At Europe's Door: Italy's Migration Crisis

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MIGRATION POLICIES FROM THE ITALIAN PERSPECTIVE WITHIN THE BROADER EU FRAMEWORK

Introduction

Over the last two decades, migration policies have been extensively debated in response to the increasing influx of migrants reaching European countries, including asylum seekers and refugees, regular immigrants, and irregular migrants trying to reach the EU borders.

The paper aims to analyse how Italy, as a member of the European Union, has reacted to this challenging situation after 2020. The bilateral agreement with Albania will be examined as an innovative mechanism for processing migrants rescued at sea or arriving on Italian soil. The bilateral agreement with Albania is unsurprising given the longstanding friendship between the two countries.

In any case, the Italian centres in Albania have been widely criticised by the international community and numerous NGOs concerned with the protection of human rights.

This paper does not engage with the ethical dimensions of this policy, focusing instead on its legal and political implications within the EU framework.

In the first part of this paper, the bilateral agreement between Italy and Albania will be analysed, its structures and articles, with the main constraints. Later on, the legal framework within which Italy is acting will be thoroughly explained alongside the main objectives and aims of the project seen from an Italian perspective. Finally, it will be taken into account the past attempts to make a project like this one work and how it differs from the Italian case.

Case study: Italian Migration camps in Albania

The Prime Minister of Italy, Giorgia Meloni, and the Albanian Prime Minister Edi Rama had signed an agreement, called Protocol or Memorandum of Understanding (MoU) on migration management, in Italian "Protocollo d'Intesa". The date 06. November 2023 marked a crucial change in the manner of implementation of Italian migration control and its cooperation with a third country (non-EU member) such as Albania. This structural cooperation could change the mechanisms of migration control, and potentially set a precedent in the EU legislation for other EU countries.

What is the Memorandum of Understanding (MoU)?

The so-called Memorandum of Understanding (MoU) can be considered legally a bilateral agreement between Italy and Albania concerning the cooperation between these countries on the Italian management of migrants -whether about to arrive or currently residing- in Italy.

The MoU precisely allows Italy to use some Albanian territories free of charge, in order for Italy to build two separate centres outside of its territorial soil. Therefore, the main use of these structures, often referred to as "detention centers," is to legally host migrants who are either rescued in the Mediterranean Sea or already present on Italian soil, whose papers are not entirely in order, and therefore it has to be determined if the requirements for stay or entry in the Italian Republic are met.

Concerning the MoU, it is also crucial to highlight that it mainly consists of 14 Articles and 2 Annexes, signed at Palazzo Chigi (Rome) opening by

clarifying a good deal of terminology that is necessary for the well functioning of the bilateral agreement. More precisely, a 'migrant' in this context refers to a citizen of a third country, meaning neither an Italian nor an Albanian national, and crucially, not a citizen of any other EU member state

The MoU also clearly states which Albanian territories will be provided to Italy for the welcoming of migrants, namely the area of Shengjin near the border of Montenegro and the area of Gjadër, which is situated in the hinterland. Specifically, the main difference between the two areas is that the former would be used as a proper welcoming centre where all the migrants have to go to start their due procedures, while the latter will serve as the area where the migrants' fate will be decided based on their personal situation, if they hold the right to enter the Italian territory or if they have to be repatriated.

Annex 1. Protocol (Italy-Albania agreements)

Furthermore, it is essential to clarify the concept of "migrant" that is allowed in those centres. First, there is a maximum of migrants allowed set at 3,000. Second, it is highlighted that the migrants allowed have to be brought by proper Italian authorities, which excludes the humanitarian NGOs, Italian or not. Finally, it is of the utmost importance to clarify that the objective of migrants allowed in those centres is to determine their status and their future steps: staying in Italy or being repatriated. Hence, the migrants allowed in the centres will not and cannot be either children or vulnerable people.

Legal background

Concerning the historical ties that Italy has with Albania, it is unsurprising that those ties were to be reused and reinforced in the current situation. Since the Italian kingdom protected and sustained Albanian independence in 1912, several new bonds were created, including the bilateral agreements after the end of the Albanian dictatorship in 1992. Since then, owing to both historical ties and geographical proximity, Italy has always been one of Albania's closest allies, supporting the country by promoting several judicial reforms in Albania and cooperating in fields such as archaeology and fostering cultural development.

It is understandable that, in light of the past cooperation between the two countries, the MoU can be seen from two different perspectives. On one hand, it can be seen as an act of acknowledgement and appreciation from the Albanian State towards Italy for the past endeavours, while on the other side it demonstrates how Albania is using this step to further its EU accession negotiations, considering its *iter* has started already in 2009 with its adhesion in NATO and in 2014 when Albania finally was granted the candidate status of the European Union.

Concerning the MoU legal jurisdiction, it has to be highlighted that at the very beginning, the Italian Republic did not want to ratify the Protocol, since

it was believed that it was possible to simply carry on with the preceding Treaty of friendship and cooperation between Italy and Albania signed in 1995. However, considering that Article 80 of the Italian Constitution clearly states that it is necessary to ratify any treaty of "political nature, or involve arbitration or judicial regulations, or entail changes to the territory or financial burdens or amendments to laws." Hence, the law was ratified by the Italian Parliament on 21 . February 2024, and it was crucial to better define internal normatives and external cooperation.

Objectives and international response

Nonetheless, it is of the utmost importance to clarify the objectives and aims of this project. The Italian government made clear that one of the main objectives was to combat illegal immigration in Italy, so the main aim of the project is to slow the migration flow by delocalising the procedure for asylum seekers in another country and, at the same time diminishing the pressure on the Italian territory.

Therefore, Italy created an option without the so-called "burden-shifting", where the responsibility of granting asylum is transferred to the hosting country, by getting full authority on the areas that are provided by Albania. This way, Italy tried to establish a "neutral" area where the immigrants have the same rights that they would have on Italian soil.

Past events and the case of UK-Rwanda

While the bilateral agreement between Italy and Albania may appear unique, comparable precedents do exist.

To provide historical background, over the past two decades it is clear that the phenomenon of migration towards European countries has become increasingly prominent, more and more visible, given the rising numbers collected by the national agencies of the EU member states and numerous international agencies such as Frontex. According to Frontex (2024), "The number of irregular border crossings at the EU's external border in 2023 reached a total of approximately 380 000, driven by a rise in arrivals via the Mediterranean region, according to preliminary calculations by Frontex. This marks the highest level since 2016 and constitutes a 17% increase from the figures in 2022, indicating a consistent upward trend over the past three years." (Frontex, 01/2024).

Therefore, it is unsurprising that EU member states try and find their own ways to overcome irregular immigration, considering that always following Frontex data, "The Central Mediterranean was the most active migratory route into the EU, accounting for two out of every five irregular crossings (41%) in 2023, followed by the Western Balkans (26%) and Eastern Mediterranean (16%)."

Concerning the gravity of the phenomenon, the European Union has worked to supervise and to solve the problem in a more communal way, as

it is shown in its attempt to regulate the migration flows while supporting the EU member states with the "Pact on Migration and Asylum" approved in 2020.

Following this path, one could mention that some EU member states have eventually tried to develop bilateral agreements in order to better manage migration flows. For example, in 2017, France tried a proposition called "disembarkation centres" that eventually did not work. A more comparable case to the Italian-Albanian bilateral agreement, even if with enormous differences, is the case of the UK-Rwanda.

In 2022, the UK government announced that a significant number of immigrants such as asylum seekers, directed towards the UK, were to be sent out to the Republic of Rwanda, where, if they met the criteria to receive asylum, they would be granted that right in Rwanda, not in the UK. This mechanism, however, was ruled unlawful by the UK's Supreme Court, since it did not respect human rights standards, particularly given that Rwanda was not a safe country to seek asylum. Subsequently, the UK government amended its agreement with Rwanda, adding more safety measures. In 2024, the Safety of Rwanda (Asylum and Immigration) Act was ratified, and it is currently in force. Nonetheless, according to the Migration Observatory, "Since winning the 2024 general election and forming the new government, the Labour Party has cancelled the Rwanda scheme. It has announced that it will redirect money intended for the scheme to fund a new border agency.".

It is clear, from this perspective, that the main difference with the Italian-Albanian agreement and its innovative character is that, for the first time, there is no "burden-shifting", meaning that there is no transfer of responsibility of migrants from one country to another. The Italian-Albanian bilateral agreement, in fact, clearly states that Italy has authority over the two areas offered by Albania on Albanian soil, making all the issues about the safety of immigrants irrelevant, considering that the laws applied are entirely Italian, hence in total respect of EU laws.

Conclusion

Overall, the bilateral agreement between Italy and Albania can be considered a first in European history, considering that the Italian jurisdiction on Albanian soil might be the step needed to support immigrants' rights just as if they were on Italian soil.

However, the legal journey with the EU Commission involvement is far from resolved, numerous international organisations and NGOs have criticised this plan and there is no proof that it might work in the future and finally, should the arrangement fail, as occurred with the UK–Rwanda scheme — the reallocation of funds currently directed to the centres in Albania would present an additional policy challenge for Italy.

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