EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 23228/18
E.B.
against Italy

The European Court of Human Rights (First Section), sitting on 10 January 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. 23228/18) 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 9 May 2018 by a Tunisian national, Mr E.B. ("the applicant"), who was born in 1991 and lives in Tunisia and who was represented by Ms L. Gennari and Ms L. Leo, lawyers practising in Rome;

the decision to give notice of the complaints concerning Article 3, Article 5 §§ 1, 2 and 4 and Article 13 of the Convention, as well as Article 2 of Protocol No. 4 to the Convention to the Italian Government ("the Government"), represented by their Agent, Mr L. D'Ascia, and to declare the remainder of the application inadmissible;

the decision not to disclose the applicant's name;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's detention in the hotspot within the Early Reception and Aid Centre at Lampedusa and his expatriation to Tunisia.

2. The applicant, a Tunisian national, reached the Italian coast aboard a makeshift vessel on 16 October 2017 and was then transferred to the hotspot at Lampedusa, where he remained until 26 October 2017.

3. The applicant was then transferred to the detention centre in Caltanissetta from 26 October 2017 until 9 November 2017. On that day, he was taken to Palermo airport, from where he was expelled to Tunisia on 9 November 2017.

4. The applicant complained that Article 3, Article 5 §§ 1, 2 and 4 and Article 13 of the Convention, as well as Article 2 of Protocol No. 4 to the Convention, had been violated. He alleged that he had been detained in the hotspot at Lampedusa in precarious conditions and that he had been deprived of the opportunity to consult a lawyer.

THE COURT'S ASSESSMENT

5. The Government submitted various preliminary objections, in particular that the applicant had lost his victim status, that he had failed to exhaust the domestic remedies available to him, and that the present application had been lodged outside the six-month time-limit set out in Article 35 §§ 1.

6. The applicant contested the Government's submissions. As for the six-month time-limit, he argued that the application had been lodged within six months of his expulsion, which had taken place on 9 November 2017, and that until that date he had been living in a continuing situation of a violation of the rights guaranteed under the Convention.

7. The Court considers that it is not necessary to address the Government's objections of lack of victim status and of non-exhaustion of domestic remedies, as the application is in any event inadmissible for the following reasons.

8. It appears from the case file and from the parties' observations that the applicant left the Lampedusa hotspot on 26 October 2017 and that his complaints refer only to the period he spent there. The Court further acknowledges that the present application was lodged with the Court on 9 May 2018, more than six months after the applicant's transfer from the Lampedusa hotspot, which thus brought to an end the situation the applicant challenged before the Court (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, § 54, 29 June 2012). In so far as the applicant in his observations of 10 March 2021 submitted that he complained about the entire period up until his expulsion, the Court notes that this is a new complaint, not raised in the application form, and thus lodged more than six months after the expulsion took place.

9. It follows that the 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 2 February 2023.

Liv Tigerstedt Deputy Registrar	Péter Paczolay President