



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

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FIRST SECTION

Application no. 13270/25
Y against Italy
lodged on 16 April 2025
communicated on 13 May 2026

SUBJECT MATTER OF THE CASE

This application concerns the Italian Government's failure to execute an arrest warrant issued by the International Criminal Court ("ICC") against Mr Osama Elmasry Njeem (also known as Mr Osama Almasri Njeem, hereinafter "Mr Njeem").

1. The applicant's arrival in Italy

The applicant, a national of South Sudan, fled his country of origin in 2018 for Libya. After several unsuccessful attempts to reach Europe, he was detained in Libya at Triq al-Sika and then transferred to Al-Jadida, a detention centre controlled by Mr Njeem, where the applicant claims to have been subjected to torture. In 2020, the applicant was forcibly sent to the Mitiga military base to fight in one of the military groups organised by Mr Njeem. There, he was submitted to forced labour and violence and he witnessed several episodes of torture and killings perpetrated by Mr Njeem against other detainees.

In June 2022, the applicant managed to escape and arrived in Italy. Having been granted refugee status, he founded a refugees' association and provided evidence within the proceedings against Mr Njeem, which had been instituted in the meantime before the ICC.

2. The International Criminal Court's arrest warrant against Mr Njeem and his arrest

On 2 October 2024, the ICC Prosecutor requested an arrest warrant against Mr Njeem for several war crimes and crimes against humanity committed in the Mitiga detention centre from around February 2015 onwards. On 9 October 2024, the Public Prosecutor's Office ordered the arrest of Mr Njeem and the identification and seizure of his property.

On 17 January 2025, the ICC issued an arrest warrant for Mr Njeem, who was charged with outrages upon personal dignity, cruel treatment, torture, rape, sexual violence, sexual slavery, murder and crimes against humanity.

On 19 January 2025, Mr Njeem was located in a hotel in Turin, arrested by the Italian police and placed in pre-trial detention. On the afternoon of 21 January 2025, the Ministry of Justice issued a press release stating that, given the complexity of the case, the Minister of the Interior was considering forwarding the ICC's request to the Italian Public Prosecutor's Office in Rome.

On 21 January 2025, the Rome Court of Appeal refused to validate Mr Njeem's arrest, ordered his release and lifted the seizure of his property on the grounds that the internal procedure for handing him over to the ICC had not been duly followed. In particular, the Rome Court of Appeal considered that Article 716 of the Code of Criminal Procedure ("Arrest by the police") was not to be applied within the procedure set out by Law no. 237 of 20 December 2012 ("Rules for compliance with the provisions of the Statute establishing the ICC"), which requested the intervention of the Ministry of Justice. Mr Njeem was repatriated to Libya on the same day.

3. The procedure before the International Criminal Court

On 17 February 2025, the ICC invited the Italian Republic to provide submissions concerning its failure to surrender Mr Njeem to it following his arrest. The Italian authorities submitted that the above-mentioned procedural obstacles hindered the enforcement of the arrest warrant under domestic law, in addition to reasons of public policy and national security as well as alleged errors in the warrant. These arguments were rejected as ill-founded by the ICC, which concluded that, by not properly executing its request for the arrest and surrender of Mr Njeem while he was on Italian territory, and by not consulting and cooperating with the ICC, Italy failed to comply with its obligations under the Rome Statute.

On 17 October 2025, the Pre-Trial Chamber of the ICC concluded unanimously that Italy had failed in its obligation to cooperate and execute Mr Njeem's arrest warrant.

By a decision of 26 January 2026, the ICC further referred the matter of Italy's non-compliance to the Assembly of State Parties.

4. The domestic criminal proceedings lodged by third parties

In the meantime, further to the repatriation of Mr Njeem, several alleged victims of his conduct, though not the applicant, lodged a criminal complaint before the Court of Rome requesting clarification of the failure to surrender Mr Njeem to the ICC and of his repatriation, and seeking a determination of the criminal responsibility of those concerned.

Based on these requests, the Rome prosecutor instituted criminal proceedings. The investigations concerned among others the criminal responsibility of the Minister of Justice, the Minister of the Interior and the Deputy Secretary of the Presidency of the Council of Ministers. Therefore, the Rome Prosecutor transferred the case to the panel for ministerial offences of the Rome Court (procedure no. 1/2025).

Under Article 96 of the Constitution, the panel for ministerial offences of the Rome Court further requested the Chamber of Deputies to grant authorisation to pursue procedure no. 1/2025. This authorisation was denied by decision of 9 October 2025.

On 28 October 2025, the panel for ministerial offences then dismissed the request to open criminal proceedings against, among others, the Minister of Justice, the Minister of the Interior and the Deputy Secretary of the Presidency of the Council of Ministers for offences allegedly committed in the context of the procedure for the execution of the ICC arrest warrant for Mr Njeem.

5. The applicant's complaints

Under the procedural limbs of Articles 2 and 3 of the Convention, the applicant complained of a violation of his right to life and of his right not to be subjected to torture and to inhuman and degrading treatment, alleging that Italy failed to execute the arrest warrant issued by the ICC against Mr Njeem.

He alleged in particular that Article 2 of the Convention imposes a procedural obligation to conduct an effective investigation into alleged breaches of its substantive limb, ensuring accountability and redress for victims of life-threatening injuries, irrespective of whether such injuries are inflicted by a non-State agent. The applicant also underlined that Article 3 of the Convention enshrines positive obligations of a procedural character to carry out an effective investigation into arguable claims of torture or inhuman and degrading treatment.

He further submitted that, in transnational cases, such procedural obligations include an obligation to cooperate with foreign or international authorities.

QUESTIONS TO THE PARTIES

1. Does the Italian Government have jurisdiction under Article 1 of the Convention regarding the facts of the present case?

In particular, is there a jurisdictional link between Italy and the applicant which triggers the respondent Government's procedural obligations under Article 2 (see *Rantsev v. Cyprus and Russia*, no. 25965/04, §§ 206-208, ECHR 2010 (extracts); *Güzelyurtlu and Others v. Cyprus and Turkey* [GC], no. 36925/07, §§ 178-190, 29 January 2019; *Romeo Castaño v. Belgium*, no. 351/17, §§ 36-43, 9 July 2019 and *Hanan v. Germany* [GC], no. 4871/16, §§ 132-145, 16 February 2021) and Article 3 of the Convention?

2. Can the applicant claim to be a victim of the alleged breaches of Articles 2 and 3 of the Convention?

3. Did the applicant exhaust all domestic remedies at his disposal as required by Article 35 § 1 of the Convention?

4. Under Article 35 § 2 b) of the Convention, is the present application substantially the same as a matter that has already been submitted to another procedure of international investigation, namely the procedure pending before the International Criminal Court?

5. Has there been a violation of Articles 2 and/or 3 of the Convention under its/their procedural limb?

In particular, did the Italian Government have a duty under Articles 2 and/or 3 of the Convention to cooperate with the International Criminal Court in the enforcement of an arrest warrant issued by the latter against Mr Njeem? And, if so, was this duty violated in the present case?