



THE RETURN (NON)AGREEMENTS.

LEGAL ASPECTS OF THE MEMORANDUM OF UNDERSTANDING ITALY – SUDAN

The recent return operation of 100 Sudanese citizens conducted by Belgium seems to remind a similar operation conducted by Italian Police in August 2016, when 40 migrants were forcibly repatriated to Sudan. Unlike the Belgian case, the Italian repatriation could be reconnected to the legal framework of a specific repatriation agreement: the “Memorandum of understanding between the Italian Public Security Department and the Sudanese National Police”.

The aim of this research is to analyse the compatibility of the MoU with the Italian ordinary and Constitutional Law.

In fact, even though the Italian head of Police introduced it as a mere administrative act, this MoU can be considered a full-fledged international agreement. Furthermore, the MoU introduced a specific derogation from the Italian immigration Law for the repatriation of Sudanese citizens.

Therefore, it should have respected the procedure provided by the Italian Constitution (Articles 80 and 87), i.e. it should have been approved by the Parliament, ratified by the President of the Republic and published in the Official Journal.

This (non)agreement, simplifying and accelerating as much as possible the return operations, well represents the Italian and European policy on immigration, which aims to implement rapid and popular measures but at the expenses of the respect for Human Rights of migrants.