

Extraterritorial Detention and State Responsibility under the Italy-Albania Protocol

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Abstract

Bilateral arrangements that relocate immigration detention can divide operational functions between two States without extinguishing either State's international obligations. This article assesses the Italy-Albania Protocol through a public-international-law framework that keeps extraterritorial human-rights jurisdiction, attribution of conduct, breach of obligations and the consequences of responsibility analytically separate. Drawing on the Protocol, the European Convention on Human Rights, the International Covenant on Civil and Political Rights, the Refugee Convention, the International Law Commission's Articles on State Responsibility, and international judicial materials, it conducts a structured doctrinal analysis of custody, procedural transitions and available remedies. The central finding is that territorial relocation cannot by itself displace Italy's duties where its agents exercise authority over individuals; nor does Albania's territorial sovereignty automatically prove joint responsibility for every Italian detention decision. Responsibility must be established actor by actor and obligation by obligation. A second finding is that each transfer, new detention decision and protection claim requires its own legal and remedial assessment. The article advances an attribution-to-remedy matrix for bilateral detention arrangements, specifying where a legal duty arises, whose conduct engages it, how a breach is tested and which forms of redress follow. This approach connects international accountability to Mediterranean institutional governance without conflating international law with European asylum administration.

Keywords: public international law; extraterritorial jurisdiction; state responsibility; immigration detention; non-refoulement; effective remedy; bilateral migration agreements

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1. INTRODUCTION

The relocation of detention from one State's territory to another creates a sharper legal problem than the political language of border externalisation suggests. The central question is not whether a detention building is geographically "inside" the European Union. It is which State must answer, under international law, for the exercise of coercive authority over the individuals confined there. A bilateral agreement can allocate premises, police functions, procedures and financial burdens, but it cannot simply reallocate away obligations arising under treaties binding the participating States. Determining responsibility therefore requires more than identifying the physical location of a facility: jurisdiction, attribution, breach and reparation must each be considered under their own legal tests.

The Italy-Albania Protocol, signed on 6 November 2023 and brought into effect in Italy through Law No. 14/2024, offers an unusually concentrated case of this problem. Italian authorities carry out major processing and custody functions at designated facilities in Albania, while the host State retains territorial sovereignty and specified operational responsibilities. Italian legislation was subsequently adjusted, including through Decree-Law No. 37/2025, to permit further transfers connected with return detention. These legal facts make the arrangement a test case for cooperation between States, rather than a mere variant of a national immigration procedure (Italian Republic, 2024, 2025).

International adjudication already rules out the simplest geographic defence. In *Al-Skeini and Others v. United Kingdom* (2011), the European Court of Human Rights recognised that the authority and control of State agents over an individual abroad may bring that person within the State's Article 1 jurisdiction. In *Hirsi Jamaa and Others v. Italy* (2012), the Court applied protection against refoulement and collective expulsion in a maritime interception operation under Italian control. Neither judgment establishes that every overseas detention arrangement is unlawful; each establishes that public authority exercised abroad may attract real international obligations. The International Court of Justice has likewise recognised the extraterritorial applicability of the International Covenant on Civil and Political Rights to acts of a State performed in the exercise of its jurisdiction (*Legal Consequences of the Construction of a Wall*, 2004, para. 111).

The literature is substantial but leaves room for a more exacting accountability analysis. Moreno-Lax (2017) documents how border control is projected beyond territory; Gammeltoft-Hansen and Hathaway (2015) show why cooperative deterrence does not automatically defeat non-refoulement. De Leo and Celoria (2025) analyse the Italy-Albania model principally through Union law; Gemi and Ruci (2026) examine its overlapping jurisdictions; and Gatta (2026) raises an important issue of the competence to conclude the agreement. Amnesty International (2026) documents reported obstacles to lawyers, oversight and justice. These publications rule out any defensible claim that externalisation, jurisdiction or access-to-justice problems are newly discovered. What remains underdeveloped as a single test is the sequence from attribution of each official act, through breach of each international obligation, to an available remedy, where functions are divided between sovereign States.

The research question is therefore: when a State runs a detention process on the territory of a cooperating State, how should international law allocate primary and possible concurrent responsibility for custody, transfers, protection claims and remedies? The article argues that the answer depends on a disaggregated four-stage assessment: identify the persons under each State's jurisdiction; attribute each act or omission to a State; test that conduct against a specific binding duty; and determine which consequences and forms of redress follow. Its main contribution is a reproducible attribution-to-remedy matrix applied to the Italy-Albania arrangement. European Union procedure is examined only insofar as it helps identify the immediate legal context of a custody decision; it is not the principal source of the study's conclusions.

The next section critically reviews the international-law scholarship and applicable primary norms. Section 3 defines the sources and interpretive method. Section 4 presents the doctrinal findings, and Section 5 evaluates objections, institutional implications and limitations before Section 6 concludes.

2. INTERNATIONAL-LAW FRAMEWORK AND LITERATURE

2.1. The limits of territorial accounts of responsibility

Legal geography is an unreliable proxy for jurisdiction. The literature on externalisation demonstrates that governmental border functions may be moved to ports, transit zones, third States or maritime spaces without the factual activity becoming private or legally unregulated (FitzGerald, 2019; Moreno-Lax, 2017). However, "outside the territory" and "outside the jurisdiction" are distinct propositions. Article 1 of the European Convention on Human Rights (ECHR) requires States to secure Convention rights to persons within their jurisdiction. Al-Skeini (2011, paras. 130-139) describes exceptional forms of extraterritorial jurisdiction, including authority and control over individuals through State agents and, in different circumstances, effective control over an area. The former pathway is especially significant for a confined person: detention is a paradigmatic exercise of authority over the body, even where premises are provided by the host State.

An equivalent distinction is necessary under the International Covenant on Civil and Political Rights (ICCPR). In General Comment No. 31 (2004, para. 10), the Human Rights Committee addressed persons within a State's power or effective control even beyond its territory. The International Court of Justice endorsed the relevance of jurisdiction beyond territory in the *Wall* advisory opinion (2004, para. 111). These materials should not be flattened into a single universal test: treaty wording and the relevant judicial forum matter. Yet their convergence defeats the proposition that hosting a facility on Albanian soil, by itself, removes Italian officials' conduct from international scrutiny.

The Albania side must also be analysed independently. Territorial sovereignty is not extinguished by contractual access rights granted to Italian authorities. Albania's own international obligations continue within its territory; however, territorial jurisdiction does not make every act of an Italian official legally attributable to Albania. The legal inquiry must identify what Albanian agencies actually did or omitted to do, which protective duties were engaged, and whether the necessary

knowledge, capacity and factual control were present. Concurrency of obligations and concurrency of wrongful conduct are analytically different propositions. This distinction is central to any serious treatment of public international law.

2.2. Attribution and the law of State responsibility

The International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA, 2001) supply the analytic structure. They are a codification and progressive-development text, not an independently ratified treaty; the customary status of particular provisions must not simply be assumed as a package. Article 2 identifies the two elements of an internationally wrongful act: conduct attributable to the State and a breach of an international obligation. Article 4 addresses conduct by State organs; Articles 5-11 deal with other attribution circumstances; Article 16 concerns one State's aid or assistance in another State's internationally wrongful act under specified conditions. Article 47 contemplates responsibility of more than one State for the same internationally wrongful act, without erasing the need to establish the legal basis for each respondent (International Law Commission [ILC], 2001).

For an Italian detention decision issued by an Italian public official, ordinary attribution under Article 4 is the first inquiry. It would be a doctrinal error to infer that the bilateral character of the Protocol automatically turns the official into a joint organ of both States. Conversely, if Albanian officials exercise their own sovereign authority to assist an unlawful transfer or prevent access to relief, their separate acts require separate legal assessment. Article 16 may be relevant to knowing aid or assistance, but cooperation as such is not wrongful aid: the assisted conduct must be internationally wrongful for the other State, and the additional conditions of the provision must be met. This safeguards the analysis against both a blanket claim of shared guilt and a blanket immunity based on formal distribution of tasks.

Attribution is not the same as jurisdiction. A State may exercise human-rights jurisdiction over a person by having authority over that person, while the attribution of a particular disputed act turns on the institutional identity and conduct of the acting official. Conversely, a national official's act can be attributable to a State even when the treaty's personal or spatial scope must be examined before establishing a violation. The need to keep these two questions separate is not mere conceptual tidiness: it determines the responsible respondent, the source of the duty and the available forum.

2.3. Detention, non-refoulement and judicial protection as binding international duties

Once jurisdiction and attribution are specified, the content of the obligation must be identified. Under ECHR Article 5, immigration detention must satisfy one of the permitted grounds, have an accessible basis in law, and comply with the Convention's protection against arbitrariness. Article 5(4) requires review by a court with the power to decide lawfulness and order release. *Khlaifia and Others v. Italy* (2016) is instructive because it illustrates that an administrative description of confinement cannot substitute for the protections attached to an actual deprivation of liberty. ICCPR Article 9 independently protects against arbitrary detention; Human

Rights Committee General Comment No. 35 (2014) stresses the inclusion of non-citizens, refugees and asylum seekers.

Non-refoulement derives from several overlapping sources with non-identical conditions. Article 33(1) of the 1951 Refugee Convention bars a refugee's expulsion or return in the circumstances specified in that instrument, subject to its treaty framework. The absolute ECHR Article 3 prohibition, as applied by the European Court in relevant removal cases, requires attention to a real risk of prohibited treatment; the Convention against Torture Article 3 separately prohibits transfer where substantial grounds exist for believing there is danger of torture. These regimes must be analysed without casually treating refugee status, torture risk and general ill-treatment risk as identical. Hathaway (2021) explains the interaction between the Refugee Convention and wider human-rights obligations. In Hirsi Jamaa (2012), the Court identified violations connected with transfer to a place exposing individuals to foreseeable risks and the absence of an effective remedy.

The associated remedial obligations are substantial. ECHR Article 13, read with the relevant substantive right, protects an effective national remedy; ECHR Article 5(4) is the more specific entitlement to prompt judicial determination of detention lawfulness. ICCPR Article 2(3) requires an effective remedy for violations of Covenant rights, and Article 9(4) addresses judicial review of deprivation of liberty. In cases implicating a credible risk of irreversible Article 3 harm, the timing and suspensive effect of relief are indispensable considerations, not optional administrative conveniences. Access to a nominal court is insufficient if the person cannot learn of the procedure, instruct counsel, receive reasons, present relevant evidence or obtain an enforceable decision before the complained-of act becomes irreversible.

2.4. Which gap survives the strongest competing publications?

A credible novelty claim must acknowledge studies that appear to pre-empt it. De Leo and Celoria (2025) examine compatibility of the Protocol with Union law; Gatta (2026) examines competence; Gemi and Ruci (2026) describe overlapping jurisdictions and rights protection. De Leo and Celoria largely address the reach of European Union law, whereas the present article establishes a separate State-responsibility sequence under international law. Gemi and Ruci already make the broader overlapping-jurisdiction point, so this article cannot claim novelty merely from recognising the existence of two States. The more limited contribution is to specify legal predicates for responsibility across custody stages and to differentiate concurrent duties from jointly attributable acts. The August 2026 Amnesty briefing further removes any defensible originality claim to simply reporting that lawyers and monitors face barriers. Those reported barriers are relevant factual allegations, not findings independently verified through individual case files by this study (Amnesty International, 2026).

The resulting research gap is precise: an integrated case-by-case decision rule is needed that separates (a) extraterritorial jurisdiction under human-rights treaties, (b) attribution of Italian and Albanian conduct under State-responsibility doctrine, (c) breach of specified detention and non-refoulement norms, and (d) judicial and inter-State consequences. Each element has been studied in related fields; the contribution

lies in their disciplined sequencing for bilateral detention operations. This is a conceptual/doctrinal contribution, not a claim that the underlying legal norms were unknown.

3. SOURCES AND LEGAL METHOD

This study is a doctrinal analysis of public international law with a documentary cut-off of 15 October 2026. It uses treaty interpretation, structured comparison of international judicial decisions and the ILC framework of attribution and responsibility. The primary unit of analysis is a distinct exercise of coercive power over an individual, not a country-year observation or an aggregate migration flow. Four case stages are defined: (1) selection and transfer to the offshore site; (2) initial detention and continued confinement; (3) a change in legal status, including a claim for international protection; and (4) prospective removal and access to relief. The study makes legal findings about the applicable tests, not factual declarations that each stage produced violations for a specific unidentified person.

Primary materials include the 2023 bilateral Protocol, Italy's Law No. 14/2024 and the 2025 amendment, the ECHR and Protocol No. 4, the ICCPR, the 1951 Refugee Convention, the Convention against Torture, ARSIWA and its commentary, Human Rights Committee General Comments Nos. 31 and 35, the ICJ Wall advisory opinion, and the European Court judgments in *Al-Skeini*, *Hirsi Jamaa* and *Khlaifia*. Official source repositories include United Nations treaty and legal databases, HUDOC, the ICJ and *Gazzetta Ufficiale/Normattiva*. The International Law Commission's text is used as an analytical formulation of responsibility, with due regard to its legal status. Comparative scholarship was selected for proximity to extraterritorial migration control and the Italy–Albania agreement.

Three exclusion rules prevent exaggerated conclusions. First, a judicial determination concerning ships at sea is not treated as a direct factual holding about Albanian facilities. Second, NGO accounts of access impediments are identified as reported evidence rather than independently adjudicated violations. Third, EU secondary legislation and pending CJEU litigation are context-specific supplemental materials; their existence is not presented as the source of Italy's obligations under the ECHR, ICCPR or Refugee Convention. Each conclusion identifies the norm, the decision-maker, the legally material facts and the extent of uncertainty.

For purposes of reproducibility, the following two expressions function as transparent doctrinal propositions rather than mathematical estimators or enacted formulas:

State wrongfulness (S, conduct) = Attribution to S AND breach of an international obligation binding S. (1)

Effective protection at stage t = lawful custody basis + independently accessible review + non-refoulement safeguard where engaged. (2)

Expression (1) paraphrases the two-element structure of ARSIWA Article 2. Expression (2) is an author-developed audit shorthand: its plus signs do not signify numerical addition or imply that each safeguard is legally interchangeable. If a required protection is absent, the relevant conduct must be tested against the

corresponding treaty obligation. No equation is used to infer facts about unnamed detainees.

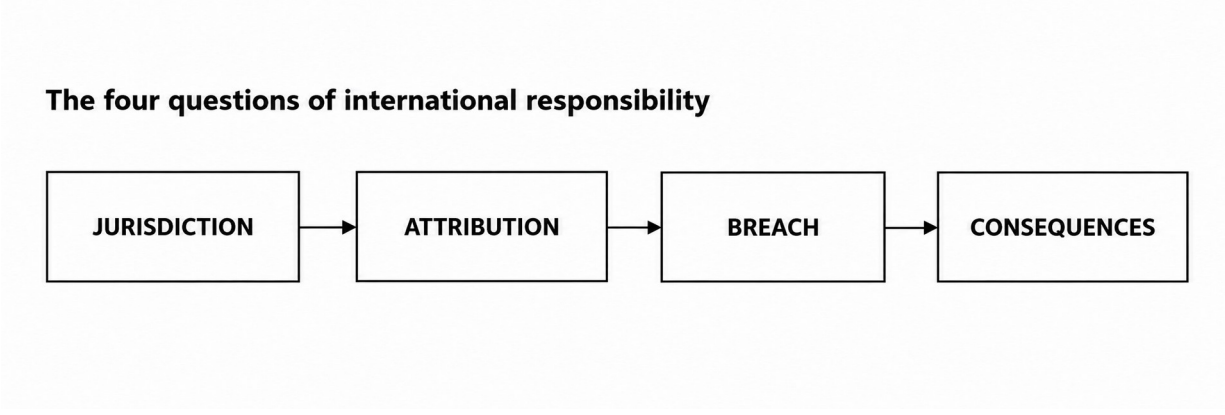


Figure 1. A sequenced test of public-international-law responsibility. Source: Author-developed analytical framework based on the legal instruments cited in the text.

Table 1. Sources of law and their distinct analytic roles

Normative authority	Binding or interpretive function	Case-specific question
ECHR Arts. 1, 3, 5, 13; Protocol No. 4 Art. 4	Jurisdiction, detention legality, removal risk and effective remedies	Which State exercises personal control, and can a court order effective relief?
ICCPR Arts. 2, 7, 9, 13	Human rights obligations, liberty, treatment and remedies	Is detention arbitrary, and which review guarantees apply?
Refugee Convention Art. 33; CAT Art. 3	Non-refoulement under distinct legal thresholds	Is there an individualised protection-risk assessment?
ILC ARSIWA Arts. 2, 4, 16, 30–31, 47	Attribution, breach, derivative aid, consequences and plurality	Which conduct is attributable to Italy and/or Albania?
Italy–Albania Protocol and national instruments	Allocation of functions; factual and institutional evidence	Who ordered, executed, continued or reversed the measure?
European Union procedures	Context for the decision, not substitute for treaty obligations	Does the domestic legal basis change after an asylum claim?

4. DOCTRINAL FINDINGS: JURISDICTION, ATTRIBUTION, BREACH AND REDRESS

4.1. Italy’s extraterritorial authority is a legally significant control relation

The first finding is that the international-law inquiry begins with the authority exercised by Italian agents rather than with the formal borders of the Italian Republic. When Italian police or administrative personnel exercise physical custody, issue binding detention decisions or otherwise control the immediate legal situation of a person in the Albanian sites, those functions provide a strong basis for examining

Italian jurisdiction under ECHR Article 1. Al-Skeini (2011, para. 137) ties the relevant Convention obligations to authority and control over the individual. Hirsi Jamaa (2012) illustrates the practical reach of that test when Italian agents act beyond Italian territory. The Protocol can help prove that officials were authorised and present; it cannot alone decide every factual question of control.

This is a conclusion about a legal gateway, not about inevitable liability. ECHR Article 1 jurisdiction answers whether the relevant obligations are engaged. It does not itself determine whether detention was arbitrary, whether an individual faced a prohibited return risk or whether a court remedy was inaccessible. Nor does it make Italy the territorial sovereign over the sites. A State may operate coercive functions by another State's consent while remaining accountable for those functions under treaties to which it is party. International law permits that distinction: the place of the act, the source of authority and the responsible duty-holder are not necessarily coextensive.

4.2. Albania's territorial duties and Italy's agent-based duties can coexist

The second finding is that the Protocol establishes a potential overlap of responsibilities but not an automatic presumption of jointly wrongful conduct. Albania's territorial sovereignty gives it an ordinary jurisdictional relationship with people within its territory; its own treaty duties therefore remain relevant. At the same time, ordinary Italian public authorities acting abroad remain Italian State organs for purposes of ARSIWA Article 4. The identity of the premises' owner or the authorising treaty does not change the basic attribution of an official's conduct. A wrongful act by Italy requires both conduct attributable to Italy and breach of an obligation binding Italy; a separate wrongful act by Albania requires its own predicate facts and duty.

A more difficult issue concerns assistance. If an Albanian official knowingly assists conduct by Italy that would be internationally wrongful if performed by Albania, Article 16 offers one possible basis for assessing derivative responsibility, subject to its conditions and the relevant customary status of the rule. Yet the act of providing premises or executing an agreement cannot be classified as unlawful assistance without specifying the underlying wrongful act, the assisting conduct and the required knowledge. Similarly, Article 47 on plural responsibility cannot serve as an evidentiary shortcut. It recognises possible plurality only after the responsibility of the participating States has been properly established. The distinction protects the legal analysis from converting policy criticism into an unproved allegation of international wrongdoing.

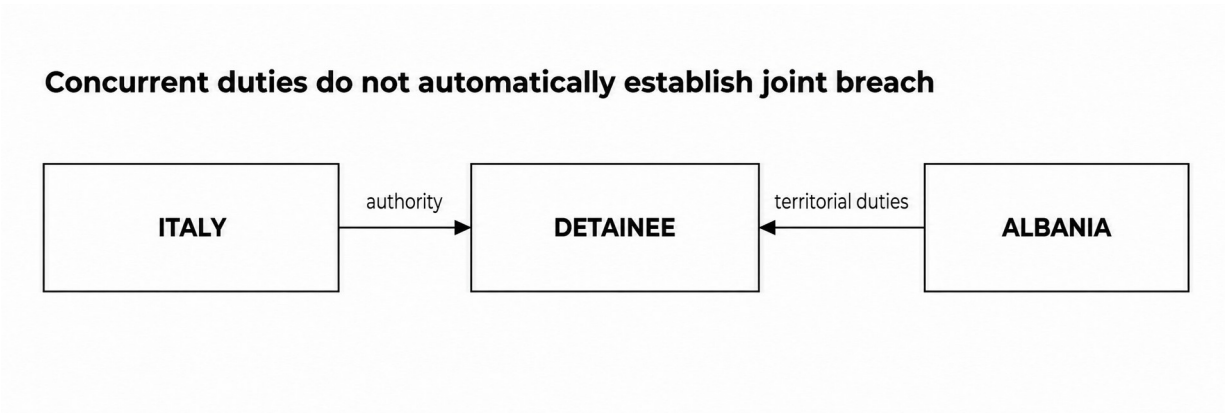


Figure 2. The relationship between personal authority and territorial duties. Source: Author-developed analytical framework based on the legal instruments cited in the text.

4.3. A transfer and each period of confinement require their own breach analysis

The third finding is that an initial domestic order cannot necessarily supply an adequate international-law answer for all subsequent stages of offshore custody. A reasoned transfer decision, actual custody in Albania, continuation of detention and a later application for protection are distinguishable exercises of power. Article 5 ECHR and Article 9 ICCPR demand scrutiny of detention as it actually operates, including lawfulness, protection against arbitrariness and review. In Khlaifia (2016), the European Court found that the absence of a sufficient legal basis, prompt information and effective judicial challenge violated specific Article 5 guarantees in an Italian immigration context. The Court did not decide the Albanian Protocol, but its detention-law standards are directly relevant as general principles to be tested, not mechanically transplanted factual conclusions.

A change from return detention to a protection-related procedure is material because the purpose and applicable grounds may change. International law does not provide a generic permission for continuing detention merely because physical custody has already begun. The relevant State must be able to identify the current legal basis, demonstrate that coercion remains justified by its permitted purpose, inform the individual sufficiently, and permit independent review. Where protection-related risks arise, the applicable ECHR and Refugee Convention obligations must be addressed separately from any administrative question of whether the same facility can be used under national or EU law.

Accordingly, a valid first order does not immunise a later omission; equally, a procedurally flawed later order does not retrospectively prove that an earlier order was unlawful. The evidence required includes a dated chronology of orders, grounds, legal advice, communications, hearing opportunities and any individual protection request. Without individual case files this study cannot identify which persons were wrongly detained or for how long. It can specify the set of facts necessary for an adjudicator to make that determination.

Custody chain: each transition has an independent legal test

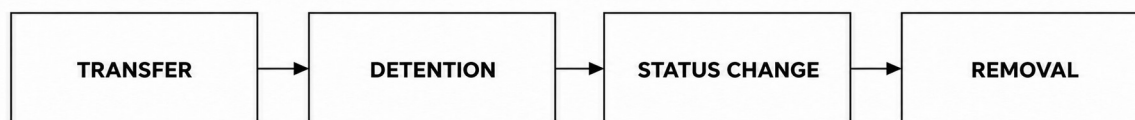


Figure 3. *The legally distinct stages of the custody chain. Source: Author-developed analytical framework based on the legal instruments cited in the text.*

4.4. Non-refoulement and effective remedies are independent constraints on transfer arrangements

The fourth finding concerns irreversibility. A State cannot treat procedural access as satisfied by the existence of a theoretical avenue to lodge a complaint if an individual is sent onward before a credible risk of prohibited treatment can be reviewed. Under ECHR Article 3, as operationalised in Hirsi Jamaa (2012), the transfer of a person exposed to a real risk of prohibited treatment engages State duties wherever the State exercises jurisdiction. Refugee Convention Article 33 and Convention against Torture Article 3 provide distinct, overlapping sources. Their legal thresholds and possible qualifications must be applied to the individual, not conflated into a universal claim that every movement to Albania is refoulement.

ECHR Article 13 and Article 5(4) raise different remedial inquiries. Review of a detention decision concerns liberty and the ability of a court to order release; a remedy against a removal exposing a person to a credible Article 3 risk must be effective before the risk materialises. ICCPR Article 2(3) and Article 9(4) reinforce the distinct need for an effective remedy and judicial control of detention. The reported physical distance between centres, lawyers and courts makes the issue operationally acute but does not itself establish a breach in every case (Amnesty International, 2026). The decisive evidence is whether confidential legal contact, interpretation, reasoned decisions and review with practical effect were available in the relevant individual circumstances.

A single court in Italy may be the designated forum for particular proceedings, yet its formal existence does not show that an Albanian-based detainee can use it effectively. Conversely, the absence of an Albanian merits forum for an Italian detention decision does not automatically mean international law demands duplicate adjudication in both States. The obligation is to secure a remedy appropriate to the breached right against the appropriate respondent. This forum-specific approach is more precise than treating access to justice as one undifferentiated checklist.

4.5. International responsibility has consequences beyond policy amendment

The fifth finding concerns what follows a demonstrated internationally wrongful act. ARSIWA Articles 30 and 31 articulate cessation where the wrongful act continues,

assurances and guarantees of non-repetition where circumstances require, and full reparation for injury caused. This does not imply that every detainee is automatically entitled to a particular quantum of compensation or that the ILC text directly creates a private cause of action in any national court. Rather, it shows why an international-law assessment cannot stop with whether the design of a detention centre is administratively workable. It must examine the availability of judicial relief, the State able to provide it, and the legal effects of proven wrongful conduct.

For a detention found contrary to Article 5 ECHR, the remedy inquiry includes the capability to obtain an enforceable ruling on lawfulness and release, with compensation questions governed by the applicable legal framework. For an impending removal presenting a substantiated Article 3 risk, the essential remedy may require halting the transfer until legally adequate assessment is complete. Where Albanian conduct independently engages Albanian responsibility, separate remedies may arise. Treating the Protocol as if it generates one undifferentiated “joint liability” would obscure the different legal predicates and forms of relief. The analytical contribution is therefore a responsible-State-to-remedy matching exercise, not a presumption about the outcome of future litigation.

An effective remedial claim requires more than a technical court

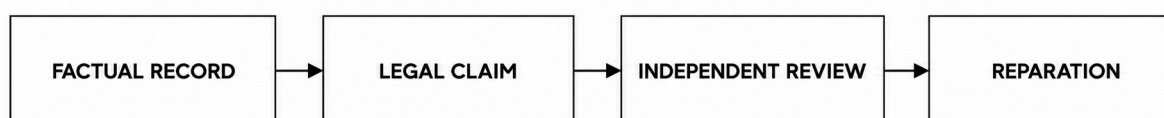


Figure 4. The chain from evidence to judicial remedy. Source: Author-developed analytical framework based on the legal instruments cited in the text.

Table 2. Attribution-to-remedy matrix for the Italy-Albania detention chain

Stage and contested act	Primary international-law inquiry	Potentially responsible State(s) and proof needed
Selection / offshore transfer	ECHR Art. 1 jurisdiction; non-refoulement and individualised assessment	Italian decision-maker and agents; Albanian participation only if separately established
Initial and continued custody	ECHR Art. 5; ICCPR Art. 9; attributable custody decisions	Italy if Italian officials order/exercise custody; Albanian acts separately assessed
Claim for protection	Current basis of custody; access to legal information and judicial review	State controlling status decision; any separate obstruction by the host

Stage and contested act	Primary international-law inquiry	Potentially responsible State(s) and proof needed
Attempted onward removal	ECHR Art. 3, CAT Art. 3, Refugee Convention Art. 33 as applicable	State directing or materially participating, assessed under its duties
Failure of remedy	ECHR Arts. 5(4), 13; ICCPR Arts. 2(3), 9(4)	Identify designated court, access barriers, effective power to grant relief

5. DISCUSSION: WHAT THE INTERNATIONAL-LAW ACCOUNT ADDS

5.1. A stronger answer to cooperation as an accountability defence

An argument in defence of the Protocol is that Albanian sovereignty and Italian legislative guarantees allow lawful bilateral cooperation. That proposition is defensible in principle: international law does not generally prohibit States from cooperating in migration administration on foreign territory. But its legal force is conditional. A host State’s consent cannot determine the substantive reach of obligations owed by Italian public officials under human-rights treaties, and an assurance that domestic safeguards remain available cannot replace evidence that persons under control can actually invoke them. The doctrinal sequence developed here allows cooperation to be lawful while exposing specific violations when individual conditions are not met.

A counterargument from the opposite direction treats offshore detention as inherently illegal because it occurs in a non-member State. That also goes too far. The international-law test is not reducible to an EU-territorial rule; it depends on jurisdiction, treaty obligations and concrete conduct. In particular, a decision about the geographic location of an asylum border procedure under EU legislation should not be recast as a general judicial pronouncement that international law forbids all forms of detention outside an official’s home territory. The study’s international-law focus avoids both extremes and asks which legally prohibited acts, if any, were committed by each State.

5.2. A disciplined comparison with the existing literature

The findings complement rather than simply repeat Moreno-Lax’s (2017) account of projected borders and Gammeltoft-Hansen and Hathaway’s (2015) analysis of cooperative deterrence. Their work explains why policies are externalised and which refugee-law safeguards may be threatened; this study specifies a decision sequence for institutional actors and remedies after the externalised arrangement is in operation. It also differs from De Leo and Celoria (2025), whose central contribution concerns the extraterritorial reach of EU law; and from Gatta (2026), which examines competence to conclude the Protocol. Gemi and Ruci (2026) already identify overlapping jurisdiction, and this overlap is therefore a starting point, not the article’s novelty. What the present account adds is the refusal to infer joint

responsibility from overlap alone and a structured inquiry into the act, norm and remedy for each possible respondent.

Amnesty International's August 2026 documentation creates an important factual challenge for defenders of the arrangement, especially on access to lawyers and independent scrutiny. Its findings reinforce the importance of reviewing effective legal protections, but their evidence cannot be treated as this article's original empirical dataset. The international-law contribution is the method by which such documented facts, when sufficiently established and linked to individual cases, can be translated into jurisdiction, attributable conduct, breach and consequences. This explicitly separates normative assessment from external fact-finding.

5.3. Institutional implications for a Mediterranean social-science journal

Studi Economici e Sociali is an interdisciplinary journal concerned with institutions, governance, public policy, migration and social inclusion. The public-international-law thesis is therefore relevant to its readership not because it calculates a fiscal effect, but because credible public administration depends on the enforceability of rights wherever public power is exercised. An offshore procedure can be operationally fast yet legally fragile if individuals cannot obtain reasoned decisions, independent judicial supervision or preventive protection against irreversible removal. These are institutional-performance dimensions that should be evaluated as governance outcomes rather than dismissed as external legal technicalities (Studi Economici e Sociali, 2026).

Operationally, authorities should preserve a case-specific audit trail identifying the acting State organ, the applicable treaty duty, the reasoned detention basis, the date of any protection claim, the available counsel and court, the review decision and any actual cessation or remedy. Disclosure to independent oversight bodies must respect personal-data and confidentiality rules. These safeguards are not offered as proof that the Protocol has succeeded or failed in aggregate; they are the evidence needed to test compliance and remedy effectiveness. Such an approach also provides a comparative instrument for other bilateral arrangements in the Mediterranean, while acknowledging differences in competence, territorial control and asylum procedures.

6. CONCLUSION

The Italy–Albania Protocol is best understood as a test of how responsibility follows public authority across sovereign borders. The answer is neither that Italy escapes accountability by operating in Albania nor that every action in the centres makes both States jointly liable. A legal conclusion must be established separately for each participating State: identify jurisdiction over the person, attribute the contested conduct, show breach of an obligation binding that State and then determine the remedies and consequences legally available. Under this approach, detention by Italian officials can bring Italy's international human-rights obligations into play outside its territory, while Albania's territorial duties and any independently attributable cooperation must be assessed on their own terms.

The main scholarly contribution is a disciplined attribution-to-remedy matrix covering offshore transfer, custody, status change, contemplated removal and access to

judicial relief. It clarifies three propositions that are often compressed in policy debate: extraterritorial jurisdiction is not itself proof of breach; overlapping jurisdiction is not itself joint attribution; and formal access to a legal forum is not necessarily an effective remedy. These distinctions convert the broad language of migration externalisation into adjudicable propositions grounded in the ECHR, ICCPR, Refugee Convention, Convention against Torture and State-responsibility doctrine.

The immediate practical implication is that a State cannot establish compliance through geography or an intergovernmental assurance alone. It must be able to document a lawful detention basis and effective, individualised legal protection at each stage in which its officials exercise power. The legal framework is transferable, with appropriate factual adjustments, to other bilateral offshore operations, but it cannot replace case-specific evidence or a competent court's determination. For scholars and policymakers, the wider lesson is institutional: cross-border cooperation can redistribute functions, but international accountability remains tied to legally identifiable conduct and duty-holders.

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Data availability: The analysis uses publicly accessible treaties, official judgments, legislation and published scholarship; a source register accompanies the manuscript. No individual-level personal data were collected.

Ethics: This is documentary legal research involving no human participants or identifiable case records.

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