FIRST SECTION

DECISION

Application no. 26049/18
H.A.
against Italy

The European Court of Human Rights (First Section), sitting on 14 February 2023 as a Committee composed of:

 Péter Paczolay*, President*,
 Gilberto Felici,
 Raffaele Sabato*, judges*,
and Liv Tigerstedt, *Deputy* *Section Registrar,*

Having regard to:

the application (no. 26049/18) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 23 May 2018 by a Tunisian national, Mr H.A. (“the applicant”), who was born in 1992 and whose whereabouts are unknown, and who was represented by Ms L. Leo, a lawyer practising in Rome;

the decision to give notice of the application to the Italian Government (“the Government”), represented by their Agent, Mr L. D’Ascia;

the decision not to have the applicant’s name disclosed;

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

1. the comments submitted by *L’altro diritto*, *Garante Nazionale dei diritti delle persone detenute,* Legal Clinic on Human Rights and Migration Law of the International University College of Turin, and Migration Law Clinic of the Vrije Universiteit Amsterdam, who were granted leave to intervene by the President of the Section;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1.  The case concerns the applicant’s detention in the hotspot at Lampedusa (*Contrada Imbriacola*) and his transfer from Ventimiglia to Taranto. Lampedusa Early Reception and Aid Centre (*Centro di Soccorso e Prima Accoglienza* – “CSPA”) was recognised as a hotspot by Article 17 of Law Decree no. 13 of 17 February 2017.

2.  The applicant, a Tunisian national, reached the Italian coast aboard a makeshift vessel on 16 October 2017 and was transferred to the hotspot at Lampedusa on the following day. He remained at the Lampedusa hotspot for twenty-four days, during which time it was allegedly impossible to interact with local authorities.

3.  On 10 November 2017 the applicant was transferred by boat to Agrigento.

4.   On the same day, the police authority issued a decision ordering him to leave the national territory within seven days. The refusal-of-entry and removal order was served on the applicant, who was informed that he could lodge an appeal within thirty days.

5.   On 13 November 2017, the applicant was stopped by the French police at the border when trying to enter France and handed over to the Italian authorities.

6.  On the same date, the Imperia police issued an order for the applicant to be transported from Ventimiglia to the hotspot at Taranto.

7.   On 14 November 2017, the Prefect of Taranto issued a refusal-of-entry and removal order, which was served on the applicant; on the same day, the Taranto Chief of Police ordered the applicant to be detained in the Bari Repatriation Centre.

8.   On 26 November 2017, he was transferred with other Tunisian nationals to Rome and then by plane to an airport near Palermo, where he met a representative from the Tunisian Consulate, who recorded his identity.

9.  On 27 November 2017, the applicant was expelled to Tunisia.

10.  The applicant complained that Articles 3 and 5 §§ 1, 2 and 4 and Article 13 of the Convention had been violated, given the poor conditions that he had suffered during his stay in Italy, his being deprived of his liberty during his stay at the hotspot at Lampedusa, and his being deprived of his liberty during his transfer from Ventimiglia to Taranto.

1. THE COURT’S ASSESSMENT

11.  The Government raised various preliminary objections, including that the applicant had lost his victim status, that he had not exhausted domestic remedies and that the application had been lodged outside the six-month time‑limit.

12.  The applicant contested the Government’s submissions in respect of his lack of victim status and the non-exhaustion of domestic remedies.

1. 13.  The third-party interveners (*L’alto diritto*, *Garante Nazionale dei diritti delle persone detenute,* the Legal Clinic on Human Rights and Migration Law of the International University College of Turinandthe Migration Law Clinic of the Vrije Universiteit Amsterdam) noted that Italian migrant reception centres – in particular hotspots – were often *de facto* detention facilities that were devoid of any legal basis and that the detention conditions were difficult.
2. 14.  The Court considers that it is not necessary to address the Government’s objections regarding the applicant’s alleged lack of victim status and the non-exhaustion of domestic remedies, as the application is in any event inadmissible for the following reasons.
3. 15.  The Court notes that the present application was lodged on 23 May 2018 – namely more than six months after the applicant’s transfer from the hotspot at Lampedusa, which took place on 10 November 2017. More than six months have also elapsed since the applicant’s transfer from Ventimiglia to Taranto (which took place on 14 November 2017) and the lodging of his application with the Court (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, § 54, 29 June 2012).
4. 16.  It follows that this application has been lodged out of time and must be rejected, in accordance with Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 9 March 2023.

 Liv Tigerstedt Péter Paczolay
 Deputy Registrar President