

Legal strategies to combat externalisation policies

The dispute over Italian-Tunisian cooperation

July 2024

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Introduction

Relationships between Tunisia and Italy as regards migration clearly reflect the dynamics and consequences of border management externalisation and delegation policies. Above all, it emerges that cooperation to prevent the departure of migrants and their repatriation is impervious to assessments of respect for human rights. The management of migration, but above all its containment and control of entries into Italian territory, seems to have attained the status of a supreme good to be protected by all possible means.

Cooperation with Tunisia has historic roots, and the movement of people between the two countries is equally long-standing. An initial agreement was signed in August 1998: it sought to regulate the entry and residence of Italian and Tunisian citizens in the territories of the two countries. The agreement focused on preventing and combating “illegal immigration”, whereby Italy supported Tunisia with “technical and operational means” and “ad hoc emergency contributions”, as well as the readmission of people in irregular administrative positions. This agreement was followed by a series of processes which were strengthened in 2011 in response to massive arrivals caused by socio-political events in Tunisia which gave rise to simplified yet particularly effective repatriation mechanisms¹.

The management of repatriations of Tunisian citizens has remained a priority for more than two decades: Tunisia is one of the few countries with which Italy has well-functioning repatriation agreements, so much so that in 2023 repatriated Tunisians represented 58% of total repatriations².

Over the last few years, as Tunisia took on a strategic position as a transit country, cooperation has also extended into mobility control systems within the country: inasmuch, not only the supply of means and instruments to limit departures by its own citizens but also the creation of mechanisms designed to discourage other people crossing Tunisia to reach Italy. These additional aspects were part of the already well-established cooperation developed within the “Italian-Tunisian working group”, whereby authorities from the two countries met at regular intervals as of April 2015 to discuss issues concerning the “fight against irregular immigration.” This collaboration envisages the supply of patrol boats,

¹ For further information, see: <https://sciabacaoruka.asgi.it/accordi-italia-tunisia-migrazione/>;
<https://sciabacaoruka.asgi.it/italia-tunisia-accordi-rimpatrio/>

² See the 2023 Report of the National Ombudsman for persons deprived of liberty, available here: <https://repertoriofam1.interno.gov.it/2024/03/15/prodotto-5796/>

maintenance of their efficiency, preparation of training courses and transfer of specific equipment.

In 2019, collaboration on repatriations became the driving force supporting policies for the externalisation and delegation of border controls. [Article 12 of Law 53/2019](#) envisages the creation of a reward fund for repatriation policies to finance cooperation action “for the purpose of rewarding such action as regards the readmission of irregular persons present in Italy arriving from states not belonging to the European Union.”

The Reward Fund is an extremely powerful mechanism even from a symbolic point of view: it reveals the conditionality underlying externalisation policies (more cooperation in response to growing numbers of repatriations) and explains the link between readmissions and departure controls. Moreover, the Reward Fund may also be used to finance a plethora of interventions, such as: “a) measures to support institutions in destination countries, not the least through training programmes and upgraded institutional capacities that include border control and prevention/combating of trafficking in human beings; b) support programmes to protect particularly vulnerable refugees and migrants; c) assisted voluntary repatriation of migrants to countries of origin; d) reintegration in the destination countries of persons readmitted pursuant to the agreements referred to in Article 2, not the least through the development of local communities.”

As of 2019, externalisation policies in Tunisia are almost exclusively financed through this Fund.

Externalisation strategies in Tunisia

The dynamics of collaboration between the two countries are stratified, varied and operate at several levels. They can be briefly classified as: policies banning mobility - such as funding for border control authorities, as well as related technical equipment and training; policies that aim to legitimise the ban on mobility and facilitate readmission and repatriation measures, including third-country nationals - such as measures designed to create an asylum and protection system and finance from international organisations and humanitarian action; policies to redirect mobility towards the countries of origin of migrants.

Tunisia has strenuously resisted Italian and European pressure to transform the country into a migration “hub”: faced by the insistent desire of the EU Commission to create “[controlled centres](#)”, through to pressure from Italy in recent months, successive Tunisian governments have reiterated that Tunisia would not become a kind of “sorting office” for migrants, nor a destination country for them³. Tunisia has never implemented organic law relating to international protection and has no protection system outside the minimum measures guaranteed by the UNHCR, substantially through Italian and EU funds.

Despite the absence of a protection system, mechanisms to block mobility in terms of leaving the country have been widely subsidised: since 2017, Italy has provided equipment and training of border control authorities in Tunisia through several projects. In particular, Italy has invested: 12 million euros from the so-called Africa Fund of the Ministry of Foreign Affairs for “Technical support by the Italian Ministry of the Interior for pertinent Tunisian authorities to improve border and migration management, including the fight against migrant trafficking and search and rescue activities”; 20 million euros from the European Union Trust Fund for Africa (EUTF) for the project “Italian initiative on maritime surveillance. Integrated maritime border surveillance system in Tunisia”; 27 million euros from the Reward Fund for repatriation policies of the Ministry of Foreign Affairs to finance the project “Support for border control and management of migratory flows in Tunisia.” Lastly, in December 2023, 4.8 million euros were set aside to upgrade and transfer six naval units already in use by the Italian Guardia di Finanza to the Tunisian National Guard and 9 million euros to be allocated to purchase fuel by Tunisian authorities as needed for coastal patrol and search and rescue at sea operations⁴. The latter funding is from the budget of the Ministry of the Interior⁵.

³ <https://ilmanifesto.it/migranti-per-la-quarta-volta-meloni-vola-in-tunisia-da-saied>

⁴ <https://www.poliziadistato.it/statics/41/decreto-protocollato.pdf>

⁵ For more information, see The Big Wall: <https://www.thebigwall.org/>

In relation to the blockade to “alleviate migratory pressure” on the country, Italy and the EU provide financial support for assisted voluntary repatriation programmes, managed entirely by the International Organisation for Migration (IOM). These programmes are put forward as a humanitarian measure and a tool for managing migratory flows. The IOM Migration Glossary defines them as a means of “administrative, logistical and financial support, including reintegration assistance, to migrants unable or unwilling to remain in the host country or country of transit and who decide to return in their country of origin.”⁶ Voluntary repatriation is a migration governance tool that has often been combined with blockade policies implemented in transit countries: examples in Libya⁷ and Nigeria⁸ illustrate the serious limitations of this system. The consequences of these programmes are best understood in the context in which they are implemented. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has expressed concern over the use of assisted voluntary returns “in particularly complex humanitarian and human rights situations such as Libya, as well as other contexts where the protection of human rights and access routes to third countries are limited.” Inasmuch, “there is a particular risk that assisted returns could compromise the effective acknowledgement of the human rights of migrants.”⁹ For many people in Tunisia, more or less all those who do not come from countries included in the OHCHR list of non-repatriation countries¹⁰ and who do not present particularly serious vulnerabilities, voluntary repatriation is probably the only way to escape the violent situation in the country.

While strengthening border guards, on the one hand, makes it extremely difficult to leave the country - several testimonies speak of multiple attempts to cross the

⁶ https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf

⁷ See OHCHR, Nowhere but back: Assisted return, reintegration and the human rights protection of migrants in Libya (<https://www.ohchr.org/sites/default/files/2022-10/OHCHR-Report-on-assited-return-and-reintegration.pdf>)

⁸ With reference to the situation in Nigeria, the Special Rapporteur for the rights of migrants clarified that “IOM states that its assisted voluntary return programme is based on voluntary return, defined by (a) the absence of physical or psychological pressure to enrol in the programme and (b) an informed decision, that is, a decision based on timely, unbiased and reliable information. However, the Special Rapporteur notes that when there are no sufficiently valid alternatives to assisted voluntary return (e.g. through the facilitation of temporary permits or permanent residence, accompanied by relevant administrative, logistic and financial support) the return can hardly be qualified as voluntary (A/HRC/38/41, para. 30).” (<https://www.ohchr.org/en/documents/country-reports/ahrc4138add1-visit-niger-report-special-rapporteur-human-rights-migrants>)

⁹ <https://www.ohchr.org/sites/default/files/2022-10/OHCHR-Report-on-assited-return-and-reintegration.pdf>

¹⁰ In Tunisia, only people of certain nationalities included in the list of non-repatriation countries can register asylum applications with the UNHCR. By way of example, see: <https://data.unhcr.org/en/documents/details/108432>

Mediterranean - on the other, the institutional and social climate in the country encourages foreign citizens to try to escape.

Since February 2023, President Saïed - who had already given his government an authoritarian turn in July 2021 - made an explicit and actively xenophobic speech that appealed to the well-known theses of so-called ethnic replacement invoked by many of the global right-wing sovereignty movements.

The President's rhetoric prompted increased hostility and racial discrimination towards migrants, as [stated](#) by the Committee for the Elimination of Racial Discrimination (CERD) on 31 March 2023 . Many migrants, refugees and asylum seekers, especially from sub-Saharan regions, have lost their jobs. The Ministry of Labour has announced intensive campaigns to monitor employment of foreign workers, particularly in tourist, industrial and agricultural areas. Employers were instructed to suspend individuals identified as foreign workers immediately. Police officers visited companies to impose the immediate dismissal of illegal employees, under threat of criminal prosecution.

Following the first Presidential announcement, security forces have apprehended thousands of sub-Saharan people, regardless of their legal status as such, often in an arbitrary manner. These discriminatory practices have intensified since July 2023: thousands of people were deported to Libya and Algeria. These forced displacements were accompanied by violence and acts of torture. They involved several hundred people, including children and women, who were left stranded in desert areas without access to water and food in inhumane conditions, causing numerous deaths, as [confirmed](#) by the United Nations High Commissioner for Human Rights and condemned by UN committees¹¹. Many international organisations, including Human Rights Watch¹² and the World Organization Against Torture (WOAT)¹³, have extensively documented these abuses against migrants, refugees and asylum seekers perpetrated and/or tolerated by Tunisian authorities.

Between November 2023 and April 2024, forced and arbitrary transfers to border areas continued, involving people apprehended during land operations and persons intercepted at sea. The authorities implemented a series of operations in

¹¹ See the positions as per the following links:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28292>;
<https://www.ohchr.org/en/press-releases/2023/07/un-experts-urge-tunisia-act-swiftly-uphold-migrants-rights>;
<https://www.ohchr.org/en/press-briefing-notes/2024/05/tunisia-concern-increased-targeting-migrants>.

¹² <https://www.hrw.org/news/2023/07/19/tunisia-no-safe-haven-black-african-migrants-refugees>;
<https://www.hrw.org/world-report/2024/country-chapters/tunisia#284910>

¹³ <https://omct-tunisie.org/2023/12/18/les-routes-de-la-torture/>

coastal areas intended to prevent departures to Europe, including demolition of informal settlements and denial of access to basic rights and services¹⁴. Civil society organisations, human rights activists and organisations providing legal assistance have confirmed several cases of human trafficking and kidnapping, as well as cases of gender-based violence, sexual exploitation and sexual violence, allegedly carried out by criminal networks and, in many cases, with the complicity of state authorities.

Alongside such violence on land, numerous testimonies and reports denounce violent intervention methods at sea by the Tunisian National Guard and its collusion with human trafficking networks. Dangerous manoeuvres intended to block boats have occurred and, on some occasions, have caused shipwrecks and even the death of migrants; guns and sticks were also used to threaten people on board. The boats' engines were also stolen, leaving them adrift, as well as other extremely dangerous practices¹⁵.

In May 2024, repression against migrants saw a new wave of arrests, deportations and forced transfers to peripheral areas in the country, accompanied by ferocious persecution of civil society figures helping them¹⁶. Journalists, lawyers and defenders of human rights have been subjected to arrests and intimidation, as well as instrumental and specious accusations.¹⁷

These very serious violations of human rights in Tunisia were verified by the CERD, which sent a further [communication](#) to the Tunisian government on 7 June 2024.

Despite these developments in Tunisia, little or nothing has changed as regards Italian and European policies.

In fact, Italy's strategy complements the European approach: on the one hand, some of the funds used by Italy come from the European Union. On the other, the

¹⁴ Ibid.

¹⁵ For more information see:

[https://alarmphone.org/fr/2022/12/19/politiques-meurtrieres-en-mediterranee/;](https://alarmphone.org/fr/2022/12/19/politiques-meurtrieres-en-mediterranee/)

<https://www.hrw.org/news/2023/10/10/tunisia-african-migrants-intercepted-sea-expelled;>

<https://www.infomigrants.net/fr/post/48419/tunisie--les-gardecotes-accuses-de-voler-les-moteurs-des-migrants-et-de-faire-chavirer-les-embarcations>. Lastly, also see the report "Mare Interrotto", published in June 2024 by Watch the Med Alarm Phone, in collaboration with Tunisian civil activists:

<https://alarmphone.org/wp-content/uploads/2024/06/Mare-interrotto-IT.pdf>.

¹⁶ <https://www.meltingpot.org/2024/05/in-tunisia-si-intensifica-la-repressione/>

¹⁷ Amnesty International, Tunisia: growing repression of civil society organisations (<https://www.amnesty.it/tunisia-aumenta-la-repressione-di-organizzazioni-della-societa-civile-e-migranti/#:~:text=17%20Maggio%202024&text=Amnesty%20International%20ha%20dichiarato%20che,e%20anche%20contro%20i%20giornalisti>)

Commission provides finance - often through the ICMPD¹⁸, the International Centre for Migration Policy Development, an entity that plays a decisive role in the definition and implementation of EU externalisation policies - for its own cooperation and support projects¹⁹. The overlapping of intentions and strategies between Italy and the EU is evident in the way in which Team Europe came to sign the EU-Tunisia Memorandum in July 2023. It envisages the assignment of one billion euros to the Tunisian state, of which 105 millions allocated to strengthen border control capabilities. This agreement raises serious critical issues concerning assurances over respect of human rights between European institutions themselves, as demonstrated by the investigation opened by the EU Ombudsman.²⁰

Legal action against border externalisation policies in Tunisia

Challenging the legitimacy of financing assisted voluntary repatriation projects in the absence of appropriate assurances

In November 2021, Italy financed the “Enhancing Response Mechanisms and Assistance to Vulnerable Migrants in Tunisia”²¹ project managed by the IOM. The intention was to assist migrants in vulnerable situations in the country. The project’s initial budget - 2 million euros - focused significantly on humanitarian assistance and protection of the most vulnerable people. The expansions of the project over the following two years - which saw funding grow to more than 6

¹⁸ As regards the role of ICMPD, see <https://fragdenstaat.de/en/blog/2023/05/19/the-migration-managers/> and the programme [Strengthening the Tunisian Coast Guard Training Pillar](#) (2023-2026).

¹⁹ Between 2018 and 2022, the European Commission allocated a total of 73 million euros to Tunisia, of which 38 millions under the EUTF for Africa fund and 35 millions under the new NDICI - Global Europe financial instrument. For further information, see the report “*Oltre i confini, oltre i limiti. Analisi critica del sostegno finanziario dell’UE per il controllo delle frontiere in Tunisia e in Libia*” <https://www.arci.it/oltre-i-confini/>

²⁰ In September 2023, the EU Ombudsman launched a strategic action to investigate how the European Commission intends to ensure respect for human rights in migration-related action arising from the MoU between the EU and Tunisia. Given the partially satisfactory responses provided by the Commission, the Ombudsman decided to open an inquiry into the matter. <https://www.ombudsman.europa.eu/it/opening-summary/it/184858>

²¹ For more information regarding the *Enhancing Response Mechanisms and Assistance to Vulnerable Migrants in Tunisia* project and related documentation, see: <https://sciabacaoruka.asgi.it/rimpatri-volontari-dalla-tunisia-i-finanziamenti-italiani/>

million euros - completely changed its objectives. Most of the resources were shifted towards so-called assisted voluntary repatriation programmes.

As [pointed out](#) by the Special Rapporteur on the rights of migrants, if they are to be considered truly voluntary, repatriations must be the outcome of fully informed decisions, without coercion and with the availability of valid alternatives to repatriation. It is evident that in the current Tunisian context, characterised by the absence of an international protection system and dangerous situations for foreigners, the decision to return to countries of origin can hardly be considered free.

Given this situation, last September ASGI and the Associazione Spazi Circolari presented a precautionary petition to the Regional Administrative Tribunal (TAR) against the latest funding of 3 million euros, intended almost entirely for voluntary repatriations, allocated in June 2023 for the “Enhancing Response Mechanisms and Assistance to Vulnerable Migrants in Tunisia” project despite the well-known degeneration of the context there. Analysis of data indicates that repatriated persons include asylum seekers, vulnerable people, minors and many women from countries at high risk of trafficking who, if they could reach Italy, would receive suitable protection. For example, between September 2022 and February 2023, 46 people were repatriated to Sudan and 250 to Côte d’Ivoire, including 94 women and 23 girls.

In addition, neither the contested decree nor the previous agreements between the IOM and the Ministry of Foreign Affairs include appropriate and sufficient indications to ensure that these funds are used in compliance with the principle of non-refoulement. In the absence of suitable assurances, in a context of indiscriminate violence and the impossibility of obtaining appropriate protection from the State, voluntary repatriations from Tunisia consequently risk effectively becoming “disguised expulsions.”

The Regional Administrative Tribunal (TAR) rejected the precautionary petition, citing the lack of the periculum in mora prerequisite, since the contested acts would not cause “irreparable” damage. The associations then challenged this decision before the Council of State, which accepted the precautionary petition, ordering the Regional Administrative Tribunal (TAR) to comment on the issue²².

²² <https://www.asgi.it/allontamento-espulsione/tunisia-rimpatri-consiglio-di-stato/>

Challenging the legitimacy of material and logistic support to the Tunisian National Guard for maritime border control

In December 2023, the Italian Ministry of the Interior allocated 4.8 million euros for the renovation and transfer of 6 patrol boats - owned by the Guardia di Finanza - to the Tunisian National Guard. Moreover, Italian authorities undertook to provide training in the use of these vessels as well as to cover maintenance costs and, more generally, technical assistance and tutoring for Tunisian authorities.

The legitimacy of such agreements was challenged by ASGI, ARCI, ActionAid, Mediterranea Saving Humans, Spazi Circolari and Le Carbet, with the support of the Tunisian Forum for Economic and Social Rights (FTDES). In March 2024, a precautionary petition against these agreements was put before the Latium Regional Administrative Tribunal (TAR)²³.

The associations presenting this petition believe that funding of the Tunisian National Guard violated Italian legislation concerning finance and transfer of armaments to third countries, thereby increasing the risk of violation of the fundamental rights of Tunisian citizens and other citizens fleeing or in danger in the Mediterranean. Law no. 185/1990²⁴ explicitly forbids “the export, transit, intra-community transfer and intermediation of armaments [...] towards countries whose governments are responsible for serious violations of international conventions on human rights, as ascertained by the competent authorities of the United Nations, the EU or the Council of Europe” (Article 1, item 6). Furthermore, this finance was defined without any involvement of the Ministry of Foreign Affairs, the Ministry of Defence or the consultative bodies (CISD, Consultative Committee, UAMA, Coordination Office) which by law ought to play a key role in the planning, evaluation, verification and authorisation of any movement of military materials towards a third country.

Under the contested agreement, the material and technical support provided to the Tunisian National Guard is intended to strengthen border and immigration management capabilities, as well as search and rescue at sea. Although this latter purpose may seem to be abstractly legitimate and consistent with the pertinent legislation, the Tunisian National Guard itself is responsible for commissioning

²³ More specifically, the Technical Agreement dated 12.12.2023 between the Central Directorate of Immigration and Border Police and the General Command of the Guardia di Finanza, as well as the Ministry of the Interior decree dated 15.12.2023 ratifying the Technical Agreement and all consequent and prerequisite actions (<https://www.poliziadistato.it/articolo/25865801cc3c9356725814416>).

²⁴ Law no. 185 dated 9 July 1990, concerning “New regulations for the control of exports, imports and transit of military materials.”

documented human rights violations during violent interceptions at sea and after landing in Tunisia, which cannot be considered a “safe disembarkation place” in relation to the parameters of the SAR convention. Not even the recent introduction of the Tunisian search and rescue zone will suffice to change the essence of the above-mentioned operations: on the contrary, it risks legitimising the violent interceptions carried out by border authorities “disguised” as rescue operations²⁵. The equipment and training provided by Italian authorities effectively increases the number of operational naval vessels that Tunisian authorities can use constantly in open violation of the human rights of migrants at sea. Briefly, rather than helping to implement humanitarian initiatives, the contested acts constitute, through Italian financial, technical and technological support, a form of material facilitation of conduct seriously harmful to human rights.

At the end of May, the Regional Administrative Tribunal (TAR) rejected the appeal in question. While the Tribunal initially considered the possibility of launching an investigation to request clarification of the assessments carried out by the Ministry before signing the agreement, this sentence fully legitimises the government’s action. The disputed agreement is believed to be in line with decisions at EU level, with the EU-Tunisia Memorandum dated July 2023, as well as on a national level with the renewed inclusion of Tunisia in the list of safe countries of origin in May 2023. Additionally, the Regional Administrative Tribunal (TAR) believes that the government conducted a full investigation in the light of long-term cooperation with Tunisia as well as regular inter-ministerial meetings. Although cooperation between the authorities in question is expressly intended to strengthen border control, by blocking migratory flows from Tunisia, and tutoring activity with the Tunisian National Guard is essentially of a technical nature, the judge ruled that such initiatives would ensure the spread of respect for human rights.

Although international bodies have widely taken a position as regards the violations committed by Tunisian authorities against migrants, the Tribunal considers that these bodies exclusively request that cooperation activities be accompanied by monitoring action and, until the above-mentioned bodies reach a decision that changes the current international framework, the judge seems to be unwilling to review the legitimacy of these agreements.

On 15 June - the date when the delivery of the first 3 patrol boats to Tunisia was scheduled - the associations involved in this case presented an urgent appeal to

²⁵ For further information, see:

<https://www.agenzianova.com/news/migranti-la-tunisia-formalizza-la-propria-area-sar-e-rinsalda-lasse-meloni-saied/>;
<https://x.com/scandura/status/1803421242004840613?t=9SLbvzWLFK1emkQXrcxWQQ&s=09>

the Council of State, contesting the legitimacy of agreements that supply tools and means to police forces that systematically commit serious violations of the principle of non-refoulement and the fundamental rights of migrants.

The Council of State deemed “the needs for protection presented in the appeal to be prevail”, accepted the precautionary petition and set a hearing for 4 July. The contested acts and consequently the transfer of the patrol boats are [suspended](#) until the judge has examined their legitimacy.

Individual appeal to the United Nations Human Rights Committee

On 3 May 2024, after the clearance of the informal LAC 1 camp opposite the UNHCR and IOM headquarters in Tunis, approximately 500 migrants were forcibly evacuated by Tunisian authorities. [Witnesses indicate](#) that they were loaded on to at least 7 buses which, in some cases, deported them to Libya and Algeria and, in others, abandoned them in rural locations far from inhabited areas.

A group of 70 asylum seekers, including families with small children, a woman eight months pregnant and elderly people, was abandoned in an uninhabited, rural area in the Jendouba Governorship, 25 kilometres from the border with Algeria, without any food or water. The group walked for days along the railway tracks in an effort to reach Tunis, attempting on several occasions to board trains but were unable to do so because they were prevented by railway authorities. They also suffered intimidation and racist violence from private individuals, while police cleared the makeshift bivouacs where they spent the night.

On 6 May, five members of the group and their families of Sudanese nationality registered as asylum seekers by UNHCR, lodged an emergency appeal with the United Nations Human Rights Committee. The appeal, supported by an ASGI lawyer and an Alliance with Refugees in Libya (ARiL) activist, contested the violation of the right to life, cited the ban on torture and inhuman or degrading treatment, and the right of minors to protection, pursuant to Articles 6, 7 and 24.1 of the International Convention on Civil and Political Rights. The members of the group were not identified individually nor were they given information about the reasons for their arrest, forced transfer and subsequent abandonment by Tunisian authorities. No one received basic necessities, medical assistance or legal support and no care was offered to vulnerable people.

A few days later, the Committee accepted the request for protection measures, asking Tunisia to provide the applicants with the necessary assistance, including medical assistance, since the group also included minors. It also ordered that they should not be expelled pending the appeal and the prevention of any threat, act of violence or reprisal to which they might be exposed²⁶. Finally, the Committee requested the Tunisian government to send its observations about the case by 10 November 2024.

Despite the Committee's decision, the following day the applicants, including the minors, were apprehended on charges of illegal entry into the country and were detained in prison for approximately one week. At the end of the trial, which concluded with the suspension of the sentence for 3 months and consequent release of the accused, only humanitarian organisations provided assistance to these families. The single men were stripped of their personal belongings, including documents, money and mobile phones, and deported by law enforcement agents to Tebessa, in Algeria.

²⁶ For further information, see:

<https://sciabacaoruka.asgi.it/tunisia-famiglie-sudanesi-scaricate-al-confine-presentano-ricorso-al-comitato-per-i-diritti-umani-delle-nazioni-unite/>;
<https://www.infomigrants.net/fr/post/57427/en-tunisie-des-migrants-soudanais-portent-plainte-d-avant-les-nations-unies-pour-mauvais-traitements>

Conclusions

Despite unanimous condemnation by United Nations entities, the Council of Europe and the EU Ombudsman, as well as non-government organisations, concerning the abuses and violence committed by Tunisian authorities, Italy has not modified its relationships with the country, including: political support, finance, equipment and the assessment of Tunisia as a safe country of origin. The Italian Ministry of the Interior has praised the results of cooperation in terms of security, dismantling of criminal and trafficking networks, correct management of migration and prevention of illegal departures²⁷.

From a political standpoint, but partly even from a legal perspective, these actions support and legitimise each other: it is possible to support the Tunisian National Guard because Tunisia is included in the list of safe countries of origin, and it is also possible to consider it to be a safe country because of the cooperation and in-depth knowledge and relationships between the two countries. Italy's actions seem to be impervious to the assessments of independent and politically impartial human rights protection entities.

Given this political and legal framework, the litigation action presented is an important tool from two standpoints, regardless of their outcome.

Firstly, these initiatives are supported by networking and relationships between various civil society entities that respond to and look at the issues from different points of view, in geographical and thematic terms alike. Bringing these different perspectives together helps us grasp the complexity and stratification of the dynamics of externalisation and their impact. Investigations by journalists²⁸,

²⁷ By way of example, see the following posts - all published between the end of May and the beginning of June - when the Tunisian government's ferocious repression against migrants and activists was already underway: "Human trafficking organisation dismantled by Tunisian authorities. 8 people apprehended in Jebeniana, Sfax region. Migrants from sub-Saharan regions were given large sums of money to obtain residence in the country illegally." (<https://x.com/Viminale/status/1797994843165327410>); "Tunisia will soon have its own system for search and rescue of people at sea, as required by international obligations and commitments." "I welcome news of the intention to establish a Tunisian SAR zone. It is a significant step forwards." (<https://x.com/Viminale/status/1796881628947431793>); "Since the beginning of the year, the International Organisation for Migration (IOM), thanks not the least to Italy's support, has facilitated the assisted voluntary repatriation of 3,424 migrants from Tunisia to their countries of origin." (<https://x.com/Viminale/status/1800533511310348663>); Since the beginning of the year, Tunisian authorities have prevented the departure of more than 30,000 migrants seeking to embark and reach the coasts of Europe. Since it testifies to the constant commitment implemented by the country in question, not the least thanks to the support provided by Italy, to combat irregular immigration and fight human traffickers." (<https://x.com/Viminale/status/1800533511310348663>)

²⁸ <https://www.lighthousereports.com/investigation/desert-dumps/>

analysis and tracking of funds²⁹, field work and contacts with migrants³⁰ and legal analysis all contribute towards building the overall picture.

Secondly, legal action means we can frame events from a different perspective: it helps reveal and de-construct the legal and discursive system created by governments. Litigation also allows a different interpretation of events: it exposes defects in the free will that can be expressed in Tunisia for so-called voluntary repatriation; how the equipment transferred to “manage” migration is actually used as an instrument of offence and violation of human rights.

Regardless of the outcome of this legal action, it is fundamentally important as a tool in the broader conflict that has freedom of movement at its core.

²⁹ <https://www.greens-efa.eu/en/article/study/beyond-borders-beyond-boundaries>;
<https://www.thebigwall.org/>

³⁰ <https://www.refugeesinlibya.org/>