



30.6.2017

## NOTICE TO MEMBERS

**Subject: Petition No 1101/2016 by Gianni Mari (Italian) on Italy's alleged violation of the fundamental rights of Italian Somalis**

### 1. Summary of petition

The petitioner (born in Somalia in 1955) condemns the wrongs committed by the Italian administration against Somali children in the decade prior to Somalia's declaration of independence (1950-60) during the international mandate assigned to Italy by the UN. The children were the result of extramarital relations between married Italian men and Somali women (the majority of whom were minors). The children were taken away from their mothers and placed into the care of the Italian State, under the 'guardianship' of the Apostolic Vicariate of Mogadishu. The petitioner claims that, in reality, these minors were forcibly 'Italianised'; 'guardians' cut all ties with their birth mothers (causing suffering to both mothers and children), native country and mother tongue. The petitioner, alongside the Italian Somali Association (around 200 survivors), claims to be the victim of 66 years of state-sanctioned racism. He summarises the judicial history of the case; it was first brought before the Court of Rome, which found that acts committed in the colonial period could no longer be prosecuted, and then before the European Court of Human Rights, which dismissed the appeal on the grounds that not all national legal channels had been exhausted. The petitioner attempted unsuccessfully to engage with Italian diplomacy (via an appeal lodged in April 2016) with a view to raising the issue at the United Nations General Assembly (and possibly initiating a UN infringement procedure for the violation of the fundamental rights of minors at the time of the UN mandate). He therefore asks that the Committee on Civil Liberties and the Subcommittee on Human Rights hold a joint hearing to uphold the fundamental rights of the members of his Association.

### 2. Admissibility

Declared admissible on 22 March 2017. Information requested from Commission under Rule 216(6).

### **3. Commission reply, received on 30 June 2017**

Under the Treaties on which the European Union is based<sup>1</sup>, the European Commission has no general powers to intervene with the Member States in the area of fundamental rights. It can only do so if an issue of European Union law is involved.

On the basis of the information provided, it does not appear that the matter to which the petition refers can in any way be related to the implementation of the European Union law. In any event, the alleged facts referred to predate the existence of the European Union or even the European Communities.

It is the exclusive role and competence of the Member States to deal with the sensitive and complex issue of addressing wrongs and crimes that have happened in the past, including during the colonial past. As regards more specifically calls for reparation for the violation of fundamental rights allegedly perpetrated by Member States when governing their former colonies, it is for Member States alone, including their judicial authorities, to ensure that such violations are investigated and redress is ensured when warranted in accordance with their national legislation and international human rights obligations.

As regards proceedings allegedly brought by the petition before the European Court of Human Rights, the Commission recalls that, as an institution of the European Union, it does not have any power in respect of the procedures of such Court and is therefore not in a position to take any steps in relation to decisions taken by it in relation to the admissibility of applications.

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<sup>1</sup> Treaty on the European Union and Treaty on the Functioning of the European Union