



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

"dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights"

ICJ Intervention on House of Representatives Bills C.2180 and C.2232

Executive Summary

The International Commission of Jurists (ICJ) on 27 March made a submission to the Italian Parliament expressing concern at the adverse human rights impact that would result if proposed immigration and security legislation now under consideration is adopted in its present form.

The ICJ is concerned that the creation of a new offence of "illegal entry and stay on Italian territory" serves to criminalise migration and will be used to accelerate the expulsion of migrants without the human rights protections guaranteed under international law. New procedures could effectively place individuals at risk of unlawful transfer to countries where they face a real risk of torture or cruel, inhuman or degrading treatment or other serious violations of human rights.

In addition, the fast-track criminal procedure contemplated in the legislation, whereby a suspect would appear before a justice of peace rather than an ordinary judge, may deny the defendant the opportunity to prepare an adequate defence and so undermine basic fair trial guarantees.

The legislation, which would extend the maximum length of administrative detention for irregular migrants from the present 60 days to six months, also has serious implications for the right to liberty of persons not detained in connection with any criminal conduct. The ICJ is concerned that this provision has been developed through a "Law Decree", which bypasses the ordinary safeguards of the parliamentary process.

The proposed legislation would also require health personnel to reveal to the authorities the presence of irregular migrants, or risk criminal prosecution. The ICJ considers that this provision could facilitate the emergence of clandestine channels of health care with resulting serious danger for the health of both irregular migrants and the general public.

Additional concerns are that the legislation provides for new procedures on transfers of money, which may create unnecessary, disproportionate and discriminatory interferences with respect for the private life of migrants. A provision modifying the Civil Code on the right to marry by requiring migrants to present documents demonstrating the regularity of their residency may impede the right to marry, as it could place those exercising that right under risk of criminal prosecution. Finally, modifications in the "hard penitentiary regime" which would apply to detained organised crime and terrorism suspects or convicted persons, among others, may serve to restrict communications and visits by detainees' counsel and unduly restrict the right to access to courts to seek a remedy against violations.

The ICJ intervention concerns bills no. C.2180 and C.2232. The Submission is available in English and Italian on the ICJ website at: http://www.icj.org/news.php3?id_article=4468&lang=en

The International Commission of Jurists (ICJ) is a non-governmental organization dedicated to the primacy, coherence and implementation of international law and principles that advance human rights. The Commission was founded in Berlin in 1952 and its membership is composed of up to sixty eminent jurists who are representatives of the different legal systems of the world. Based in Geneva, the International Secretariat is responsible for the realisation of the aims and objectives of the Commission.