

Italy's response to boat migrants from Albania in the 1990's and Libya in the 2000's compared

Matteo Bonica, Leiden University.

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1) Introduction, historiography, theory and methodology

This thesis compares the Italian reception of boat migrants from Albania in the 1990's and Libya in the 2000's. Albania and Libya have more in common than it might appear at first glance. Both are predominantly Muslim countries even if the percentage is much higher in Libya. Both countries experienced a long dictatorship, Enver Hoxa ruled over Albania from 1944 to 1985 while Muammar Gaddafi remained in power in Libya from 1969 to 2011. Most importantly for this work, boat people embarked from both countries to Italy in large numbers since the 1990's. The Albanian route to Italy through the Otranto channel was the major channel throughout the 1990's.¹ The route from North Africa to Italy started as a channel to supply illegal seasonal workers from the Maghreb countries to Sicily in the early 1990's but it slowly became a heterogeneous route for many people of different nationalities escaping war and poverty to attempt to reach Europe.² In particular the route from Libya to Italy was used by Colonel Gaddafi as a bargaining chip to get the most from negotiations with Italy and the EU. As Gaddafi stated during the European Council's meeting in Seville in June 2002, in order to slow down the 'invasion of Europe from illegal immigrants' it was necessary to increase development projects, since 'not one single Northern African state is willing to control the doors to Europe for free'.³ After Gaddafi's demise in 2011, the situation in Libya degenerated and boat people started using the Libyan route like never before. According to Eurostat, 181,436 people reached Italian shores in 2016 alone.⁴ This data is even more impressive if contrasted with the fact that approximately 180,000 people crossed the Mediterranean from 1990 to 2000.⁵

Italy reacted in very different manners to boat migrants during the years. The streams from Albania were active from 1991 to the first years of the 2000's but three moments in times stand out. March 1991, August 1991 and March/April 1997. Italy at first accepted the Albanian migrants but after the first wave of March the stance changed completely and in August 1991, the situation was "resolved" without many scruples by the Italian authorities by repatriating all the Albanians who reached Italian shores that month. The situation was kept more or less under control until 1997 thanks initially to the Italian "peace keeping" operation, named *-Operazione Pellicano-* from September 1991 to December 1993.

While migrations from Libya never created a true emergency like those from Albania, I focused on two key moments, 2005 and 2009, when two important cases were filed against Italy at the European Courts of Human Rights (ECtHR). While Italian governments often tried to repatriate or repel migrants, and it managed to do so on certain occasions as will become apparent in the thesis, in the 2000's Italy encountered more international pressure from the EU and the ECtHR than in the

1 Ferruccio Pastore, Paola Monzini and Giuseppe Sciortino, 'Schenghen's Soft Underbelly? Irregular Migration and Human Smuggling across Land and Sea Borders to Italy', *International Migration*, vol.44 n.4, 2006, p. 109.

2 *Ibid.* p.11.

3 Emanuela Paoletti, *The Migration of Power and North South Inequalities*, Palgrave MacMillan, 2010, p.197.

4 UNHCR update #10, Italy, December 2016, p.1.

5 Ferruccio Pastore, Paola Monzini and Giuseppe Sciortino, 'Schenghen's Soft Underbelly'. p.108.

1990's to treat migrants as indicated in the 1951 Geneva Convention on Refugees and the European Convention of Human Rights.

This brings me to this thesis's main objectives. The first aim is to examine the migration streams from Albania to Italy, focusing on the years 1991 and 1997, and from Libya to Italy in 2005/6 and 2008/10. The purpose is to understand how Italy reacted to the various cases and why the strategies implemented by the various governments at diverse moments of history were so different. The second, but definitely no less important objective of this thesis, is to test whether or not the gap hypothesis could be applied to Italy's policies towards boat migrants. By doing so, this thesis could shed new light on whether there was a possible gap in the outcome of the policies implemented during the various years by Italy due to European influence. The hypothesis is that there could be a gap caused by the increasingly more powerful EU and European Court of Human Rights of Strasbourg in the field of migration policy implementation, a policy field historically strongly bonded with state sovereignty. External migration was largely a national matter until the late 1990's.

The central research question of this thesis is: Why did Italy adopt contrasting approaches to the different migration waves of boat migrants leaving from Albania in the 1990s and from Libya in the 2000s? An important sub-question is: did the Italian governments have complete autonomy or did supranational institutions such as the EU and the ECtHR create a gap between what the Italian governments wanted to do and what they could actually put into practice?

Having outlined extremely briefly the case studies and the research questions, I will first give a summary of what has been already written on the subject and afterwards I will outline the theory that frames this research. It will be followed by a section outlining the methodology used to retrieve the information necessary to complete this thesis and a brief panoramic of the project indicating the structure of the thesis.

Historiography

Migrations from Albania and from Libya are not new topics for scholars; many experts have written extensively about these issues. What this thesis adds to the literature is a comprehensive comparison of the two streams, which still has not been done in the scholarly literature. This can shed new light on the role of supranational entities such as the EU and the ECtHR on the Italian reaction towards boat migrants.

As already stated, many scholars have written extensively about the two topics. The following three books are fundamental to understanding Italian immigration policy and the Italian reaction to boat migrants.

Luca Einaudi's *Le Politiche dell'immigrazione in Italia dall'Unità ad oggi* draws a complete picture of Italy's immigration policies from 1861 onwards.⁶ Einaudi's book is fundamental for understanding the evolution of policies during the years this thesis examines. Unfortunately the book only briefly cites Libya, because it was published in 2006. However Einaudi's book provides a broad and accurate overview of immigration laws throughout Italian history.

⁶ Luca Einaudi, *Le Politiche dell'immigrazione dall'Unità d'Italia ad oggi*, Editori Laterza, Roma-Bari, 2007.

Another important source of information is Irial Glynn's *Asylum Policy, Boat People and Political Discourse*.⁷ The book, while comparing the situation, management and reception of "boat people" in Italy and Australia from the late 1980s to 2015, gives numerous and extremely valuable information on the implementation and the effects of immigration policies in Italy. It includes both of the moments in history that this work aims to explore in further detail but because of the fact that the research on the Italian newspapers landscape is vast and precise, this greatly helped the formation of my ideas about the role of the various key players during the two migration waves in question.

With regard to the Libyan situation Emanuela Paoletti's *The Migration of Power and North South Inequalities the Case of Italy and Libya* is the most important source.⁸ This book is central for anyone who wants to have a detailed picture of the relationship between the two countries. Furthermore, it reports a precise account of all known official and un-official trip to Libya from Italian representatives and of all the formal and informal bilateral agreements reached during the 2000's. Paoletti's book also contains references to a number of interviews with members of the Libyan authorities.

During the writing of this thesis many articles were consulted, the following are the ones that influenced my work the most and that are essential to understanding the dynamics of the two cases which this work studies in depth.

Russel King and Nicola Mai's paper on Albanian migration provides an important analysis of Albanian society during the 1990s which is not a common trait of articles on the topic.⁹ Ferruccio Pastore divides migration from Albania for the period 1990/1997 into four main stages: 1) 1990: the stage of protest-migration 2) 1991-1992: the stage of uncontrolled migration 3) 1993-1996: the stage of 'sensible' migration 4) 1997: the stage of flight-migration.¹⁰ Furthermore the 1997 stage is subdivided into two tranches which is very important for understanding of the Italian response. Pastore also, this time in collaboration with Paola Monzini and Giuseppe Sciortino, wrote about the different organizations behind the smuggling of migrants in the Mediterranean, debunking the myth of mafia like organizations orchestrating everything and highlighting the role of overstaying after visa entry in northern countries. The authors analyzed many court cases instead of using the traditional approach to studying smuggling of interviewing migrants.¹¹

Ted Perlmutter puts forward a theory that the discussion regarding the entrance of Italy into the European Monetary Union (EMU) was held during the same period as the migrations from Albania in 1997 took place. Since Italy was already at risk of seeing the application denied for technical economical parameters, Romano Prodi, at the time Prime Minister of Italy and a well-known staunch supporter of European unity,

7 Irial Glynn, *Asylum Policy, Boat People and Political Discourse*, Palgrave MacMillan, London, 2016.

8 Emanuela Paoletti, *The Migration of Power and North South Inequalities*, Palgrave MacMillan, 2010.

9 Russell King, Nicola Mai, 'Of myths and mirrors: interpretations of Albanian migration to Italy', *Asian and Pacific Migration Journal*, vol.10 n.3-4, 2001, p.195.

10 Ferruccio Pastore, 'Conflict and migrations a case study on Albania', Written Briefing addressed to the Conflict Prevention Network of the European Commission, 1998, pg 5.

11 Ferruccio Pastore, Paola Monzini and Giuseppe Sciortino, 'Schengen's Soft Underbelly? Irregular Migration and Human Smuggling across Land and Sea Borders to Italy', *International Migration*, vol.44 n.4, 2006.

did not want to show Europe that Italy had weak borders.¹² From this consideration the response to Albanians fleeing their country was to deny entry. I will elaborate upon Perlmutter's theory and add some details about how the Schengen Agreement was close to entering into force as well (October 1997). Then I will evaluate if the theory is valid or not.

Regarding the Libyan case, the literature is not as rich. In addition to Paoletti's work, Florence Gaub has examined the evolution of Libyan relations with the western world from the establishment of Gaddafi on 1969 until 2013.¹³

This thesis will explore aspects that have not been yet investigated by the scholarly community. First, no one yet compared the cases of boat migrations from Albania in the 1990s and Libya in the 2000s. Comparing is helpful in order to understand when things were dealt with appropriately and when not, thus indicating the most efficient modes to deal with similar future events. Furthermore, only Glynn briefly investigated whether or not the EU and the ECtHR influenced the decisions of Italy in regards of immigration policy. Highlighting evidence of the influence of supranational institutions on the national immigration policies would be an extremely important finding since it would open a new ramification of the gap theory since nobody yet found proof of the ECtHR creating a gap in legislation outcomes.

A last aspect that this thesis aims to analyze further is the management of boat migrants coming from Libya through the 2000s. While researching this thesis I noticed that, despite the growing importance of migrations from the North African country in the last decade or so, not enough attention had been given to the topic by scholars. One of the goals of this thesis is to partly fill this space left open by scholars.

Theoretical framework

This thesis will be framed around two main theories on migration, the gap hypothesis of Cornelius, Martin and Hollifield and the vertical policy-making as venue shopping thesis of Guiraudon. Hollifield first noted the fact that there was a gap between policies and their outcomes in 1986.¹⁴ The hypothesis, however, continues to be refined, with the 2014 edition of *Controlling immigration a global perspective* representing the latest example in which Hollifield, Martin and Orrenius note that:

The gap between the goals of national immigration policy (laws, regulations, executive actions, etc...) and the actual results of policies in this area (policy outcomes) is wide and growing wider in all major industrialized democracies, thus provoking greater public hostility toward immigrants in general (regardless of legal status) and putting intense pressure on political parties and government officials to adopt more restrictive policies. We refer to this as the "gap hypothesis".¹⁵

The authors' extensive research on traditional and new immigration countries found that there is not only a growing gap between policy goals and their outcomes; they

¹² Ted Perlmutter, 'The politics of proximity: The Italian response to the Albanian Crisis', *International Migration Review*, vol.32, n.1.

¹³ Florence Gaub, 'The EU and Libya and the Art of Possible', *The International Spectator*, vol.49 n.3, September 2014.

¹⁴ James Hollifield, "'Immigration Policy in France and Germany: Outputs vs. Outcomes', *Annals of the American Academy of Political and Social Science*, May 1986.

¹⁵ James Hollifield, Philip Martin and Pia Orrenius, *Controlling Immigration: A global Perspective*, Stanford University Press, 2014, p.3.

found evidences of a “convergence” in industrialized countries in terms of the policy instruments chosen for controlling immigration, especially unauthorized immigration and refugee flows. They also identified similarities in the efficacy of immigration control measures, integration policies and general-public reaction to current immigrant flows and assessment of government efforts to control or manage them.¹⁶ They affirm that despite significant increases in immigration control efforts, controlling immigration is now more difficult than ever.¹⁷ They found administrative, political, economic and legal difficulties in immigration restriction enforcement that create the gap in liberal and pluralistic societies .Furthermore there are “demand-pull” and “supply-push” factors that combine to link sending and receiving countries and even minimal rights granted by legislations of final destination countries are sufficient to make the restraining of illegal immigration difficult.¹⁸ In the Italian chapter of the aforementioned book, Ted Perlmutter blames the extremely complex political landscape- filled with volatile alliances- for the ineffectiveness of the various immigration policies implemented by the Italian governments when providing an overview of every immigration law instigated from the 1989 Martelli Law to the 2009 “Security Package”.¹⁹

Saskia Bonjour, after an in depth and extremely thorough discussion of the gap theory debate amongst scholars, finds three main reasons in the literature why states ultimately accept unwanted immigration. The first is that national policy makers lost the power to implement the policies they would like to implement to the courts or to supranational actors. She cites Saskia Sassen’s argument that the creation of the EU free movement area made inevitable a “relocation of state authority” on immigration to the EU institutions.²⁰ Secondly in the literature it is argued that concentrated group interests, such as employers in need of cheap labor, have outweighed the diffuse collective interest of popular anti immigration sentiments in the decision making process. In this regard it is argued that the societal costs of migration are “diffuse” while the benefits are “concentrated” in those small and well organized interest groups. The third reason is that policy making in restricted institutional settings outside the public generally led to the allocation of rights of migrants, as found by Guiraudon in her study from the 1970’s to the 1990’s.²¹ She found that the more migration became of public interest, the more policy makers leaned towards restrictive policies to please the public.²² Bonjour goes on in the article to find that by studying the Dutch case the hypothesis that policy makers lost power in favor of courts and supranational institutions does not apply. She argues that

16 *Ibid* p.3.

17 *Ibid* p.4.

18 *Ibid* p.4.

19 Ted Perlmutter, ‘Italy Political Parties and Italian Policy 1990-2009’. In James Hollifield, Philip Martin and Pia Orrenius, *Controlling Immigration: A global Perspective*, Stanford University Press, 2014, p. 357.

20 Saskia Sassen, ‘Beyond Sovereignty: De-Facto Transnationalism in Immigration Policy’, *European Journal of Migration and Law*, n.1, 1999, p.186 177-198.

21 Virginie Guiraudon, ‘A Reappraisal of the State Sovereignty Debate: The Case of Migration Control’, *Comparative Political Studies*, n.33 (2), March 2000, p.176.

22 Gary Freeman, ‘Winners and Losers: Politics and the Costs and Benefits of Migration’, *West European Immigration and Immigrant Policy in the New Century*,2002, p.90.

these general hypothesis are not really effective in the field of migration policy making and an in depth look at every distinct case should be the approach to take when studying these policies.²³

My thesis is framed within the first of the three main reasons of why states accept unwanted immigration as stated by Bonjour. More specifically, as Saskia Sassen argued in 1999, I believe that it is becoming evident that the EU is assuming an increasingly important role in the immigration field. Furthermore she argues that the development of human rights within and outside the EU is reducing the implementation power of states.²⁴ While I mostly agree with her statements, her belief is that the development of human rights is becoming a source for national and international justice.²⁵ In the Italian case, however, domestic courts remained largely absent from the administration of asylum and immigration, as Irial Glynn notes.²⁶

Another fundamental article with regards to the gap hypothesis comes from the work of Christian Joppke on unwanted immigration. Joppke does not believe that state sovereignty has been externally limited. He finds that in the United States case, internal interest groups push for openness towards migrants in order to have access to cheap labor. In the European case, however, he believes, that legal constraints linked to moral obligations, instead of civil servants, towards particular immigrant populations' accounts for continuing family immigration despite zero immigration policies.²⁷

As stated in the introduction, one of the aims of this thesis is to test if the gradual taking over of powers from the EU in the field of immigration management and the rising importance of supranational courts like the Strasbourg European Court of Human Rights, linked to the Council of Europe, led to the creation of a gap between what Italian governments wanted to implement and the final outcome of such. During the second wave from Albania in 1991, for instance, things were dealt in an opposite way in comparison of the first wave of the same year. While internal factors were surely at play, did the EU play a role in the irrevocable closure decided by the Italian government? There are various examples of ambiguous stances taken by Italy in this regard. Another could be the Berlusconi government's decision to stop pushing back boats in November 2009 even if they were officially started only in May. I suspect that this turnaround was strongly linked to the *Hirsi Jamaa* case being taken in Strasbourg. Strong pressure from the European Commission to stop the push backs also had an impact, I will argue later on the paper. Moreover I suspect that the u-turn taken by Italy on migrants at sea in 2013 with the implementation of the rescue operation "*Mare Nostrum*" had to do with the sinking of a migrant's boat at sea on 3 October, and the subsequent wave of internal pressure on the Italian government to take action, but with the *Hirsi Jamaa* Ruling against Italy of February 2012 also playing a role.

The policy-making as venue shopping thesis of Guiraudon states that a shift towards the EU compared to the previous state level of immigration policies has been in place since the 1980s and the 1990s. Guiraudon calls this shift to the supranational level "vertical" as opposed to the traditional "horizontal" national level in play during immigration legislation talks within the nation state. This shift started with informal groups of

23 Saskia Bonjour, 'The Power and Moral of Policy Makers: Reassessing the Control Gap Debate', 2011, *International Migration Review*, vol. 45 n.1, 2011, p.94.

24 Saskia Sassen, 'Beyond Sovereignty', p.187.

25 Saskia Bonjour, 'The Power and Moral of Policy Makers', p.92.

26 Irial Glynn, *Asylum Policy, Boat People and Political Discourse*, Palgrave MacMillan, London, 2016, p.92.

27 Christian Joppke, 'Why liberal States Accept Unwanted Immigration', *World Politics*, vol. 50, n. 2, Cambridge University press, January 1998 p.292.

the major national players on migration matters, such as the “Trevi Group” of the 1970’s where immigration related matters were discussed.²⁸ Since the late 1990’s, the supranational arena has become more prominent. The Treaty of Amsterdam of 1997 appealed for the constitution of an area of “Freedom, Security and Justice”. Subsequently in 1999, during the Tampere summit, the European Union members committed themselves to developing a comprehensive European immigration and asylum policy. According to Guiraudon this shift upwards constituted “a response to the restraints that national migration policy makers face”.²⁹

I agree with her argument in the sense that the EU and other supranational organizations had gained influence during the years on the state decisional level on immigration policies. But I do not agree with her argument that this shift was due to the restrictions at a national level - at least in the Italian case. I do not believe that in the Italian case there were restrictions at the national level and I will try to prove that. What I believe, however, is that there was indeed a shift to the EU decisional level but it was due to the rising importance of supranational organizations like the EU and the ECtHR. I also think that the rising importance of the ECtHR, which is part of the Council of Europe, when connected to the historical stance against restrictive migration control policies of the various states’ courts, led progressively to a more humanitarian stance of the EU towards boat people. This factor widened even further the gap between national policy aims and outcomes since the ECtHR had an influence on the policy making process.³⁰ The growing importance of the ECtHR in the last decade is highlighted by the fact that only one case was filed against Italy during the 90’s Albanian migrations, that is the case *Xhavara et al vs Italy* in 1998 related to the tragic *Kather I Rades* events (to be discussed later in the thesis). This despite the fact that during the events of August 1991, when Italy ignored the UN Refugee Convention when returning Albanians without allowing them apply for asylum, people had the right to bring Italy to court. I believe that the different stance toward supranational institutions at the time and the fact that Albania was coming from decades of isolationism all played an important role in the lack of cases at the ECtHR.

The ECtHR was instituted in 1959 within the framework of the Council of Europe. However, few cases were initially expected to reach the court, for this reason the judges were paid on the basis of ‘each day of duty’ instead of receiving an annual salary.³¹ However, over the years individuals and social activists gained increased access to the Court. A turning point in this regard were the years 1983, 1994 and 1999 when, thanks to the reforms of various articles of the Convention, individuals were given both formal and practical access to the Court. In addition, these reforms also brought greater accessibility to NGOs.³² The 1990’s reforms to the statute of the ECtHR greatly improved the accessibility to the Court, consequently raising its importance and visibility on the international landscape.

Methodology

28 Virginie Guiraudon, ‘The constitution of a European immigration policy domain’, p.267.

29 Virginie Guiraudon, ‘European Integration and Migration Policy: Vertical Policy-making as Venue Shopping’, *Journal of Common Marketing Studies*, Vol.38 N.2, June 2000 p 252.

30 *Ibid*, p.251.

31 Jonas Christoffersen, Mikael Rask Madsen, *The European Court of Human Rights between Law and Politics* Oxford University press, 2011, p.37.

32 *Ibid* p. 85. See also Glynn, *Asylum Policy*, p.42.

This work will firstly compare the boat migrations from Albania to Italy and from Libya to Italy, assessing similarities and differences in the two case studies; furthermore it will try to put the aforementioned theory to the test. During the course of my research I will try to find evidence to demonstrate whether the EU and ECtHR influenced Italian policies and their outcomes in various ways through interviews with key actors, analyzing ECtHR court cases, newspaper articles and Italian parliamentary discussions.

I conducted six interviews for my thesis with important Italian civil servants and politicians who played a role in policymaking decisions relating to boat migrants in the 1990's and 200's. The interviews I conducted were all done over the telephone with the exception of an e-mail exchange with Ambassador Paolo Foresti and a single email of reply I managed to have from former Italian Prime Minister Romano Prodi. The interviews were all semi structured; I had a set of questions to pose but if the interview brought me elsewhere I always tried to gather the most information I could from the interview. The greatest advantage that comes from interviewing key players is having the possibility to ask them precise questions in regards of what they know but unfortunately often the interviewee tried to lead the discussion to topics they were more comfortable to speak about or on what they could recall better since the facts discussed occurred as far back as 26 years ago in some instances. In particular during my interview with Margherita Boniver, I tried to make her acknowledge the fact that the 1951 Geneva Convention had been breached in the August 1991 case but she just did not want to address that part of the issue. Instead she highlighted how prompt the government response was when she was in charge and how the Italian navy and the *Guardia di Finanza* historically rescued many people in difficult situations on the high seas.

To start an overview of the data I retrieved, the largest share of primary sources will be provided by interviews and questions posed directly to key players in the Italian immigration political landscape. To start with Albanian migration in 1991, I was able to interview Margherita Boniver. She was appointed for that particular event as the minister responsible for immigration; until today the only one in the history of the country. I was able to talk to her not only about the facts of Albania 1991 but about Italian/Libyan relations during the 2000's until 2013 since she was for a long time a member of the Italian Parliament, and she was undersecretary to the Foreign Ministry from 2001 to 2006 and a member of the parliamentary commission of foreign affairs from 2008 to 2013. Furthermore she was president of the parliamentary committee responsible for the supervision of the Schengen agreement, surveillance of Europol and control and surveillance on immigration matters, again from 2008 to 2013.

I interviewed former member of parliament Fabio Evangelisti who was in the Italian parliament for five legislatures and was the supervisor of the "Indagine Conoscitiva sull'Acquis di Schenghen" (Fact finding research on Schenghen's Acquis) of the Italian parliament from October 1998 to December 1999.

Another inestimable contribution with regard to boat migrations from Albania came from an email exchange with Ambassador Paolo Foresti. Foresti was the Italian Ambassador in Albania from 1993 to 1997 but had responsibility for Italy in the country even in 1991 during the first wave from Albania. He gave me some incredibly rare insights on what occurred during those years and provided me with his version of events.

I managed to ask about whether or not Ted Perlmutter's theory, that Italy stopped Albanian boat migrants in 1997 because of their desire to enter the European Monetary Unit was accurate, to Romano Prodi, Prime minister of Italy on two occasions: from 17 May 1996 to 21 October 1998 and from 17 May 2006 to 8 May 2008. Furthermore he was the president of the European Commission from the 16 September 1999 to 21 November 2004.

A fundamental contribution to my thesis came from the interview I had with Marcella Lucidi, member of the parliament for two legislations (XIII and XIV) and sub secretary at the minister of interior with special interest in immigration matters during the second Prodi government from May 2006 to May 2008. As I will

disclose later in the thesis, the information I could take from the interview with Marcella Lucidi was pivotal in defining the role of the EU and the ECtHR.

The last interview I carried out was with Maurizio Gressi who was the spokesperson to the parliament for the Committee for the Promotion of Human Rights and the head of secretary of Laura Boldrini when she was named president of the Italian chamber of deputies in 2013. Furthermore he is the co-author of *Libro Bianco* a book about the situation of the holding centers in Italy with contributions from various scholars and a precise account of the Italian strategies on immigrations written from a humanitarian perspective.³³

Further primary sources were retrieved from the reading of the official judgment of the ECtHR cases “Hussun et al Vs Italy” of 2010 and “Hirsi Jamaa et al Vs Italy” of 2012. The reading was necessary in order to fully comprehend the scenarios, the reasoning behind the rulings and the international regulation on which the judgments were based.

Other primary sources consulted were the official documents and transcriptions of Italian parliamentary discussions. Those were necessary in order to understand the stances of the various political factions towards the migration streams coming to Italy at different moments in time. From a methodological standpoint, I looked for terminology relating to the EU in the debates. For instance for the 1991 Albanian migrations, I looked in all the transcripts for the months of March, June, July and August for the terms “Albania” and “CEE” to see what I could find and in the 1997 case I looked for “Unione Monetaria Europea” (European Monetary Union) in relation to the word “Albania” and “Albanesi” (Albanians) to see if the parliament linked the two topics.

Newspaper analysis was important to understanding the political developments during the case studies in question. *La Repubblica*, a national mildly left oriented newspaper has a public online archive that I could consult and it proved extremely helpful. *La Stampa* is another mildly left oriented newspaper with an extensive historical archive. I do not believe that the political orientation of these newspapers constitutes a bias of the thesis since even these newspapers in many instances (e.g. *Vlora* events 1991) took securitarian stances towards the immigrants, in spite of the historically more sympathetic stance towards migrants of the Italian left parties.

33 Nicoletta Dentico and Maurizio Gressi, *Il Libro Bianco, I centri di permanenza e assistenza temporanea in Italia*, 2006.

2) From refugees to criminals. Italian response to Albanian boat migration in 1991 and 1997.

“There would be an option; if every capable family could take the responsibility of sustaining one of those families the problem would be promptly solved. I am willing to be the first and adopt one of these families.”³⁴

Using these words Giulio Andreotti, Prime Minister of Italy in March 1991, wished to persuade the Italian population to adopt the numerous Albanian boat people arriving on the Italian region of Apulia’s shores. In fact Andreotti ended up adopting three Albanians but, for obvious reasons, the “emergency” of clandestine arrivals from Albania was not resolved with this utopian adoption strategy. To give a bright and realistic picture of the tragic situation of those days, here I report M.P Antonio Bargone’s comments to parliament. Bargone is a Brindisi (Apulia) native, and spoke on 8 March 1991 in the midst of the first wave of Albanian immigrants reaching his region’s shores.

The situation at the moment is substantially different from what the minister has shown in this room. About fifteen thousand Albanians are in the Apulian ports; in particular Brindisi hosts about thirteen thousand without food or shelter who could not eat for about three or four days. There are less than two hundred officials between police and *carabinieri*, who watch for the state of order plus work uninterrupted for 48 hours without substitution. This is a high-tension situation that last night created unfortunate events. As a matter of fact the Albanians, too many to be adequately controlled considering the severe lack of officers (...) pushed by desperation (...) and by hunger damaged shops and even came to ask for food from local inhabitants using inappropriate manners. The population is scared. Considering all these facts I must highlight that the designed authorities are being left alone.³⁵

Before starting the presentation of what happened between Albania and Italy in the 1990s, I want to give an overview of the linkages between the two countries and Albanian’s history.

34 Gianluca Luzi, ‘Andreotti inventa l’adozione di massa’, *La Repubblica*, 10 Marzo 1991. “Un modo ci sarebbe, se ognuna delle famiglie che possono, si assumesse l’ onere di mantenere una di queste famiglie, il problema sarebbe risolto rapidamente. Sono disposto a cominciare per primo io e a prendermi in carico una di queste famiglie”

35 Antonio Bargone (Communist Party), *X Legislatura: Camera dei Deputati (Atti parlamentari: discussioni) Resoconto Stenografico Camera dei Deputati*, 8th March 1991, p.80627. “La situazione in questo momento è ben diversa da quella che il ministro ha illustrato in quest’aula. Circa quindici mila albanesi si trovano nei porti pugliesi; a Brindisi, in particolare, ve ne sono circa tredici mila senzavitto ed alloggio, che non mangiano da tre o quattro giorni. Vi sono meno di duecento unità, tra poliziotti e carabinieri, che vigilano sullo stato dell’ordine e che lavorano ininterrottamente da 48 ore, senza ricevere alcuna sostituzione. Vi è una situazione di grandissima tensione, che questa notte ha provocato episodi incresciosi. Infatti gli albanesi che, visto il loro elevato numero e l’esiguità delle forze dell’ordine non possono essere adeguatamente controllati (...) Spinti dalla disperazione (...) e dalla fame hanno danneggiato negozi e sono addirittura arrivati a chiedere cibo in modo non molto ortodosso agli abitanti del luogo. La popolazione quindi è spaventata. Di fronte a tutto questo devo sottolineare che le autorità preposte sono state lasciate sole.”

Italy and Albania are bonded by strong historical links. In addition to the migration of the Arbëreshë Christian population to southern Italy in the 1400's escaping from the Ottomans and the Venetian Republic's control of some of the county's main ports between 1300 and 1500, it is possible to cite many other moments in the twentieth century when the two countries dealt with each other.³⁶ Intense connections between Albania and Italy started between 1916 and 1920 when Italy occupied parts of Albania. Furthermore during the Italian Fascist period, Albania was colonized and became part of the "Italian Empire" from 1939 to 1943.³⁷ Albania has been historically a country of emigration. The first recorded migration wave from the Albanian territory was in fact the Arbëreshë one to Dalmatia and Italy, which drained approximately 200,000 Albanians, accounting for roughly one quarter of the country's population at the time from 1468 to 1506.³⁸ The peak of emigration was reached at the beginning of the 20th century but it kept going at a solid pace until the isolationist Communist dictatorship held by Enver Hoxha was established in 1944 and emigration was strictly forbidden. In the 1960's, the families of those who emigrated contravened the law and suffered strong repercussions. Nonetheless some people tried to escape the communist regime anyway reaching mainly Switzerland and Germany.³⁹

The dictator Hoxha died in 1985 but free elections and reforms in Albania did not take place until 1990. Emigration towards Italy took on new life in July 1990 and reached significant proportions between 7 and 10 March 1991 due to political and economical distress followed by a harsh agricultural crisis.⁴⁰ In that short time period, 25,700 Albanians crossed the Adriatic generating a wave of solidarity throughout the whole Italian population, Prime Minister Andreotti included. International public opinion and the media welcomed them as "fellow Europeans escaping communist tyranny."⁴¹ They were granted a special residence permit of six months in which they could find a job and ultimately stay in Italy, which excluded them from the immigration law at the time, the "*Legge Martelli*".⁴²

The "hemorrhage" of Albania stopped shortly thereafter but on 8 August of the same year, 20,000 Albanians reached Italy. Most notably on 8 August the "*Vlora*" reached Bari port with 12,000 starving people on board. The reception of this second migratory

36 Russell King, 'Albania as a laboratory for the study of migration and Development', *Journal of Southern Europe and the Balkans Online*, vol.7, n.2, 2005, p. 134. Nicola Dell'Erba, *Storia dell'Albania*, Newton Compton, Roma, 1997.

37 Irial Glynn, *Asylum Policy*, p.78.

38 Flavia Piperno, 'From Albania to Italy Formation and basic features of a binational migration system', *background paper for the CEME- CeSpi research mission in Italy and Albania*, 2002, p.1.

39 *Ibid* p.1. Luca Einaudi, *Le Politiche dell'immigrazione*, p.177.

40 *Ibid*. p.177.

41 Patrick Millar, 'Road to Nowhere', *Sunday times magazine*, 13 September 1992.

42 Nicola Mai, 'Myths and Moral Panics: Italian Identity and the Media Representation of Albanian Immigration', p.77, in Ralph Grillo and Jeff Pratt, *The Politics of Recognizing Difference: Multiculturalism Italian Style*, Ashgate, 2002, p.77-94.

wave was completely different from the first one. The Albanians were placed in the "Stadio Della Vittoria", the football stadium of the city, and all of them were repatriated days later against their will. To give an understanding of how the media portrayed the second wave of Albanians we can look at the titles of some articles of the most popular Italian newspapers of those summer days. *La Repubblica* on 10 August had an article titled "La battaglia di Bari" (The battle of Bari). *La Stampa*, another important national newspaper had on its front page on 9 August the headline "Albanesi, un altro inferno" (Albanians, another hell), furthermore on 11 August *La Stampa*, published "Blocco Navale all'Albania" (Naval Blockade to Albania). As can be seen from the titles a war-like lexicology was used.⁴³ The government feared an invasion and reacted impulsively to the arrivals. Prime Minister Giulio Andreotti, from his luxurious holiday residence of Cortina d'Ampezzo, declared immediately to the press that Italy was absolutely not capable of welcoming anybody.⁴⁴ The government kept its promise: all of the 12,000 who arrived in Bari on 8 August were repatriated, along in the other 8,000 who arrived with other boats, in the immediate next days in clear breach of the 1951 Geneva Convention on Refugees.⁴⁵ The treatment reserved for the Albanians was widely condemned by the international community even if it was probably one of the first glimpses of the evolving EU policy of "Fortress Europe".⁴⁶

Italy was completely ill-equipped for the magnitude of the March wave of Albanians crossing the Adriatic, but was this unpreparedness justified? Considering the events that took place in July 1990, Italy should have considered the possibility of migratory pressure from Albania in the next couple of years. In July 1990, 800 Albanians, unhappy with the government's hesitancy to remove the law that kept Albanians from leaving the country, rushed the Italian Embassy of Tirana. But there was a prologue to this. A very rare fact that I discovered from an extremely interesting email exchange I had with the Italian Ambassador in charge from 1993 to 1997 Paolo Foresti is the *Popa* brothers incident. In 1985, six brothers and sisters sneaked into the Italian embassy asking for asylum since they were persecuted by the Regime because their father, who had studied in Naples in the fascist era, allegedly had collaborated with Mussolini's regime in the 1940's. This situation created a diplomatic crisis that resolved after a five year long negotiation that saw the siblings stuck in the embassy for the whole time. Ultimately they escaped to Rome thanks to the Red Cross intervention on 17 May 1990.⁴⁷ According to Foresti this was the signal that the Albanian people were expecting and that the government feared: it became clear that it was possible to escape Albania. This gave the population the energy to break into the embassy in 1990. At the time the first complete law on immigration in Italian history, the *Martelli* Law had been in place from February of that year but was not considered in this case. The Albanians were considered as refugees with an extremely simplified procedure even avoiding the usual hearing while the individuals who did not apply for refugee status were granted a special residence permit for the duration of one year.⁴⁸ There was another small but significant precedent on 16 February 1991 when 22 Albanians (21 males and 1 female) were rescued by two helicopters near

43According to Fabio Caffio, 'L'Italia di fronte all'immigrazione clandestina via mare', *Rivista Marittima supplemento* Ottobre 2003 p.5. The lexicon is incorrect since a naval blockade is defined by the London Declaration of 1909 as an act of war aimed to stop any boat to reach an enemy's shore or port and this clearly was not the case.

44 Stefano Marroni, 'Linea Dura del Governo 'Non possono restare'', *La Repubblica*, 9 Agosto 1991.

45 Luca Einaudi, *Le Politiche dell'Immigrazione*, p.179.

46 Russell King, Nicola Mai, 'Of Myths and Mirrors', p.136.

47 Vincenzo Nigro, 'L'Albania libera I fratelli Popa', 17 Maggio 1990.

Brindisi on a precarious fishing boat and requested political asylum; the press reacted sympathetically. Furthermore, on 9 February thousands of people had gathered in Dures, Albania's main port, in order to flee the country. Only a military intervention, which caused one death and resulted in many being wounded, stopped the departure.⁴⁹ The situation was so unstable that on 20 February 1991 the statue of Enver Hoxha, Albania's dictator until 1985, was overturned in the capital city of Tirana. This makes the unpreparedness of Italian authorities to what happened only a couple of weeks later even more striking.

Why did the Italian government react so openly to these "preliminary waves" of Albanians? The answer is to be found in the historical moment and due to the fact that number of people who actually managed to reach the shores remained small. At that time Albanians were seen as people fleeing a communist brutal regime, even if the newly established government of Ramiz Alia had marked an opening towards democracy.⁵⁰ Furthermore, as the unpreparedness of the government to the next wave clearly indicates, probably it was seen as an extraordinary and unrepeatable case but it might have given the idea to the Albanians that they were welcome in Italy, thus pushing them to leave their country in 1991.

The most precise number I could find in relation to the people who crossed the sea between 7 and 10 March 1991 is 25,700.⁵¹ The cities most affected by the arrival of the Albanians on any kind of boats, small ships or rafts were Bari, Brindisi and Otranto in the south-east of the country. As stated in the introduction, the situation in Albania at that time was extremely precarious: the country was extremely poor and was just approaching democracy for the first time. The per capita income was around 600\$ per year in 1990, the lowest in Europe. Furthermore there was a fast urbanization with a consequent abandoning of the countryside which caused a food shortage.⁵² Another factor that "pushed" the Albanians to cross the Adriatic was television. Italian television transmissions arrived in Albania in the early 1960's when channel Rai 1 reached Albanian shores during the summer and only with good weather conditions. The viewing, albeit considered illegal by the regimen until 1985 and punished with up to 7 years of imprisonment, reached a "mass scale" in the 1970's. As Nicola Mai gathered from many interviews with Albanians: "What Albanian viewers found in Italian Television was a cultural landscape of beauty and pleasure that contrasted with the cultural monotony offered by both Albanian television and society."⁵³

The Italian government led by Giulio Andreotti reacted in the most humanitarian way possible. This thesis started with an Andreotti quote from March 1991, and that was the stance of Italy throughout the whole process even if the Apulia area encountered

48 Bruno Nascimbene, 'The Albanians in Italy: The Right of Asylum Under Attack?', *International Journal of Refugee Law*, vol.3, n.4, 1992, p.714-720.

49 'In fuga dall'Albania affondano nell'Adriatico', *La Repubblica*, 16 Febbraio 1991.

50 Dorothy Louise Zinn, 'Adriatic Bretheren or Black Sheep, Migration in Italy and the Albanian Crisis' of 1991, *European Urban and Regional Studies* 1996, vol.3, n.3 241-249 1996, p.242.

51 Nicola Mai, 'Miths and Moral Panics', p.77.

52 Luca Einaudi, *Le Politiche Dell'Immigrazione*, p .178.

53 Nicola Mai "'Italy is Beautiful": The role of Italian television in Albanian Migration to Italy'. In Russell King and Nancy Wood, *Media and Migration: Construction of Mobility and Difference*, Routledge, London, 2001, p.96-98-100.

many problems from this first wave and the small subsequent arrivals that followed up until June 1991 and the local population, especially in the Brindisi zone started to see the Albanians as unwelcome strangers.⁵⁴

With regard to the possible influence of the EU or supranational institutions in this phase of emigration from Albania, it appeared to be completely absent. It was only the Greens (*I Verdi*) who regularly brought up the EU. They lamented the fact that the government did not try to involve the twelve members of the EU to redistribute the refugees thus easing the distress encountered by the migrants forced to live in tent camps and the local communities.

A further analysis of the Italian parliamentary discussion in July 1991 reveals the great difficulty the state encountered trying to distribute the Albanians in the territory. Many MP's stemming from diverse political parties expressed their concern about this prospect.

In my interview with Margherita Boniver, minister for immigration at the time, she praised how the government distributed the migrants, but from the parliament discussion and from her own words the picture was not that positive. First it appears that there was a clear lack of coordination between the state, the regions and the municipalities. Boniver lamented multiple times the fact that the regions did not want to accept the agreed number of refugees (Lombardia especially) and that she had to threaten the forced establishment of refugees camps in accordance with the different local heads of police (*Prefetti*) in order to convince the regions to establish some reception centers themselves. Something that appears unbelievable is the fact that, with an always active stream of boat people crossing the *Otranto* Channel, of the 23,858 Albanians who arrived in Italy, 10,523 were still living in tents in the Apulia region while only 2,214 had been moved to other locations more than three months after the initial wave. 1000 were still in tents in the nearby Basilicata region. The other 14,000 Albanians from the first wave were either sent back to their country, took off spontaneously or disappeared within the territory.⁵⁵

Minister Margherita Boniver stated to the parliament that after the democratic elections that were held in Albania from 31 March to 7 April 1991 (which saw Fatos Nano elected as President) there were no reasons whatsoever for Albanians to come to Italy apart from economic reasons, this is why anyone who reached the Italian shores or who was saved at sea in accordance with International Convention on Safety of Life at Sea of 1974 would have been sent back since they had no legal means to enter Italy. She described the Italian stance as firm and humanitarian. When speaking on the matter in her interview, Min. Boniver kept the same position 26 years later. She stated that after the elections, the Italian government had someone to enter into dialogue with and somebody they could refer to who had been elected democratically. For this reason she stated that while accepting the March wave, escaping from a brutal Communist regime was not only right but a humanitarian necessity, but after the elections everything changed. Minister Boniver and the foreign minister De Michelis

54 Ankica Kovic and Anna Triandafyllidou, 'Albanian immigrants in Italy: migration plans, coping strategies and identity issues', *Journal of Ethnic and Migration Studies*, vol. 29, n. 6, November 2003 p. 999.

55 Rossella Palomba, Alessandra Righi, 'Quel Giorno gli Albanesi Invasero L'Italia... Gli Atteggiamenti Dell'Opinione Pubblica e della stampa Italiana sulla questione delle migrazioni dall'Albania', *working paper, Irp-Cnr*, Agosto 1992, p.1.

flew various times to Albania to secure bilateral agreements and to make sure that people sent back did not suffer any repercussions. In the interview she highlighted that soldiers fleeing from Albania were subject to another treatment and always received protection in Italy. This line of closure was implemented even as a strategy to discourage future migrants.

When I asked about possible influences from the EU in this change of stance of the government she confirmed that this was not the case. In relation to the economic relief provided to the Albanian state, during the interview Boniver stressed the fact that Italy had fed Albania for months.⁵⁶ It has to be noted that this stance taken by Italy and Albania was clearly against the 1951 Geneva Convention “*Non Refoulement*” principle; every asylum claim should be examined regardless of bilateral agreements between the two countries.

Public opinion regarding the Albanians shifted dramatically after the spring of 1991. One of the causes was that already in June, 253 complaints were filed against Albanians, 106 had been arrested and 82 repatriated due to the aforementioned complaints.⁵⁷ Furthermore the media focused much of their attention on the immigrant issue. As noted by scholars, the association between immigrants and ‘criminals’ is a more general cultural paradigm proposed by the Italian media.⁵⁸ To demonstrate the shift in public opinion Doxa, an important Italian survey institute, showed that from 1989 to 1991 the percentage of Italians hostile to immigration rose from 43.1 percent to 61 percent.⁵⁹ The only media outlet that had solidarity for the August wave migrants was *Il Manifesto*, a newspaper oriented towards the extreme left. The media outlet noted how welcoming 20,000 or even 40,000 would have been not that much if compared to what other countries had done for refugees.⁶⁰

The arrivals from March to August never stopped completely but kept going at a moderate pace until 8 August 1991 when the ship *Vlora* brought around 12,000 people to Italy in one single voyage. The reaction from the Italian public and the press was the opposite to the March wave.

56 In the parliament report of 18 June 1991 there are more significant data in this regard: from February 1991 to October (not considering the future *Operazione Pellicano*) Italy in the form of food, medicines or very low interest loans (1,5% in 25 years) 100 Billion of *Lire* (Roughly 50 Millions of Euros) while the only contribution of the CEE up to that moment had been 1 million of ECU (European currency unit equivalent to today’s Euro) to help the Italian Red Cross in March, during a reunion on the 17th of June they promised to send not better quantified relief to the Albanian State. Interview by the author with Margherita Boniver, 26 January 2017.

57 Margherita Boniver (Italian Socialist Party), *X Legislatura: Camera dei Deputati (Atti parlamentari: discussioni) Resoconto stenografico*, 18 Giugno 1991, p. 84422.

58 Ankica Kosic and Anna Triandafyllidou, ‘Albanian immigrants in Italy: migration plans, coping strategies and identity issues’, *Journal of Ethnic and Migration Studies*, vol. 29, n. 6, November 2003 p. 1000.

59 Doxa, ‘Gli stranieri in Italia. Aggiornamento di alcuni sondaggi del periodo 1987-91’, anno LIV, nn.17-18, 30 Settembre 1999.

60 Giovanna Campani, ‘Albanian Refugees in Italy’, *Refuge*, vol. 12, n. 4 October 1992, p.9.

In early August, around 20,000 Albanians in total reached Italian soil.⁶¹ Almost all of them were repatriated and the breaches of the 1951's Geneva Convention were clear. Very few of the Albanians were granted the possibility to seek asylum. The repatriations began immediately with aircrafts after all the migrants were squeezed into the *Stadio della Vittoria* against their will.

As previously stated much of the newspaper attention was security orientated, with article titles such as "The battle of Bari" and "Albanians, another hell" but the treatment of the migrants and the clashes with the police were extremely violent.⁶²

The Italian political opposition parties were indignant about the treatment reserved for the Albanians. The coordinator of The Refounded Communists (Rifondazione Comunista) Sergio Garavini, was present in Bari at the time in contrast with the complete absence of any member of the government. The coordinator stated that: "The government adopted the strategy of starving the Albanians to make them accept the repatriation". Giorgio La Malfa of the Republican Party was present in Bari as well and made public his disappointment for the fact that Giulio Andreotti was in the luxurious Cortina d'Ampezzo enjoying his vacations while the Albanians drama was taking place.⁶³

At this point, the Italian government understood that it was impossible to deal with this kind of migration by only stopping the boats at sea. For this reason, Italy attempted to secure a complete agreement with Albanian authorities. In September 1991, Italy and Albania launched *Operazione Pellicano*. The aims of the operation were for Italy to patrol the Albanian territorial waters in accordance with the local government. Furthermore the Italian military took care of the distribution of the EU economic aids granted by the European Union in 1992 and 1993, amounting to 330 million Euro. Moreover Italy invested roughly 182 million Euro between 1992 and 1995 to build various infrastructure in Albania, such as the aqueduct of Tirana and the telephone lines in the country's main cities.⁶⁴ These efforts continued until 1997.

According to my email exchange with Paolo Foresti, the European Union left Italy.⁶⁵

As a result of *Operazione Pellicano*, Italian and foreign investments, the remittances flow and the guidance of the International Monetary Fund and of the World Bank allowed Albania to become a model post-communist country in the years between 1992 and 1996. From 1993 to 1996, GDP grew 9 percent per year and farms had a

61 Russell King and Julliett Vullnetar, 'Migration and Developement in Albania', Working Papers, C 5, Development Research Center on Migration, Globalization and Poverty, December 2003, p.8.

62 Barbara Palombelli, 'La battaglia di Bari', *La Repubblica*, 9 Agosto 1991. Maria Grazia Bruzzone and Francesco Grignetti, 'Albanesi: un'altro inferno', *La Stampa*, 9 Agosto 1991.

63 Massimo Gravellini, 'A Bari è guerra anche fra i politici', *La Stampa*, 12 Agosto 1991.

64 'La formula Tirana anticlandestini, inchiesta. Gli investimenti italiani in Albania hanno Bloccato gli esodi', *Corriere della Sera*, 27 novembre 1995.

65 Email exchange by the author with Paolo Foresti.

substantial increase in output compared to the previous collectivist system.⁶⁶ In those years no migratory “emergency” happened from Albania but the regular presence of Albanians on the Italian territory in those years went from 26,381 in 1991 to 63,967 in 1996, thanks to Italy’s migrant regularization of 1995/1996.⁶⁷

Many people still embarked to Italy in those years but the phenomena changed from citizens rushing in their thousands to try to escape Albania to fast boats with smaller numbers crossing the Adriatic. It became an organized and profitable business model, dismantled only in the first years of 2000’s, in the hands initially of both Albanians criminals and Italian mafia like criminal organization located in Apulia.⁶⁸ As Fabio Evangelisti, the supervisor of the “Fact finding research on Schengen’s Acquis”, recounted in his interview: “That was the era of the rubber dinghies arriving every other night on the Apulia shores and always on the Italian television. That’s when it arose, the criminal figure of the *scafisti* so tragically notorious even today”.⁶⁹

According to my in depth research and interviews, what drove the Italian government actions in 1991 was mainly public opinion, partly constructed by the media, and less importantly the political landscape in Albania. As shown the first wave caught the Italian government led by Giulio Andreotti completely off guard regardless of the many hints of what lay ahead. The scenario of Albania in March was one of a country that was timidly trying to exit more than forty years of an isolationist Communist regime. This fact helped the media construct the image of their “Adriatic Brethren” escaping communism and in need of help. This image quickly faded and was replaced by the image of Albanians as drugs smugglers, pimps and home invaders.⁷⁰ This criminalization of the Albanians, exacerbated by the Italian media looking for a greater audience was boosted even more from the dramatic images of the “*Vlora*” arriving with more than 10,000 people on board. The images had such an impact that the Italian clothing company Benetton used them for their commercial campaigns. The second wave was managed very differently if compared to the first; the humanitarian stance was completely abandoned in favor of a “securitarian” one. I believe that the upcoming political elections coming in April 1992 played a major role in the decisions taken by the government, another drama along the lines of what happened in March 1991 could have generated terrible publicity for Andreotti’s Christian Democrats. Proof that an internal political game was played involving the migrant’s fate, as also occurred in 1997, was the presence of exponents of political opposition in Bari in August. There was no European interference since it did not come up in any of the parliamentary resumes or in interviews with ministry Margherita Boniver nor Amb. Paolo Foschi when asked.

66 International Centre for Migration Policy Development, ‘Report from the evaluation mission to Albania 2-5 July 2000, undertaken in the framework of the Budapest process, to examine the Albanian-Italian co-operation to stem illegal migration’, 2000, p. 4.

67 Flavia Piperno, ‘From Albania to Italy’, p.2/9.

68 Ferruccio Pastore, Paola Monzini and Giuseppe Sciortino, ‘Schengen’s Soft Underbelly?’, p.110.

69 Interview by the author with Fabio Evangelisti, 10 February 2017. For an extensive evaluation of the figure of the smuggler: Luigi Achilli, ‘The smuggler: hero or felon?’, European University Institute, June 2015.

70 Flavia Piperno, ‘From Albania to Italy’, p.15.

Romano Prodi's solution to contrast clandestine arrivals from Albania in 1997.

From 1991 to 1997 the Italian political landscape suffered an enormous earthquake. To make an extremely long story very short, in 1992 the investigative report "*Manipulite*" led by public attorney Antonio di Pietro, unveiled numerous illegal activities in relation to public finance management by many Italian political actors, most notoriously the leader of the Italian Socialist Party (PSI) and former prime minister Bettino Craxi. This investigation later led to the demise of the First Republic that had started in 1948 and ended formally in 1994 with the advent of the first Berlusconi government, thus starting the so called Second Republic characterized by the rise of new political figures in opposition to the old Christian Democrat predominance in Italian politics.

In 1997 a left wing coalition government led by the economist Romano Prodi, who himself came from the Christian Democrat tradition, took office. Despite the fact that the major Italian legislation on immigration, the *Legge Martelli*, had shown many weak sides, in 1997 it was still in force. The law that would succeed it, the so called *Turco Napolitano* law, was being discussed by the parliament but it was still a work in progress.

The 1997 Albanian refugee crisis stemmed from the collapse of the pyramid investing scheme that already caused enormous economic problems for Albania. It has been estimated by the World Bank that the loss suffered by the Albanian population due to the Ponzi scheme was equivalent to half of the country's GDP of 1996.⁷¹ The government was well aware all along of the fact that the investments were fraudulent but the collapse of this 'Coexistence agreement,' as Ferruccio Pastore calls it, between legal and illegal powers that permitted the economic growth of the previous years led to violent riots since the population held the government co-responsible for the fraud.⁷² Starting on 2 March, police stations, barracks, banks, and public offices came under attack, seriously undermining the existence of the state itself. During these attacks many weapons ended up in the hands of gangs. Moreover mass breakouts from prisons occurred and the situation was one of widespread anarchy, which devastated the economy.⁷³

In this context many Albanians decided to embark towards Italy. In only six days, 10,619 persons crossed the Adriatic to seek refuge in Italy.⁷⁴ Before describing in depth the specifics of this wave and the Italian reception of it, I want to spend some time describing the situation that an Albanian asylum seeker encountered fleeing from anarchy in 1997.⁷⁵ It has to be taken into account that this migration stream played an important role in Italian internal politics, for instance Silvio Berlusconi, at the time leader of the opposition, visited the coastal city of Brindisi to express solidarity with

71 Russell King and Nicola Mai, 'Of myths and mirrors', p .167.

72 Ferruccio Pastore, 'Conflict and migrations a case study on Albania', Written Briefing addressed to the Conflict Prevention Network of the European Commission, 1998, p.5.

73 Luca Einaudi, *Le Politiche dell'immigrazione*, p.228.

74 Ted Perlmutter, 'The politics of proximity: The Italian response to the Albanian Crisis', *International Migration Review*, vol.32, n.1. p.203.

75 Luca Einaudi, *Le Politiche dell'immigrazione*, p.228/29.

the migrants and cried on national television, calling the government's shore patrol policy as "unworthy of a civil nation".⁷⁶ Ironically Berlusconi's governments of the 2000's would repeatedly patrol the shores and repel ships from Libya in collaboration with Colonel Gaddafi.

I conducted an Interview with an Albanian refugee who from in the first days of March 1997, whose father was a high ranking officer in the state's secret services, Ingrit Dauti. When asked about the journey and steps asylum seekers had to go through in those years this was his answer.

I was very young when we came to Italy but I remember the journey so clearly, one of the most vivid memories is when we got shot with automatic weapons from the port right after we left from Albania. They shot us because my father and my uncles were high up in the military secret services at the time, were considered deserters and were on a hit list of the rebels. We had to leave Albania if my family wanted to live. Obviously I can't remember the bureaucratic procedures but I asked my father to explain to me how we managed to stay in Italy since it was not easy at all. In the first instance, our political asylum application was rejected, we were granted only humanitarian protection and we were hosted by a summer camping in Tuscany where the government put all the Albanians who arrived during our time span. After some time the money that the Italian government gave us, 30.000 Lire per day (equivalent to 14,56 Euros) stopped but the law did not permit my father or my mother to work. Many Albanians from the campsite we were living alongside were repatriated. We were very lucky because there were many kids amongst our group. This led the bishop and a local priest to take our case to heart. They found a local company involved in wood manufacturing willing to sponsor my father and my uncles, this way they were able to work legally and were granted a temporary residence permit, this was in 1997. We did not have access to full citizenship until 2013.⁷⁷

What we can extract from the interview is the "luck" factor. If Ingrit and his family weren't lucky enough to have many kids in their group their fate would have been repatriation to a precarious fate in Albania, exactly what happened to the others hosted in their camping. Ingrit shared with me some articles of the local press *Il Tirreno* talking about their case and even from those articles we can evince how the situation was extremely precarious since the law would not allow them to work without someone being willing to sponsor them.⁷⁸

One of the things we can note is that even if Ingrit's father was high ranking in the military, they could not get access to complete asylum which created many difficulties in their access to a new life and to full integration. This is often the case in Italy which prefers to grant other kinds of protection instead of asylum, but this is a topic too broad to be discussed here.

A first distinction has to be made with regard to the 1997 migration from Albania. According to Ferruccio Pastore the influx of people has to be divided into two phases, the first happened broadly from 5-14 March, and it consisted mainly of middle-class families from Vlore who organized the crossing themselves by arranging a boat in order to escape the violence; this is the case of Ingrit's family. From 15 March until the end of the month the social composition of the migration changed gradually but completely in favor of a young male crowd from the Durres area organized by criminal organizations profiting from the smuggling

⁷⁶ *Ibid*, p.230.

⁷⁷ Interview by the author to Ingrit Dauti, 15 November 2016.

⁷⁸ 'A Boccheggiano tra I militari albanesi e le loro famiglie otterranno il soccorso umanitario "Quando arriva quel permesso?" Un pezzo di carta per restare e cercare lavoro in Italia, *Il Tirreno*, 4 dicembre 1997.

business.⁷⁹ As already presented earlier in the thesis, Ted Perlmutter 1998 in his article put forward a theory about the 1997 refugees crisis. In short he believed that the line of the Prodi government, described as initially fairly open as Giorgio Napolitano's statement would lead to think: the minister of interior declared to the press on 10 of March that: "We don't believe that the situation is so complex as to justify the automatic concession of political asylum. But in every case, Italy will respect all Italian and international laws on the subject of political asylum; for that reason every request advanced will be examined with attention".⁸⁰ Afterwards this clearly did not happen and the government disregarded Albanians' possible refugee status, which stemmed from the public opinion shift towards a criminalized image of the Albanians and most importantly to the talks that in those days were held in regards of the acceptance or denial of entry for Italy to the EMU (European Monetary Union).⁸¹ Secondly, I add, it has to be considered the fact that on 26 October 1997, years after it was initially signed by Italy, the Schengen agreement finally entering into force in Italy as well. This could have been a second very important factor in the closure shown by the Prodi Government which stemmed from the Italian center and left which is historically open to migrants as we saw from the 1991 parliamentary debates. First I will give a more in depth look at the 1997 crisis and its aftermath, then I will discuss the merits of Perlmutter's theory.

When the boats started to cross the Adriatic once again the Italian government immediately tried to dissuade the Albanians from embarking. Italy promptly initiated a large scale patrolling operation in the high seas. Furthermore Italy appealed first to the EU and then to the Organization for Security and Co-operation in Europe (OSCE) to try a collective European military effort to re-establish peace in Albania but Germany and Great Britain excluded this possibility since it concerned the EU while the OSCE was busy with the humanitarian relief operations. For this reason Italy had to put through a UN resolution, which was approved unanimously decision with only the abstention of China on 29 March, to get permission to lead "Missioni Alba".⁸² However Italy was already one step ahead: on 25 of March the Prodi Government had signed an agreement with the Albanian government that allowed it to push back the boats on the high seas directly to Albania. The agreement had still not been signed- the signature would happen only on 2 April- when a corvette of the Italian Navy, the "Sibilla" collided with the Albanian Boat "Kather I Rades" causing the death of 108 people.⁸³ This accident had an enormous political impact since it happened right before the UN Security Council vote.⁸⁴ The tragedy pushed the extreme left wing party of the Refounded Communist (PRC *Partito Rifondazione Comunista*) led by Fausto Bertinotti, already very skeptical about the military mission before the tragic event, to strongly oppose the military mission. The PRC's votes were crucial for Romano Prodi's coalition to have the majority in the Italian Parliament necessary to ratify the mission. To make clear Bertinotti's position, he declared to the parliament on 2 of April, which was the first meeting of parliament after the tragedy occurred, that:

79 Ferruccio Pastore, 'Conflicts and migrations', p.5.

80 'Non Cacciamo Nessuno"', *La Stampa*, 10 Marzo 1997.

81 Ted Perlmutter. 'The Policy of Proximity', p.214.

82 *Ibid*, p. 207.

83 Fabio Caffio, 'L'Italia di fronte all'immigrazione clandestina via mare', *Rivista Marittima supplemento* Ottobre 2003, p. 4/5.

84 Raffaello Masci, 'Collisione in mare, strage di albanesi', *La Stampa*, 29 marzo 1997.

This debate comes after a tragedy and precedes an important decision for our country, that being of sending Italian soldiers on a military mission, together with other European countries, into Albania. We are against this choice for easy and clear reasons, because it can't resolve the people's tragedy and aggravates the risks for the population and for the Italian soldiers (...) The solution has to be found there in Albania (...) This Europe that can't talk other than in monetary terms, the Maastricht language, was absolutely incapable of offering Albania a proposal of economic renovation and solidarity and was incapable of offering Italy help with regards to the relief on the Apulian shores for the Albanian immigrants.”⁸⁵

The defection of the PRC in the voting was very important since it highlights a mistake Ted Perlmutter made in his article. Other than the “*Kater I Rades*” tragedy, another fact pushed Bertinotti and his party to not vote for the Italian military mission in Albania. This was in spite of the request for military help even from the most conservative left remaining in Albania who sent a delegation to convince Bertinotti to vote for the mission.⁸⁶ The reason was a declaration made by undersecretary of foreign affairs Piero Fassino to a summit of his party, the PDS (Democratic Left Party at the time in coalition with PRC), which stated that “*è chiaro, Berisha deve andarsene*” (it's clear, Berisha has to go). This meant that the government would not have spoken with the president of Albania, Berisha, and that he had to leave power, implying direct Italian interference in Albanian internal politics.⁸⁷ This was considered to be unacceptable in the eyes of Bertinotti and the PRC in spite of the clarifications from numerous sources of the PDS, Fassino included, that Italy would not interfere in any way with Albanian politics.

Prodi feared Italy's action could result in a negative image of Italy emerging in the international landscape and it was clear from public declarations that not ratifying the mission would represent a “dishonor” for Italy.⁸⁸ This led him to ask for an alliance on the voting to the “*Polo*” the coalition of opposition right-wing parties led by Silvio Berlusconi.

Here Perlmutter commits two mistakes, he states that the *Polo* voted no to the mission, which is false, and that this led to the demise of the Prodi Government, which is false as well, these two mistakes are very surprising since the scholar consulted many of the same newspapers as he cites *La Stampa* to substantiate his theory.⁸⁹ The facts are different: Prodi promised Berlusconi and the *Polo* that in exchange for voting to ratify the mission, he would report this positively to the president of Italy and later allow Berlusconi to have

85 Fausto Bertinotti (Refounded Communist Party), *XIII Legislatura: Camera dei Deputati (Atti parlamentari: discussioni) Resoconto stenografico*, 2 aprile 1997, p.14240. ” (...) Questo dibattito viene dopo una tragedia e precede una decisione importante per il paese, quella di inviare soldati italiani in una missione militare con paesi europei in Albania. Noi a questa scelta siamo contrari per ragioni semplici e chiare, perché non può risolvere il dramma di quel popolo e perché aggrava i rischi per molte di quelle popolazioni e per i soldati italiani (...) La soluzione non può che essere trovata lì, in Albania (...) Quest'Europa che non sa parlare altro che il linguaggio della moneta, che il linguaggio di Maastricht, è stata assolutamente incapace di offrire all'Albania una proposta di politica economica, un programma economico di risanamento e di solidarietà ed è stata incapace di offrire all'Italia un aiuto nell'accoglienza da offrire sulle coste pugliesi agli immigrati albanesi.”

86 Vincenzo Tessandori, ‘L'Inutile Pressing dei Comunisti Albanesi’. *La Stampa*, 10 aprile 1997.

87 Maria Grazia Bruzzone, ‘è Chiaro Berisha deve Andarsene’ *La Stampa* 9 aprile 1997.

88 Maria Teresa Meli, ‘Albania, oggi alla camera resa dei Conti’, *La Stampa*, 9 aprile 1997.

89 Ted Perlmutter. ‘The Policy of Proximity’, p.210.

a “vote of trust” in parliament to test the government majority. Prodi did both and the vote of trust was later won thanks to the votes of Bertinotti’s PRC, which decided to support the government in spite of the previous difference of opinion on the Albanian mission.⁹⁰ The government did not fall and the *Polo* voted yes to the mission that, according to Einaudi, involved 6,000 international soldiers, half of which Italians, and for the rest French Turks, Greeks, Spanish, Romanians, Austrians and Danes.⁹¹

Significantly, key terms relating to the EMU (European Monetary Union) were absent from all the parliamentary debates of March and April 1997. What was present were references to “Schengen” in relation to the Albanian refugees crisis. In the debate on 2 April 1997, for instance, one politician from the *Lega Nord* party, called the Schengen agreement a “spectre” fluttering in the parliament that everyone feared to bring up in relation to the obligations Italy had towards Europe.⁹² In the same debate the leader of neo-fascist but increasing center right *Alleanza Nazionale*, Gianfranco Fini, brought to the attention of the parliament the fact that there were surely humanitarian obligations towards the refugees but Italy had signed the Schengen Agreement and had obligations towards Europe as well.⁹³ Lastly even Silvio Berlusconi stated that Italy had to take responsibility since nobody would profit from a mass clandestine immigration to Italy and furthermore it was forbidden by the Schengen agreement.⁹⁴

To test Perlmutter’s theory even further I asked Paolo Foresti, Italian Ambassador in Albania in those days and Fabio Evangelisti, supervisor of the “fact finding research on Schengen’s Acquis” of the Italian parliament from October 1998 to December 1999 about their version of the events.

Paolo Foresti replied that:

The influence of Europe on the considerations made by the government in relation to the migrants and the security of the borders was not relevant”. Foresti added:” The theory [Perlmutter’s with the addition of Schengen’s considerations] does not pass the test in relation to what happened between Albania and Italy in 1997. The decisions were taken because of the strong aversion of the public opinion to Albanian immigrants, which was very sensitive to the argument especially in certain regions. I lived those days and the aftermath with my friend Margherita Boniver and with President Romano Prodi, so I can confirm the relevancy of my indications.⁹⁵

Fabio Evangelisti added:

I do not recall the events precisely since many years have since gone but I tend to exclude this possibility. You have to take into account that the Italian internal factors and the public opinion are

90 Maria Teresa Meli , ‘Ulivo e Polo, si alla missione in Albania’, *La Stampa* 10 aprile 1997.

91 Luca Einaudi, *Le Politiche Italiane dell’immigrazione*, p. 229.

92Alberto Lembo (Northern League), *XIII Legislatura: Camera dei Deputati (Atti parlamentari: discussioni) Resoconto stenografico*, 2 aprile 1997, p. 14242.

93 Gianfranco Fini (National Allegiance), *XIII Legislatura: Camera dei Deputati (Atti parlamentari: discussioni) Resoconto stenografico*, 2 aprile 1997, p. 14247.

94 Silvio Berlusconi (*Forza Italia*), *XIII Legislatura: Camera dei Deputati (Atti parlamentari: discussioni) Resoconto stenografico*, 2 aprile 1997, p. 14250.

95 Email exchange by the author with Paolo Foresti.

much more prominent in the government decisions since Italy has a history of not really taking into account too many EU directives and recommendations.⁹⁶

Romano Prodi himself stated that

"I've never linked the entrance into the EMU and the Schengen Agreement with the Albanian migrations. For me the Albanian issue was of great importance from a human and from a political perspective, with a specific Italian responsibility. For this reason it was an absolute priority."⁹⁷

Furthermore, I looked for the word "Schengen" in all the parliament debates of March and April 1997 and aside of the aforementioned case on 2 of April, it never came up in relation to any restraint on Italian immigration policy for boat migrants from Albania.

The stance of the Italian government did not change much from August 1991 to March 1997 despite the earthquake that shook the Italian political landscape during this period. At this point it has to be noted that of the almost 17,000 Albanians who arrived on Italian shores from March to the end of June 1997, 1,685 asked for asylum and 10,425 were granted a temporary residence permit, the others were lost track of immediately. The permit expired on 30 June but only 2,515 Albanians were back in Albania by that date.⁹⁸ For this reason the government started police operations to find the remaining immigrants and send them back against their will. The government managed to do so with the 30 percent of them since 1 700 individuals were repatriated by the police forces.⁹⁹ After evaluating every aspect of the Albanian migration in 1997 and having asked direct questions about it to the major players of this piece of history I believe that Italian internal factors, public opinion in particular, was the factor that influenced the government the most, exactly like in 1991. The fact, for instance, that Berlusconi cried on national television firmly contesting the government behavior, and then asked for tighter border control to comply with the Schengen Agreement only days later provides an insight into how public opinion was an important pawn in the political landscape. Politicians tried always to play the role that could raise their popularity the most. In this case, after 1991 Italian public opinion was firmly against more migrations coming from Albania so Prodi had to show determination in repelling the immigrants and closing the borders.

Concluding, from the information I could find and analyze there is no proof of a European influence in the government decision, thus disproving Perlmutter's theory, even when considering the Schengen agreement. In other words, there was little supra national influence on Italian attempts to control Albanian boat migration.

96 Interview by the author with Fabio Evangelisti, 10 February 2017.

97 Email exchange by the author with Romano Prodi.

98 Luca Einaudi, *Le Politiche Dell'Immigrazione*, p. 230.

99 *Ibid*, p.230.

3) A big box full of sand¹⁰⁰

100 This is how the historian Gaetano Salvemini, one of the most prominent figures of Italian politics at the time, metaphorically referred to Libya in 1911. The comparison highlighted the perceived uselessness of the country, thus dissuading the government from the African campaign. Clearly this was before the discovery of the rich subsoil of the country.

“It’s the same that has already been done on the Albanian shores, eliminating the influx of illegal boat people through that route. Now it will be possible to do it on the Libyan route as well.”¹⁰¹

This is how the minister of the interior in 2007 Giuliano Amato, described the collaboration protocol in late December to the press after two years of secret bargaining between Italy and Libya. I will focus on two moments in time with regards to migration from Libya to Italy, these are 2004/6 and 2008/10 but the differentiation is not as marked as in the Albanian case. The reason why I chose these years is because two important lawsuits were filed at ECtHR in 2005 and 2009 respectively. I believe that these lawsuits had a role in modifying the Italian immigration policy implementation. More details are provided in the next paragraphs.

First, I will give an historical introduction to the links between Italy and Libya, afterwards I will explore the government stances in 2004/6, 2008/10 to appreciate the differences in how the migration streams were managed by the different governments in power at the time and to see if the EU and the ECtHR interfered directly or indirectly with the Italian policy implementation process.

Italy and Libya’s common recent history starts in 1911 Italy decided to expand its imperialistic aims to Libya, at the time part of the crumbling Ottoman Empire. Italy had aspirations to expand on the other side of the Mediterranean since the nineteenth century but was incapable of establishing a colonial territory due to its political weakness after unification.¹⁰² However the Italian colonial experience in Libya remained unsuccessful until the advent of Fascism in Italy.¹⁰³ The so called “*Riconquista*” of Libya led to the region of Tripolitania being controlled in 1924 while the Cirenaica area was controlled only in 1932. The Italian occupation of Libya officially ended with the peace treaty of 1947 after the Second World War, but many Italian migrants remained in Libya until Colonel Gaddafi’s forced expulsions in the 1970’s. What is important for this thesis about the Italian colonization of Libya is the fact that during the colonialist period much violence was committed against the Libyan population by Italian authorities including the use of chemical weapons. Those heinous actions would be used by Gaddafi as a bargaining chip during later negotiations on migration held with the various Italian governments.¹⁰⁴

In the 2000’s, the pressure of boat people from the northern shore of Africa rose considerably, replacing the Balkans as the main sending area. From 2004 to 2006, it has been widely shown that Italy repatriated migrants to Libya, in accordance with the Libyan government. The migrants came from various African countries and arrived predominantly on Lampedusa, an Italian island located in between Sicily and Tunisia.¹⁰⁵ During those years the Bossi Fini Law on migration (2002: ratification; 2005: full implementation) came into effect and was drafted by the leaders of the two main

¹⁰¹ Francesco Grignetti, ‘Alt agli sbarchi da Tripoli Gheddafi da l’ok per bloccare i clandestini navi italiane potranno pattugliare le coste libiche, Amato sigla l’accordo’, *La Stampa*, 30 dicembre 2007. “E’ ciò che è stato fatto sulle coste dell’Albania, azzerando di fatto l’afflusso dei clandestini attraverso quella rotta. Ora sarà possibile farlo anche con la rotta dalla Libia”

¹⁰² Emanuela Paoletti, *The Migration of Power*, p.108.

¹⁰³ Erika Ravis, *Relazioni Tra Italia e Libia: 1911-2011*, Tesi di Laurea Magistrale Università Cà Foscari Venezia, 2012 p. 25.

¹⁰⁴ Emanuela Paoletti, *The Migration of Power*, p.109.

extreme right parties then in the coalition government, the *Lega Nord* and *Alleanza Nazionale*. Even if the law included the largest regularization of economic immigrants in the history of Europe, Italy was at least formally extremely reluctant towards immigration at that time.¹⁰⁶ Despite the Italian minister of the interior's rejections at the time, it is highly probable that in many cases boat people arriving on the Italian island were not given the possibility of filing a request for asylum especially during the summer months when the migratory pressure rose due to the favorable meteorological conditions.¹⁰⁷ Many international organizations expressed concerns about the treatment of migrants during those years, amongst them Human Rights Watch, UNHCR and a delegation of the European Parliament that visited the island in June 2005. It is important to note that Libya had neither signed the 1951 Geneva Convention on asylum or the 1967 Protocol relating the status of refugees and that until 2006 Italy and Libya had no formal readmission agreements but only verbal agreements. According to Human Rights Watch this was because every formal agreement had to be ratified in parliament and formal repatriations would have to follow certain procedures making them more difficult and expensive.¹⁰⁸ Perhaps the most important fact in relation to migration from Libya in 2005 was the filing of a case against Italy at the European Court of Human Rights by 79 individuals who arrived in Lampedusa in March 2005 (*Hussun and others vs Italy*, Applications no. 10171/05, 10601/05, 11593/05 and 17165/05). The applicants claimed that Italy had breached articles 2 "right to life", 3 "prohibition of torture", 13 "rights to an effective remedy of the European Convention of Human Rights" and they appealed to art 34 the individual application of the convention. Furthermore they believed there was a breach of article 4 of protocol 4 to the Convention which relates to the prohibition of expulsion of aliens. I discuss the case in depth later on the paper, but although it ended up being unsuccessful due to the ultimate unavailability of almost all the applicants during the court ruling, it posed an important precedent. As already stated, the EU and the European Court of Human Rights could have influenced the implementation of Italian policies and this ruling, even if unsuccessful could be one of the factors in the stoppage of the repatriations to Libya in 2006.

As for 2008/10 it is a very important couple of years for mainly two reasons that I am going to briefly enunciate. First in 2009 the effects of the historical deal signed by Gaddafi and Berlusconi in 2008 on colonial reparations and of the bilateral agreements on illegal migration were impressive: in 2009 boat immigration from Libya decreased by 90%. Furthermore on a side note Gaddafi paid his first official visit to Italy in 2009.¹⁰⁹ Another very important fact for this thesis is that in 2009 a case was filed at the European Court of Human Rights that argued that Italy had violated the European Convention on Human Rights. The *Hirsi Jamaa vs Italy* case stems from a "push back" of a boat with Somali and Eritrean people coming from Libya without examining if their

105 Emanuela Paoletti, *The Migration of Power*, p.146. The last reported repatriation flight from Italy to Libya was an isolated case of fourteen migrants in March 2006, the only case for that year.

106 Luca Einaudi, *Le Politiche Dell'Immigrazione*, p.192.

107 Human Rights Watch, 'Stemming the Flow: Abuses Against Migrants, Asylum Seekers and Refugees', vol. 18 n. 5(E) 2006 p. 111.

108 *Ibid* p.118.

109 Emanuela Paoletti, *The Migration of Power*, p.136.

life was at risk if returned, in alleged violation of article 3: “prohibition of torture” of the European Convention of Human Rights and article 4 of protocol 4 ;“prohibition of expulsion of aliens”. Furthermore the applicants pointed out the impossibility of an appeal in accordance with article 13 of the convention. This case set a benchmark for border control by EU states. This thesis will try to prove if this helped to create a gap in the policy implementation in the Italian case. 2010 will be important to look at since I expect to find the first signals of the possible gap stemming from the second court case.

2004/2006. From securitarian to humanitarian.

According to a complaint filed to the European Commission by Italian Spanish and French NGO's, the first round of repatriations from Italy to Libya took place in October 2004 when about 1,500 boat people who arrived on Lampedusa were deported. According to the NGO's :

The operation took place in breach of fundamental principles to which the European Union is committed. By reference to the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Charter of Fundamental Rights adopted by the European Union in 2000 and the Geneva Refugee Convention, the main principles violated were prohibition of collective expulsion, protection against inhumane and degrading treatment and the principle of *non-refoulement* of asylum seekers.¹¹⁰

During those days the Italian government was a right wing coalition led by Silvio Berlusconi; it was the longest standing government in the history of the Italian Republic since it was in charge from 2001 to April 2005. The government was led by Berlusconi's moderate right Party -*Forza Italia*- and contained the more right oriented, some would say post fascist, Gianfranco Fini's -*Alleanza Nazionale*- and the colorful extremism of Umberto Bossi's *Lega Nord* as well as the more moderate influence of a coalition of Christian Democrat parties (*UDC*). These considerations are important since in 2002 the Berlusconi government amended the immigration law called Turco Napolitano in favor of Law 189 of July 2002. The law was called the Bossi Fini law after the two leaders of *Alleanza Nazionale* and *Lega Nord* who introduced the legislation. The law has been highly criticized for its discriminatory and marginalizing effects.¹¹¹ Michele Totah went as far as saying that the law “reflects the rise of nativism and racism throughout Europe”.¹¹² . Scholars had defined the *Lega* in 1990 as the “populist entrepreneurs of xenophobia”.¹¹³ The *Lega Nord* proclaimed that illegal immigrants should be repatriated on military flights due to the risk of them “raping the hostesses”.¹¹⁴ Gianfranco Fini and the *Alleanza Nazionale* party were more traditionally right wing and their stance on racial issues was always moderate in comparison to the *Lega*'s. This stemmed from their fear of being excluded from the political scene due to links to the Italian extreme right because of the party's historic links with Fascism.¹¹⁵

110 Emanuela Paoletti, *The Migration of Power*, p.144.

111 Jennifer Pacella, 'Welcoming the unwanted: Italy's response to the immigration phenomenon and European Union Involvement', *Georgetown Immigration Law Journal*, vol.25, n.34, 2011, p.347.

112 Michele Totah, 'Fortress Italy: Racial Politics and The new Immigration Amendment in Italy', *Fordham International Law Journal*, vol.26 n.5, 2002, p.1504.

113 Laura Balbo and Luigi Manconi, *I razzismi possibili*, Feltrinelli Milano ,1990 p.143.

114 Luca Einaudi, *Le Politiche Dell'Immigrazione*, p.195.

Berlusconi did return to power after the national elections in April 2005 but this did not last long. After a terrible performance at the regional elections in January 2006, Berlusconi resigned and Romano Prodi was asked by the president to form another government which lasted from May 2006 to May 2008. The Prodi government had a moderate left orientation and this greatly influenced the decisions made in relation to immigration.

Emanuela Paoletti's book *The Migration of Power and North-South Inequalities* includes a precise analysis of all the repatriations that occurred between October 2004 and March 2006 towards Libya.¹¹⁶ The overall numbers, even if to be considered incomplete according to Paoletti are: 1153 in 2004; 1876 in 2005; while for 2006 there is proof that only fourteen people were repatriated.¹¹⁷ Italy has also various bilateral agreements with other sending countries and according to Caritas the total repatriations for 2004 were 35,437 while in 2005 the number was 26,985.¹¹⁸

The modalities of the repatriations towards Libya were charter flights directly from the island of Lampedusa or the Calabrese city of Crotona.¹¹⁹ Repatriations started little more than one month after Silvio Berlusconi made a visit to Libya, his third, in August 2004. During those visits the readmission to Libya of migrants who reached Italian shores was agreed upon after many years of bargaining between the two countries. The contents of the agreement were never disclosed to the parliament, regardless of the interrogation of MP's De Zulueta and Acciarini on the 23 March 2005 to the Italian Senate who complained about the secrecy of the agreement, about the treatment of the migrants in the CPT holding centers and about repatriations.¹²⁰

During those years Italy made every possible efforts to bargain with Libya to promote a firm closure towards boat people, as clear from the words of minister of Interior Giuseppe Pisanu quoted in *La Stampa* on 4 October 2004:

"The desperate people who are still thinking of embarking illegally have to know that they will be sent back right after they have been given emergency humanitarian relief."¹²¹

The operations were in clear breach of the 1951 Geneva Convention and the Italian political opposition voiced their complaints. Livia Turco of the *Democratici di Sinistra* stated on the same day that:

"These operations are mass round-ups that are very expensive for the Italian tax payers and are not apt to stop the phenomenon (...) it is a cynical and inhumane practice".¹²²

Amnesty International also condemned the start of the repatriations:

¹¹⁵*Ibid*, p. 138.

¹¹⁶ Emanuela Paoletti, *The Migration of Power*, p.143-151.

¹¹⁷ Emanuela Paoletti, *The Migration of Power*, p.146.

¹¹⁸ Caritas, Sintesi Dossier Statistico Immigrazione 2006 , 2006.

¹¹⁹Emanuela Paoletti, *The Migration of Power*, p.143.

¹²⁰ Nicoletta Dentico and Maurizio Gressi, *Il Libro Bianco, I centri di permanenza e assistenza temporanea in Italia*, 2006, p.121.

¹²¹ 'Pisanu: Avanti con la linea dura, i rimpatri continuano', *La Stampa*, 4 ottobre 2004. "I Disperati che pensano ancora di potersi imbarcare illegalmente sappiano che saranno rimandati indietro subitodopo aver ricevuto i soccorsi umanitari".

"The expulsion procedures initiated by the government are a serious breach of Italian norms and of all the international norms on asylum".¹²³

This restrictive stance did not change until the fall of the Berlusconi government in May 2006 but in the meanwhile an important event occurred in relation to migration towards Italy.

Between 13 and 25 March 2005, around 1,200 migrants arrived on the island of Lampedusa, amongst them people stemming from Iraq, Jordan, Algeria, Morocco and Tunisia. A lawyer, Alessandra Ballerini, managed to gather the authorization to proceed immediately to appeal to the ECtHR on behalf of 84 migrants who were going to be repatriated to Libya. While the majority, 54 of them, escaped the temporary holding centers in which they were held, 13 were released from the centers because of the expiration of the maximum terms of detention set by law and 14 were sent back to Libya on 5 April 2005.¹²⁴ The application thus was presented on behalf of the 14 repatriated migrants who claimed that Italy had breached various articles already mentioned of the European Convention of Human Rights. According to the judgment they were in fear for their life if repatriated to their country of origin or to Libya since the migrants lamented that in Libya the situation in relation to human right was catastrophic.¹²⁵

The Italian government defended its operation in front of the court stating that, the people had not been officially identified, that they were sent back one day before the government knew about the appeal to the European Court of Human Rights and that they were not risking their life if sent back and that the mistreatments have to be of a certain magnitude in order to apply article 3 of the convention (prohibition of torture), and this was not the case. In addition every immigrant had access to a lawyer and to cultural mediators who were in charge to inform them of their right to ask for asylum. Furthermore every expulsion was individually assessed by a "peace" judge after an identification procedure; the migrants did not show any particular concern in front of the judge sufficient to be granted refugee status.¹²⁶

The court ruled on 19 January 2010 in favor of the Italian government mainly for the reason that one of the principles of the ECtHR is that the contestants have to be "capable and willing to maintain and sustain the appeals". In this case the lawyers representing the immigrants had lost all contact with them so it was not possible to proceed further with the court case.¹²⁷

This case filed to the ECtHR did not have an immediate effect on the Italian policy on repatriations since there was evidence of more flights back to Libya up until March 2006, almost one year after the case was launched. However in May 2006 a new left wing coalition government led by Romano Prodi took over. Giuliano Amato entered as minister of Interior. Amato's sub secretary with special interest to immigration, Marcella Lucidi, who I interviewed, had a central role in relations with Libya and in the

122 *Ibid.* "Queste operazioni sono rastrellamenti di massa che costano carissimi ai contribuenti italiani e non sono in grado di arginare il fenomeno (...) è una pratica cinica e disumana."

123 *Ibid.* "Le procedure di espulsione messe in atto dal governo sono una gravissima violazione delle norme italiane e di tutte le norme internazionali sull'asilo".

124 European Court of Human Rights, *Hussun et al vs Italy*, Sentence, Strasbourg 19 January 2010, p. 3/4.

125 *Ibid*, p.6.

126 *Ibid*, p.7.

127 *Ibid*, p.10.

decision making in immigration policy. As soon as she entered office on the 18 May 2006 she visited the permanent centers for immigrants in Lampedusa and declared on the 25 of May to *La Repubblica* :

“No more expulsions of immigrants to those countries that have not signed the Geneva Convention, and among them Libya”¹²⁸

This declaration created some embarrassment for the Italian government since Libya feared a discontinuation of the economic relief Italy granted in relation to the fight against illegal immigration. For this reason, Amato had to declare that the collaboration was still in place, but no more repatriations to Libya were carried out during the left-wing coalition’s reign. Lucidi did visit Libya in November 2007 to negotiate for a collaboration agreement on joint patrolling signed in Tripoli one month later.¹²⁹

The practice of flying migrants back to Libya was condemned not only by the internal political opposition to the Berlusconi Government as already shown. The EU parliament condemned it as well with the “Resolution on Lampedusa” of the 14 April 2005 which asked Italy to “not proceed with collective expulsions of irregular migrants towards Libya or third countries” because of the need to assess each individual asylum seeking request.¹³⁰ Amnesty International complained in its annual report of the continuous breaches of the various conventions on refugees and human rights in regards of the deportations made by Italy towards Libya.¹³¹ Furthermore, UNHCR stated that it was “deeply concerned” about the deportations from Lampedusa in a press release.¹³² The ECtHR expressed formal concern as well with an official declaration in May 2005.¹³³

According to Marcella Lucidi the improvement of the conditions for immigrants and their wellbeing was clearly a priority of the new government since less than 10 days after stepping into office Lucidi was already in Lampedusa checking the situation of the migrant holding center.

When talking about the government action in dealing with migrants coming from Libya in those years the former sub secretary stated:

There was good coordination between the ministries of the interior, foreign affairs and labor in order not to relegate the responsibility of dealing with migrants only to the ministry of the interior. We always tried to work in a “vertical” manner with the local communities in Europe. In this sense the reasoning behind all the work we did with migrants always had a European frame. What we really aimed to do was to put in place a more burden sharing view on the issue of migrants in

128 ‘Su Gheddafi Viminale in Rivolta e Amato Smentisce la Sua Vice’, *La Repubblica*, 25 maggio 2006. “Mai più espulsioni di immigrati verso quei paesi che non sono firmatari della convenzione di Ginevra e fra questi la Libia.”

129 Emanuela Paoletti, *The Migration of Power*, p.133.

130 European Parliament, ‘Resolution on Lamedusa’ , Strasbourg, 14 April 2005.

131 ‘L’Italia deporta gli stranieri’, *La Stampa*, 26 maggio 2005.

132 UNHCR, ‘UNHCR deeply concerned about Lampedusa deportations’, UNHCR public information section, 18 March 2005.

133 ECtHR, ‘Interim Measures Italy and the EU member states should stop deportations towards Libya’, 13 May 2005.

Europe. Italy had worked with an expulsions strategy up to that moment but what we were aiming for was a regular immigration plan within a European frame.

When talking about asylum, she stated:

Already at that time Europe was really concerned about the asylum seekers matter which today is central to the immigration political discourse overshadowing completely the legal immigration issue (...) we tried to keep up Pisanu's strategy of bilateral agreements with Libya but we kept in mind the asylum seekers issue since the European Commission was extremely vigilant on that matter.

When discussing repatriations Lucidi noted that:

Our idea was to close bilateral repatriation deals directly with the sending countries and have re-integration strategies in those countries instead of sending them to Libya and giving them the responsibility of repatriating them. When I went to Libya in November 2007 we discussed the joint patrolling collaboration.

At this point I asked if the European Union was a factor in the bilateral discussion on the patrolling and the answer was:

The European Union was certainly present in the discussion, Libya had a strong interest in involving Europe in the agreements (...) Europe was pushing for efficient joint patrolling and for an intensification of the discussion between Italy and Libya taking into consideration the use of the agency Frontex for this use.

At this point I asked her about the "Hussun et al VS Italy" lawsuit of March 2005, whether it influenced the decision to not implement repatriation toward Libya anymore during her tenure as sub secretary with special interest on immigration. She responded by revealing that:

We wanted to change the policy repatriating the migrants directly towards the sending countries and not to transit countries, in this case Libya, and the lawsuit was absolutely a factor in our decision to change the government's strategy. In those years I even went to Geneva to discuss the Italian policy progression on expulsions since before it was critiqued from the UN committee for the prevention of torture. There definitely was attention and an intention of Europe towards stressing an improvement of the human consideration of the immigrants. For this reason we tried to emphasize the fact that boat migrants were in the majority of the cases asylum seekers(...) and we did not want to repatriate people who were in risk of their life.

The Interview ended with a conversation about the influence of the ECtHR and of the NGOs on Italian migratory policy during the years:

What I can tell you in this regard is that they always have an impact because after all you want to look good when you put your face up for your country in the European partnership landscape. You want to affirm the level of civilization of your country. On one side I want to highlight the great work that still today the NGO's do in this regard in terms of awareness of migratory policy. They do not raise awareness only among public but, for my experience, they do it with the ministry as well. (...) Really I remember that I started my office as sub secretary having in mind as a starting point the court case that you asked me about earlier [Hussun et al vs Italy] with Save the Children, Doctors Without Frontiers, Red Cross and the UNHCR lobbying strongly about the migrants' situation because that court case had been presented to the ECtHR. (...) I started working on this theme having a strong pressures towards the fact that politics assumed responsibility for a change of stance on the policy of immigration(...) On the operative side we tried to be as humanitarian as

possible on every aspect from the improvement of the holding centers to the bilateral agreements with Libya.¹³⁴

From what it emerged in the course of my research and in the interview with Lucidi in relation to of the events of boat migration from Libya between 2004 and 2006, I can say that there definitely were interferences from the EU and the ECtHR towards Italian immigration policy. The interview was particularly fundamental in shaping the role of the EU and of the ECtHR in influencing the government decision. It appears that not only the EU had a say in the contents of “bilateral agreements” (at this point we could say that it was not bilateral but in fact a three- party agreements) between Italy and Libya in 2007 but that the EU indications were always kept in high regard by the Italian government led by Prodi. An important aspect of the issue appeared to be the lobbying efforts by the NGO’s on the government to promote respect of human rights and of the UN Convention on Refugees. I find this aspect very interesting and it is worth further consideration for future research. However it is pivotal to understand that the influence of supranational organizations on Italian immigration policies was relevant only when they found a political favorable landscape in this regard, at least for the years 2004/2006. In order for the EU, the ECtHR and the NGO’s to have influence over immigration policies implementation in Italy, a left-wing government had to be in power. The previous Berlusconi led right-wing government appeared not to be particularly keen to listen to what humanitarian organizations, Europe or the NGOs had to say about the treatment of migrants. It is not possible to exclude a role of the EU in the discussion between Italian and Libyan governments during the years when Berlusconi was in charge, however it is safe to say that in regards of the years 2004/2006, supranational organizations had a role in the modification of the Italian policy towards boat migrants only when they found a keen interlocutor, that being a left wing government.

”More oil and less migrants”. The stop to boat migrants from Libya in 2008/10.

Concerning the fight against clandestine immigration, the data, on 31 December 2009, shows a decrease of clandestine arrivals of the 74 percent compared to 2008 on an annual basis, 36,951 in 2008, 9,573 in 2009, minus 27,378. If we only consider the period from the start of the agreement with Libya, the decrease is an astonishing 90 percent.¹³⁵

With these words, Roberto Maroni, minister of the interior in 2010, announced to parliament the decrease in numbers of clandestine immigration. On January 2008 Romano Prodi had resigned and after new elections were held in April, Berlusconi returned to power from May 2008 until November 2011. The impressive decrease in clandestine arrivals during the fourth Berlusconi Government was in great part the result of the agreement with Libya cited by the minister in his speech. The agreement in question was the “Friendship, Partnership and Cooperation Treaty of Bengasi” signed by Berlusconi and Gheddafi in August 2008. It was deemed as the final chapter of years of long bargaining between Libya and Italy. According to the terms of the treaty, Italy had to pay Libya 5 billion US Dollars in twenty five years. Part of this investment was the construction of a coastal highway from the Tunisian to the

134 Interview by the author with Marcella Lucidi, 1 March 2017.

135 Roberto Maroni (Northern League), *XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 27 gennaio 2010, p.26. “Per quanto riguarda il contrasto all’immigrazione clandestina, il dato, al 31 dicembre 2009, dimostra una diminuzione degli sbarchi clandestini rispetto al 2008 del 74 per cento su base annua 36,951 nel 2008, 9,573 nel 2009, meno 27,378. Se poi consideriamo il periodo che intercorre dall’inizio dell’applicazione dell’accordo con la Libia, la diminuzione è addirittura del 90 per cento.”

Egyptian border.¹³⁶ The agreement included many aspects including cultural and economical cooperation (including oil exportation from Libya), but the key of the treaty was as Berlusconi stated to the press on 31 August 2008 the fact that Italy would have received “more oil and less migrants”.¹³⁷ Part of the deal was an acknowledgement and a formal apology for the Italian misconduct toward Libyan people during the colonial occupation. The fact that the patrolling of Libyan waters was central in the deal, is epitomized by the declaration made by Roberto Maroni as reported by Paoletti: “the most relevant part of this pact is the highway, which is the payback in order for us to patrol in Libyan territorial waters”¹³⁸

The Bengasi Treaty was finally ratified by Italy in February 2009 despite the fact that during parliamentary debates various M.Ps defined it as “merely propagandistic”, “not fit to resolve the problem of clandestine immigration” and “destined to open new arguments with Libya”. Furthermore, in the parliament debates prior to the ratification of the treaty, Rocco Buttiglione a notable member of the opposition *Unione di Centro* (Center Union) at the opposition at the time, noted how the European dimension was “weak” in the treaty and how it was “fundamental” to include the European dimension in dealing with Libya.¹³⁹ The absence of this European dimension was acknowledged by one *Lega Nord* MP (Claudio D’Amico), at the time in the government coalition, later in the discussion. He compared the burden that Italy had to carry with the one carried in the 1990’s in relation to the Albanian events.¹⁴⁰ Some of the strongest opposition to the treaty was voiced by MP Matteo Mecacci of the Radical party who foresaw, if the treaty was going to be ratified, violations of the Geneva Convention of Refugees with subsequent accusations by NGOs and by the EU.¹⁴¹

The treaty deals with migrants on article 19 which aims to “Collaborate on the war on terrorism, organized crime, drugs smuggling and clandestine immigration”. Its results were clear from the other aspects targeted by the article, which related to that the stance towards immigration in a strictly securitarian way. The most important aspect of the article was that Libya was agreeing to finally comply with the joint patrolling agreement signed in December 2007 which never came into effect. Secondly it is important to note that the European Union was cited in the article, since it was hoped that the EU would have covered half of the costs relative to the patrolling of the Libyan terrestrial frontiers to repel migrants before they reached the shores as previously bargained between Libya and the EU.¹⁴² The apex of Italian Libyan relations was reached with

136 Emanuela Paoletti, *The Migration of Power*, p.107.

137 ‘Italia Libia, Patto da 5 miliardi ‘Più Petrolio meno immigrati’, *La Stampa*, 31 agosto 2008

138 Emanuela Paoletti, *The Migration of Power*, p.135.

139 Rocco Buttiglione (Center Union), *XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 19 gennaio 2010 , p. V.

140 Claudio D’Amico (Northern League) ,*XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 19 gennaio 2010 , p.15.

141 Matteo Mecacci (Radical Party), *XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 19 gennaio 2010, p.30.

142 Senato della Repubblica, *XVI Legislatura*, ‘Il Trattato Italia Libia di Amicizia Partenariato e Cooperazione’, gennaio 2009, p.7.

Gaddafi's first official visit to Italy on June 2009. From this agreement onwards the collaboration between Italy and Libya flourished, especially relating to migration.¹⁴³

The first boats to start the joint patrolling procedures were reportedly handed to Libya in May 2009.¹⁴⁴ During the same month Italy started the push-back of boat migrants that resulted in the *Hirsi Jamaa* lawsuit to the ECtHR that condemned Italy in 2012. On 6 May 2009, Italy started, in accordance with the Libyan government, to push back migrant boats in national and international waters, this occurred one week before the boats to start the joint patrolling were given to Libya. This is the first reported case in which Libya accepted other nationals migrants departed from their shores that had been pushed back in the high seas.¹⁴⁵ According to the speech given by sub secretary to the ministry of interior, Nitto Francesco Palma, to the parliament when answering about the push backs operations, from the 6 May to the 6 November, date of the last push back, a total of 834 people were pushed back to Libya. They were returned, in complete compliance with the *non refoulement* principle of the Geneva Convention and of the migrants' rights, according to Palma.¹⁴⁶ With regards to the push back operations, the UNHCR observed that "Bilateral agreements between Italy and Libya are without prejudice to their other international legal obligations in particular with regard to *non-refoulement*" thus exposing the quite obvious lie by the sub secretary.¹⁴⁷

The Council of Europe publicly complained about the push backs practice already on 12 of May.¹⁴⁸ Furthermore the UNHCR not many days after asked Italy to stop immediately the push backs otherwise it "will be held responsible for consequences from the international rights standpoint", Roberto Maroni responded by stating that the practices implemented by Italy were in compliance with the Geneva Convention and that the EU had to intervene to improve the dialogue between Italy and Libya and the UNHCR, which was extremely critical towards Italy.¹⁴⁹ Human Rights Watch condemned Italy for the push backs in various instances.¹⁵⁰ It has to be noted at this point that these criticism were exceptional and came mostly from the small parties of Radicals and the extreme left wing parties. The push backs actually brought together the government and the majority of the opposition of the center-left *Partito Democratico*.¹⁵¹

143 Emanuela Paoletti, *The Migration of Power*, p. 136.

144 *Ibid*, p.156.

145 *Ibid*, p.164.

146 Nitto Francesco Palma (People of Liberties), *XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 24 Novembre 2009, p.17/20.

147 UNHCR, 'Submission by the Office of the United Nations High Commissioner for Refugees in the Case of Hirsi and Others v. Italy (Application no. 27765/09), 2010, p.4.

148 'Clandestini il consiglio Europeo Attacca Roma: Fermatevi', *La Stampa*, 12 maggio 2009.

149 'Immigrati nuovo altolà dell'ONU', *La Stampa*, 16 Maggio 2009.

150 Emanuela Paoletti, *The Migration of Power*, p.164.

Margherita Boniver reportedly spoke to the European Commissary for juridical affairs and vice President of the European Commission Jaques Barrot about the push backs.¹⁵² The European Union appeared not to have too many criticisms about the merit of the practice. Furthermore Berlusconi reportedly stated that on the boats no asylum seekers were present, only in “very exceptional cases”. It was only towards the end of July that Barrot on behalf of the EU, asked for more information on the push backs to Italy.¹⁵³ The change of stance towards boat migrations compared to the Prodi Government is epitomized by the declarations to the press of ministry of defense Ignazio La Russa who stated that UNHCR “does not have any power” and that their stance was “inhuman and criminal”.¹⁵⁴

During my interview with Boniver, she revealed that the European Commission placed “strong pressure” on Berlusconi to stop the push backs. I believe she was referring to the “request of information” by the European Commission on 1 September on a push back of 75 migrants that occurred a couple of days earlier and probably about some informal pressures made to her directly in the dialogue with Barrot because I could not find any other evidence of pressures made by the EU directly. However, with regards of the “request of information”, Berlusconi did not like the interference of the Commission and threatened to stop the European Union legislative process on other non migration related issues by not granting Italy’s vote if the Commission kept trying to interfere with Italian migration policy. After Berlusconi declarations the EU backed off clarifying that it was only a request of information to promote a “correct collaboration” and no interference was intended.¹⁵⁵ The European Commission noted that there was ‘still no clear policy framework for refugees and asylum seekers, as well as for migration management in general’ but generally there was no firm stance taken by the EU.¹⁵⁶ It is important to understand at this point that the Italian government was clearly acting in breach of the Geneva convention, but it was not even trying to hide it as it appears from the official declarations of the undersecretary to the ministry of interior Mantovano who stated that neither an identification process nor an interview of the persons in question was carried out aboard the Italian vessels during the push back operations.¹⁵⁷ With procedures this approximate it is impossible to decide whether a migrant has the right to asylum or not. However, the vice president of the EU Commission, Barrot, wrote to the President of the European Parliament Committee on Civil Liberties, Justice and Home Affairs in response to a request for a

151 ‘Fini: Verificare il Diritto d’Asilo, Berlusconi: Ma sui Barconi non Ci sono Rifugiati’, *La Stampa*, 12 maggio 2009

152 *Ibid.*

153 ‘Barrot: Italia chiarisca sui respingimenti’, *La Stampa* 23 luglio 2009.

154 ‘La Russa all’ONU: chi ci attacca non conta un fico secco’, *La Stampa* 17 maggio 2009.

155 ‘Sui Commissari l’Ultimo Scontro Berlusconi-UE : “Zitti o blocchiamo il consiglio Europeo”’, *La Stampa*, 2 Settembre 2009.

156 European Commission, ‘Libya, Strategy Paper & National Indicative Programme’ 2011 - 2013, 2010, p.12.

157 UNHCR, ‘Submission by the Office of the United Nations High Commissioner for Refugees in the Case of Hirsi and Others v. Italy (Application no. 27765/09), 2010, p.2.

legal opinion on the “return to Libya by sea of various groups of migrants by the Italian authorities”. In Barrot’s reply dated late July 2009 he states that “our preliminary legal analysis would suggest that the activities of the Italian border guards correspond to the notion of ‘border surveillance’ as set forth in the Schengen Border Control”.¹⁵⁸

The last push back occurred as stated by sub secretary Nitto de Palma the 6 it November 2009. Since I could not find any EU strong intervention on the topic, I believe that the stop to the practice had to do with the case “*Hirsi Jamaa et al vs Italy*” filed to the ECtHR by eleven Somali and thirteen Eritrean nationals the 26 of May 2009. It is interesting to note that the case filing was notified to Italy only the 17 November but from the transcripts of the parliament debates of the 13 November it appears that some information had already arrived to the parliament; however after November there is no evidence of further repatriation.¹⁵⁹ Jacques Barrot of the European Commission wrote to the President of the European Parliament Committee on Civil Liberties, Justice and Home Affairs about the “return to Libya by sea of various groups of migrants by the Italian authorities” in July 2009 but not specifically about the Hirsi Jamaa case, it is probable that he was informed about the case before it was officially notified.¹⁶⁰ The lawsuit stems from the push back of more than two hundred people on the 6 of May 2009, 35 nautical miles from the Italian island of Lampedusa. The migrants were intercepted, brought onto Italian military boats and brought back to Libya where they were handed over to the Libyan authorities against their will. The migrants managed to contact a lawyer in Italy and file a lawsuit and in contrast to the case of “*Hussun et al vs Italy*” mentioned earlier in thesis, the lawyer managed to keep in contact with the migrants through e-mails and telephone, although two of the applicants died in the meanwhile. Another important fact is that fourteen of the applicants were granted refugee status by the UNHCR office in Tripoli between June and October 2009, which was unequivocal proof of the fact that Italy pushed back legitimate refugees.¹⁶¹

In February 2012 the ECtHR finally ruled against Italy forcing the government to compensate the applicants, declaring that since the migrants were brought onto Italian vessels they were within the jurisdiction of Italy, thus they had the right to seek asylum. Furthermore they stated that there was breach of articles 3 (prohibition of torture), and 4 of protocol n.4 (prohibition of expulsion of aliens) of the European Convention of Human Rights.

The theme of push backs was discussed in depth during two parliamentary debates, on 13 and 24 of November, just before and right after the notification to the Italian government of the ECtHR lawsuit. It appears from the transcripts that more of the Italian political opposition at this point showed some discomfort with the push back practice, not only the small Radicals party as happened in the previous months. The strong opposition against the push backs was highlighted by Boniver during the

158 European Court of Human Rights, *Hirsi Jamaa et al vs Italy*, Sentence, Strasbourg 23 February 2012, p. 16.

159 *Ibid*, pg.2. and Augusto di Stanislao (Italy of Values), *XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 13 novembre 2009, p.8.

160 European Court of Human Rights, *Hirsi Jamaa et al vs Italy*, Sentence, Strasbourg 23 February 2012, p.15.

161 European Court of Human Rights, *Hirsi Jamaa et al vs Italy*, Sentence, Strasbourg 23 February 2012, p. 4.

interview who reported that at this point the opposition was extremely firm on the argument.

Already on the debate prior to the notification, Roberto Zaccaria of the main opposition party *Left Democrats*, asking the government to justify its actions, highlighted many misconducts linked to the Italian push back practice citing the repatriations of pregnant women, under age kids and Eritrean citizens in need of protection. Furthermore he anticipated that Italy was violating the Geneva Convention, the Universal Declaration of Human Rights and various directives of the EU. According to the transcript, the vice president of the European Commission Barrot was seeking the help of UNHCR to improve the condition of asylum seekers in Libya but I could not find any strong stance against Italian practices.¹⁶² Throughout the whole debate the UNHCR, the Geneva Convention and the ECtHR are mentioned many times by various MPs, which marks a clear difference with the transcripts of the 1990s. Furthermore the *Italia dei Valori* party of Antonio di Pietro, which held a very limited numerical presence and influence in the the Parliament, proposed a vote, which would be held on 24 November, to immediately stop the push backs.¹⁶³

In the debate of the 24 November, the sub secretary Nitto Francesco Palma answered the clarification request from the opposition. In an extremely long and frequently interrupted intervention, he stated that the EU was not directly involved in clandestine immigration matters in the present moment and that Italy and Libya were still waiting the capital investment the EU promised to fight clandestine immigration on Libyan terrestrial borders. Furthermore the opposition erupted when he stated that the government was going to continue the practice of push backs since it proved to be extremely fruitful, decreasing the arrivals by 90 percent. The situation was so heated in the parliament that an intervention of the president from the chamber was needed to calm the situation. The sub secretary continued his speech in a still extremely hostile environment stating that the push backs were made in accordance with all national and international legislations on the argument and that the principle of *non refoulement* had never been breached. He stated that, while it is true that Libya had not signed the Geneva Convention, Libya had signed the “Convention of African Union” of 1969 which is much more complete than the Geneva Convention in terms of protection for persecuted individuals. He stated that the presence of the UNHCR in Libya granted the possibility to ask for asylum there, so Eritrean people did not have to arrive to Italy anymore in order to receive asylum. He concluded by stating that the European Council and Barrot had just recently asked Italy to improve its their dialogue with Libya on immigration matters thus validating the Italian practice of push backs.¹⁶⁴ However during the debates of November 2009 various MPs from the opposition complained that Italy had just been notified of the ECtHR lawsuit and of the many breaches that Italy was committing with the push backs while the M.Ps of the government majority, amongst them Margherita Boniver, presented the operation as a success, the discussion ended with parliament voting to stop the push backs, which resulted in a loss for the opposition that wanted to stop the operations.¹⁶⁵

162 Roberto Zaccaria (Left Democrats), *XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 13 novembre 2009, p.2/6/9.

163 *Ibid*, p.9.

164 Nitto Francesco Palma (People of Liberties), *XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 24 novembre 2009, p.12/18.

The minister of the interior Maroni ultimately praised the operation of the government in the parliamentary debate on 27 January 2010 as reported in the opening of this chapter while the opposition shifted the focus to the necessity of guaranteeing asylum to people in need. The discussion was not broad and heated as the previous ones.¹⁶⁶

However as already stated no more push backs were carried out after November 2009 and in this regard in my interview with Maurizio Gressi, spokesperson to the parliament for the Committee of Human Rights, when asked about if whether or not “*Hirsi Jamaa*” lawsuit had an influence on the decision to stop the push backs his answer was: “From my knowledge of the facts of 2009, there definitely was an influence of the *Hirsi Jamaa* case in the stop to the push backs.”¹⁶⁷

In the subsequent months the push backs were not discussed as much as before in the press and, with the *de facto* suspension of the practice, the argument lost importance in the national public and political discourse.

From my analysis of the newspapers, of the parliamentary debates and from the information I could retrieve from the interviews, I believe that in this case Italy was ultimately influenced by the UNCHR complaints and by the ECtHR lawsuit. Until the lawsuit was filed, Italy showed no sign of second thoughts on the push backs and even after the notification the sub secretary de Palma and the whole government majority boasted in parliament the achievements of the bilateral agreements with Libya in regard to boat people. I believe that Italy was able to sustain the push back practice only because after the signing of the August 2008 Benghazi Treaty, it was in a very close relationship with Libya and Europe was seeking to gain advantage of this, as it appears from the de Palma’s statements to the parliament. I came to this conclusion since the EU did not take a really strong stance against the push backs, in spite of the obvious breach of the Geneva Convention. However since Margherita Boniver revealed “strong pressures” from the European Commission in order to discontinue the practice, I do not exclude that informally there was a request to discontinue the practice and it might have contributed to stopping to the push backs. I believe that the EU viewed to the Italy/Libya dialogue positively since it believed that externalizing asylum requests completely to Libya was an option to keep in consideration at the time.

Even if from Ignazio la Russa’s reported statement to the press regarding the UNHCR from which it appears that the government did not take very seriously the High Commissioner, I believe that a combination of factors, including complaints from NGOs, the UNHCR, informal discontent from the European Commission, a more firm internal political opposition-lacking up to that moment- and finally the lawsuit taken in the ECtHR led to the discontinuation of the push backs.

165 Margherita Boniver (People of Liberties), *XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 24 novembre 2009, p.33.

166 Roberto Maroni (Northern League), *XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 27 gennaio 2010, p.26.

167 Interview by the author with Maurizio Gressi, 9 March 2017.

4) Conclusion

The first aim of this thesis was to compare boat migrations from Albania in the 1990s and from Libya in the 2000s while the second goal was to test the possible influence of supranational institutions on Italian immigration policies.

As shown in the thesis, Italy approached boat migrants in very different manners. The first wave of March 1991 brought 25,700 Albanians to Italian shores.¹⁶⁸ The wave was seen by both politicians and the public as fleeing a brutal communist regime and a really impoverished people searching for freedom. The Andreotti Government, caught guiltily off guard, responded in the most humanitarian way possible.¹⁶⁹ However the not always crystal clear conduct of Albanians and the dramatization of the facts by the media helped shape between April and August 1991 the image of Albanians as criminals.¹⁷⁰ For this reason the Andreotti Government, mindful of the upcoming elections in 1992 dramatically changed its stance on boat people from Albania when another wave started to arrive in August 1991. The actions of the government at the

168 Nicola Mai, ' Myths and Moral Panics', p.77

169 Dorothy Louise Zinn, *Adriatic Bretheren or Black Sheep*, p.242.

170 Ankica Kasic and Anna Triandafyllidou, 'Albanian immigrants in Italy: migration plans, coping strategies and identity issues', *Journal of Ethnic and Migration Studies*, vol. 29, n. 6, November 2003 p. 1000. Doxa, 'Gli stranieri in Italia. Aggiornamento di alcuni sondaggi del periodo 1987-91', anno LIV, nn.17-18, 30 Settembre 1999.

time were in clear breach of the Geneva Convention and I believe were driven by considerations stemming from internal Italian politics and justified by the fact that democratic elections had been held in Albania in the meantime. It is very important to consider the fact that Italy heavily invested in Albania after the 1991 events especially with *Operazione Pellicano*. Italy patrolled the territorial waters in accordance with the agreement made with the local government and invested roughly 182 million Euro between 1992 and 1995 to build various infrastructure in Albania, such as the aqueduct of Tirana and the telephone lines in the country's main cities and took care of the distribution of EU aid until 1997.¹⁷¹ A similar approach was taken in dealing with the crisis of 1997 stemming from the collapse of the pyramidal investments scheme in Albania. Italy dealt with the 1997 wave by immediately trying to dissuade Albanians from embarking even allowing the navy to patrol the high seas and, in accordance with the Albanian government, even the country's territorial waters. This time the international dimension was more present. However, as confirmed by Prime Minister Prodi himself, it was not as crucial as Perlmutter argued in his article, in interfering with the government decisions. Italy led the *Missione Alba*, investing again in Albania and as said repelled migrants at sea in spite of the Geneva Convention. The practice tragically led to the *Kather I Rades* events and the death of dozens of Albanians at sea. It is also important to note that the tears shed and the, at least curious at the light of successive events, declarations made by opposition leader at the time Silvio Berlusconi at the time show how complex an internal game the issue of boat people was played at the time on the Italian political landscape.

Various similarities and some differences are to be found when comparing migrations from Albania in the 1990's and from Libya in the 2000's. As a first aspect, both migrations events played a very important role in the internal political landscape as highlighted for instance by the change of stance of Prime Minister Andreotti in August 1991 and by the aforementioned Berlusconi's tears in 1997. Furthermore in both of the cases taken into consideration by this thesis, there was at one point a change of stance towards migrants, while in the 1990's it went from a humanitarian approach to one that prioritized security, in the 2000's there was an improvement of the conditions for immigrants in 2006/8 thanks to the new approach of the Prodi government that stopped repatriations, then Berlusconi went back to power in May 2008 and the push back practice was implemented shortly after, worsening things for boat migrants once again. I believe that these continuous changes and the overall inconsistency of policies towards boat migrations ultimately created an approach that is framed still today in the "emergency" context even after more than twenty years of dealing with significant immigration by boat. However, there were some significant differences between migrations from Albania in the 1990's and Libya in the 2000's. I believe that the main difference was the fact that boat migrants from Albania, in the cases taken into consideration, came in very large numbers compressed in very short timeframes thus creating complete chaos in the landing places while the influx from Libya was more of a slow and constant influx present for longer periods. Another important difference was the fact that while migrants coming from Albania in March 1991 found a sympathetic country willing to host them because they were seen as escaping a cruel communist dictatorship; I could not find proofs of these highly sympathetic feelings from the public in regards of any of the waves from Libya. I found this curious since it is highly probable that the condition of life of African boat people in their home country was not much better than those of Albanians escaping communism. Again the political factor, the escape from communism in this case, reveals itself as key for the fate of migrants.

171 'La formula Tirana anticlandestini, inchiesta. Gli investimenti italiani in Albania hanno bloccato gli esodi', *Corriere della Sera*, 27 novembre 1995.

Bilateral agreements, investments and a very strong stance against boat people in spite of the Geneva Convention is what helped Italy, and the EU as an external investor, to drastically reduce boat people from Albania in 1991/1997. It is interesting to note that it is the same strategy that the Berlusconi Government adopted in the 2008/2010 timeframe to stop, in a brutal but fruitful manner, boat people embarking from Libya. My belief is that the possibility of repelling boat people efficaciously occurred in 1991/1997 and 2008/10 because of a variety of factors. First in 1991 and 1997 the ECtHR was not as important and accessible to individuals as it was in November 2009 when the *Hirsi Jamaa* case was filed against Italy *de facto* strongly contributing together with other elements to put a stop to the repatriations. Secondly as proved by my research, in 1991 the EU did not interfere at all in the Italian government actions. Using the words of ambassador Foresti in the email exchange, Italy was left completely alone.¹⁷² In 1997 the supranational influence was not much stronger and as in 1991 internal politics played the most important role. During the 2008/2010 timeframe Italy was not left alone and the EU questioned the government's approach to boat people but never, in official occasions, with necessary firmness. I believe that this permissive stance showed by Europe stems from the fact that in that period Italy and Berlusconi was a necessary pawn in order for the EU to dialogue proficiently with Gheddafi. Proficient communication with the former Libyan leader was pivotal in order to create the conditions for limiting boat migrants that after their arrival in Italy would often try to relocate to northern European countries. For this reason it was also in northern EU countries interest to stop boat people from Libya. However mounting pressure from the left-wing opposition, gentle formal and possible informal criticism from the EU, complaints by the UNCHR and most importantly the lawsuit to the ECtHR as shown from the parliament debates ultimately led to the discontinuation of the push backs practice. What is important to understand is that when Italy had a really effective immigration policy in terms of stopping boat people, it was only because it decided to disregard the 1951 Geneva Convention.

Saskia Sassen believes that the development of human rights within and outside the EU has reduced the implementation power of states. She also argues that the development of human rights is becoming a source of international justice.¹⁷³ From the results of my research it becomes clear that human rights are becoming a source of international justice and, through the ECtHR, are creating a gap, as identified by Cornelius, Martin and Orrenius, in the implementation power of governments. The ECtHR in Strasbourg not only was an important factor in stopping the push backs in 2009 but, through the fundamental lobbying efforts of several NGOs and international organizations such as the UNCHR, helped to modify the direction Italy had taken in relation to boat migrants in 2006 as well. As it became clear from the interview with sub secretary Lucidi, the "*Hussun et al vs Italy*" lawsuit and the respect of human rights was a central consideration by the left-oriented Prodi Government from 2006 to 2008 when framing a more humane policy towards boat migrants and discontinuing the repatriation program in place from the previous government. It is very important to note, however, that in order for the supranational institutions to be listened to effectively, a positively receptive government is of central importance. This was obviously the case in the timeframe between 2006 and 2008 and between October 2013 and October 2014 when the left oriented government led by Enrico Letta implemented operation *Mare Nostrum* following the death of an unbearable number of immigrants at sea. The Italian managed humanitarian operation aimed to save as many boat migrants as possible bringing them safe on the Italian soil. Clearly in other instances it appears that the various governments were not that open to suggestions and indications from the supranational and the NGO's direction. However as shown by the numbers of clandestine arrivals on the southern Italian

172 E-mail exchange by the author with Paolo Foresti, 14 February 2017.

173 Saskia Sassen, 'Beyond sovereignty', pg.187. Cited in Saskia Bonjour, *The Power and Moral of Policy Makers*, p.92.

shores: 2006: 21,200, 2007: 16.780 and 2008: 34,550, the humanitarian stance taken by the Prodi government resulted in an inability to control fluctuations of boat migration.¹⁷⁴ These numbers validate even more Sassen's aforementioned argument and highlight the fact that, when human rights were not much taken into account as occurred in 1991, 1997 and 2009, immigration practices were much more effective.

Generally I believe there has been a shift towards a European immigration policy in the timeframe between 1991 and 2010 but not as Guiraudon argues in "response to the restraints that national migration policy makers face".¹⁷⁵ I believe that the shift was more as Lucidi stated in the interview, in considering working in a cooperative and "vertical" manner that involves and coordinates the local communities as well Europe in regards of immigration matters. The European landscape, however, resulted in more constraints for Italy not in more freedom, as shown by the end of the push backs.

In conclusion, I believe that the EU and the ECtHR definitely created a gap in regards of the facts of boat migration from Libya in 2009 and that is proved by the numerous mentions by the opposition' MPs of the Strasbourg Court and of the EU in the parliamentary debates regarding the push backs. The ECtHR, thanks to its increased role and visibility in the last couple of decades, and the NGO's put pressure on national states and on the EU in order to raise the issue of human rights and make sure those rights not violated. Until the pressure from those institutions became unsustainable for the EU, the stance taken by the EU was to not interfere too much with Italian immigration policies since after all every member of the Union was gaining some advantage from the practice. Furthermore the fact that after November 2009 no more push backs were carried out is proof of the fact that the growing international concerns, together with the aforementioned other factors such as mounting internal political opposition, NGO efforts and the ECtHR lawsuit, led to the discontinuation of the practice. Furthermore I believe that the EU and the ECtHR influence on immigration matters grew significantly from 1991 to 2009. However the Italian governments could still decide to an extent whether it wanted to apply or not what was said from the supranational level, leaving the final decision to the key players in power depending on their political and humanitarian beliefs. In the Italian case, left oriented governments showed more openness to European influences. The 2006/8 left oriented Prodi Government showed an approach that was more available to listen to what the EU had to say, while the Berlusconi right oriented government of 2008/10 applied more resistance to what was said at the supranational level but ultimately had to give up and stop the push backs, with the ECtHR definitely being a factor in the equation. When talking about Italian policy on immigration however it has to be taken into account what Perlmutter had to say on the extremely complex Italian political landscape- filled with volatile alliances- which was a central factor in every case analyzed in this thesis.¹⁷⁶

174Roberto Zaccaria (Left Democrats), *XVI Legislatura: Camera dei Deputati (Atti parlamentari: discussioni)*, 24 novembre 2009, p.34.

175 Virginie Guiraudon, 'European Integration and Migration Policy', p.252.

176 Ted Perlmutter, 'Political Parties and Italian Policy, 1990-2009', in James Hollifield, Philip Martin and Pia Orrenius, *Controlling Immigration: A global Perspective*, Stanford University Press, 2014, p.357.

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