

Country: Sudan _ Indictment file_written procedure

Commission: International Court of Justice

Case: International responsibility related to the support and coordination of migration operations resulting in violations against Sudanese migrants

Introduction:

The Republic of Sudan has brought a case before the Court to examine the responsibility of States that have supported or coordinated migration operations that have led to serious violations of the rights of Sudanese migrants. Since 2023, internal conflict has forced many Sudanese citizens to flee, particularly through Libya and across the Mediterranean. While border control is a matter of state sovereignty, it must comply with international law.

Summary of the facts:

In recent years, the Libyan coastguard has intercepted Sudanese migrants at sea. These interceptions are usually followed by transfers to detention centres where torture, violence and arbitrary detention have been reported.

Some European states, notably Italy, as well as European Union mechanisms, have provided material, financial and logistical support to the Libyan coastguard. Through its surveillance and information-sharing activities at sea, the Frontex agency has facilitated some of the interceptions leading to these returns.

Legal argument:

Violation of the principle of non-refoulement – 1951 Geneva Convention

The transfer of migrants to a territory where they risk inhuman treatment constitutes a violation of a fundamental norm of international law.

Responsibility for aid or assistance – Articles on the Responsibility of States for Internationally Wrongful Acts (2001), adopted by the United Nations International Law Commission (ILC).

A State also remains indirectly responsible if it supports, in full knowledge of the risks, authorities that have committed acts contrary to international law.

Operational coordination - European Convention on Human Rights: a State cannot circumvent its obligations by delegating or coordinating actions with third countries if the end result is inhuman treatment. Participation in operations to locate and transmit information, when it can be foreseen that this will lead to serious violations, cannot exempt a State from responsibility.

Requests to the ICJ:

Sudan requests the Court to:

- Recognise international responsibility arising from the support and coordination provided;
- Order the cessation of all assistance facilitating these violations;
- Reaffirm the absolute obligation to respect the principle of non-refoulement.

Conclusion:

Sudan requests the Court to recall that migration policies, as well as sovereignty, cannot be exercised to the detriment of fundamental rights of migrants.