCO') or to have eluded border controls or have attempted to do so,²² in application of the corresponding EU rules under Article 31.8(b) of the Asylum Procedures Directive.²³ Under Italian law, the claims of people seeking asylum who also have pre-existing vulnerabilities, such as being a victim of trafficking or other human rights violations, or being disabled, cannot be examined through the accelerated procedures, therefore those identified onboard as belonging to a vulnerable group should not be taken to Albania, and should be brought to Italy instead.²⁴

In addition to an area to host these asylum seekers, the centre of Gjader includes an area functioning as a repatriation centre for individuals for whom the Italian authorities seek removal.²⁵ It also includes

¹⁵ Associazione per gli Studi Giuridici sull'Immigrazione (ASGI), "RENDITI CONTO": La campagna del TAI sui costi nascosti dei centri in Albania", 7 July 2026, <https://www.asgi.it/allontamento-espulsione/renditi-conto-albania/>

¹⁶ Gazzetta Ufficiale - Serie generale - n. 44, LEGGE 21 febbraio 2024, n. 14 Ratifica ed esecuzione del Protocollo tra il Governo della Repubblica italiana e il Consiglio dei ministri della Repubblica di Albania per il rafforzamento della collaborazione in materia migratoria, fatto a Roma il 6 novembre 2023, nonché norme di coordinamento con l'ordinamento interno. (24G00028), 22 February 2024, https://www.gazzettaufficiale.it/atto/stampa/serie_generale/originario

¹⁷ Article 13 of the Agreement, as attached to the Ratification law.

¹⁸ Il Corriere Blog, "Come sono stati finanziati i centri migranti in Albania", 4 November 2025, <https://www.ilcorriereblog.it/2025/11/04/come-sono-stati-finanziati-i-centri-migranti-in-albania/>

¹⁹ ActionAid, "Costo CPR Albania: 114mila euro al giorno per soli 5 giorni di attività nel 2024", 24 July 2025, <https://www.actionaid.it/press-area/cpr-albania-italia/>

²⁰ Article 4.2 of the Agreement, as attached to the Ratification law.

²¹ Article 3.3 of the Ratification law.

²² Decreto Legislativo (Legislative decree) 25 January 2008, n.25, Article 28bis. This law implemented the EU Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

²³ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (Asylum Procedures Directive), Article 31.8(b).

²⁴ Article 17 of Legislative decree 142 of 2015, regarding the reception of people with special needs, lists minors, unaccompanied minors, people with disabilities, the elderly, women, with priority for those who are pregnant, single parents with children, victims of trafficking, people with serious illnesses or mental health conditions, people for whom it has been ascertained that they have been subjected to torture, rape or other grave forms of psychological, physical or sexual violence, or to violence linked to their sexual orientation or gender identity, and victims of female genital mutilation.

²⁵ Article 3.4 of the Ratification law.

an area functioning as a prison, in case a detainee is suspected of having committed a crime and a court orders a custodial measure.²⁶

Rome's administrative authorities (such as the prefect and police commissioner) are competent for adopting administrative measures concerning the people held in Albania;²⁷ the Rome asylum commission considers their asylum applications;²⁸ and Rome judicial authorities are competent for any related appeals or other proceedings.²⁹ The Italian National Ombudsman "for the rights of people deprived of their personal liberty" exercises its role also in the centres created in Albania.³⁰

Italian authorities are responsible for ensuring that the people taken to Albania remain within the detention centres created by the Agreement, and for preventing their exit, thus impeding their access to Albanian territory.³¹

Originally, only people taken on board Italian authorities' ships in international waters could be forcibly transferred to Albania.³² Since the amendments to the Ratification law passed in March 2025, people in Italy who have been issued with detention orders in view of their expulsion can also be detained in Albania, and their transfer to Albania does not affect the validity of their original detention order.³³ Italy's selection and transfer of both asylum seekers from countries presumed safe as well as people issued with expulsion orders to Albania and their limited access to rights once there, raises human rights concerns that will be examined below.³⁴

4. VIOLATIONS OF THE RIGHTS OF REFUGEES AND MIGRANTS FORCIBLY TRANSPORTED TO ALBANIA FROM THE HIGH SEAS

According to the Italian authorities, the original purpose of its Agreement with Albania was to (1) forcibly transfer people from countries presumed safe who were rescued or otherwise taken on board Italian assets outside of national waters, (2) fast-track the examination of their asylum claims and, on the assumption that most would be rejected, (3) issue them with expulsion orders, all the while (4) detaining them extraterritorially in Albania. In the Italian government's plan, the idea that asylum seekers would have their claims processed and likely rejected all the while being held in Albania and without ever setting foot on Italian territory would, in their view, have a deterrent effect to dissuade people from even trying to get to Italy and disrupt the business model of smugglers who would be unable to guarantee access to Italian territory.³⁵

²⁶ Article 4.11 of the Ratification law.

²⁷ Article 3.1 of the Ratification law.

²⁸ Article 3.1 of the Ratification law.

²⁹ Article 4.1 of the Ratification law.

³⁰ Article 4.19 of the Ratification law.

³¹ Article 6.5 of the Agreement.

³² Article 3.2 of Ratification law 14/2024.

³³ Article 1 of Decree law 37/2025, www.normattiva.it/eli/id/2025/05/23/25A03118/CONSOLIDATED/

³⁴ In 2024, Italy passed legislation including a list of safe countries of origin, which included the following: Albania, Algeria, Bangladesh, Bosnia-Herzegovina, Capo Verde, Costa d'Avorio, Egitto, Gambia, Georgia, Ghana, Kosovo, Macedonia del Nord, Marocco, Montenegro, Peru, Senegal, Serbia, Sri Lanka e Tunisia. List available at: Decree law n. 158 of 23 October 2024 at: www.normattiva.it/eli/id/2024/10/23/24G00177/ORIGINAL. In February 2026, an EU-wide list of safe countries of origin was also approved, including Bangladesh, Colombia, Egypt, India, Kosovo, Morocco and Tunisia, in addition to EU accession candidate countries. See: European Parliament, "Asylum: new rules for safe third countries and EU safe countries of origin list", 10 February 2026, www.europarl.europa.eu/news/en/press-room/20260205IPR33617/asylum-new-rules-for-safe-third-countries-and-eu-safe-countries-of-origin-list

³⁵ Il Foglio, "I centri in Albania chiudono nel 2030? Pd e M5s esultano. Ma Rama: "Protocollo durerà fino a quando vorrà l'Italia", 12 May 2026, <https://www.ilfoglio.it/politica/2026/05/12/news/i-centri-in-albania-chiudono-nel-2030-pd-e-5s-esultano-ma-hanno-capito-male-398757>; Il Corriere della Sera, "Via ai centri migranti in Albania. Piantedosi: «Deterrente agli sbarchi». Tutti i dubbi sui costi",

The first phase of the implementation of the Agreement led to three maritime operations: the first in October 2024, with the Italian navy ship *Cassiopea* forcibly transporting to Albania 16 male foreign nationals (10 from Bangladesh and six from Egypt),³⁶ the second in November 2024, with the Italian navy ship *Libra* transporting nine people (seven of them from Bangladesh and one from Egypt),³⁷ and the third in January 2025 with the Italian navy ship *Cassiopea* transporting to Albania 49 male foreign nationals (38 from Bangladesh, eight from Egypt, two from Gambia and one from Ivory Coast).³⁸ Concerns about the human rights of people forcibly transported to Albania, and of those subjected to pre-screening procedures on the high seas before being found not to be eligible to be taken to Albania, emerge at every stage of the process devised by the Agreement. As described below, some 16 percent of the people transferred to Albania were later found ineligible to be detained there during the screening at the Shengjin centre due to being either under 18 years of age or otherwise vulnerable, while the rest did not have their detention in Gjader validated by Italian courts, resulting in them being eventually taken from Albania to Italy.

4.1 HOW THE AGREEMENT JEOPARDISES THE RIGHTS TO LIFE AND PHYSICAL INTEGRITY OF REFUGEES AND MIGRANTS AT SEA

Under international law and standards, Italy has a legal obligation to rescue persons in distress at sea without the slightest delay, to guarantee for all persons humane treatment and respect for their human rights, and to ensure the swift disembarkation of rescued persons in a ‘place of safety’.³⁹ Focusing on the latter point, Italy and other states have an obligation to coordinate and cooperate to ensure that people rescued at sea can disembark in a place of safety that can be reached “as soon as reasonably practicable” following the rescue,⁴⁰ to “make every effort to minimize the time survivors remain aboard the assisting ship”,⁴¹ and to “make every effort to expedite arrangements to disembark survivors from the ship”.⁴²

The Albanian port of Shengjin, indicated as port of disembarkation for people to be forcibly transferred to Albania under the Italy-Albania Agreement, is located over 500 nautical miles (or 926 km) from the area where most rescues are carried out. It can take two to three additional days at sea, depending on the sea conditions to take shipwreck survivors there, as opposed to closer ports such as Lampedusa or Malta. By pre-determining that relevant maritime operations will conclude with the disembarkation of survivors in Albania, the agreement distorts the search and rescue system and imposes additional suffering on people rescued at sea.

12 October 2024, www.corriere.it/politica/24_ottobre_12/via-ai-centri-migranti-in-albania-piantedosi-deterrente-agli-sbarchi-tutti-i-dubbi-sui-costi-aae806c3-659a-421f-b313-609e68867xk.shtml

³⁶ Ansa.it, “Sono 16 i primi migranti in viaggio verso l’Albania”, 14 October 2024, www.ansa.it/sito/notizie/cronaca/2024/10/14/sono-16-i-primi-migranti-in-viaggio-verso-lalbania_f11eb339-fd32-4ed8-bef9-18ebb73bb0d5.html

³⁷ Domani, “Migranti in rotta verso l’Albania, nuovo scontro con i magistrati in vista”, 6 November 2024, www.editorialedomani.it/fatti/migranti-centri-albania-nuovo-scontro-magistrati-udienza-convalida-trattenimenti-huksOnca

³⁸ Ansa.it, “Terzo viaggio verso l’Albania, 49 migranti sul Cassiopea”, 26 January 2025, https://www.ansa.it/sito/notizie/cronaca/2025/01/26/cassiopea-verso-lalbania-con-49-migranti-_700be473-4626-4022-bd8a-e85428dfaaf2.html

³⁹ UN General Assembly, “Convention on the Law of the Sea”, 10 December 1982, Article 98, www.refworld.org/legal/agreements/unga/1982/40182; Parliamentary Assembly of the Council of Europe, Resolution on the interception and rescue at sea of asylum seekers, refugees and irregular migrants, 21 June 2011, Paras. 8, 9.3 and 9.5; International Maritime Organization (IMO), Resolution MSC.167(78), Guidelines on the Treatment of persons rescued at sea, 20 May 2004, www.refworld.org/legal/resolution/imo/2004/134511

⁴⁰ International Convention on Maritime Search and Rescue, 1979, Art 3.1.9; International Convention for the Safety of Life at Sea, 1974, Regulation 33, Para 1-1; and International Maritime Organization, Res. MSC. 167(78), Guidelines on the treatment of persons rescued at sea, adopted on 20 May 2004, para. 6.3.

⁴¹ International Maritime Organization, Res. MSC. 167(78), Guidelines on the treatment of persons rescued at sea, adopted on 20 May 2004, para. 6.8.

⁴² Guidelines on the treatment of persons rescued at sea, above, para. 6.9.

Before the start of its implementation, Amnesty International had already noted that the Agreement could have additional negative impacts on the wider search and rescue system, particularly as the Italian Maritime Rescue Coordination Centre may be subjected to undue pressures to ensure that certain groups of people are rescued or intercepted by state vessels – as opposed to other boats present at sea – in view of their potential transfer to Albania. This distortion of search and rescue practices would likely jeopardize the safety of people, who may be left at sea in a situation of distress for longer than strictly necessary. Longer return journeys for rescue ships would also entail shorter periods when these ships are effectively available for rescues in the central Mediterranean.⁴³

Furthermore, people destined to Albania were subjected to a double transfer on the high seas, first on the rescue/intercepting vessel and secondly on the hub-ship where pre-screening takes place. The second transfer required by the Agreement could expose people who might have just survived a shipwreck or a traumatic sea-journey to unnecessary additional danger.

It should also be noted in addition to this concern, that neither the Agreement nor the Ratification law detail the procedures according to which people would be intercepted at sea and taken to Albania. In September 2024, media reports indicated that the Italian government had adopted Standard Operating Procedures (SOP) to regulate the interceptions, screening and transfers to Albania (see below). The SOPs were only made public following a lawyer's Freedom of Information (FOI) request.⁴⁴ The six-page document describes the phases Italian authorities would follow from interception to 'pre-screening' of people aboard a so-called 'hub-ship' on the high seas, to the disembarkation of people at the identification and screening centre created by the Agreement at the port of Shengjin.

The SOP describe the deployment of Italian vessels to implement the Agreement as "interventions" ['interventi'] and refer to the boats used by people trying to reach Europe as "intercepted or rescued" (point 2). Italian authorities have not published detailed information about the three naval deployments they carried out at sea between October 2024 and January 2025, meaning it is unclear if these were interceptions or rescues, and therefore whether they were governed as law enforcement operations by the border police, or as rescue operations by the Italian Maritime Rescue Coordination Centre or the circumstances as to how they were sighted and alerted.⁴⁵

Since February 2025, as a result of Italian courts' repeated refusals to validate detention orders in Albania based on Italy's designation of countries as 'safe country of origin', Italy halted forcible transfers of people from international waters to Albania.

However, as reports indicate that the Italian authorities are nonetheless considering resuming such transfers⁴⁶, concerns around the integrity of the maritime search and rescue system and about the preservation of life and physical integrity of people intercepted at sea remain pertinent.

4.2 ADDITIONAL CONCERNS ABOUT THE TREATMENT OF PEOPLE WHO HAVE SPECIAL RECEPTION NEEDS

The mechanism devised by the Agreement requires that people intercepted/rescued at sea are assessed for vulnerabilities, because the law bars the authorities from subjecting individuals identified as having special reception needs⁴⁷ to accelerated border procedures. Such an assessment takes

⁴³ Amnesty International, "The Italy-Albania Agreement on Migration: Pushing Boundaries", Threatening Rights, 19 January 2024, www.amnesty.org/en/documents/eur30/7587/2024/en/

⁴⁴ Ministry of Interior, Department of Public Security, Central Directorate of Immigration and Border Police, Implementation of the Italy-Albania protocol: Standard operational protocol for activities conducted in the sea, 18 October 2024, <https://inlimine.asgi.it/wp-content/uploads/2024/11/SOP-attivita-condotte-in-mare-Protocollo-Italia-Albania.pdf>

⁴⁵ TAI, *Oltre la frontiera*, p. 13.

⁴⁶ Il Post, "I centri per migranti in Albania, fino a qui e d'ora in poi", 11 July 2026, www.ilpost.it/2026/06/11/centri-migranti-albania-nuove-regole-europee/

⁴⁷ Defined under Article 17 of the Legislative Decree of 18 August 2015, n. 142 as: (unofficial translation): "minors, unaccompanied minors, disabled people, elderly people, women, with priority given to pregnant women, single parents with minor children, victims of

place in two phases: the first, called “pre-screening”, occurs on the high seas, on a so called ‘hub-ship’; the second, the “screening”, once asylum seekers have arrived at the centre at Shengjin. The fact that this pre-screening process is conducted following a rescue or other interception at sea, and immediately after the shock, exhaustion and distress those being assessed may manifest as a result, add to the human rights and well-being concerns for those subjected to this.

THE PRE-SCREENING PROCESS AT SEA IN THE STANDARD OPERATING PROCEDURES

According to the Standard Operating Procedures (SOPs) regulating transfers to the Albanian centres, the Italian authorities should transfer the people they intercept or rescue on board Italian vessels weather permitting. With the intercepted/rescued people onboard, the Italian vessels move to a designated area on the high seas to meet the ‘hub-ship’.⁴⁸

The sequence of procedures carried out at sea, which include the preliminary assessment and the “pre-screening”, are described in the SOPs (paragraphs 9 and 10) and carried out by a team composed of Italian security police officers, cultural mediators and medical personnel.

Ahead of the “pre-screening”, a preliminary assessment occurs on the vessel that rescued or intercepted the people at sea with a view to identifying those who the Italian authorities consider ‘in absolute terms’ ineligible for transfer to Albania. The latter groups of individuals are not subjected to the pre-screening on the ‘hub ship’, and include women, people who are “visibly” children and unaccompanied, people with manifest illnesses or disabilities, the elderly and people who spontaneously show a valid passport or other valid document.⁴⁹

According to a report by TAI, a legal information session also takes place on the ‘hub ship’, consisting of the provision of a document containing legal information in multiple languages to people intercepted/rescued. People who were unable to read had this information read out to them and translated.⁵⁰ However, the TAI noted that this legal information session takes place under conditions “wholly inadequate to ensure the peace of mind necessary for such sensitive legal information procedure.”⁵¹

According to the SOPs, the intercepted people, with the exclusion of those regarded as manifestly ineligible for forcible transfer to Albania, should be transferred from the first Italian vessel which intercepted them at sea onto the ‘hub-ship’ for pre-screening procedures, while the people not destined for Albania remain on the Italian assets that intercepted them at sea to be taken to Lampedusa, Italy.

The SOPs clarify that only people who the police authorities deem “eligible” can be transferred to Albania. These are people from countries Italy regards as ‘safe countries of origin’, and who do not present evidence of the vulnerabilities listed in relevant legislation, including (in addition to the categories listed above and identified during the preliminary assessment) victims of human trafficking, people with grave illnesses or mental health conditions, victims of torture or of grave physical or psychological violence,⁵² or people who are members of households/families that include women

human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been determined to have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, or violence connected to their gender identity or sexual orientation, and victims of female genital mutilation”.

⁴⁸ The SOP indicate that the Ministry of Interior will contract a private ship to use as hub-ship for screening procedures. However, so far, Italian Navy and Coastguard ships have been used.

⁴⁹ Ministry of Interior, Department of Public Security, Central Directorate of Immigration and Border Police, Implementation of the Italy–Albania Protocol: Standard operational protocol for activities conducted in the sea, 18 October 2024, page 3, <https://inlimine.asgi.it/wp-content/uploads/2024/11/SOP-attivita-condotte-in-mare-Protocollo-Italia-Albania.pdf>

⁵⁰ TAI, *Oltre la frontiera*, p. 10.

⁵¹ TAI *Oltre la frontiera*, p. 10.

⁵² Situations of vulnerability as defined under Article 14 of the Legislative Decree no. 142/2015, article 17; See also: TAI, *Oltre la frontiera*, p. 7.

and/or children or others with vulnerabilities, and are in a direct line of descent with the latter (para. 9(b) of the SOPs). Those who the pre-screening deems ineligible for transfer to Albania should be taken to Italy by Italian assets “without delay”.

The SOPs state that the ‘hub-ship’ should have adequate spaces to undertake the pre-screening in conditions respecting personal dignity and to ensure that basic needs are met. During the pre-screening (SOPs Paragraph 10, letters A1 to A4), people are subjected to several checks and procedures, as part of which they are - among other things - photographed, undergo a medical check, and an identification check to establish the country of origin, the presence of family relations and any vulnerabilities. Those regarded as eligible to be transferred to Albania are then subjected to a personal security check and their personal belongings are checked and temporarily stored for the rest of the journey until disembarkation in Albania. They are also informed that their asylum claims will be examined according to an accelerated procedure, about which Amnesty has previously expressed concern.⁵³ Upon arrival at Shengjin, the SOP requires that a further medical screening is carried out onboard of the ship by Italian border health teams (*Uffici di sanità marittima, aerea e di frontiera*, ‘USMAF’).

Medical staff and interpreters of the International Organization for Migration (IOM), contracted by the Italian government, assisted pre-screening and screening operations in the first two transfers in 2024, though were not present in the third one in January 2025 (due to their contract not having been renewed).⁵⁴ Staff of the UN Refugee Agency (UNHCR) were present during all three transfers. UNHCR had announced in August 2024 that, after an exchange of letters with the Italian Ministry of Interior and having received information about the government’s commitment to uphold international law and standards, it would monitor the implementation of the Agreement to ensure respect for the right to asylum and international and regional human rights standards. It has also offered counselling to the people intercepted at sea.⁵⁵ No public information is currently available regarding UNHCR’s monitoring activities and there is no indication that any observations or recommendations will be made public.

THE SCREENING PROCESS AT SHENGJIN

Those who, on the basis of the pre-screening, are deemed potentially eligible for transfer to Albania are disembarked at the port of Shengjin, where a more thorough medical screening of vulnerabilities and identification take place, which is required for the detention to be validated.

According to a TAI report, such screening includes a first medical check conducted on the docked ‘hub ship’ (focusing on the identification of possible infectious diseases), and a second medical check conducted in a container. If, following these checks, the medical team at Shengjin (which includes psychologists) finds that people with vulnerabilities were missed during the pre-screening and erroneously taken to Albania, following a new collegial medical consultation which involves the presence a doctor connected online from Rome, they are boarded back onto the same ‘hub-ship’ that took them there and transferred to Italy. The others are taken to the centre of Gjader.⁵⁶

In all three operations, the pre-screening at sea led to a significant number of people being sent to Italy rather than Albania, because they were found to be in a condition of vulnerability or in possession of a passport or equivalent valid document. About 16 percent of people sent to Albania following the

⁵³ Amnesty International, European Institutions Office, Position Paper, “The proposed asylum procedures regulation”, 31 March 2017, p. 4-5, https://www.amnesty.eu/wp-content/uploads/2018/10/AI_position_paper_on_APR_proposal.pdf

⁵⁴ The absence of IOM staff meant that military medical personnel from the Navy carried out the medical pre-screening. The choice has been criticized for clinical and deontological reasons, given that armed forces and police medical personnel can only attend to civilians in case of public calamities, TAI *Oltre la frontiera*, p. 9.

⁵⁵ UNHCR, Italy-Albania Protocol - UNHCR to undertake monitoring activities to safeguard and promote fundamental human rights, 14 August 2024, <https://www.unhcr.org/europe/news/press-releases/italy-albania-protocol-unhcr-undertake-monitoring-activities-safeguard-and>

⁵⁶ TAI, *Oltre la frontiera*, p. 12.

pre-screening at sea were found to be in a condition of vulnerability when screened at Shengjin, leading to them being taken to Italy from there – these included five out of the 16 people from the first transfer; one out of nine from the second; and six out of 49 from the third.⁵⁷ This outcome raises questions as to the appropriateness, opportunity and effectiveness of vulnerability screenings being carried out on the high seas shortly after people's (potentially traumatic) rescue or interception at sea, under conditions that are unlikely to be conducive to their well-being or to them being able to provide a comprehensive overview of their circumstances and needs.

THE PARTICULAR RISKS FOR PEOPLE WITH VULNERABILITIES

As a result of the setup of the operations under the Italy-Albania deal, people in a situation of vulnerability whose needs are not identified while on the high seas are subsequently exposed to a series of specific risks and harmful practices. They endure unnecessary days of sailing to Albania, during which they cannot be cared for in line with their needs given the inevitable logistic and resource restrictions on the hub ship (either in terms of medical and other care or as minors, if wrongly identified as adults) and are in a situation of de facto detention on the hub-ship on the way to Shengjin; at Shengjin during the actual screening; and on the hub-ship on their way to Italy after the vulnerability has been detected. It is also possible that with the limited time and resources afforded to the teams, both pre-screening and screening processes miss altogether cases that would require attention.

Procedures for the identification of children, pregnant women, survivors of trafficking and torture, and other “vulnerable” individuals, such as people with serious illnesses, often require specialized medical or personnel with experience in providing psychological support and/or equipment and the time necessary to conduct detailed examinations and interviews. The experience of the three transfers to Albania is evidence that the necessary personnel, equipment, calm and private environment where individuals can reasonably perceive they are in a place of safety are not available on board ships, surrounded by other people and by officers, including armed ones.⁵⁸ Attempts at conducting “vulnerability” assessments on board of ships may also delay disembarkation for the entirety of the people rescued at sea, in breach of international law requiring – as previously pointed out – that people rescued at sea are disembarked in a place of safety as promptly as possible.

Furthermore, with specific reference to potential victims of trafficking, Italy has international obligations, transposed into domestic law, to ensure these are identified and assisted in contexts that guarantee their dignity, privacy and safety and prevent re-victimization, which remain nearly impossible to guarantee on board a ship.⁵⁹

4.3 RIGHT TO LIBERTY OF PEOPLE FORCIBLY TRANSFERRED TO ALBANIA

The Agreement entails the automatic detention of all people taken to Albania, under the original purpose of the deal, to have their asylum claims examined there. During the three operations carried out under the Agreement, people affected remained in de facto detention of the Italian authorities with no interruptions since their transfer onto the ‘hub ship’ on the high seas.

⁵⁷ TAI, *Oltre la frontiera*, p. 11.

⁵⁸ TAI, *Oltre la frontiera*, p. 13-14.

⁵⁹ UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000, (Palermo protocol), ratified by Italy with Law 146/2006; Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, transposed in Legislative decree 24/2014; the National action plan against trafficking and grave exploitation 2022-2025 and the National referral mechanism for the identification, assistance and protection of victims of trafficking and/or grave exploitation; See also TAI, *Oltre la frontiera*, p. 13-14.

DE FACTO DETENTION WHILE ON BOARD OF THE ITALIAN ‘HUB-SHIPS’

In the three operations, the pre-screening for selecting people for transfer to Albania took place as soon as they were taken aboard the Italian authorities’ ‘hub ships’, where they were subjected to a sequence of mandatory procedures and checks, in addition to being unable to leave the ships. As such, it can be argued that from that point on, they were in a condition of de facto detention, which continued during the journey to Albania – lasting up to four days.⁶⁰

The TAI report argues that people’s transfer onto the ‘hub ships’ interrupts SAR procedures and marks the start of their arbitrary (“sine titulo”) containment. TAI notes “from this moment on, freedom of movement is completely compressed to ensure people’s transfer to Albania, against their will”. This is in contrast with the authorities’ claim, according to TAI, that the rescue operation was only concluded upon people’s release from the Shengjin’s hotspot.⁶¹

The Agreement provides that people found not to be eligible to stay in Albania, after having been transferred there must be taken to Italy on Italian authorities’ ships. As a result, in the three transfers discussed, the information analysed indicates that people in this group were in de facto detention also during the journey from Albania to Italy since they were not set free immediately but only after disembarkation in Italy.

COURTS CONCERNED ABOUT SAFEGUARDS FOR PEOPLE SEEKING ASYLUM DETAINED IN ALBANIAN CENTRES

Italian courts did not validate detention orders in the cases involving asylum seekers who, pursuant to the Agreement, were eligible to be taken to Albania. This outcome was to be expected, based on previous domestic rulings and on a ruling of the Court of Justice of the European Union (CJEU).⁶² In their decision, domestic courts took issue with Italy’s rules on the designation of “safe countries of origin”, which allow such designation even where parts of the territory are unsafe or certain groups of people are at risk, contrary to the then applicable EU Directive 2013/32, regulating asylum procedures.⁶³ This interpretation was confirmed by the CJEU on 4 October 2024, ahead of the first transfer to Albania, in a case regarding the Czech Republic.⁶⁴

Although it could be inferred from this CJEU ruling that Italian rules on safe countries of origin were in breach of EU law, Italy decided to push ahead with the implementation of the Albania deal.

The first group of people was disembarked in Albania on 16 October 2024.⁶⁵ On 18 October 2024, the Immigration section of the Court of Rome rejected the detention orders of all 12 men in Gjader originating from Egypt and Bangladesh,⁶⁶ who were then taken to Italy to be released. On 23 October 2024, the Italian government reacted by issuing an immediately enforceable measure, Decree-Law 158/2024, listing the countries of origin to be regarded as safe.

⁶⁰ European Court of Human Rights, *Khlaifia and others v. Italy*, no 16483/12, 15 December 2016.

⁶¹ TAI, *Oltre la frontiera*, p.14

⁶² Domestic courts had done so already for detention orders for asylum seekers detained up to 28 days in border zones in Italy, following the approval of Law 50/2023, since the domestic provisions were deemed to conflict with the Italian Constitution and with EU law, which forbids the automatic detention of asylum seekers and requires authorities to provide adequate motivation based on individual circumstances in relevant detention orders. See: *Questione Giustizia*, Silvia Albano, *Il giudice non convalida i trattenimenti di tre migranti tunisini disposti in base alla nuova disciplina delle procedure di frontiera*, 2 October 2023, <https://www.questionegiustizia.it/articolo/nota-trib-catania>

⁶³ Directive 2013/32/EU of the European Parliament and of the council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), now replaced by: Regulation 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

⁶⁴ CJEU (Grand Chamber), C-406/22, *CV v Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky*, of 4 October 2024.

⁶⁵ Il Sole 24 ore, Albania, 4 out of 16 migrants sent back to Italy, 17 October 2024, <https://en.ilssole24ore.com/art/albania-4-migrants-16-sent-back-to-italy-AGWWIWb>

⁶⁶ Rai News.it, Roma, il Tribunale non convalida il trattenimento dei migranti in Albania nei centri italiani, 18 October 2024, www.rainews.it/articoli/2024/10/tribunale-non-convalida-il-trattenimento-dei-migranti-in-albania--e0d0c9d2-7b11-429f-be75-7ab0ba03cb04.html

AUTHORITIES TRY TO UNDERMINE THE PRIMACY OF EU LAW AND INTERFERE WITH THE COURTS' DECISIONS

Through the new decree-law, the government replaced the Ministerial decree of 7 May 2024, an administrative measure previously used for the designation of 'safe countries of origin', with an instrument constituting a primary source of domestic law. This move sought to overcome the challenge posed by the fact that as a secondary source of domestic law, domestic courts could refrain from implementing the ministerial decree if they found it to be in contrast with primary sources of law, such as the legislation transposing EU law into Italian law.⁶⁷ By issuing Decree-Law 158/2024, the government aimed to implement the Agreement by undermining the primacy of EU law and interfering with the courts' decisions on the detention of migrants. The move is symptomatic of the current Italian government's hostility towards the constitutionally protected principles regarding the role and independence of the judiciary.⁶⁸ Interfering with the courts' freedom and ability to fulfil their mandated task to decide on matters assigned to them may undermine the independence of the judiciary and, in the longer term, the rule of law. This is indicative of the Italian government's increasing reliance on authoritarian practice to evade accountability.

In the second transfer, a group of nine men was taken to Albania on 8 November 2024. In this case too, the Rome court did not validate their detention orders.

The Italian government reacted by presenting legislation to parliament transferring the competence to rule on asylum seekers' detention orders from the immigration section of first instance courts to the courts of appeal. The proposal was encapsulated in an amendment to the conversion law of a decree-law⁶⁹ – an immediately enforceable legal measure, which the government should adopt only “in extraordinary cases of necessity and urgency” and which must be converted into law by parliament within 60 days of adoption.⁷⁰ No explanatory report nor statements by the members of parliament supporting the government proposal are available to clarify the government's rationale, as noted also by the Court of Cassation.⁷¹

While the Italian Constitutional Court concluded that assigning the courts of appeal jurisdiction to rule on detention orders fell under the broad jurisdiction of the legislator in this area, and did not raise constitutionality issues,⁷² the measure was criticized (further detail in section 6.1: “Undermining accountability and the rule of law”) by the Italian High Council of the Judiciary (Consiglio Superiore della Magistratura - CSM), which submitted a negative opinion to the Ministry of Justice, arguing that the proposal moved judicial deliberations on the right to liberty of asylum seekers, which are part of proceedings regarding the right to international protection, onto court of appeals which decide on deprivation of liberty in the completely different context of criminal investigations and trials.⁷³ Despite the CSM's negative opinion the legislation was passed. In a subsequent case however, the Rome court of appeal did not validate the detention order for an asylum seeker held in Albania, suspending the ruling on the detention until the pronouncement of the CJEU. On 30 December 2024, Italy's highest

⁶⁷ ASGI, Il concetto di Paese di Origine Sicuro e il diritto d'asilo: una forbice che si allarga sempre di più. Analisi ASGI, 30 April 2025, p. 3 and 5, <https://www.asgi.it/asilo-e-protezione-internazionale/paese-di-origine-sicuro-asilo-analisi-asgi/>

⁶⁸ Article 104.1 of the Italian Constitution.

⁶⁹ Law 187 of 2024, converting Decree law 145 of 2024.

⁷⁰ Article 77 of the Italian Constitution.

⁷¹ Sistema Penale, La Relazione dell'Ufficio del Massimario sulle novità in tema trattenimento amministrativo apportate dalla l. 187/2024, 30 January 2025, especially p 7-10, at: <https://www.sistemapenale.it/it/documenti/la-relazione-dellufficio-del-massimario-sulle-novita-in-tema-trattenimento-amministrativo-apportate-dalla-l-187-2024>. See also the analysis of the research departments, “Servizi Studi”, of the Italian Senate and Chamber of Deputies, Dossier - Disposizioni urgenti in materia di lavoratori stranieri, caporalato, flussi migratori e protezione internazionale, 25 November 2024, <https://documenti.camera.it/Leg19/Dossier/Pdf/D24145b.Pdf>

⁷² Italian Constitutional Court, ruling no. 205 of 2025, ECLI:IT:COST:2025:205, <https://www.cortecostituzionale.it/stampa-pdf-pronuncia/2025/205>

⁷³ [parere-dl_compressed.pdf](#)

court of appeal, the Court of Cassation, suspended its consideration of an appeal of the Ministry of Interior against the rejection of detention orders by the lower courts, deciding to await the same ruling of the CJEU.⁷⁴

The result was a stalemate in the courts over the lawfulness of the detention of asylum seekers solely on the basis of the presumed safety of their country of origin, based on the designation of the latter under the Italian rules. Nevertheless, and despite the broader pending issue of the legality of such detention, the Italian government proceeded with a third forcible transfer of 49 people to Albania on 28 January 2025, arguably in the knowledge that – with the CJEU pronouncement on the issue pending and domestic courts repeatedly refusing to validate detention in the absence of guidance on interpreting EU law on the matter from the CJEU – the deprivation of liberty they would have been subjected to would not be validated by the courts. In fact, the Rome court of appeal, newly competent to rule on the validity of detention orders for asylum seekers, did not validate them either.

This outcome brought the Italian government's attempt at implementing the Agreement to a temporary stop. This first phase of implementation of the Agreement resulted in the predictable violation of the right to liberty of tens of people, who were subjected to automatic arbitrary detention during the journey to Albania and from Albania to Italy; and who were deprived of liberty purely on the basis that they were nationals of countries presumed safe, with a limited individualized assessment of their circumstances.

CRITICAL LEGAL SAFEGUARDS CURTAILED FOR PEOPLE SUBJECT TO THE AGREEMENT

The legal safeguards required to ensure that people could uphold their right to liberty were severely restricted by the tight timeframe imposed by authorities and the logistical obstacles for negotiating access to lawyers and legal information in a language people could understand. TAI notes that lawyers were unable to have personal contact with their clients before the hearing to validate the detention, and that “the very tight timeframe of the hearing for the validation of the detention order, the distance between Italy and Albania, and the appointment of the duty lawyer hours before the hearing objectively prevent the realization of an effective lawyer/client relation”.⁷⁵ To add to the confusion, the Ratification law of the Agreement foresees that for the purpose of the hearing to validate the detention order, the lawyer of the detained asylum seeker sits in the same room as the judge, while the affected individual in Albania joins the hearing via remote connection.⁷⁶ A lawyer interviewed by Amnesty International noted that he had not been able to meet his client before the hearing for the validation of their detention and he had no time to adequately prepare the defence. He added that in the remote hearing, he could only see the top half of his client's body, so it was impossible for him to assess if, for example, he had physical signs compatible with possible injury or ill-treatment. He observed how in a criminal trial setting safeguards protecting the right to liberty are stronger, whereas deprivation of liberty under civil law, as in asylum cases, where there is no crime committed, is allowed to happen with far fewer obligations on the authorities.⁷⁷

Based on the above, Amnesty International is concerned that in this phase of asylum seekers' detention in Albania the right to a defence is at risk, given these significant obstacles. Such obstacles to accessing effective legal assistance, can also impact the legality of the detention itself and the rights to liberty and security.

⁷⁴ Corte di Cassazione, Sez. 1, Ordinanza interlocutoria n. 34898 del 30 December 2024. In a separate ruling, the Court of Cassation reiterated that the judge must retain the power to assess whether the government's designation of a country as safe is in line with international and national laws. See: Corte di Cassazione, sentenza no. R.G. 14533/2024, of 4 December 2024, [/www.cortedicassazione.it/resources/cms/documents/33398_12_2024_civ_oscuramento_noindex.pdf](http://www.cortedicassazione.it/resources/cms/documents/33398_12_2024_civ_oscuramento_noindex.pdf)

⁷⁵ TAI, *Oltre la frontiera*, p. 16.

⁷⁶ TAI, *Oltre la frontiera*, p. 18; TAI, *Ferite di confine*, p. 36.

⁷⁷ Interview with a lawyer, February 2025.

Amnesty International considers that the Agreement has introduced a form of routine or, at times and for some individuals, almost automatic detention, which is by definition arbitrary and therefore in breach of international law. Under international law, the enjoyment of personal liberty must remain any individual's default condition. Any restriction on the right to liberty must be exceptional and based on a case-by-case, individualized assessment of the personal situation of the migrants and asylum seekers concerned.⁷⁸ The individualized assessment must take into consideration the effect of detention on irregular migrants' or asylum seekers' physical and mental health,⁷⁹ as well as factors such as their personal history, age, health condition, family situation and any specific needs. Blanket or automatic detention policies are arbitrary because they are not based on an individualized assessment of the necessity and proportionality of the detention measure.⁸⁰

4.4 RIGHT TO ASYLUM OF PEOPLE TRANSFERRED TO ALBANIA FROM INTERNATIONAL WATERS

For the Italian government, the purpose of the Italy-Albania Agreement was to deter people from attempting to reach Italian territory to seek protection, through the curtailment of the right to seek asylum.⁸¹ The right to asylum is protected by the Italian Constitution (Art. 10.3) and by international human rights law.

Through the Agreement, the Italian government attempts to create a legal fiction whereby the centres in Albania are an extension of Italian territory and Italian jurisdiction is maintained there. However, by carrying out asylum procedures far from the Italian territory, the Agreement confers a punitive character to the process and makes the act of seeking protection and appealing against a possible rejection more difficult because of the additional obstacles faced by those who are forcibly transferred there to accessing their rights.

Furthermore, the Agreement and its implementation expose the Italian government's attempt to violate the right to asylum by relying on the concept of 'safe country of origin', and by restricting or eliminating legal safeguards, or rendering them inaccessible in practice.

HUMAN RIGHTS CONCERNS REGARDING ITALY'S 'SAFE COUNTRY OF ORIGIN' RULES

The concept of 'safe country of origin' is central to the implementation of the Agreement. Amnesty International opposes the 'safe country of origin' concept because it detracts from an individualized assessment of the protection claim of nationals from these countries, who are presumed not to be in need of protection and are channelled through an accelerated asylum procedure. The concept means that the burden is on people seeking asylum to prove that they indeed need protection.⁸² The concept may also lead to discrimination among refugees based on their nationality which is strictly prohibited in the 1951 Convention relating to the Status of Refugees (hereafter, the Refugee Convention).⁸³ The scope of the 'safe country of origin' concept and the power of the domestic courts to assess that its

⁷⁸ See, for example, UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, Concluding observations of the Committee on the second periodic report of Bosnia and Herzegovina, CMW/C/BIH/CO/2, 26 September 2012, para. 26(c); Concluding observations of the Committee on the initial periodic report of Rwanda, CMW/C/RWA/CO/1, 10 October 2012, para. 24(a); and UNHCR Detention Guidelines, para.2, and Guideline 4.

⁷⁹ UN Human Rights Committee, General Comment 35 on Article 9: Liberty and security of person, CCPR/C/GC/35, 31 October 2014, para. 18.

⁸⁰ UNHCR Detention Guidelines, para. 3; UN Committee on the Elimination of Racial Discrimination, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Bahamas, CERD/C/64/CO/1, 28 April 2004, para. 17.

⁸¹ Il Foglio, "I centri in Albania chiudono nel 2030? Pd e M5s esultano. Ma Rama: "Protocollo durerà fino a quando vorrà l'Italia", 12 May 2026; Il Corriere della Sera, "Via ai centri migranti in Albania. Piantedosi: «Deterrente agli sbarchi». Tutti i dubbi sui costi", 12 October 2024, www.corriere.it/politica/24_ottobre_12/via-ai-centri-migranti-in-albania-piantedosi-deterrente-agli-sbarchi-tutti-i-dubbi-sui-costi-aae806c3-659a-421f-b313-609e68867x1k.shtml

⁸² Amnesty International, "EU: New rules on asylum and 'safe countries' undermine the foundation of refugee protection", 18 December 2025, <https://www.amnesty.org/en/latest/news/2025/12/eu-new-rules-on-asylum-and-safe-countries-undermine-the-foundation-of-refugee-protection/>

⁸³ UN General Assembly, 1951 Convention Relating to the Status of Refugees (Refugee Convention), of 28 July 1951, Art. 3.

application to an individual is in line with Italy's international obligations has been the centre of the clash between the Italian government and the courts, which escalated key questions around the application of the concept consistently with EU law to the CJEU.

In a case decided in August 2025,⁸⁴ the CJEU ruled that EU member states cannot designate countries as 'safe' if they do not offer sufficient protection to the entirety of the population, in contrast with Italy's rules that designated countries as safe with exceptions for certain groups. The Court also found, crucially, that member states must ensure that such designation can be subject to an effective and transparent judicial review, and is based on sources of information that are accessible to the asylum seeker and the court in charge of the review. The case was brought before the CJEU by Bangladeshi asylum seekers who were transferred to the Gjader detention centre in Albania under the Agreement in 2024. Their asylum applications had been subsequently rejected as, according to Italian law, they were classified as coming from a 'safe country of origin' and were deemed unable to prove that the country was unsafe for them.⁸⁵

However, the future relevance of the ruling is put into question by the new rules in the EU Pact on Migration and Asylum, which entered into force on 12 June 2026. The new EU rules on 'safe countries of origin' allow for the designation of a third country as a 'safe country of origin' both at Union and national level to be made "with exceptions for specific parts of its territory or clearly identifiable categories of persons".⁸⁶ In parallel, the EU recently approved a new EU-wide list of 'safe countries of origin' that includes Bangladesh, Colombia, Egypt, Kosovo, India, Morocco and Tunisia, as well as EU accession candidate countries (with exceptions).⁸⁷

Amnesty International is concerned that this new legal framework, coupled with weakened safeguards for asylum seekers subjected to accelerated border procedures under the new rules, and – in the case of the centres in Albania – further aggravated by the challenges posed by the geographical distance, will significantly increase the risk that people are sent back to human rights harm and persecution, in violation of the principle of non-refoulement.

⁸⁴ CJEU, Joined cases C-758/24 [Alace] and C-759/24 [Canpelli], *LC (C-758/24), CP (C-759/24) v Commissione territoriale per il riconoscimento della protezione internazionale di Roma – sezione procedure alla frontiera II*, 2025, at: eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62024CJ0758#Footnote*

⁸⁵ Amnesty International, "Italy: EU Court ruling on 'safe countries of origin' is a heavy blow to Italy-Albania migration deal", 1 August 2025, <https://www.amnesty.org/en/latest/news/2025/08/italy-eu-court-ruling-on-safe-countries-of-origin-is-a-heavy-blow-to-italy-albania-migration-deal/>

⁸⁶ Article 61(2), Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

⁸⁷ Council of the European Union, 'Asylum policy: Council and European Parliament agree on EU list of safe countries of origin', 18 December 2025, <https://www.consilium.europa.eu/en/press/press-releases/2025/12/18/asylum-policy-council-and-european-parliament-agree-on-eu-list-of-safe-countries-of-origin/>

RELEVANCE OF THE 2025 CJEU RULING ON THE ITALY-ALBANIA AGREEMENT UNDER THE EU PACT ON MIGRATION AND ASYLUM

While Italy's practice of designating 'safe countries of origin' "with exceptions" for certain categories of applicants has been replicated by the new EU rules, other parts of the August 2025 ruling of the CJEU remain relevant to Italy's human rights obligations for the future operation of the Albanian centres. This concerns, in particular, applicants' rights to effective judicial protection under Article 47 of the EU Charter of fundamental rights.⁸⁸

In the 2025 ruling, the CJEU found that EU member states can designate 'safe countries of origin' by means of a legislative act, "provided that that designation can be subject to judicial review as regards compliance with the material conditions for such a designation". While the ruling refers to provisions of EU law that are now obsolete,⁸⁹ it expresses a principle that remains relevant to judicial review and defence rights under the EU Pact, which preserves the applicant's right to challenge the use of the 'safe country of origin' principle.⁹⁰

In its August 2025 ruling, the CJEU elaborates other principles which should be considered of general relevance to states' practice when using the 'safe country of origin' concept in the future. These include whether states have a responsibility to "make accessible the sources of information" used for the designation of the 'safe country of origin', and whether the judicial authority examining the case can "take account of the information which it has itself gathered", going beyond what the state has used for such designation.

On the first point, the CJEU found that "in order for the judicial protection to be effective", the applicant and the judicial authority considering an appeal "must be able to have not only knowledge of the grounds for such a rejection but also access to the sources of information on the basis of which the third country in question was designated as a safe country of origin" (para. 80).

On the second point, the ruling preserves national courts' discretion to challenge a state's designation of a 'safe country of origin', by stating that (para. 86) in order for the judicial review to be effective, the judicial authority must be able to verify the compliance of the designation with the requirements of EU law, taking into account "other information which it may itself have gathered" from public sources or sources it has requested the parties to produce, subject to certain conditions.⁹¹

In the above pronouncements, the CJEU also elaborates on the features of the right to a remedy in asylum procedures and the right to effective judicial protection under Article 47 of the EU Charter of fundamental rights, both provisions which are unaffected by the new EU Pact. As such, in Amnesty International's view, there is nothing limiting the value and relevance of these principles in Italy and other member states' future use of the 'safe country of origin' concept under the EU Pact.⁹²

⁸⁸ CJEU, Joined cases C-758/24 [Alace] and C-759/24 [Canpelli], above in full, para. 64.

⁸⁹ The Asylum Procedures Directive no. 2013/32, in force prior to the new EU Pact.

⁹⁰ Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, Article 61.5(c): "The concept of a safe country of origin may only be applied provided that: [...] (c) the applicant cannot provide elements justifying why the concept of safe country of origin is not applicable to him or her, in the framework of an individual assessment."

⁹¹ Specifically: "The effectiveness of judicial review of compliance [of the SCO designation with the requirements of the law] implies that that court or tribunal may verify whether that designation complies with the material conditions laid down in Annex I to that directive, by taking into account other information which it may itself have gathered, whether from public sources or from sources which it has requested one of the parties to the proceedings before it to produce, provided that, first, it has satisfied itself as to the reliability of that information and, second, in accordance with the adversarial principle, those parties have the opportunity to submit their observations on that information."

⁹² Having regard in particular to the fact that the right to a remedy under Article 67 of the Regulation retains core elements of Article 46 of the Directive that were taken into account by the CJEU in its judgement, including paragraph 3 whereby "An effective remedy as referred to in paragraph 1 shall provide for a full and *ex nunc* examination of both facts and points of law, at least before a court or tribunal of first instance, including, where applicable, an examination of the international protection needs pursuant to Regulation (EU) 2024/1347" (which is comparable to Article 46.3 of the Directive).

With regards to the procedural safeguards of the right to asylum, the maintenance of Italian jurisdiction over people taken to Albania should require that people have access to substantive and procedural guarantees and safeguards established under Italian and EU law. However, in practice, two lawyers interviewed by Amnesty International who represented several people forcibly transferred to Albania observed several concerns regarding the procedural safeguards of the right to asylum, confirming what Amnesty International had predicted regarding the risk of curtailment of the right to seek asylum, including access to fair and effective asylum procedures. In these lawyers' experience, the physical distance between asylum seekers and authorities, asylum commissions, lawyers, judges and others playing a key role in decisions regarding protection, significantly undermined the effectiveness of the individual subjected to the Agreement's right to seek asylum and to access justice.⁹³

CONCERNS ABOUT ACCESS TO ADEQUATE LEGAL ASSISTANCE

Predictions about the challenges to access adequate legal assistance from a lawyer of one's choice and to effectively participate in relevant proceedings remotely were also confirmed by the lawyers who spoke to Amnesty International. As reported by lawyers who have assisted asylum seekers taken to Albania directly from international waters, remote proceedings from a detention centre situated outside the national territory and therefore inherently not integrated with the network of services generally provided by the state administration, lawyers and civil society have led to misunderstandings, poor interpretation, limitations in the legal assistance that could be provided, including the possibility for lawyers to assess the state of physical and mental health of their client, and severe limitations to people's ability to fully express their case and circumstances.⁹⁴

As reported by TAI following their monitoring visit after the third transfer, all asylum seekers they interviewed said they had not understood the procedures they were subjected to, nor their rights. TAI illustrated the problem by presenting the incredibly fast sequence of hearings that people from the third transfer were subjected to: on 28 January 2025, arrival at Shengjin and issuing of the detention order by the Rome chief of police; 29 January, online hearing before the asylum authorities for the examination of their asylum claim; 30 January, notification of the rejection of the asylum claim; 31 January, remote hearing before the judge for the validation of the detention.⁹⁵

The overlapping of two separate procedures, one to determine the legality of detention and the other to examine the asylum claim, created enormous confusion for the asylum seekers who received very limited legal information on board the 'hub-ship'. A lawyer told Amnesty International that the minutes of the asylum hearings before the asylum commission in their view also show how intimidated the people were, answering in a monosyllabic way.⁹⁶ He noted these people were understandably confused and traumatized, as some of them might have crossed a desert, been detained and abused in Libya, survived the sea crossing on unseaworthy boats, and then, following interception by the Italian authorities, in the space of a few days they were subjected to security and medical screenings, asked to compile forms they did not understand, and asked to present their case for protection to the asylum commission.⁹⁷

CONCERNS ABOUT ENSURING LEGAL ASSISTANCE FOR THOSE TRANSFERRED BETWEEN ALBANIA AND ITALY

During the period when forcible transfers from international waters to Albania were taking place, no provision under Italian law required a legal aid lawyer to assist people in preparing for the examination of their asylum claim before the asylum commission. In theory, applicants could nominate a lawyer of

⁹³ Interviews with lawyers, February 2025.

⁹⁴ Interviews with lawyers, February 2025.

⁹⁵ TAI, *Oltre la frontiera*, p. 15-16.

⁹⁶ Interview with lawyer, February 2025.

⁹⁷ Interview with lawyer, February 2025.

trust, but according to a lawyer interviewed by Amnesty International, this would have been practically impossible from Albania for the people forcibly transferred there from international waters, considering language difficulties and restricted access to phones, as they would have had to proactively contact the Rome bar association from the detention centre in the very short time available before the hearing.⁹⁸

Another lawyer highlighted that when people are released from the Albanian centre and taken to Italy because their detention has not been validated, lawyers risked losing contact with their clients. This risk was most pronounced for those released and taken to Italy after the first forcible transfer to Albania. This resulted in the lawyer having to spend time locating their client in a reception centre in Italy, before being able to obtain power of attorney to start drafting an appeal against the rejection of an asylum claim, which has very short deadlines.⁹⁹

5. VIOLATIONS OF THE RIGHTS OF FOREIGN NATIONALS FORCIBLY TRANSFERRED TO ALBANIA FROM REPATRIATION CENTRES ON ITALIAN TERRITORY

Following the Italian court rulings which did not validate the orders of detention in Albania of asylum seekers transferred there following their interception in international waters, the Italian government expanded the purpose of the detention centres in Albania. In March 2025, the Agreement's Ratification law was amended so as to use the Gjader centre not only for asylum seekers, but to detain also male foreign nationals with expulsion orders in Italy, allowing for their forcible transfer from repatriation detention centres in Italy to Gjader.¹⁰⁰

With regard to this second phase of the Agreement's implementation, Amnesty International is concerned about: a) the unlawfulness of the extraterritorial transfers, which do not correspond to any of the extraterritorial transfers provided for in domestic and European law; and which, given the silence of the Ratification law as to the reasons justifying such extraterritorial transfers, risk being carried out at the authorities' unchecked discretion, and could be used arbitrarily, discriminatorily and punitively; b) the rights of detainees and their treatment in the Gjader facility, which, according to the observations of the members of parliament, lawyers, national, regional and city ombudsman, and other experts who have repeatedly visited the centre, replicates many of the sub-standard features of repatriation detention centres on Italian territory; and c) the enhanced risk for people forcibly transferred extraterritorially to Albania of being forcibly deported to countries where their lives and safety would be at grave risk, in breach of international laws and standards.

5.1 UNLAWFUL AND ARBITRARY NATURE OF FORCIBLE TRANSFERS FROM ITALIAN REPATRIATION DETENTION CENTRES TO GJADER

The expansion of the original purpose of the detention centres in Albania to also include the forcible extraterritorial transfer of people already detained on its territory for the purpose of repatriation raises several pressing human rights and rule of law concerns. It risks jeopardizing affected people's right to liberty, to non-discrimination, and for those who have filed claims after such transfers, also the right to

⁹⁸ Interview with lawyer, February 2025.

⁹⁹ Interview with lawyer, February 2025.

¹⁰⁰ Decree law no 37 of 28 March 2025, n. 37, "Disposizioni urgenti per il contrasto dell'immigrazione irregolare", www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto-legge:2025;37, read in conjunction with Law of no. 75 of 23 May 2025, "Conversione in legge, con modificazioni, del decreto-legge 28 marzo 2025, n. 37, recante disposizioni urgenti per il contrasto dell'immigrazione irregolare", www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2025;75

territorial asylum. Further, the issue of access to justice and safeguard deficit concerns highlighted in earlier sections of this briefing also pertain in this context too.

ONGOING COURT CASES ON THE LEGALITY OF THE AGREEMENT AND IMPACT ON RIGHTS

In June 2025, the Italian Court of Cassation referred two joined cases to the CJEU with a request to clarify the compatibility of such transfers with EU law.¹⁰¹ Examining the appeal by the Ministry of Interior against the rejection by the Court of Appeal of Rome of the detention order of two foreign nationals who had been forcibly transferred to Gjader from Italy and had subsequently filed an asylum claim, the Court of Cassation raised questions about the compatibility of the Agreement with the Return Directive (Directive 2008/115/CE) and the Asylum procedures Directive (Directive 2013/32/UE), which was applicable at the time of the case but has since been superseded as a result of the new EU Pact on Migration and Asylum.¹⁰² The case is currently pending at the CJEU.¹⁰³

The first issue raised by the court is whether applicable EU law on returns allows for the forcible transfer of foreign nationals with an order of detention in Italy, to a non-EU country in the absence of any concrete prospect of repatriation. In fact, as the court notes, EU law provides that foreign nationals can only be deported to their country of origin or to a country of transit with which there is either a bilateral readmission agreement or an EU-level one; or to a third country where the foreign national has voluntarily agreed to go, and where they will be admitted. Neither of these cases appears applicable to the Agreement between Italy and Albania.¹⁰⁴

Secondly, in case the CJEU finds that EU law should be interpreted as permitting such forcible transfer, the Court of Cassation asked whether EU provisions on international protection allow for the detention in a non-EU country of a foreign national with an expulsion order who has applied for asylum after being forcibly taken to the non-EU country, on the assumption that the asylum claim is of a spurious nature.

Italy's Court of Cassation accompanied the referral to the CJEU with some important considerations. With regard to the first question, the court noted that the state does not have an unbounded power to forcibly transfer people to another country, it can do so only within the framework of EU law. The court recalled that detention should be applied only as a last resort, for the shortest period of time, and for the purpose of repatriating or removing the foreign national. However, the court noted, neither the Agreement nor the Ratification law contain precise normative language articulating the objective of ensuring repatriations; nor does the Agreement explain how the purpose of repatriation might be achieved more efficiently in Albania.

¹⁰¹ Court of Cassation, ordinanza n. 23105 del 20 giugno 2025, https://www.cortedicassazione.it/it/penale_dettaglio.page?contentId=SZP45444

¹⁰² With the entry into force of the EU Pact on migration and asylum in June 2026, Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Return Directive); and Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), (Asylum Procedures Directive) are being replaced by a new regulation on returns currently being negotiated, and by Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU respectively.

¹⁰³ CJEU, case C-414/25 – *Sedrata*: Request for a preliminary ruling from the Corte suprema di cassazione (Italy), lodged on 24 June 2025.

¹⁰⁴ However, under the new Return Regulation, which is pending formal adoption as of July 2026, it will be possible to forcibly transfer people with a return decision to additional countries, including to the person's country of formal habitual residence, a third country where the person has a right to enter and reside, a safe third country in relation to which their application has been rejected as inadmissible, or a third country with which there is an agreement or arrangement on the basis of which the person is accepted, in line with Article 17 of the Regulation and the conditions and safeguards detailed therein. See: Council of the European Union, Proposal for a Regulation of the European Parliament and of the Council establishing a common system for the return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC, Interinstitutional File: 2025/0059 (COD), 10 June 2026, Article 4 and 17, : <https://data.consilium.europa.eu/doc/document/ST-10363-2026-INIT/en/pdf>

The court observes that the restriction of foreign nationals' personal liberty in Albania cannot be circumscribed to the time strictly necessary for a court to ascertain whether the detention is legitimate, given that if the court orders their release, a foreign national cannot be set free immediately, but must wait to be transferred back to Italy.¹⁰⁵

With regard to the second question raised by the Court, relevant EU rules, transposed into domestic legislation, entitle the asylum seeker to stay on the territory of the EU state that is examining their claim until the final decision.¹⁰⁶ The provision, according to the Court of Cassation, enshrines the "close and inescapable link between the asylum claim and the right to access the territory of the EU state to which the claim is made and to stay there until it has been decided" (unofficial translation). In fact, the court noted that the filing of the asylum claim determines a fundamental change in the status of the foreign national, who is no longer considered a person in an irregular status and liable to be deported. Importantly, the court considers that a person's right to remain on the territory of the state where the asylum application has been presented, established under EU law, constitutes a provision with direct effect on the member state.

These remarks by Italy's Court of Cassation support concerns about the lawfulness of the extraterritorial transfers from repatriation detention centres in Italy to Albania, pointing to the failure of the authorities to clarify in the law the purpose of the transfer and ultimately of the detention in Albania; the inherent risk that people in Gjader are detained for longer than required by the law, if their detention is not validated, because they cannot be released in Albania; and the violation of the right to territorial asylum and to non-discrimination for the foreign nationals who file a claim for protection in Gjader.

Another similar case is pending before the CJEU, on referral from the Court of Appeal of Rome, questioning the compatibility of the Agreement and its Ratification law with EU law. In particular, the Rome Court of Appeal asked whether Italy acted within its area of responsibility when concluding the Agreement with Albania, as the latter concerns the areas of migration and asylum governed by EU common rules; and if it did, whether EU rules on the detention of asylum seekers, their right to defence and health preclude their detention in a third state.¹⁰⁷ In its non-binding opinion in this case, the Advocate General of the CJEU concluded that "the protocol and the national implementing legislation do not appear to contain clear and precise rules making it possible to guarantee [...] the rights of the defence, the right to respect for private and family life, as well as the right to immediate release at the end of the period for validation of the detention. Consequently, the protocol and national implementing legislation are likely to affect or alter the minimum procedural guarantees provided for by EU law."¹⁰⁸

LACKING SAFEGUARDS AND TRANSPARENCY: THE ARBITRARY NATURE OF FORCIBLE TRANSFERS

As court cases on the compatibility of the Agreement with EU law are ongoing, the authorities have forcibly transferred hundreds of individuals from repatriation detention centres in Italy to Gjader in the absence of any written documentation motivating the measure. The Ministry of Interior in December 2025 confirmed to Amnesty International that following the amendments to the Ratification law, people who have already been served with a validated detention order can be transferred to Gjader

¹⁰⁵ Court of Cassation, Ordinanza n. sez. 1931/2025 of 29 May 2025, p. 17, at: www.cortedicassazione.it/resources/cms/documents/23105_06_2025_pen_oscuramento_noindex.pdf

¹⁰⁶ Article 2 lett. p of EU Directive 32/2013; Article 10.1 of Regulation 1348/2024, which replaces Directive 32/2013, has retained the right for asylum seekers to remain in the territory of the EU state which is examining their claim.

¹⁰⁷ Court of Justice of the European Union, "Hearings: Joined cases C-706/25 Comerì and C-707/25 Sidilli, and C-414/25", Sedrata, https://curia.europa.eu/site/jcms/p1_1000081788/en/hearings-joined-cases-c-706/25-comeri-and-c-707/25-sidilli-and-c-414/25-sedrata

¹⁰⁸ Court of Justice of the European Union, "Press Release No 85/26 Luxembourg, 11 June 2026, Advocate General Medina: in the exercise of their competence as regards the location of detention facilities, including outside the European Union, Member States remain obliged to observe the guarantees provided for by EU law in asylum matters", 11 June 2026, <https://curia.europa.eu/site/upload/docs/application/pdf/2026-06/cp260085en.pdf>

without the need for a new judicial validation, as both Gjader and the repatriation detention centres in Italy have the same function.¹⁰⁹

According to TAI,¹¹⁰ however, such forcible transfers could violate domestic law, because all acts of the state must be motivated to allow citizens to understand their rationale and to ensure transparency.¹¹¹ With regard to actions resulting in a restriction of personal liberty, as in the case of the transfers in questions, the Italian Constitution provides that they are not admissible unless decided and motivated by a judicial authority, and only in the cases and manners provided for by law.¹¹² The Immigration Act provides that those detained in preparation for their expulsion must be sent to the “closest” repatriation detention centre, and only “for the time strictly necessary” to organize their repatriation.¹¹³ Extraterritorial transfers to Gjader do not appear to meet these legal requirements. They also pose additional challenges to accessing family relations, lawyers and health care, as will be seen below. The process of selection for transfer also lacks transparency. The information shared by the MOI with the ombudsman and with Amnesty International offers no elements to determine why someone subjected to an expulsion order who is held in detention in Italy might be chosen for transfer to Gjader, leaving cause for concern that the measure is arbitrary, and that transfers could be discriminatory or punitive.

In its letter of December 2025, the MOI provided Amnesty International with limited answers in response to our question regarding the rationale for the transfers and the criteria on the basis of which people might be selected to be transferred to Gjader. The MOI responded that transferring people from one repatriation detention centre to another improves the management of requests coming from police territorial offices to allocate individuals to centres with capacity to hold them, and allows for a more efficient management of repatriations and of relations with consular offices.¹¹⁴ The MOI also stated that the authorities “tend to privilege [for transfers] detention situations in which there is a need to develop or continue, as usual, a consular identification process and the subsequent organization of repatriation”. The MOI clarified that categories regarded as not eligible for transfer to Gjader include asylum seekers, those whose repatriation has already been organized, and those with health conditions.¹¹⁵ The MOI’s approach to transfers to Gjader is confirmed by the information shared with the Italian National Ombudsman for the rights of people deprived of personal liberty (National Ombudsman) on the occasion of its first, announced, one-day visit to Gjader on 2 October 2025. In its report, the National Ombudsman states that the task to identify the people to transfer to Gjader is assigned to the MOI’s Central directorate for immigration and border police; and that the directorate excludes from transfers to Gjader asylum seekers, foreigners for whom repatriation is already being organized, and foreigners with vulnerabilities or health issues; and that it prioritizes for transfer to Gjader people for whom consular identification procedures and repatriation procedures have yet to be developed.

However, the National Ombudsman noted that, following the visit, it received information regarding people who, soon after being transferred to Gjader, had to be taken back to Italy either to be repatriated or because they were deemed not suited to detention in Gjader following an assessment by the “vulnerability commission”, created in 2024 to assess the suitability of the state of health and of

¹⁰⁹ Letter of the Department for civil liberties and immigration of the Ministry of Interior to Amnesty International and Human Rights Watch, December 2025.

¹¹⁰ TAI, *Ferite di confine*, p. 13.

¹¹¹ Article 3 of Law 241 of 1990.

¹¹² Article 13 of the Italian Constitution.

¹¹³ Article 14 Testo Unico Immigrazione, Legislative Decree no. 286 of 25 July 1998, at: www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1998-07-25;286:vig=2025-07-24

¹¹⁴ Letter of the Department for civil liberties and immigration of the Ministry of Interior to Amnesty International and Human Rights Watch, 1 December 2025.

possible conditions of vulnerability of foreign nationals in Gjader.¹¹⁶ The National Ombudsman also reported that, according to the guidelines for Gjader elaborated by the USMAF Albania¹¹⁷ and the INMP¹¹⁸, people transferred to Gjader should, within 48/72 hours of their departure from Italy, be subjected to a medical assessment of their suitability to being detained there (per Italian rules, suitability “to living in the restricted community” of that centre). However, the National Ombudsman reported that the private contractor managing Gjader does not consider the guidelines prescriptive and regards two-month old assessments as admissible.¹¹⁹ In the course of the visit of the National Ombudsman in October 2025, the authorities in Gjader said that within five days of arrival, a doctor and a psychologist based in Gjader reassess each detainee.¹²⁰

The TAI also reported that people were transferred to Gjader without a fresh assessment of their condition, but on the basis of the initial assessment of their health and suitability to be detained, which was carried out when they were first detained in a repatriation centre in Italy.¹²¹

With reference to the MOI’s argument that transfers to Gjader help with management of requests to allocate a place for an individual in a detention centre coming from police territorial offices and with a more efficient, in their view, management of repatriations, it should be noted that, following their visit to Gjader on 29 and 30 July 2025, the Ombudsman for people deprived of personal liberty of the Lazio region, and that of the city of Rome observed that “the extremely limited number of people currently present in the centre of repatriation, 27, together with the availability of places in centres on national territory renders the transfer to Albania of these individuals unjustified.”¹²²

RISK OF TORTURE OR CRUEL, INHUMAN AND DEGRADING TREATMENT DURING FORCIBLE TRANSFERS

In the course of six visits to Gjader between April and July 2025, TAI received testimonies from 30 people it interviewed in Gjader who consistently described the use of physical restrictions – Velcro hand ties (“fascette” or “fascette in velcro”) – throughout the forcible transfers to Gjader, which can last 24 hours by land and sea. The TAI report indicates that these restrictions were applied to people indiscriminately and without an individual assessment, raising concern that they could amount to torture or cruel, inhuman and degrading treatment.

According to the TAI, people’s hands were kept tied with Velcro hand ties throughout the journey except to allow them to go to the toilet, even in the absence of any resistance, in violation of domestic and international laws and standards.¹²³ The use of rip tape was confirmed by the Lazio region and

¹¹⁶ National Ombudsman of Italy, Report on the visit of 2 October 2025, p. 6, above in full. The “vulnerability commission” was created with a ministerial decree on 27 September 2024, by the General director for health prevention [Direttore generale della prevenzione sanitaria] to assess the suitability of the state of health and of possible conditions of vulnerability of foreign nationals with conditions of detention in Gjader. It is composed by the Director of the USMAF office for Albania, a medical manager of the Ministry of health and a manager specialized in psychology of the INMP.

¹¹⁷ Uffici di Sanità Marittima, Aerea e di Frontiera, offices for the maritime, air and border health of the Ministry of Health.

¹¹⁸ Istituto Nazionale per la promozione della salute delle popolazioni Migranti e per il contrasto delle malattie della Povertà, a public institution dedicated to the health of migrant people and people in poverty.

¹¹⁹ National Ombudsman of Italy, Report on the visit of 2 October 2025, p 12, above.

¹²⁰ Ibid., p 12-13.

¹²¹ TAI, Ferite di confine, p.21. In a June 2025 report analysing the new rules introduced by Decree-law 37 of 2025, converted into Law 75 of 2025, the Court of Cassation quoted an expert’s study which observed that the lack of a second health assessment is particularly grave for transfers to Albania in considerations of the complexity of the transfer and of the differences in the health care provided by Italian structures in comparison with Albanian ones. See: Court of Cassation, Relazione su novità normativa, Rel.: n. 60, 17 June 2025, available at https://www.unionedirittiumani.it/wp-content/uploads/2025/07/Rel060-2025.pdf?_sm_nck=1

¹²² Ombudsman for people deprived of personal liberty of the Lazio region, Prima visita dei Garanti Anastasia e Calderone al Cpr di Gjader, 30 July 2025, <https://www.garantedetenutilazio.it/prima-visita-dei-garanti-anastasia-e-calderone-al-cpr-di-gjader/>

¹²³ The European Court of Human Rights has consistently stressed that any restraint method during deportations must be rendered necessary by the specific conduct of the individual and be proportionate to it, see for example: European Court of Human Rights, Guide on Article 3 of the European Convention on Human Rights, Prohibition of torture, Updated on 31 August 2025, https://ks.echr.coe.int/documents/d/echr-ks/guide_art_3_eng; see also: Council of Europe, Committee of Ministers, Twenty Guidelines on Forced Return, 4 May 2005, www.refworld.org/policy/legalguidance/coeministers/2005/20254

City of Rome Ombudsman in their report following a visit in July 2025.¹²⁴ In some cases reported by TAI, people were not told they were being taken to Gjader but to other repatriation centres in the south of Italy.¹²⁵ This was further confirmed by the National Ombudsman, which reported that some of the people interviewed during its visit on 2 October 2025 said they had not been told they were being transferred to Gjader and they only understood they were in Albania once they arrived at Tirana airport.¹²⁶

The MOI stated to Amnesty International that transfers to Gjader, which at the time of the letter were carried out on aircrafts of the Italian custom police (Guardia di Finanza), abide by “all the safeguards and operational guarantees which must be implemented during transfers within the national territory”, albeit without specifying which ones they regard as applicable.¹²⁷

5.2 PROTECTION OF RIGHTS, ACCESS TO JUSTICE AND TREATMENT OF DETAINEES IN GJADER REPATRIATION CENTRE

Amnesty International documented violations of the rights to liberty and human dignity in repatriation detention centres on Italian territory in July 2024.¹²⁸ In December 2024, the European Committee for the Prevention of Torture (CPT) issued a scathing report on the conditions and regime of treatment in several repatriation detention centres in Italy, and concluded that “the CPT’s findings, notably in relation to the very poor material conditions, the absence of a regime of activities, the disproportionate security approach, the variable quality of healthcare provision and the lack of transparency of the management of CPRs by private contractors, call into question the application of such a model by Italy in an extraterritorial setting, such as in Albania”.¹²⁹

Lawyers, ombudsman, members of parliament and other experts who have visited the centres in Albania and spoken to the detainees have documented how access to rights is even more compromised for people held in pre-deportation detention in Gjader, than it already is in repatriation detention centres in Italy. The geographical distance and the location of the centres in a third country, as well as the different language spoken by some of the staff employed to work at Gjader are all factors posing additional challenges for the detainees to enjoy their rights and for their lawyers and families to access the detainees themselves and information about them.¹³⁰ For example, the National Ombudsman reported that at the time of their visit the private contractor managing Gjader was required to only ensure access to religious activities and noted the difficulty to enrol charities and other organizations to provide social and recreational activities, exacerbated by the language barrier. The National Ombudsman noted also that given that, following the amendment of the Ratification law in March 2025, the Gjader centre is now a repatriation detention centre where people can be detained for medium to long periods, as such there was an urgent need to review the provision of available activities.¹³¹

Both the TAI and the National Ombudsman described, at the time of their visits, the extremely limited access to spaces for any social interaction. The National Ombudsman reported that in the sector it

¹²⁴ Ombudspersons for people deprived of personal liberty of the Lazio region and of the city of Rome, Joint report on the visit to Gjadër, concluded on 3 October 2025, published on 3 November 2025, www.garantedenutilazio.it/app/uploads/2025/11/RapportoGaranticentroGjaderAlbania.pdf

¹²⁵ TAI, *Ferite di confine*, p. 15.

¹²⁶ National Ombudsman of Italy, Report on the visit of 2 October 2025, p. 7, above.

¹²⁷ MOI letter to Amnesty International, 1 December 2025.

¹²⁸ Amnesty International, *Liberty and Dignity: Amnesty International’s Observations on the Administrative Detention of Migrant and Asylum-Seeking People in Italy*, 3 July 2024, <https://www.amnesty.org/en/documents/eur30/8244/2024/en/>

¹²⁹ Council for Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Anti-torture Committee publishes report on ad hoc visit to Italy, 13 December 2024, <https://www.coe.int/en/web/cpt/-/anti-torture-committee-publishes-report-on-ad-hoc-visit-to-italy>

¹³⁰ On the impact of geographical isolation, see TAI, *Ferite di confine*, p. 25.

¹³¹ National Ombudsman of Italy, Report on the visit of 2 October 2025, p. 17, above.

visited (there are six sectors for 24 people each, all separated from the others by bar fences), there were “no other areas for socializing, eating or practising one’s religion separate from the bedroom cells, which therefore represents the only covered living space available to the detained people (unofficial translation).”¹³² All the bedroom cells open onto a shared outdoor space with no seating or other furnishings. The National Ombudsman also noted that in the small cells – each equipped with two bunk beds – there was “a table of meagre dimensions undersized to allow four people to eat” and fixed to the floor. The National Ombudsman reported that although the private contractor allowed the detainees to eat in a multifunctional room which is guarded by staff, the detainees it interviewed during the visit had not been informed of this possibility.¹³³

In July 2025, the Italian Constitutional Court issued an important ruling highlighting that the Italian parliament has so far failed to regulate the methods [“modi”] of detention in centres for repatriation in line with the Constitution’s requirement that restrictions on personal liberty must be determined in primary sources of law. The court found that the law should regulate both the circumstances allowing for the detention of foreign nationals in repatriation centres as well as entitlements of people during their detention, for example, “in relation to the provision of services designed for the fundamental needs of care, assistance, human and social promotion, including the carrying out of visits, to protect the fundamental and inviolable rights of the recipients of the restrictive measures”.¹³⁴ Currently, administrative circulars and similar measures, taken at local level by prefects and chiefs of police based on MOI guidelines, regulate how detainees access their rights in repatriation centres. This, the court observed, can lead to discretion and territorial disparities in access to rights. The ruling regards all repatriation centres, but it is of course especially important with reference to detention in Gjader which presents additional challenges to accessing rights.

5.3 RIGHT TO HEALTH AND RISKS FOR PEOPLE IN NEED OF SPECIFIC CARE

The provision of health care in Italian centres in Albania is ensured via the clinic inside the Gjader centre and, when necessary for urgent treatments which cannot be performed there, the use of emergency and other services in Albania is regulated via an agreement between the Italian and Albanian ministries of health.¹³⁵ According to the MOI, the staff and equipment in the Gjader clinic (including radiology and ultrasound equipment, technicians, psychiatrists, doctors trained in emergencies and nurses) allow for the treatment of the majority of cases without need to take detainees outside the centre, and also for the rapid identification of cases that do require assistance from Albanian health emergency services.¹³⁶

In its letter responding to Amnesty International’s request for information, the MOI described also the steps that the Gjader centre’s authorities take in cases of self-harm. These include the immediate transfer of the person in the clinic inside the centres, the carrying out of assessments, diagnostic tests and medication, and a psychiatric assessment of the mental health condition of the person with the adoption of “measures needed to re-establish the psychological and physical balance” of the individual, who is then then closely monitored by medical staff for a minimum of 24 hours in the medical centre. Then, the psychiatrists and/or psychologists in the centre undertake a second mental health assessment, which can determine that the close monitoring is prolonged or, in case of evidence of suicide risk, can trigger the involvement of the “vulnerability commission” based in Italy,

¹³² National Ombudsman of Italy, Report on the visit of 2 October 2025, p. 8, above.

¹³³ National Ombudsman of Italy, Report on the visit of 2 October 2025, p. 8-9 and p. 15, above.

¹³⁴ See in particular: Constitutional Court of Italy, ruling n. 96 of 9 June - 3 July 2026, paras 10-14, at: https://www.gazzettaufficiale.it/atto/corte_costituzionale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2025-07-09&atto.codiceRedazionale=T-250096; Constitutional Court of Italy, Communication of 3 July 2025, Trattenimento nei centri di permanenza per rimpatri: La disciplina vigente non rispetta la riserva di legge in materia di libertà personale, ma spetta al legislatore integrarla, 3 July 2025, at: https://www.cortecostituzionale.it/documenti/comunicatistampa/CC_CS_20250703152314.pdf;

¹³⁵ Article 4 of the Agreement.

¹³⁶ MOI, Letter to Amnesty International, 1 December 2025.

which can decide that the person is not fit for detention in a “restricted community”.¹³⁷ For people with “self-harm tendencies” of who have repeatedly self-harmed, an “intensive” plan of psychological and medical monitoring is put in place.¹³⁸

Self-harm is a serious concern in Gjader, as in repatriation detention centres in Italy. According to the MOI, between 11 April (date of the first transfer of detainees from Italy to Gjader) and 10 November 2025 there were 54 ‘critical health incidents’ in Gjader.¹³⁹ Data collected by members of parliament and TAI through monitoring visits indicated that between 11 April and 16 May 2025 there had been 42 critical incidents, including at least two attempted hangings, a protest leading to a shattered glass that had injured three people, and various self-harm incidents.¹⁴⁰ According to the MOI, the presence of equipment for radiology and scans in the medical centre of Gjader is key to respond to emergencies, especially self-harm involving the swallowing of objects.¹⁴¹ In addition to self-harm, there are several other challenges to the full enjoyment of the right to health in Gjader.

Transfers are based on the initial health and assessment of suitability for detention done at the start of their detention in Italy and with reference to the characteristics of the specific centre in which they were initially detained.¹⁴² As discussed above, according to the centre’s guidelines, a fresh medical assessment should take place shortly after transfer, but reports indicate issues in this respect.¹⁴³

In June 2025, the Court of Cassation noted that experts had lamented “the lack of provision for a second assessment of suitability, given that the certificate of so-called relative suitability certifies the compatibility of detention with the characteristics of a determined centre. The absence of this provision, which is missing also for the transfer of the foreign national from one repatriation centre to another on national territory, is even more serious with regard to the transfer to Albania, in consideration of the complexities of the transfer and of the difference between the quality of healthcare provided by an Italian health structure and an Albanian health structure (unofficial translation).”¹⁴⁴

At any time, the medical personnel of Gjader can request a fresh assessment regarding the suitability of a detainee to stay in Gjader, which is carried out by the “vulnerability commission”, a medical commission based in Italy, described above.¹⁴⁵ This commission can make the assessment remotely or travel to Gjader. According to TAI, all documented requests of assessment have resulted in a declaration of unsuitability to detention in Gjader, with the subsequent return of the persons involved to Italy.¹⁴⁶ The National Ombudsman, at the time of its visit on 2 October 2025, received information that out of the 192 people taken to Gjader until that moment, the authorities there had requested a reassessment by the “vulnerability commission” in 26 cases and in 25 of these the individuals were

¹³⁷ TAI *Ferite di confine*, p. 21.

¹³⁸ MOI. Letter to Amnesty International, 1 December 2025.

¹³⁹ Letter of the Department for civil liberties and immigration of the Ministry of Interior to Amnesty International and Human Rights Watch, December 2025.

¹⁴⁰ Critical incidents appear to include seven categories: acts of protest and/or causing damage; self-harm; scuffles between detainees; health emergency involving transporting the detainee to an external hospital; confiscating medicines arrived as part of personal effects from Italy; psychiatric monitoring following a crying crisis or other symptom of psycho-physical distress; verbal or physical violence against the staff. The list is included in the response provided by the MOI Department for civil liberties and immigration, in May 2026, to the National Ombudsman report, available at: Ministry of Interior, report on the visit carried out by the National Ombudsman for the rights of people deprived of their personal liberty, of 28 May 2026, available at: https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/20261006_Risposta_Prefetto_Rabuano.pdf

¹⁴¹ Letter of the Department for civil liberties and immigration of the Ministry of Interior to Amnesty International and Human Rights Watch, December 2025.

¹⁴² Ministry of Interior, *Direttiva 19 maggio 2022. Criteri per l'organizzazione e la gestione dei centri di permanenza per i rimpatri*, 19 May 2022, at: www.interno.gov.it/it/amministrazione-trasparente/disposizioni-general/atti-general/atti-amministrativi-general/decreti-direttive-e-altri-documenti/direttiva-19-maggio-2022-criteri-lorganizzazione-e-gestione-dei-centri-permanenza-i-rimpatri

¹⁴³ TAI *Ferite di confine*, p. 21-22.

¹⁴⁴ Court of Cassation, Ufficio del Massimario e del Ruolo, *Relazioni su novità normativa Decreto legge 28 marzo 2025, n. 37, recante “Disposizioni urgenti per il contrasto dell’immigrazione irregolare”, convertito con modificazioni, in legge 23 maggio 2025, n.75, p. 36.*

¹⁴⁵ TAI, *Ferite di confine*, p. 22.

¹⁴⁶ TAI, *Ferite di confine*, p. 22.

declared “not suited to life in a restricted community”. In addition, the authorities said that within five days of arrival, a doctor and a psychologist based in Gjader reassess each detainee.¹⁴⁷

In August 2025, the Court of Rome, issuing an urgent decree to prevent possible irreparable harm to a claimant detained in Gjader, underscored the impossibility to guarantee the right to health to people detained in Albania. The problem addressed by the judge in that case, namely the administration of medicines without adequate legal safeguards, as well as the lack of access to healthcare through the Italian national health system, are structural problems regarding repatriation detention centres throughout Italy, as noted by the CPT in its latest report.¹⁴⁸ It is a long-standing concern that in repatriation detention centres in Italy the provision of health care is not regulated by law, but by secondary sources of legislation such as ministerial circulars, and that it is largely delegated to the private contractors which manage the centres, with limited oversight checks by the national health service.

5.4 RISK OF VIOLATION OF THE PRINCIPLE OF NON-REFOULEMENT

The MOI confirmed to Amnesty International that five Egyptian nationals were repatriated in a single operation on 9 May 2025 from the airport of Tirana, Albania, on a charter flight that took off from Rome and stopped in Tirana.¹⁴⁹ The five men had been transferred to Gjader from repatriation detention centres on Italian territory on 2 May 2025. The transfer from Gjader to Tirana airport was carried out by staff and on vehicles of the Rome police (Nucleo di coordinamento e raccordo interforze). The men were assessed by medical staff at the Gjader clinic for suitability for travel and subsequently issued with a fit-to-travel certificate. The MOI maintains that the repatriations were carried out in line with domestic legislation, namely Article 4 of the Ratification law of the Agreement on jurisdiction and applicable law, together with Articles 13 and 14 of the Immigration Act, which do not require the further involvement of administrative or judicial authorities for the execution of the repatriation of a foreign national already detained in a repatriation centre. The National Ombudsman for the rights of people in detention or deprived of personal liberty was informed, as for any repatriation charter flight.¹⁵⁰

Such procedure, which involved taking the Egyptian nationals outside the detention centre of Gjader, and transporting them through Albanian territory, is not foreseen in the Agreement nor in the Ratification law, nor in Decree-law 37/2025 which amended the Ratification law.¹⁵¹

The lack of a legal framework for this type of operations could create a grey area, where people’s treatment during the transfer or their ability to access remedies – including an appeal to the removal itself - cannot be monitored.

Obstacles to returnees’ access to remedies, especially in cases where they are prevented in practice from submitting substantial grounds for believing that the return would expose them to a risk of serious human rights violations, might place the returning state in violation of the principle of non-refoulement.

Furthermore, in this type of operation people are taken out of the areas over which the Agreement establishes that Italy has jurisdiction and transported through Albanian territory to be deported from

¹⁴⁷ National Ombudsman of Italy, Report on the visit of 2 October 2025, above, p. 12-13.

¹⁴⁸ Prima Sezione Penale, Corte di Cassazione, Ordinanza Numero: 23105, deposito del 20 giugno 2025, at: https://www.cortedicassazione.it/it/penale_dettaglio.page?contentId=SZP45444

¹⁴⁹ The news had initially been reported by the magazine *Altraeconomia*. See: *Altraeconomia*, La prima operazione di rimpatrio del governo italiano direttamente dall’Albania, 23 June 2025, <https://altreconomia.it/il-primo-rimpatrio-italiano-di-migranti-irregolari-direttamente-dallalbania/> and *Il Fatto Quotidiano*, Migranti rimpatriati direttamente da Tirana, il Viminale cambia idea: “Si può”. Le opposizioni: “Illegittimi”, 25 June 2025, www.ilfattoquotidiano.it/2025/06/25/migranti-rimpatriati-direttamente-da-tirana-il-viminale-cambia-idea-si-puo-le-opposizioni-illegittimi/8039301/

¹⁵⁰ Letter of the Department for civil liberties and immigration of the Ministry of Interior to Amnesty International and Human Rights Watch, December 2025, on file with the organization.

¹⁵¹ Atto Camera, Interrogazione a risposta orale 3-02041, presentato da Scarpa Rachele, testo di Mercoledì 25 giugno 2025, seduta n. 499, at: https://documenti.camera.it/leg19/resoconti/assemblea/html/sed0499/leg.19.sed0499.allegato_b.pdf

an Albanian airport in the absence of legal provisions. It is unclear how claims of ill-treatment and other violations that might occur in the context of these transfers would be regulated and which remedies, if any, would be available to the returnee.

The limited options for communication between detainees and their lawyers and families compound the obstacles around detainees' access to rights in deportations carried out from an extraterritorial detention centre and enhance the risk of violations of their human rights.

6. OVERARCHING CONCERNS REGARDING THE AGREEMENT AND ITS IMPLEMENTATION

6.1 LACK OF TRANSPARENCY AND RESTRICTIONS TO INDEPENDENT MONITORING

The risk of human rights violations in Gjader is aggravated by the difficulty to ensure effective independent monitoring of conditions of detention and treatment of detainees in an extraterritorial structure. It has also been compounded by limitations on independent monitoring imposed by the Italian government and by its reticence to share information about the implementation of the Agreement.¹⁵² Lack of transparency and inadequate independent monitoring frustrate and jeopardize efforts to ensure accountability and redress for human rights violations.

The Ratification law states that the National Ombudsman for the rights of people deprived of personal liberty (which is also the National Preventive Mechanism against torture) exercises its functions in the centres in Albania, "without new or additional burden for public finances".¹⁵³ The government's failure to allocate additional resources for monitoring an extraterritorial detention facility raises concern about the effectiveness of monitoring activities.

In July 2025, the Ombudsman for people deprived of personal liberty of the Lazio region and of the city of Rome carried out their first, brief visit to Gjader, assuming their geographical competence to monitor the centre given that Gjader is under the responsibility of the Prefect of Rome. However, as described by the Lazio region Ombudsman in its annual report, such competence was contested by the Ministry of Interior, reportedly based on the opinion of the National Ombudsman. The Lazio region and city of Rome Ombudsman are exploring judicial avenues to clarify the interpretation of the Ratification law and their role in monitoring rights in the centres in Albania.¹⁵⁴

Delegations led by members of the Italian and EU parliaments have been able to carry out unannounced visits to Gjader and Shengjin, taking with them experts, such as lawyers and representatives of NGOs, which is allowed under domestic law.¹⁵⁵ However, members of parliament and representatives of NGOs experienced and denounced limitations imposed by the authorities in the Albanian centres, including challenges in obtaining access to the centres, access to data and other information held by the authorities in the centres and in being allowed to have protected conversations with the detainees. On some occasions, members of the delegations were asked to sign a declaration confirming that they were not journalists.¹⁵⁶ In the latest instance of reported obstruction of independent monitoring, in June 2026, a delegation of members of the European parliament,

¹⁵² Amnesty International EU, post on X of 11 April 2025, <https://x.com/AmnestyEU/status/1910703076022931713>

¹⁵³ Article 4(19) of the Ratification law.

¹⁵⁴ Ombudsman for people deprived of personal liberty of the Lazio region, *Relazione sull'attività svolta e sui risultati ottenuti ai sensi della legge regionale del Lazio 6 ottobre 2003, n. 31, Annualità 2025 – Relazione di fine mandato 2016-2026*, Chiusa redazionalmente il 27 Luglio 2026, para. 5.2.2., at: www.garantedetenutilazio.it/app/uploads/2026/07/relazione-per-la-stampa-def.pdf

¹⁵⁵ Article 67 of the Penitentiary law, Law 354 of 1975, available at: www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1975-07-26;354&vig=2025-06-03

¹⁵⁶ TAI, *Oltre la frontiera*, p. 11.

visiting Gjader and Shengjin, denounced that the authorities denied them entry to the individual cells and refused to disclose information that had been requested.¹⁵⁷

For civil society organizations, participating in visits led by members of parliaments has been the only way to access the centres in Albania as of the time of writing. In April 2025, the MOI imposed restrictions on members of parliament visiting repatriation centres, including Gjader, requiring that people accompanying them should be functionally employed by their office; that the visit should be carried out within a time frame that does not disrupt the centre's personnel from their tasks; that the visit should be limited in scope, given that other institutions have the power to carry out inspections; and that any interviews with detainees should not hinder the tasks of the centre's personnel, should be concluded within "reasonable" time, and should not cover issues that the detainee should take up with his lawyers.¹⁵⁸ This administrative measure considerably restricts the prerogatives of members of parliament which are enshrined in law and expands the discretion of the officials responsible for surveillance in the detention centres.

In 2025, following three requests by the organization in May, July and October, the MOI repeatedly denied authorization to Amnesty International to visit the centres of Shengjin and Gjader on vague and unsubstantiated security and public order grounds, failing to indicate when the hindering issues might be resolved and when a visit might become possible.¹⁵⁹

In February 2026, the Lazio administrative tribunal ruled in favour of the lawyers' network ASGI, whose members had also been denied access to Gjader by the MOI, specifically by the Prefect of Rome, who alleged that due to the "media uproar" surrounding the centres it was preferable to avoid authorizing visits to the centres to avoid public order and security risks. The administrative court found that authorization to visit the centres by organizations with a statutory interest could be delayed but not denied indefinitely and only for real and motivated risks for public order and security.¹⁶⁰

Obtaining information from the Italian government about the implementation of the Agreement has been a challenge for members of parliament¹⁶¹, journalists, lawyers and NGOs.¹⁶² While a significant amount of information has emerged, this is due to a considerable effort and investment of resources by these actors to ensure some public scrutiny. Lawyers, journalists and NGOs frequently resorted to freedom of information requests and in some cases had to pursue the request through the courts due to the obstruction of the government.¹⁶³

¹⁵⁷ Euronews, Centri migranti in Albania, eurodeputati accusano: "Accesso negato e nessuna trasparenza", 29 June 2026, at: <https://it.euronews.com/my-europe/2026/06/29/centri-migranti-in-albania-eurodeputati-accusano-accesso-negato-e-nessuna-trasparenza>

¹⁵⁸ Coalizione Italiana Libertà e Diritti Civili, Ispezioni nei CPR a rischio: la circolare del Ministero dell'Interno", 9 September 2025, <https://cild.eu/blog/2025/09/09/ispezioni-nei-cpr-a-rischio-la-circolare-del-ministero-dellinterno/#:~:text=Con%20la%20Circolare%20del%2018%20aprile%202025%20%28qui,dei%20centri%20e%20segnalano%20eventuali%20critic%C3%A0%2C%20di%20accedervi>

¹⁵⁹ MOI letter of 26 June 2025. Amnesty International first requested to visit the centres in Albania in May 2025, asking that its delegation be allowed in the centres for three days, to conduct confidential interviews with detainees wishing to speak to the delegates, as well as with officials. The MOI rejected the request in a letter dated 26 June 2025. The request was reiterated in July 2025; and in October 2025 jointly with Human Rights Watch.

¹⁶⁰ ASGI, Progetto In Limine, Accedere nel centro di Gjader in Albania è un diritto. La decisione del TAR Lazio, 16 Marzo 2026, www.asgi.it/inlimine/accedere-nel-centro-di-gjader-in-albania-e-un-diritto-la-decisione-del-tar-lazio/

¹⁶¹ Agenparl, Albania: Pd, caos nella gestione e totale mancanza di trasparenza dal Governo, 14 April 2025, <https://agenparl.eu/2025/04/14/albania-pd-caos-nella-gestione-e-totale-mancanza-di-trasparenza-dal-governo/>

¹⁶² See for example: De Correspondent, Migranten opsluiten in een kooi in Albanië: Italië doet het, Nederland wil het, 29 January 2026, <https://decorrespondent.nl/16658/migranten-opsluiten-in-een-kooi-in-albanie-italie-doet-het-nederland-wil-het/fa2d4168-e4b9-01d5-3733-1775265ebf44#selectie-op-zee>. The reporters wrote (unofficial translation): "...although the Italy-Albania deal is described as 'a model' by friend and foe alike, it is made almost impossible for the outside world to see that model. Dozens of requests we made for interviews, reports and documents were rejected by the authorities. Often we didn't even receive a response – you can't appeal against silence. And slowly we discovered that this smokescreen is exemplary for the deal. Employees sign strict confidentiality agreements. Contracts are not put out to tender publicly and sometimes not even made public."; See also TAI, Ferite di confine, p. 6.

¹⁶³ MeltingPot, Accesso FOIA al registro degli eventi critici del CPR di Gjader: il CdS conferma l'obbligo di consegna - Consiglio di Stato, sentenza n. 2406 del 23 marzo 2026, 1 April 2026, www.meltingpot.org/2026/04/accesso-foia-al-registro-degli-eventi-critici-del-cpr-di-gjader-il-cds-conferma-l-obbligo-di-consegna/

6.2 UNDERMINING ACCOUNTABILITY, SAFEGUARDS AND THE RULE OF LAW

The Italian Prime Minister and government have sidelined parliament since the inception of the project, which was decided bilaterally between the Prime Ministers of Italy and Albania without the involvement of their cabinets. The intention was to treat it as an informal agreement, building on existing international treaties ratified by the two countries, that would have entered into force with the mere exchange of letters between the two governments.¹⁶⁴ In Italy, opposition parties and civil society protested that such a course of action would have violated Article 80 of the Italian Constitution, which requires that parliament authorizes, through a law of ratification, any international treaties of a political nature, or involving judicial agreements or changes to national territory and legislation or which impacts on national finances.¹⁶⁵ Reluctantly, the Italian government tabled a ratification law.

Later, in March 2025, the substantial changes to the Ratification law that were required to expand the purpose of the centres in Albania to detain people with expulsion orders were tabled by the government in the form of yet another decree-law, immediately enforceable and valid for 60 days, which was then converted into permanent legislation with no amendments. Recent data¹⁶⁶ indicate that Giorgia Meloni's government issued some three decree-laws a month, arguably failing in most cases to meet the constitutional requirements for this type of legislation, which provides for their use in "extraordinary cases of necessity and urgency".¹⁶⁷

Furthermore, the implementation of the Agreement has been punctuated by the government openly and at times virulently criticizing specific courts or judges for not upholding orders of detention in Albania. The Italian Prime Minister and cabinet ministers have also adopted an aggressive rhetoric against judges with the aim of undermining public trust in the rule of law and of challenging the independence of the judiciary.¹⁶⁸ With political debate growing increasingly aggressive in the background, in October 2024, a judge who did not validate the detention of people in Albania received anonymous death threats, and was placed under police protection.¹⁶⁹ Following the events, the National Association of Judges issued a statement calling for jurisdiction to be respected as an

¹⁶⁴ AGI, L'accordo sui migranti con l'Albania non passerà per il Parlamento, 8 November 2023, www.agi.it/politica/news/2023-11-06/italia-albania-accordo-gestione-migranti-23841053/; for an articulated critique of the initial government's position, see: SIDIBlog, Sull'illegittimità del Protocollo Italia-Albania in materia migratoria, 9 November 2023, <https://www.sidiblog.org/2023/11/09/sull'illegittimità-del-protocollo-italia-albania-in-materia-migratoria/>

¹⁶⁵ Italian Constitution at: <https://www.senato.it/istituzione/la-costituzione>

¹⁶⁶ Il Post, Il governo Meloni fa decreti-legge come nessun altro, 8 October 2023, www.ilpost.it/2023/10/08/governo-meloni-abuso-decreti-legge/; Openpolis, Il governo Meloni pubblica in media 3 decreti legge al mese, 18 June 2025, www.openpolis.it/numeri/il-governo-meloni-pubblica-in-media-3-decreti-legge-al-mese/

¹⁶⁷ Article 77 of the Italian Constitution.

¹⁶⁸ TAG24, Migranti Albania, scoppia il caso Nordio, le opposizioni chiedono le dimissioni dopo le frasi sulla magistratura, 19 October 2024, at: www.tag24.it/1227673-migranti-albania-nordio-magistratura-dimissioni/; La Repubblica (La Repubblica's youtube channel), Migranti, Nordio: "Su Albania sentenza abnorme, interverremo con provvedimenti", 21 October 2024, www.youtube.com/watch?v=h7ywBO-PwVg; Il Fatto Quotidiano, Migranti in Albania, la destra attacca ancora i giudici dopo il nuovo stop. Delmastro: "Il progetto continua, non ci arrendiamo", 11 November 2024, www.ilfattoquotidiano.it/2024/11/11/migranti-in-albania-salvini-attacca-ancora-i-giudici-dopo-il-nuovo-stop-portano-la-bandiera-rossa-in-tribunale/7763651/; Fanpage, Meloni attacca i giudici per il rimborso al migrante trasferito in Albania: "Continuano a ostacolarci", 17 Febbraio 2026, at: www.fanpage.it/politica/meloni-attacca-i-giudici-per-il-rimborso-al-migrante-trasferito-in-albania-continuano-a-ostacolarci/; La Repubblica, Migrante trasferito in Albania e risarcito, cosa non torna nella ricostruzione di Meloni, 18 February 2026, at: www.repubblica.it/politica/2026/02/18/news/migrante_trasferito_albania_risarcito_ricostruzione_meloni_fact_checking-425166381/; ANSA, Meloni: 'I giudici revocano il trasferimento in Albania anche a chi stupra i minori', 11 March 2026, www.ansa.it/sito/notizie/politica/2026/03/11/meloni-i-giudici-revocano-il-trasferimento-in-albania-anche-a-chi-stupra-i-minori_f3cc571a-baf1-4632-90e1-89d863a6b227.html

¹⁶⁹ Rai News, Minacce di morte contro la giudice Albano: "Spero che qualcuno ti spari presto", 24 October 2024, <https://www.rainews.it/tgr/lazio/articoli/2024/10/minacce-di-morte-contro-la-giudice-albano-spero-che-qualcuno-ti-sparsi-presto-7038ffcd-254d-4ac3-a9d0-fdbd4405f802.html>; La Repubblica, Non convalidò il trasferimento dei migranti in Albania, rafforzata la scorta per la giudice Silvia Albano - la Repubblica, 2 November 2024, https://www.repubblica.it/politica/2024/11/02/news/migranti_penalisti_corte_ue-423593674/

independent and autonomous function, stating that “the judiciary cannot be expected to adopt decisions inspired by a need to cooperate with the government in charge.”¹⁷⁰

In addition, the government fast-tracked legislation aimed at circumventing courts’ oversight or at restricting the powers of the judiciary. For example, as seen above, in 2024 the government issued a decree-law which included the list of countries which Italy deems to be ‘safe’ countries of origin (whose nationals should have their asylum claims assessed in accelerated procedures while detained in border zones). The list was previously issued via ministerial decree/administrative act.¹⁷¹ The measure was intended to limit the discretion of courts that are required by law to proactively assess whether a country is safe for the individual applicant.

The competence to validate orders of detention was also swiftly transferred from the immigration sections of ordinary tribunals to the courts of appeals, as discussed earlier in the document. ASGI connects the move to the “notorious opposition between the government and the judiciary” speaking of an “manifest intent” to take the responsibility of validating detention orders away from the specialized tribunal judges, at the same noting that the measure fails to provide for the training of the Court of Appeal judges now responsible for this matter. It also expressed concerns that the move narrows down asylum seekers’ defence rights; it “splits up” the management of international protection cases, assigning part of the proceedings to a different judge than the one tasked with assessing the asylum application.¹⁷² Various courts of appeal also expressed concerns about the expansion of their remit.¹⁷³

At the international level, Italy has also been at the forefront of political initiatives to undermine the independence of the European Court of Human Rights, especially pushing for a change in jurisprudence which would undermine the right to asylum and the principle of non-refoulement.¹⁷⁴

7. CONCLUSIONS AND RECOMMENDATIONS

In the two and half years of implementation of the Agreement, evidence of human rights violations by the Italian authorities against people subjected to it has steadily accumulated. These include failures to uphold the rights to life and physical integrity of people in distress at sea in line with Italy’s obligations under the law of the sea, as well as substantial and procedural/due process violations of the rights to liberty, to be free from torture and ill-treatment, to seek asylum and to be treated with dignity and without discrimination against refugees and migrants transferred to Albania. This situation has disproportionately impacted on people who are racialized and about whom officials have repeatedly used negative and harmful rhetoric and tropes.

Nearly three years since the Agreement was announced, the problematic laws, processes and practices through which the Italian government adopted and implemented it which jeopardize human rights and undermine safeguards, are a cause for alarm. This, combined with the authorities’ methods for pushing through laws which bypass the usual scrutiny and further their open criticism of

¹⁷⁰ Associazione Nazionale Magistrati – ANM (National association of judges and prosecutors), *Solidarietà a Silvia Albano*, 26 October 2024, <https://www.associazionemagistrati.it/doc/4436/solidariet-a-silvia-albano.htm>; ANM, *Rispetto per la giurisdizione è una necessità democratica*, 22 October 2024, <https://www.associazionemagistrati.it/doc/4424/rispetto-per-la-giurisdizione-una-necessit-democratica.htm>

¹⁷¹ Legislative Decree n. 258 of 23 October 2024, <https://www.normattiva.it/eli/id/2024/10/23/24G00177/ORIGINAL>

¹⁷² ASGI, *La nuova strategia per i trattenimenti - Fuga dal giudice specializzato e dalla Corte di Cassazione*, January 2025, at: <https://www.asgi.it/wp-content/uploads/2025/01/ANALISI-GIURIDICA-La-nuova-strategia-per-i-trattenimenti-.docx.pdf>

¹⁷³ La Magistratura (Online newspaper managed by the ANM), *Presidenti Corti appello: riforma competenze immigrazione “un disastro annunciato”*, 19 Novembre 2024, <https://lamagistratura.it/primopiano/presidenti-corti-appello-riforma-competenze-immigrazione-un-disastro-annunciato/>

¹⁷⁴ Open Letter signed by the governments of Denmark, Italy, Austria, Belgium, Czech Republic, Estonia, Latvia, Lithuania, Poland, 22 May 2025, at: https://www.governo.it/sites/governo.it/files/Lettera_aperta_22052025.pdf; Council of Europe, Council of Europe foreign ministers adopt political declaration on the ECHR and migration, ; Amnesty International European Institutions Office, CoE: Declaration on migration paves way for ‘two-tier’ human rights system – What you need to know. 22nd May 2026, at: <https://www.amnesty.eu/news/council-of-europe-declaration-on-migration-paves-way-for-two-tier-human-rights-system-what-you-need-to-know/>

the judiciary when it has imposed limits to guarantee rights make for a deeply troubling situation which must be urgently addressed.

Amnesty International calls on Italian authorities to:

- End the Agreement with Albania, which in and of itself jeopardizes human rights and is resulting in violations of Italy's human rights obligations. Urgently implement alternatives to migration detention, which according to international standards must remain the last resort and used for the shortest possible time when there is a reasonable prospect of repatriation.
- With regard to people who have received an expulsion order, adhere strictly to the principles of necessity and proportionality in the adoption of measures restricting their rights and particularly the right to personal liberty: detention can only be imposed on individuals who have received a legitimate expulsion order, where there is a realistic prospect of removal within a reasonable time, for the shortest possible time, as a measure of last resort, preceded by an individualized assessment of each case, and when it is demonstrated that in the specific case such restriction is necessary and proportionate and that other less coercive measures are found to be insufficient.
- Refrain from applying different and accelerated procedures based on the concept of 'safe country of origin', which undermines access to an individualized assessment of asylum claims, may amount to an unreasonable presumption against the validity of their claim, and generates a risk of discrimination on the basis of a person's nationality.
- Immediately end transfers of detainees with expulsion orders to Gjader. All detainees currently in Gjader should be brought back to Italy.
- Ensure access to human rights compliant and effective asylum procedures and dignified reception on Italian territory to all people seeking international protection.
- Ensure that people in distress at sea are promptly rescued and disembarked at a place of safety and that they have access to territorial asylum.
- Ensure that the implementation of the EU Pact on Migration and Asylum is in line with Italy's international human rights law and refugee law obligations, including by upholding the human rights including the right to personal liberty of asylum seekers and migrants.
- Ensure that asylum applications, including those from countries deemed 'safe' by Italy, are assessed adequately and individually, to prevent removal measures that violate the principle of non-refoulement and that asylum seekers' right to judicial review is upheld.
- Protect and uphold the independence of the judiciary, including by immediately ending any undue pressure and interference on the courts' ability to decide on relevant matters, including the detention of migrants.
- Refrain from engaging in public communication that entrench harmful stereotypes against migrants and refugees, and/or convey false or misleading information about them.

Amnesty International calls on EU member states and institutions to:

- Refrain from reproducing similar harmful attempts to deny access to territorial asylum and process claims for international protection extraterritorially which inherently jeopardize human rights. It also urges states to deliver on their obligations to respond to people rescued in distress at sea and people seeking international protection in line with their international law obligations, instead of trying to shift the responsibility to third countries further through return hubs, safe third country arrangements or otherwise.

Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

Contact

info@amnesty.org



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amnesty.org



Amnesty International
Peter Benenson House
1 Easton Street
London WC1X 0DW, UK

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