Reception conditions in Italy

Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy

Swiss Refugee Council OSAR

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Information on the organisation: The Swiss Refugee Council OSAR is a politically and religiously independent non-profit organisation and the umbrella association of the Swiss refugee relief organizations Caritas Switzerland, Swiss Interchurch Aid (HEKS), Swiss Labour Assistance (SAH), the social arm of the Swiss Federation of Jewish Communities (VSJF), the Salvation Army Foundation Switzerland and the Swiss section of Amnesty International. As an expert organization, OSAR is involved in the political consultation process regarding asylum and immigration legislation, as well as being committed to educational projects and contributing to shaping public opinion in the area of asylum. Since being founded in 1936, it has represented the interests of asylum seekers and refugees vis-à-vis the authorities, politics and the public eye. As an independent competence centre for legal questions on asylum and refugees, the legal arm of OSAR constitutes the interdisciplinary Protection division of OSAR in conjunction with country analyses and the coordination and training of legal counsels and representatives employed by social aid organisations. This division systematically observes developments in asylum law and practice and draws up reports on host countries and countries of origin.

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Abbrevations

AIDA	Asylum Information Database
ANCI	*Associazione Nazionale Comuni Italiani*
ASDI	*Assegno di disoccupazione*
ASGI	*Associazione per gli Studi Giuridici sull'Immigrazione*
ASL	*Azienda Sanitaria Locale*
ATS	*Azienda di Tutela della Salute*
CARA	*Centro di Accoglienza per Richiedenti Asilo*
CAS	*Centro di Accoglienza Straordinaria*
CASC	*Centro Aiuto Stazione Centrale (Milano)*
CAT	UN Committee against Torture
CELAV	*Centro di Mediazione al Lavoro*
CIE	*Centro di Identificazione ed Espulsione*
CPR	*Centro di permanenza per il rimpatrio*
CPSA	*Centro di primo soccorso e accoglienza*
CJEU	Court of Justice of the European Union
DID	D*ichiarazione di immediata disponibilità al lavoro*
DRMP	Dublin Returnee Monitoring Project
ECHR	European Convention on Human Rights
ECRE	European Council on Refugees and Exiles
ECtHR	European Court of Human Rights
ELENA	European Legal Network on Asylum
ERS	*Edilizia Residenziale Sociale*
ERP	*Edilizia Residenziale Pubblica*
FGM	Female Genital Mutilation
GRETA	Group of Experts on Action against Trafficking in Human Beings
ICESR	International Covenant on Economic, Social and Cultural Rights
INPS	*Istituto Nazionale della Previdenza Sociale*
MSF	Médecins sans Frontières
OECD	Organisation for Economic Co-operation and Development
OLAF	European Anti-Fraud Office
PD	Procedures Directive[1]
RCD	Reception Conditions Directive[2]
SEM	(Swiss) State Secretariat for Migration
SIA	*Sostegno per l'Inclusione Attiva*
SSN	*Servizio Sanitario Nazionale*
STP	*Stranieri Temporaneamente Presente*
TAF	(Swiss) Federal Administrative Court
UDHR	Universal Declaration of Human Rights
UMA	Unaccompanied minor asylum seeker
VHT	Victim(s) of human trafficking
QD	Qualification Directive[3]

[1] Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast).

[2] Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).

[3] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless people as beneficiaries of international protection, for a uniform status for refugees or for people eligible for subsidiary protection, and for the content of the protection granted (recast).

1 Introduction

1.1 Background and objectives

Since December 2008, Switzerland has participated in the Schengen and Dublin system of the European Union as an associated country without being a member of the European Union. Italy is an important partner for Switzerland in implementing the Dublin Association Agreement, as the majority of people returned to another Dublin country by Switzerland in accordance with the Dublin III Regulation[4] are sent back to Italy. In addition, Switzerland returns official refugees to Italy based on bilateral readmission agreements. The Swiss Refugee Council already undertook a fact-finding mission to Italy in autumn 2010 together with the Norwegian organizations Juss-Buss and NOAS, and published a report[5] in 2011 describing the Italian asylum system, the asylum procedure and reception conditions. Following the Arab Spring, the situation in Italy deteriorated further, prompting OSAR to undertake another fact-finding mission in 2013 and publish a further report on the situation for asylum seekers and beneficiaries of protection in Italy with a focus on reception conditions.[6] The third fact-finding mission by OSAR took place in early March 2016. After two years with a high number of sea arrivals – 323,942 in total,[7] – the country was struggling to cope. Although there were significantly more places in accommodation, the number of people requiring accommodation had also grown considerably, so that there was still insufficient capacity. The report[8] on the findings of the third fact-finding mission, published in August 2016, identified serious deficiencies in the Italian accommodation system.

These reports have not yet persuaded the Swiss asylum authorities to fundamentally reconsider their practice of returning asylum seekers to Italy. In the opinion of OSAR, the findings in the 2016 report have not been given sufficient attention by the authorities and courts. The Swiss State Secretariat for Migration (SEM) only desists from transferring asylum seekers to Italy in exceptional cases. Although in general, the Federal Administrative Court (TAF) largely endorses this practice, recent case law published in the second half of 2019 indicates that the Court had taken a closer look into the reception conditions for vulnerable asylum seekers in Italy. Against this background, and in view of developments in Italy and in international case law summarized below, OSAR saw a need to clarify the current situation once again.

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4 Regulation (EG) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

5 Swiss Refugee Council /Juss-Buss, Asylum procedure and reception conditions in Italy, May 2011: www.refugeecouncil.ch/assets/asylrecht/rechtsgrundlagen/2011.05.04-italy-report-sfhjussbuss-edited-final.pdf.

6 Swiss Refugee Council, Italy: Reception conditions – Report on the current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, October 2013: www.refugeecouncil.ch/assets/news/english-website/131213-osar-report-italy-english.pdf.

7 UNHCR, Mediterranean Situation, Italy, https://data2.unhcr.org/en/situations/mediterranean/location/5205, last visited on 3 January 2020.

8 Swiss Refugee Council, Italy: Reception conditions – Report on the current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, October 2016: www.refugeecouncil.ch/assets/news/2016/161031-final-englisch-sfh-bericht-italien-aufnahmebedingungen.pdf.

The legal certainty for asylum seekers in the Dublin procedure improved considerably following the decisions made in the cases of *Ghezelbash and Karim*[9] and *Mengesteab*[10]. In these rulings, the Court of Justice of the European Union (CJEU) declared that the restrictions on the right to appeal against a Dublin decision, as imposed in the *Abdullahi*[11] ruling, are no longer valid, and explicitly abandoned this jurisprudence. According to these more recent decisions, applicants are also entitled to appeal against a transfer on the basis of Member States incorrectly applying the Dublin responsibility determination criteria (*Ghezelbash*) and the accompanying deadlines (*Mengesteab*).

Furthermore, in recent years the CJEU has repeated time and again the substance of its judgments in cases on the legality of Dublin transfers, ruling that even where there are no substantial grounds for believing that there are systemic flaws in the responsible Member State, a Dublin transfer can only be carried if the possibility is excluded that the transfer might result in a real and proven risk of the person concerned suffering inhuman or degrading treatment within the meaning of Article 3 ECHR – either on arrival in the other Member State because of the reception conditions[12], or through the transfer itself.[13] Therefore, if there is a real and proven risk that an applicant's state of health of would significantly and permanently deteriorate because of the transfer or as the result of the transfer, that transfer would constitute a violation of Article 3 ECHR.

According to the case law of the ECtHR[14], poor reception conditions for asylum seekers and a lack of effective access to the asylum procedure constitute a violation of Article 3 ECHR or a violation of Article 3 in conjunction with Article 13 ECHR. It is therefore important[15] to examine the legal and factual situation in the receiving state during the appeal procedure at the latest before transferring an asylum seeker. This applies even more if the asylum seeker belongs to the group of people with special reception needs.[16] This is confirmed by the ECHR in its judgment in *Tarakhel v. Switzerland*[17], in which the Court ruled that the Dublin transfer of a family with minor children from Switzerland to Italy, without the Swiss authorities obtaining individual guarantees from the Italian authorities that the entire family would receive a child-friendly reception constitutes a violation of Article 3 of the Convention.

Other international treaty bodies have also issued decisions regarding the legality of Dublin transfers to Italy. In 2018, the UN Committee against Torture (CAT) decided in two cases that the Dublin transfer to Italy of asylum seekers contesting the transfer would infringe their rights as protected by the Convention against Torture, as the provision of necessary adequate healthcare could not be guaranteed upon their transfer to Italy.[18] In both of cases, the asylum seekers had physical and mental health issues, as they had been subjected to torture before

9 CJEU, judgment of 7 June 2016, joint cases *Ghezelbash and Karim*, Cases C-63/15 and C-155/15.
10 CJEU, judgment of 26 July 2017, *Mengesteab*, Case C-670/16.
11 CJEU, judgment of 10 December 2013, *Abdullahi*, C-394/12.
12 CJEU, judgment of 19 March 2019, *Jawo*, C-163/17.
13 CJEU, judgment of 16 February 2017, *C.K. and others*, Case C-578/16 PPU.
14 ECtHR, judgment of 21 January 2011, *M.S.S. v. Belgium and Greece*, Application No. 30696/09.
15 Article 27 in conjunction with Recital 19 of the Dublin III Regulation.
16 According to Article 2 (k), Reception Conditions Directive, 2013/33/EU.
17 ECtHR, judgment of 4 November 2014, *Tarakhel v. Switzerland*, Application No. 29217/12.
18 UN-CAT, Communication No. 742/2016 of 3 August 2018, *A.N. v. Switzerland*; and Communication No. 758/2016 of 6 December 2018, *A.H. v. Switzerland*.

lodging an application for international protection in Italy. After they were unable to get appropriate treatment in Italy, both of them (individually) travelled on to another country (Switzerland and Sweden, respectively), but were sent back to Italy with a Dublin decision – after receiving assurances from the Italian authorities that adequate treatment would be made available to them. On returning to Italy, however both were unable to access any treatment, and they travelled to Switzerland to apply for international protection there. In both cases, the Swiss migration authorities issued (another) Dublin decision to transfer these people back to Italy. The asylum seekers contested these decisions before the Swiss Federal Administrative Court (TAF), but the Court confirmed the transfer decisions. The UN Committee against Torture, however, decided that in both cases, a Dublin transfer to Italy would lead to inhuman and degrading treatment, as prohibited by Articles 3 and 16 of the Convention.

Finally, after the Salvini Decree[19] came into force and was incorporated permanently in the Italian legal system in December 2018, the Human Rights Commissioner of the Council of Europe, Dunia Mijatovic, expressed her concern about Italy's new immigration policy in a letter to (then) Prime Minister Conte, in which she stressed how the Decree and its implementation would have a negative effect on the reception of asylum seekers and the lack of access to rights during the procedure and beyond.[20]

Against this background, it is clear that the 2016 report needed to be updated. As in the previous versions, the aim of this updated report is to provide an overview of the current accommodation and living situation for asylum seekers and people with protection status, especially in Rome and Milan. A special focus is on returnees (with or without protection status) as well as vulnerable people and families.

1.2 Method

A delegation comprising four employees[21] from the legal section of OSAR, undertook a fact-finding mission to Rome and Milan at the beginning of September 2019.[22] The delegation interviewed various NGO and authorities. In addition to the knowledge gained from these interviews, the report also includes knowledge and experiences from OSAR's Dublin Returnee Monitoring Project (DRMP)[23] and recent reports on the situation in Italy. There are considerable differences between regions and municipalities. As most Dublin returnees are transferred by plane to Rome or Milan, this report describes the situation in Italy mainly based on the examples of Rome and Milan.

[19] Legal Decree 113/2018, 4 October 2018.
[20] www.liberties.eu/en/news/council-of-europe-concerned-about-the-new-italy-s-migration-policy/17085, last visited on 3 January 2020.
[21] Lucia della Torre, Laura Rezzonico, Adriana Romer, Margarite Zoeteweij.
[22] The fact finding mission was partially accompanied by Karl Kopp, Foundation Pro Asyl.
[23] More information and reports can be found here: www.fluechtlingshilfe.ch/herkunftslaender/dublin-staaten/italien-1/dublin-returnee-monitoring-project-drmp.html.

1.3 Preliminary observations

The number of new arrivals of asylum seekers in Italy fell sharply in 2018 compared to the previous year, partly due to the questionable cooperation between Italian and Libyan authorities under the agreement the two parties entered into in February 2017. This states, that Libyan coastguards should stop migrants at sea and return them to Libyan soil instead of allowing them to reach Italy by boat. This agreement has been harshly criticized by human rights organisations, which point out that it leads to people in need of international protection being unlawfully detained, tortured and extorted in Libyan detention centres – using European money.[24] Despite the criticism, the deal was automatically renewed in November 2019.[25]

Furthermore, keen to deliver on his election promises to decrease the number of migrants in Italy as well as the costs in the asylum sector, Italy's ex-Minister for the Interior Matteo Salvini, initiated several amendments to the laws on migration and asylum, which were implemented in 2018 and 2019. The so-called Salvini Decree[26], adopted on 4 October 2018, mainly affected asylum seekers with a humanitarian protection status, which was widely used in Italy until 2018, as this status was abolished overnight. Furthermore, the decree changed the rules on reception conditions, which further deteriorated with a change to the legal framework on the public procurement of reception facilities (which will be discussed in greater detail in chapter 4 of this report). Salvini also pushed for a general closure of the Italian ports to vessels carrying asylum seekers rescued on the open sea, thus flagrantly disrespecting binding provisions of international maritime law. With the most recent amendment, approved by the Italian parliament on 8 August 2019, fines for private vessels that rescue people and do not respect the ban on entry into territorial waters have risen to a maximum of one million euros. In addition, vessels will now be automatically impounded. As a result of these amendments, several NGOs have been indicted in Italy and the crews of ships involved in rescue operations have repeatedly faced criminal procedures. These developments are emblematic of Europe's broader efforts in recent years to criminalize humanitarian search and rescue operations in the Mediterranean, with the aim of discouraging sea rescues and further lowering the number of arrivals in Italy.

Although the number of arrivals decreased over the last year, this does not mean that the pressure on the Italian asylum system has diminished. Italy still receives a significant number of take-back or take-charge requests under the Dublin III Regulation (more than 31,000 in 2018[27]). In addition, there is an immense backlog of pending asylum procedures, as it takes two years on average before the first-instance decision on an asylum application is made. Therefore, the number of people with pending asylum procedures, who are by law entitled to reception conditions, is still very high. At the same time, as will be analysed in more detail in

[24] For example, Amnesty International, www.amnesty.org/en/latest/news/2018/02/a-year-after-italy-libya-migration-deal-time-to-release-thousands-trapped-in-misery/, Médecins sans Frontières, www.dw.com/en/doctors-without-borders-decries-blockade-on-boat-migrants-in-libyan-waters/a-40069387, and the UN High Commissioner for Human Rights, https://news.un.org/en/story/2017/11/636022-libyas-detention-migrants-outrage-humanity-says-un-human-rights-chief-zeid, all websites last visited on 3 January 2020.

[25] www.internazionale.it/bloc-notes/annalisa-camilli/2019/10/30/italia-memorandum-libia

[26] Legal Decree 113/2018, 4 October 2018.

[27] http://documenti.camera.it/leg18/resoconti/commissioni/stenografici/pdf/30/audiz2/audizione/2018/12/05/leg.18.stencomm.data20181205.U1.com30.audiz2.audizione.0001.pdf, last visited on 3 January 2020.

chapter 4.5, the budgets for reception centres have been cut severely, resulting in the closing of centres and the reduction of services offered in those that remain open.

1.4 Interview and cooperation partners

The delegation would like to thank the following organisations and authorities for their time, their valuable information and cooperation:

1.4.1 In Rome

- Comunità di Sant'Egidio, 9 September 2019
- SIPROIMI (Sistema di protezione per titolari di protezione internazionale e per minori stranieri non accompagnati), Servizio Centrale, 9 September 2019
- Differenza Donna, Prendere il volo, 9 September 2019
- Polizia di Stato, Direzione Centrale Immigrazione e Polizia, 9. September 2019
- Synergasia, 9 September 2019
- Baobab Experience, 9 September 2019
- Fondazione Centro Astalli, (Project SaMiFo - Salute Migranti Forzati), 10 September 2019
- ASGI (Associazione per gli Studi Giuridici sull'Immigrazione), 10 September 2019
- MEDU (Medici per i Diritti Umani), 10 September 2019
- Commissione Territoriale d'Asilo, 10 September 2019
- Be Free, 10 September 2019
- Social cooperative Programma Integra, 11 September 2019
- IAI (Istituto Affari Internazionali), 11 September 2019
- EASO, 11 September 2019
- Commissione nazionale d'asilo, Prefetto Sandra Sarti and Vice-Prefetto Francesca Tavassi, 11 September 2019
- CIR (Consiglio Italiano per i Rifugiati), 11 September 2019
- MSF (Medici Senza Frontiere), Centro di riabilitazione, 12 September 2019
- MSF, Fuori Campo, 11 September 2019
- Ministry of the Interior, Dublin Unit, 11 September 2019

- Caritas Roma, 12 September 2019
- Questura di Roma, 12 September 2019
- UNHCR Italy, 12 September 2019

1.4.2 In Milan

- Caritas Ambrosiana, 12 September 2019
- Municipality of Milan (Comune di Milano), Direzione Politiche Sociali, 12 September 2019
- Tribunale di Milano, 12 September 2019
- Municipality of Milan (Comune di Milano), Protection of victims of trafficking (Protezione vittime della tratta), 12 September 2019
- Naga (Organizzazione di volontariato per l'Assistenza Socio – Sanitaria e per i Diritti di Cittadini Stranieri, Rom e Sinti), 13 September 2019, and subsequent email exchange.
- Farsi Prossimo, 13 September 2019
- Maria Cristina Romano, lawyer and Italian ELENA coordinator, 13 September 2019

2 Summary

A delegation from OSAR travelled to Rome and Milan between 9 and 14 September 2019, where they interviewed NGOs, authorities and lawyers to clarify the current reception conditions for asylum seekers and people with protection status in Italy.

Italy is the most important partner for Switzerland in implementing the Dublin Association Agreement. Switzerland sends 35% of its Dublin transfers to Italy.[28]

Although the number of sea arrivals in Italy dropped significantly, there are **still shortcomings regarding access to the asylum procedure as well as in the reception system itself**.

People who arrive via the central Mediterranean are given a form (***foglio notizie***) on arrival and requested to fill out their personal data and state their reason for entering Italian soil. No sufficient explanation or translation is available regarding the completion of this form. If the box for «asylum» is not ticked, the person is not considered an asylum seeker and is then directly given an expulsion order (usually *respingimento differito*). This is also the practice in many Questure. Furthermore, there are reports that people with certain nationalities are **denied access to the asylum procedure**.

For people who apply for asylum at a **Questura** within the country (and therefore not directly at a sea or land border after being apprehended), there are still some **problems regarding access to the asylum procedure** due to limited opening hours, online appointment systems and discrimination of certain nationalities.

In big cities, it can still take **several weeks between the first application for asylum** and the taking of fingerprints and biometric data (*fotosegnalamento*) **and the formal registration** of the asylum application (*verbalizzazione*). During this time, asylum seekers are not guaranteed a place to live and only have access to emergency healthcare.

Dublin returnees who **did not apply for asylum** in Italy before they moved on to another country are treated the same way as new arrivals. For people who were **already in the asylum procedure before they left** Italy, the Questura which registered their initial asylum application remains responsible for their case. If the person's asylum procedure was suspended for more than 12 months due to the person being irretrievable, and no reasonable grounds have been given for their disappearance, the procedure will be closed. The same applies to cases in which a negative decision was reached in the first instance, after the deadline for the appeal had expired. In those cases, a subsequent asylum application is possible only if new facts are brought forward.

There are **NGOs** physically present at Fiumicino **Airport** in Rome and Malpensa Airport in Milan (as well as in Bari, Bologna and Venice on request). Their purpose is to support asylum seekers arriving at the airport with by organising accommodation – if the person is still entitled to it – and providing a train ticket to travel to the responsible Questura. These airport NGOs no longer provide legal information or counselling.

[28] SEM, Asylum statistics 7-50, January-November 2019, available at www.sem.admin.ch/sem/de/home/publiservice/statistik/asylstatistik/archiv/2019/11.html.

The **reception system** essentially consists of first-line and second-line reception. In the case of direct arrivals, especially from the sea, asylum seekers are first given food and accommodation in a CPSA[29] or a so-called hotspot. First-line reception centres include *centri governativi di prima accoglienza* (CARA). They are supplemented by emergency reception centres (CAS, now called *strutture temporanee*) which make up the greater part of the reception system and can be categorised as first-line reception centres. SPRAR, now called SIPROIMI, is the second-line reception system. The entire reception system is geared to individuals who enter Italy via the Mediterranean and apply for asylum directly on arrival. As Dublin returnees only represent a small share of arrivals in Italy, there is no standardized, defined procedure in place for taking them (back) into the system.

Changes in the relevant laws as well as in practice have had a tremendous impact on the reception system: The Salvini Decree,[30] which entered into force on 4 October 2018, restricted the scope people allowed to enter the second-line reception system SPRAR (now called SIPROIMI). **Only people with international protection status and unaccompanied minors are now entitled to enter SIPROIMI** projects. There are no exceptions for vulnerable asylum seekers. They are accommodated in first-line reception centres, of which the CAS (originally introduced as emergency centres) constitute the vast majority. In the past, these centres were often not able to adequately host people with special needs, as the ECtHR also found in its *Tarakhel* ruling[31] of 4 November 2014. Since the implementation of amendments following the Salvini Decree, **the quality and the services offered by first-line reception centres have further deteriorated significantly**. This is mainly due to new provisions for public procurement tenders (***Capitolato***) published for first-line reception centres, which reduce the state's financial contribution from 35 € per asylum seeker a day to 20 €. As a result, competitors in the public procurement procedure are forced to drastically cut their services and let go half of their staff. This development has had a negative impact on all people accommodated in the CAS, but vulnerable people have been hit the hardest, as they depend on special support. It also means that it is almost impossible to identify vulnerabilities due to limited resources and staff. To sum up, people with special reception needs will most likely not be provided with adequate services and support in first-line reception.

Second-line reception (SIPROIMI, to which asylum seekers no longer have access!) *would* be far better equipped to accommodate families or asylum seekers with vulnerabilities, as they have more resources. However, on 8 January 2019, the Italian Dublin Unit sent a circular letter to all other Dublin Units, confirming that asylum seekers, including families, are no longer entitled to SPRAR/SIPROIMI, but must be placed in first-line reception centres. In this letter, the Italian Dublin Unit claims that conditions in first-line reception centres are suitable for everyone. However, considering the above, the conditions clearly are not in line with the ***Tarakhel* ruling** by the ECtHR.[32]

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29 *Centro di primo soccorso e accoglienza*.

30 Legal Decree 113/2018, 4 October 2018.

31 ECtHR, judgment of 4 November 2014, *Tarakhel v. Switzerland*, No. 29217/12.

32 The ECtHR declared that transferring families to Italy under the Dublin III Regulation is not permissible without first examining the situation in Italy. In particular, it specifies that guarantees must be obtained in each individual case regarding child-sensitive accommodation and the preservation of family unity. Without such guarantees, transferring the family would violate Article 3 ECHR (prohibition of torture and inhuman or degrading treatment). To comply with this, the Italian Ministry of the Interior used to produce general lists with SPRAR (now SIPROIMI) places reserved for families transferred under the Dublin Regulation.

Another problem regarding access to the reception system for Dublin returnees is the so-called ***revoca***. This means that the competent prefecture can decide to withdraw reception conditions, for example, if the asylum seeker has violated the house rules of the reception centre, or has been absent from the centre without prior notification. This is a serious problem that is mainly faced by Dublin returnees on their return to Italy, who are most likely to lose their right to be accommodated again because of a *revoca*, if they were previously accommodated in a first or second-line reception centre in Italy.

If a person is **granted international protection** in Italy, theoretically they will have access to second-line reception, normally for six months. In most cases, this is not long enough to gain enough skills to become financially and socially independent from state support. However, after this time, they are treated the same as Italian citizens. The situation of people who already have protection status in Italy has changed little since the 2013 and 2016 reports by OSAR. Unlike asylum seekers who are returned to Italy, most returnees who have been granted protection in Italy are **not entitled to support** – unless they did not had access to second-line reception before. People with protection status are free to travel to and within Italy, but are not entitled to any particular state support. The Italian system stipulates that they must be able to provide for themselves once they have protection status.

Beneficiaries of international protection with (mental) health issues encounter problems accessing second-line reception, as only 2% of all places in the second-line reception system SIPROIMI are equipped to take care of them. Furthermore, people considered «too» vulnerable (with very serious physical or mental health problems) will not be admitted to SIPROIMI, as even the 2% of SIPROIMI places with facilities for people with (mental) health problems cannot offer them adequate support.

Considering the current **high level of unemployment** in Italy, it is extremely difficult for asylum seekers and those with protection status to find work. If they do manage to find paid work, it is usually on the black market, where they are exploited shamelessly. In general, the few jobs available to asylum seekers and beneficiaries of protection are low paid and temporary. The pay is usually not enough to rent a flat and provide a secure income to a family. The situation is precarious in all respects. As a result, the people concerned roam the streets, queuing for food at charities and looking for a bed for the night or a place to wash. Their everyday existence is determined by covering their basic needs. Under these circumstances, it is almost impossible for them to take part in **integration measures**, for example language courses. The situation is even more difficult for single mothers or fathers who have to look after their children. The available integration programmes are very limited.

Many people therefore end up **homeless or living in squats and slums**. In some cities, NGOs or charities offer a few places to sleep, but their capacity is extremely limited. Countless beneficiaries of international protection are in emergency accommodation, which only offers a place to sleep and is available to anyone (including Italian citizens) in an emergency.

With regard to **social welfare,** recognised refugees enjoy the same legal status as Italians. However, the Italian social welfare system is very weak, relying on traditional family structures to support those in need. Refugees do not have such structures in Italy, and are therefore at a disadvantage. The Italian social welfare system does not guarantee a minimum subsistence level. The waiting time for social housing is several years, even for families. There is no

solution for their accommodation problem between leaving the SIPROIMI after six months and accessing social housing, which is only possible after five years of residence.

According to estimate, the abolition **of humanitarian status** in Italy with the Salvini Decree of 4 October 2018 will force 140,000 people into a precarious situation by December 2020.

Access to **healthcare** is restricted in practice. First of all, many asylum seekers and people with protection status are not properly informed about their rights and the administrative procedure to register with the national health service (SSN) and to obtain a health card. Secondly, there are ambiguities surrounding the registration procedure with regard to the conditions that applicants need to fulfill. One of these conditions is proof of residence (‘*residenza*’), which is impossible to fulfil for those that have fallen through the cracks of the reception system. In some regions, ambiguity also exists with regard to the registration of asylum seekers, so that some municipalities refuse to register asylum seekers in the civil registry as a result of the Salvini Decree. Consequently, some local health administrators are unable (because of their software that requires certain information before the application can be registered) or unwilling to register these applicants with the SSN. In other regions, the health authorities have decided that asylum seekers are only entitled to services from the SSN for one year after registration of their asylum application, and that they are no longer entitled to their own general practitioner. Throughout Italy, it is difficult to get referred to specialist doctors. Waiting lists for medical treatments or medical examinations such as a CAT scan are sometimes longer than a year.

Another problem related to healthcare is the **cost of pharmaceuticals**. People that are registered with the SSN are not automatically exempted from paying (part of) the cost of medications prescribed by their doctors. According to Italian law, only those who cannot afford to pay for medications, such as pensioners or people that have lost their job, can be exempted. Under Italian law, asylum seekers gain the right to work two months after lodging their asylum application. In some regions, asylum seekers and beneficiaries of protection are registered as ‘economically inactive’ from two months after lodging their application, as they have not lost their job but are not working either. As a result, they cannot automatically benefit from the exemption for unemployed people in these regions. In practice, this means that they are no longer exempt from paying the fee for medical services (except in the case of acute emergencies) or from paying (a part of) the cost of medication. In other regions, it can take up to six months before they receive confirmation that they are exempt from paying the fee. The resulting de facto obligation to pay the fee after just a few months represents a considerable financial barrier to accessing the healthcare system for asylum seekers and beneficiaries of protection.

Finally, there are **no first-line reception centres that are adequately equipped for people with mental illness or people who are traumatised**. Personnel is not trained to identify vulnerabilities that are not obvious, and can therefore not refer them to NGOs that are specialized in treating traumas or mental illnesses (if there are any such NGOs in that particular region. Many NGOs suffer from a lack of resources).

The same is true for **victims of human trafficking (VHT)**. As there has been a quantitative and qualitative reduction in personnel in first-line reception as the result of the Salvini Decree and the *Capitolato*, VHTs go unnoticed and are prone to being re-trafficked or abused. VHTs in the asylum procedure are often detected only when they are interviewed by the Territorial

Commission, which takes place well into the procedure. Before that, they are accommodated in regular first-line reception centres, where they do not receive the necessary care and support.

Children from asylum-seeking families are accommodated in regular first-line reception centres, where it is highly questionable that they will have access to their most basic rights in accordance with the UN Child Rights Convention.

In the opinion of OSAR, there are therefore numerous **systemic shortcomings in the Italian reception system** for asylum seekers and beneficiaries of international protection. The reception system is based on short-term emergency measures and is highly fragmented. Vulnerable asylum seekers and beneficiaries of international protection run the risk of seeing their rights as guaranteed under international and European law infringed.

In view of the above, OSAR stands by its recommendations that

- States bound by the Dublin III Regulation should abstain from returning vulnerable asylum seekers to Italy.

- States bound by the Dublin III Regulation should proactively apply the sovereignty clause of the Regulation in cases in which a return of a vulnerable asylum seeker to Italy would lead to the infringement of their human rights, as protected by binding instruments of international and European law such as the European Convention on Human Rights, the European Convention on Action Against Trafficking in Human Beings, the UN Child Rights Convention and the UN Convention against Torture.

- States bound by the Dublin III Regulation should clarify in great detail the reception conditions awaiting the asylum seekers that they intend to transfer to Italy, and especially in case they decide to transfer vulnerable asylum seekers, seek individual guarantees from the Italian authorities that the reception conditions will be in line with the relevant provisions of international and European law.

- States requesting the readmission of protection status holders in Italy, under the provisions of the relevant bilateral or multilateral readmission agreements, should make a detailed individual assessment of the conditions awaiting this person in Italy, in order to decide on the legality of a readmission in each particular case.

Implementing these recommendations is the only way to effectively prevent a violation of international and European human rights law, to achieve the goals of the European Area of freedom, security and justice, and to fulfil the duty of giving people in need of protection a perspective to build their existence in the state granting protection in the spirit of the Refugee Convention.

3 Italy and asylum: Facts and figures

3.1 Number of applications for asylum and protection rate

As the result of drastic and questionable measures, such as the agreement with Libya and the criminalization of sea-rescue activities, the numbers of first arrivals to Italy have decreased considerably. According to official data provided and published by the Italian Ministry of the Interior, the number of sea arrivals to Italy dropped from 23,370 in 2018 to 11,097 in 2019 (numbers published on 15 December 2019)[33]. UNHCR counted 11,272 arrivals until 28 December 2019.[34] Around 20% of the arrivals are minors, more than 80% of those are being unaccompanied.[35] A total of 1,583 unaccompanied minors arrived by sea in 2019, compared to 3,536 in 2018.[36]

According to the European Asylum Support Office (EASO), the number of asylum applications lodged in 2019 for the whole of the EU was four times the number of registered arrivals at the external borders. Furthermore, the number of asylum applications in 2019 was higher than in 2017 and 2018, which indicates an upward trend in the number of asylum applications throughout Europe.

In line with European developments, the number of asylum applications lodged in Italy was much higher than the number of arrivals.[37] In the first three quarters of 2019, 31,440 asylum applications were lodged in Italy, including 25,180 first-time applications.[38] The main nationalities applying for asylum were Pakistan (19%), Nigeria (8%), Bangladesh (7%), Peru (6%) and El Salvador (6%).[39]

With the abolition of the humanitarian protection status and the dispute regarding the retroactivity of the Salvini Decree which abolished it, the percentage of people receiving humanitarian protection in Italy plummeted to 1% in the first ten months of 2019[40], from 21% in 2018.[41] The number of rejections in the first instance rose steadily, from 58% in 2017 and 67% in 2018 to 80% in the first ten months of 2019.[42] Only a slight increase in the percentage of people being recognised as refugees or granted subsidiary protection was registered (see table below). The abolition of humanitarian status has therefore led to the asylum procedure producing an increasing number of applicants for international protection without legal status in Italy.

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33 Ministry of the Interior, www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_15-12-2019.pdf, last visited on 3 January 2020.
34 UNHCR, https://data2.unhcr.org/en/situations/mediterranean, last visited on 3 January 2020.
35 UNHCR Italy, www.unhcr.it/news/a-colpo-docchio, last visited on 3 January 2020.
36 Ministry of the Interior, www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_15-12-2019.pdf, last visited on 3 January 2020.
37 EASO, www.easo.europa.eu/latest-asylum-trends, last visited on 3 January 2020.
38 According to data gathered by the UNHCR Italy office, received via email on 27 December 2019.
39 Ibid.
40 Ministry of the Interior, asylum statistics October 2019, www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/ottobre_2019_.pdf, last visited on 3 January 2020.
41 Ministry of the Interior, asylum statistics 2018, www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/riepilogo_anno_2018.pdf, last visited on 3 January 2020.
42 Ministry of the Interior, asylum statistics October 2019 and asylum statistics 2018 (see footnotes above).

	2017	2018	2019[43]
Applications	130’119	53’596	31’440
Refugee status	8%	7%	11%
Subsidiary protection	8%	5%	7%
Humanitarian protection	25%	21%	1%
Rejections	58%	67%	80%

3.2 Dublin transfers and readmission

In addition to first arrivals registered in Italy, asylum seekers are returned to Italy under the Dublin III Regulation. In 2018, Italy recorded a 57.4% increase in the number of incoming requests. It was the country with the largest number of incoming requests in the EU under the Dublin procedure (41,911), and accepted 83% of these requests (34,786).[44] In the same year, Italy also had the largest absolute differences between the number of incoming and outgoing transfers (6,162). This means that Italy receives more asylum seekers through the Dublin procedure than that it transfers to other Member States.

In the first three months of 2019, the number of asylum seekers transferred to Italy under the Dublin procedure was higher than that of sea arrivals.[45] In 2018 (until November), Italy received 31,000 incoming requests from other European countries based on the Dublin III Regulation. In the same period, 5,919 transfers took place.[46] From January to November 2019 Switzerland made 1,365 requests, and Italy recognised its responsibility (by agreement or after expiry of the deadline) in 1,114 cases of which 572 were transferred.[47]

The majority of transfers to Italy are from Switzerland, Germany, Austria and Sweden.[48] The main airport for Dublin transferees sent to Italy by plane is Fiumicino Airport in Rome.

Added to these Dublin transfers are the readmissions of people recognised as refugee or benefiting from subsidiary protection. They are returned to Italy, not under the Dublin III Regulation, but under bilateral readmission agreements. In 2019, Switzerland made 218 requests to Italy, of which 205 were approved, resulting in 52 transfers.[49]

[43] According to data in the period from January 2019 to September/October 2019, available on 30 December 2019

[44] EUROSTAT, https://ec.europa.eu/eurostat/statistics-explained/index.php/Dublin_statistics_on_countries_responsible_for_asylum_application, last visited on 3 January 2020.

[45] www.infomigrants.net/en/post/17242/eu-member-states-ask-italy-to-take-back-46-000-migrants, last visited on 3 January 2020.

[46] AIDA, Country Report: Italy, April 2019, page 48.

[47] State Secretariat for Migration SEM, statistics 2019 (7-50).

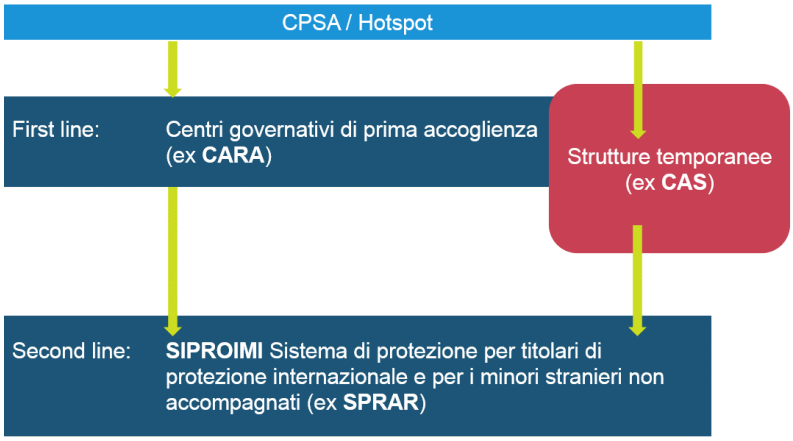
[48] Eurostat.

[49] State Secretariat for Migration SEM, annual statistics 2019 (7-55).

3.3 Numbers in accommodation

The reception system essentially comprises first-line and second-line reception. In the case of direct arrivals, especially across the sea, people are first given food and accommodation in a CPSA[50] or *centri governativi di prima accoglienza* (ex-CARA[51]), as well as in so-called *strutture temporannee* (ex-CAS[52]). Even though the latter were originally established as emergency reception centres, they still provide the main part of accommodation places and constitute a parallel system to first-line reception. SIPROIMI[53] (ex-SPRAR[54]) is the second-line reception system.

Please note: To avoid confusion and to make this report more legible, we will refer to first-line reception with the abbreviations used in the previous reports, CARA and CAS.



The reception system in Italy grew significantly until 2018, although there has recently been a tendency to close accommodation centres and/or reduce the number of available places in the centres.

There were 105,248 places in state-run reception centres (first-line and second-line) in February 2016, and 173,603 places in January 2019[55] (an increase of 64% in three years). The majority of these places are created by opening so-called CAS centres, which had a capacity of 138,503 places in January 2019.[56] According to data published by the Ministry of the Interior in November 2019, only 95,020 people were still accommodated in (first and second-line) reception centres by the end of 2019, with 69,971 in first-line and temporary structures[57] (down by 50% within less than a year). These numbers show that the capacity of the CAS centres fluctuates, CAS centres being opened in one place and shut down in another every

[50] *Centro di primo soccorso e accoglienza.*
[51] *Centro di accoglienza per richiedenti asilo*, further information in chapter 4.5.1.
[52] *Centri di accoglienza straordinaria,* further information in chapter 4.5.2.
[53] *Sistema di protezione per titolari di protezione internazionale e per I minori stranieri non accompagnati,* further information in chapter 5.4.
[54] *Sistema di Protezione per richiedenti asilo e refugiati.*
[55] AIDA, Country Report: Italy, April 2019, page 93.
[56] Idem.
[57] Ministry of the Interior, asylum statistics November 2019, www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_30-11-2019.pdf, last visited on 3 January 2020.

week (as the Ministry of the Interior enters into contracts with organisations that want to run a CAS on a rolling basis for a period of six months). This makes it almost impossible to get an exact and up to date overview of the number of available places.

As CAS do not receive payments for the numbers of available places but for the number of asylum seekers they effectively provide accommodation for, centres are shut down when they are not fully occupied. As the statistics above also show, this does not reduce the pressure on the reception system. Centres are still filled to capacity to make their administration economically viable. Although the number of arrivals has dropped, so has the number of available places in the reception system.

Furthermore, the quality of the centres varies immensely and is very difficult to control. Links between organisations running CAS centres and the mafia, which caused an international uproar in 2014 and led to the arrest of articles of people involved in fraud and money laundering, continue to exist.[58] OLAF, the European Anti-Fraud Office, investigated the use of EU funds in the Italian reception system in 2018. Not only did OLAF's investigation uncover irregularities in public procurement and lack of control over the implementation of the project, it also exposed outright fraud in declaring the quantity of meals supplied to asylum seekers, refugees and people in need at the centres, who were often left starving or given food that was almost inedible. OLAF's investigation also unveiled connections between companies, interaction with criminal organisations and serious crimes aimed at manipulating public procurement and illegally obtaining public funding.[59]

Hotspots are now only used sporadically, wand accommodated 444 people as at December 2019.[60] There are four hotspots (Lampedusa, Pozzallo, Messina and Taranto), with Lampedusa being the main port of arrival. The hotspot in Trapani was turned into a pre-removal facility (CPR) in 2018.

The SIPROIMI (ex-SPRAR) system currently has 33,625[61] places (down from 35,881 places in 2018)[62].

4 Reception of asylum seekers

4.1 The Italian asylum procedure

A formal asylum request can be made either on national territory, including at the border and in transit zones or in territorial waters.[63] It must be addressed to the border police or to the

[58] ECRE, Conditions in reception facilities, www.asylumineurope.org/reports/country/italy/reception-conditions/housing/conditions-reception-facilities, last visited on 3 January 2020.
[59] The OLAF Report 2018, page 29, http://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2018_en.pdf, last visited on 3 January 2020.
[60] Ministry of the Interior, asylum statistics November 2019, see footnote above.
[61] www.sprar.it/i-numeri-dello-sprar, numbers of October 2019.
[62] Rapporto Annuale SPRAR/SIPROIMI 2018, www.sprar.it/wp-content/uploads/2019/11/Atlante-Sprar-Siproimi-2018-leggero.pdf, last visited on 3 January 2020.
[63] Legislative Decree 142/2015, Article 1.

Questura (provincial police headquarters) if the person is already on Italian territory.[64] The asylum and reception system is geared to people who apply for asylum when they arrive at the border, in particular via the Mediterranean. This is where the majority of applications for asylum are made.[65]

If a person expresses the intention to apply for asylum, they are asked about their personal data, fingerprints and photographs are taken, and their application is registered. This is called ***fotosegnalamento***. Due to the drop in the number of sea arrivals in Italy, the problem of long waiting times for this first appointment does not seem to be pressing at the moment.

After the *fotosegnalamento*, the person is invited to reappear at the Questura to formally register their asylum application; this second step is called ***verbalizzazione***. This is conducted using the so-called C3 form, in which the applicant enters their personal history, information on the journey to Italy, as well as the reasons for leaving the country of origin. In practice, the formal registration can take place weeks after the date the asylum seeker made the asylum application. This delay still creates difficulties for asylum seekers who, in the meantime, might not have access to the reception system, and the national health system; with the exception of emergency healthcare.[66]

The waiting time until the first appointment (*fotosegnalamento*) seems to have decreased since the last report. On the other hand, the time gap between the *fotosegnalamento* and the *verbalizazzione* is still a problem, especially in big cities and can take weeks. This creates difficulties as asylum seekers might not have access to the reception system and national healthcare (apart from emergency healthcare) during this time.[67]

Dublin returnees are also affected by these delays, because if they did not apply for asylum before moving on to another country, they are treated in exactly the same way as newly arrived asylum seekers.

64 Legislative Decree 25/2008, Article 6.
65 UNHCR, Fact Sheet Italy, November 2019.
66 AIDA, Country Report: Italy, April 2019, page 30; see also chapter 8 (health care) of this report.
67 AIDA, Country Report: Italy, April 2019, page 30.

Step	Place	Name	Paper
Initial registration, partial fingerprints	On arrival (in CPSA, hotspot, land border or airport) by the border police		
Identification and registration of asylum application	Questura or border police	*Fotosegnalamento*	*Attestazione / Cedolino*
Formal registration of the asylum application	Questura	*Verbalizzazione* (C/3)	*Permesso di soggiorno per richiesta asilo*[68]
Interview on the grounds for asylum	Territorial Commission *(Commissioni territoriali per il riconoscimento della Protezione internazionale CTRPI)*		
Decision on the asylum request	Territorial Commission *(Commissioni territoriali per il riconoscimento della Protezione internazionale CTRPI)*	Possible outcomes: - Refugee status - Subsidiary protection - Special protection - Denial[69] - Manifestly unfounded[70] - Inadmissible[71]	*Permesso di soggiorno per asilo politico* *Permesso di soggiorno per protezione sussidiaria*
Appeal	First instance: specialized sections of the ordinary Civil Court Second instance: Court of Cassation		

4.2 Accelerated procedure

After the list of safe countries of origin was adopted on 4 October 2019[72], the accelerated procedure that was introduced by the Salvini Decree is now applied to asylum seekers that originate from these safe countries. The list includes *Albania, Algeria, Bosnia and Herzegovina, Capo Verde, Ghana, Kosovo, Morocco, North Macedonia, Montenegro, Senegal, Serbia, Tunisia* and *Ukraine.*

[68] Legislative Decree 142/2015, Article 4.
[69] Negative decision on the merits.
[70] If the reasons given are not related to international protection or if the applicants is coming from a safe country of origin.
[71] If the applicant is already recognised as a refugee or in case of a subsequent application without new elements.
[72] Ministry for Foreign Affairs and International Cooperation, Decreto 4 ottobre 2019, Individuazione dei Paesi di origine sicuri, ai sensi dell'articolo 2-bis del decreto legislativo 28 gennaio 2008, no. 25.

The accelerated procedure at the border is now also implemented (as of December 2019), following the adoption of the Ministerial Decree of 5 August 2019[73] which identifies applicable border and transit zones (*Trieste, Gorizia, Crotone, Cosenza, Matera, Taranto, Lecce, Brindisi, Caltanissetta, Ragusa, Siracusa, Catania, Messina, Trapani, Agrigento, Cagliari and South Sardinia*). The provisions on the accelerated procedure at the Italian borders seem to contrast with the EU directive on asylum procedures, because they refer in a non-specific way to «transit or border areas identified as those existing in the provinces» and not to clearly defined areas, such as ports or airport areas or other places corresponding to physical borders with third countries.[74]

4.3 Access to the asylum procedure

Some obstacles to accessing the Italian asylum procedure have been identified in the recent years. One example is pre-clarification to find out whether a person even intends to enter the asylum procedure. This is done either by asking questions in an interview or with a form called *foglio notizie* (see chapter 4.3.1). This pre-clarification does not seem to reflect the migrant's actual interest and intention as it's often done without further explanation or translation.

Some nationalities face further difficulties in accessing the asylum procedure in Italy,[75] and there are reports of people being classified on the basis that they are citizens from countries that are informally considered safe. Even if they explicitly indicate their intention to ask for protection, this is often not taken into account by the authorities.[76] «Migrants from countries informally considered as safe, e.g. Tunisia are classified as economic migrants, prevented from accessing the asylum procedure [...] and handed removal decisions.»[77]

4.3.1 Foglio notizie

On arriving via the sea and at many Questure, e.g. in Milan,[78] applicants must first complete a form (*foglio notizie*), by placing a cross next to their reason for entering Italy.[79] The options are «occupation», «to join relatives», «escaping from poverty», «other reasons» and «asylum». The information provided prior to completing the *foglio notizie* is not sufficient to allow people to understand the relevance and consequences of the procedure.[80]

The Procedure Operative Standards of the hotspots stipulate that the intention to apply for international protection as noted in the *foglio notizie* should be confirmed by a receipt given to the person concerned. This is not applied in practice.[81]

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73 Ministry of the Interior, Decreto 5 agosto 2019, Individuazione delle zone di frontiera o di transito ai fini dell'attuazione della procedura accelerata di esame della richiesta di protezione internazionale.

74 ASGI, www.asgi.it/asilo-e-protezione-internazionale/asilo-zone-transito-frontiera/, last visited on 3 January 2020.

75 AIDA, Country Report: Italy, April 2019, page 79.

76 ASGI et al., Scenari di frontiera: il caso Lampedusa, October 2018, page 14.

77 AIDA, Country Report: Italy, April 2019, page 28.

78 ELENA coordinator for Italy, information by email, 23 December 2019; see also www.asgi.it/notizie/accesso-alla-procedura-di-asilo-e-poteri-di-fatto-delle-questure/, chapter 1 and 2 on *foglio notizie*, last visited on 3 January 2020; see also Corte di cassazione, judgement of 26 April 2019, no. 11309/2019.

79 An example of a *foglio notizie* can be found in the Annex of this report.

80 ASGI et al., Scenari di frontiera: il caso Lampedusa, October 2018, page 14.

81 ASGI et al., Scenari di frontiera: il caso Lampedusa, October 2018, page 15.

If applicants do not place their cross next to «asylum», they are not classified as asylum seekers by the authorities. In this case, they are treated as illegal migrants and issued with a removal order (*provvedimento di respingimento*). If places are available, the person can be detained in a removal centre (a so-called CPR).

The removal order does not necessarily prevent a refugee from gaining access to the asylum procedure, as they have the possibility of applying for asylum in a detention facility.[82] The law states that a person who applies for asylum in detention must remain in detention if there are reasonable grounds to believe that the application was lodged for the sole purpose of delaying or preventing the execution of the expulsion order.[83]

If a person who was issued a removal order travels to another country and is sent back to Italy under the Dublin III Regulation, they also risk being detained.

4.3.2 Access to the Questura

ASGI reported cases in which the Questura did not issue any document attesting to a person's intention to seek asylum. In other cases, access to the Questura was restricted due to online appointments, very limited opening hours and discrimination of certain nationalities. This denial of access to the asylum procedure exposes the people concerned to the risk of arbitrary arrest and deportation.[84]

«As regards registration, people from Morocco, Algeria and Tunisia, Serbia, Albania, Colombia, El Salvador, together with people coming from Nigeria and Pakistan in some cases, are often refused access to the asylum procedure and have to return more times to the Questure to access the procedure».[85]

Lawyers in Milan are still not allowed to accompany refugees to the office of the Questura.[86]

4.3.3 Conclusion

Although the chaotic scenes at the Questure that were so common in 2015 and 2016, have been replaced by a more orderly implementation of the asylum procedure, there are still considerable administrative obstacles which can even lead to an expulsion order, without the asylum application ever being assessed on its merits. A «wrong» statement or an unticked box on the *foglio notizie* can lead to an expulsion order. The access to the asylum procedure for people arriving via the central Mediterranean seems to work better – apart from the problems described regarding the lack of information and translation of the *foglio notizie* – than if a person wants to apply for asylum at a Questura within the country.

82 Legislative Decree 142/2015, Article 6 (4), see also chapter 4.5.4.
83 Legislative Decree 142/2015, Article 6 (3).
84 AIDA, Country Report: Italy, April 2019, page 30.
85 AIDA, Country Report: Italy, April 2019, page 79.
86 ASGI, notification from 2 May 2016, www.asgi.it/notizia/asgi-naga-e-avvocati-per-niente-contro-le-prassi-illegittime-della-questura-di-milano/, confirmed that this is still the case by the ELENA coordinator for Italy, information by email, 23 December 2019.

If an asylum seeker has difficulties in accessing the asylum procedure, this will automatically lead to this person also encountering problems in accessing accommodation and healthcare and other services connected to the asylum procedure.

4.4 Asylum seekers transferred under the Dublin III Regulation

4.4.1 Legal status

The situation of transferred asylum seekers depends on the status of their procedure:

If the person did not ask for asylum in Italy before, they will be able to apply for asylum on arrival at the border police. The same procedure applies as for newly arrived asylum seekers. If they do not ask for asylum at the airport and do not have a legal status (e.g. visa), they will be issued an expulsion order and – depending on availability – brought to a CPR.

If the person has asked for asylum in Italy before, their situation depends on the status of their asylum procedure; the key factor is whether they have already been interviewed on the grounds for asylum:

- If the person has left the reception centre without prior notification[87] and was **not invited to an interview** with the Territorial Commission **or did not show up to the interview** before leaving the country, their procedure will have been suspended by the Territorial Commission for a maximum of 12 months[88] on the basis that the person is unreachable (*irreperibile*).
  - In case the person returns during these 12 months, the asylum procedure can be reopened.
  - If the person returns after 12 months have passed, the asylum procedure is declared terminated.[89] It cannot be reopened, but the person can file a subsequent application, if new elements regarding their personal circumstances or the situation in the country of origin are brought forward.[90]

- If the **interview on the grounds for asylum has already taken place** and the application was rejected (even in absentia), the situation depends on the deadline to appeal. If the deadline has not yet expired, it is possible to lodge an appeal. After the deadline has expired, the person may be issued an expulsion order on their return and may be placed in a CPR. Since the new notification procedure was introduced in August 2018,[91] this can happen even if the applicant had not been notified of the decision. Because in this case the applicant is deemed unreachable (*irreperibile*). The Territorial Commission then notifies the applicant of the decision by sending it to the responsible Questura. This notification

87 And therefore was issued a *revoca* (see chapter 4.5.3). In case the reception conditions were not withdrawn but the person did not show up at the interview, Article 12 of Legislative Decree 25/2008 applies: The person can ask for a new interview within ten days. Although in practice, this request is not often granted due to the changes in the notification procedure introduced by the Minniti-government.

88 Legislative Decree 25/2008, Article 23bis (1).

89 Legislative Decree 25/2008, Article 23bis (2).

90 Legislative Decree 25/2008, Article 29.

91 Legislative Decree 142/2015, Article 11 (3-ter) and (3-quater), as amended by Legislative Decrees 46/2017 and 13/2017, Article 6.

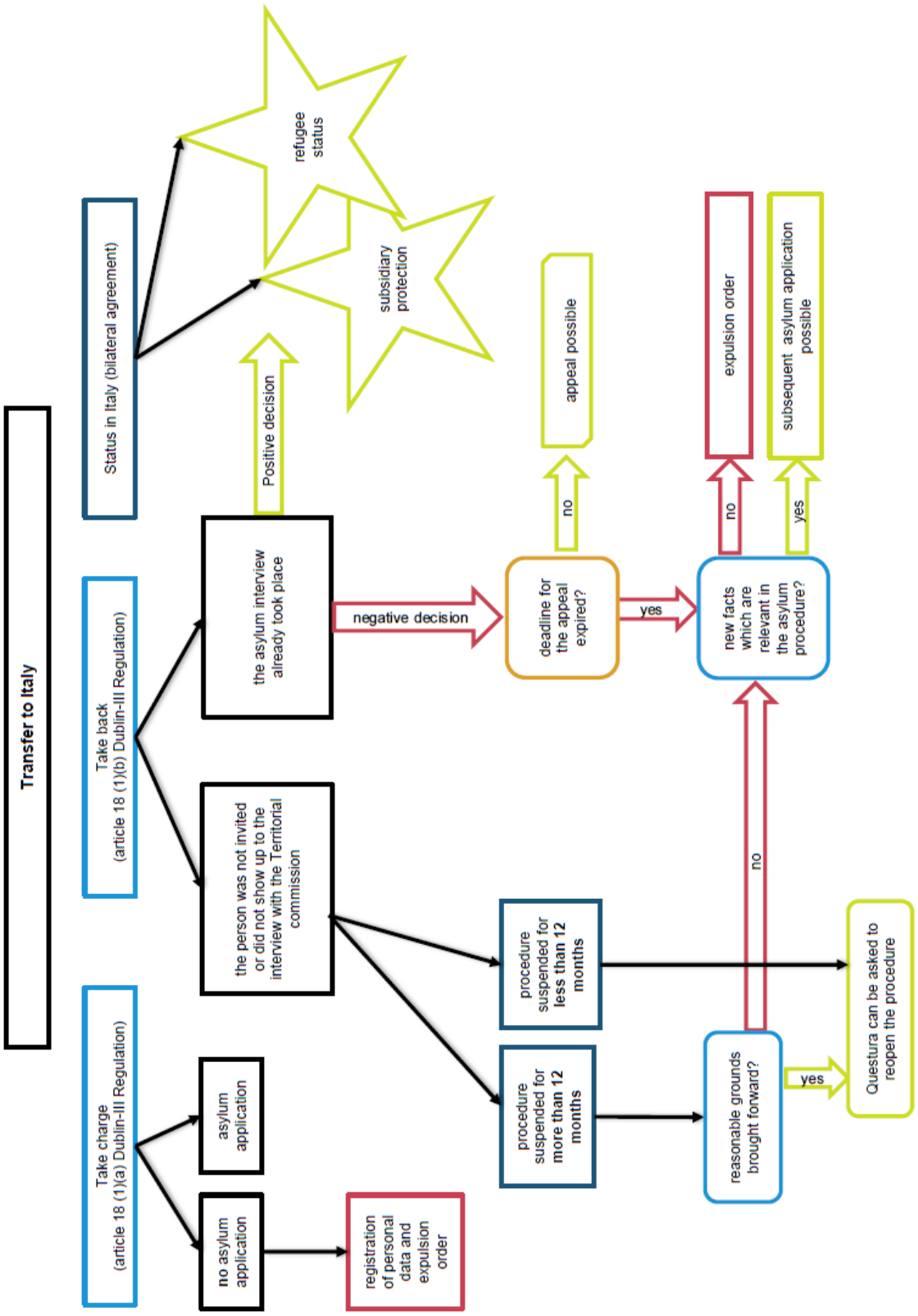
is deemed to be complete within 20 days of sending the decision to the Questura.[92] A subsequent application is possible if new elements are brought forward.

In the context of the Dublin Returnee Monitoring Project (DRMP[93]), the Swiss Refugee Council was informed about several cases in which asylum seekers were issued with an expulsion order (example in the Annex), without having been given proper access to the asylum procedure. As no translation was available at the airport, they were asked to sign the expulsion order with the incentive that they would be able to go back to the transferring state if they signed the paper.

An asylum application is considered a **subsequent application** (*domanda reiterata*) if it is made after a final decision had been taken in a previous asylum procedure,[94] if the previous application has been explicitly withdrawn,[95] or if the previous procedure had been terminated due to the expiry of the 12 months of suspension.[96] It should be pointed out that the possibility of obtaining suspensive effect in appeals against the rejection of subsequent applications was abolished in 2018.[97] At the same time, Articles 7 and 29-bis of Legislative Decree 25/2008, as amended by the Salvini Decree, now state that when a subsequent application is made after a person is served with an expulsion order, the application is to be considered inadmissible because it was submitted for the sole purpose of delaying or preventing the enforcement of the measure itself. This has led to subsequent applications being automatically dismissed not only by Territorial Commissions but also directly by Questure.[98] This effectively blocks access to the asylum procedure for Dublin returnees whose asylum application in Italy has already been decided negatively.

The status of the asylum procedure in Italy for asylum seekers who could be transferred to Italy under the Dublin Regulation should be taken into account by Member States' authorities when deciding on the (legality of such a) transfer of this person to Italy.

92 AIDA, Country Report: Italy, April 2019, page 58.
93 More information and reports to be found here: www.fluechtlingshilfe.ch/herkunftslaender/dublin-staaten/italien-1/dublin-returnee-monitoring-project-drmp.html.
94 Legislative Decree 25/2008, Article 2(1)(b-bis).
95 Legislative Decree 25/2008, Article 23(1).
96 Legislative Decree 25/2008, Article 23-bis(2).
97 AIDA, Country Report: Italy, April 2019, page 14.
98 AIDA, Country Report: Italy, April 2019, page 14.


Transfer to Italy
Take charge (article 18 (1)(a) Dublin-III Regulation)
asylum application
no asylum application
registration of personal data and expulsion order
Take back (article 18 (1)(b) Dublin-III Regulation)
Status in Italy (bilateral agreement)
refugee status
subsidiary protection
the asylum interview already took place
Positive decision
negative decision
the person was not invited or did not show up to the interview with the Territorial commission
deadline for the appeal expired?
no
appeal possible
yes
new facts which are relevant in the asylum procedure?
no
expulsion order
yes
subsequent asylum application possible
procedure suspended for less than 12 months
procedure suspended for more than 12 months
reasonable grounds brought forward?
yes
Questura can be asked to reopen the procedure
no

4.4.2 Competent Questura

People transferred under the Dublin Regulation who had already applied for asylum in Italy before they travelled to the other Member State must return to the province that was responsible for examining of the initial asylum application. If, on the other hand, the person had not yet formalized the application in Italy before leaving the country, the reception and asylum procedure takes place in the region where the international airport of arrival is located.[99]

Only in cases where Italy expressly recognises its responsibility under the Dublin Regulation, the most convenient airport to reach the competent Questura will be indicated. In other cases, where Italy is responsible by default, people transferred from another Member State usually arrive at the main Italian airports such as Rome Fiumicino Airport and Milan Malpensa Airport. At the airport, the Border Police provides the transferred asylum seeker with an invitation letter (*verbale di invito*), indicating the competent Questura where the person must go,[100] as the Border Police is not allowed to register asylum applications.

According to the Polizia di Stato, Dublin returnees are directed to the airports of Bologna, Venice, Milan Linate, Milano Malpensa and Rome Fiumicino, in seldom cases to Naples and Catania. There are 12-15 arrivals every day, up to 20 in Rome.

4.4.3 NGOs at the airports

There is an NGO at each of the airports in Rome and Milan, which is supposed to advise and support asylum seekers arriving directly in Italy at these airports, as well as asylum seekers transferred to Italy from another Member State under the Dublin III Regulation. There is also an NGO called «Laimomo» in Bologna that offers advice and support. However, it is not situated at the airport, but works on demand. Furthermore, there is an organization called «I.T.C.» in Bari, as well as «Cooperative Villaggio Globale» and «Cooperative Olivotti» in Venice, all working on call.

a.) Fiumicino Airport (Rome)

In Rome, the responsible NGO has changed every year in recent years due to the way contracts are awarded. This is particularly problematic when a new organisation that is unfamiliar with asylum procedures receives the mandate, as it must first find its feet and know-how is lost.

The organisation in place during the OSAR fact-finding mission was «Synergasia», which has operated since 20 January 2019 and was appointed for one year. The organisation was founded as a cultural mediation organisation. They claim that only very few organisations bid for the tender at the airport. This is most likely due to the fact that the organisation must be able to pay all expenses in advance and is repaid only after three months, which means that it requires a certain amount of money up-front.

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[99] According to an Interior Circular of the Ministry, dated of the 14 January 2019, www.immigrazione.biz/upload/circolare_decreto_sicurezza_14_1_2019_1.pdf, last visited on 3 January 2020.

[100] AIDA, Country Report: Italy, April 2019, page 56.

According to Synergasia, the NGO has a room at its premises at the airport where people transferred from other countries under the Dublin III Regulation can stay for one night, sometimes for two or three. These include asylum seekers transferred to Italy, after they have declared their intention to remain in Italy for the duration of their asylum procedure. If the returned asylum seekers – due to the lack of translation or for any other reason – do not express their wish to receive protection in Italy, they are not referred to Synergasia by the border police.

Synergasia's desk is foreseen to be open Monday to Friday from 9am to 5pm.[101] It offers translation, food and train tickets for those who have to travel onwards to the Questura responsible for their asylum application (see chapter 4.4.2). Furthermore, if the person did not ask for asylum before leaving Italy and the Questura of Rome is therefore responsible for examining their application, the airport NGO makes contact with the prefecture in order to find a place in the reception system in Rome. According to Synergasia, they get a list of people who are about to be transferred to Fiumicino one week in advance.

For people with protection status, the NGO at the airport can also make contact with the responsible prefecture, in case they have not yet been accommodated in second-line reception (SPRAR/SIPROIMI).

Synergasia does not offer any legal counselling. No information on their services at the airport can be found on the internet. People whose right to reception has been withdrawn (see chapters 4.5.3 and 5.4.3) cannot be supported by the NGO at the airport. Synergasia did not share statistics regarding their work at Fiumicino with OSAR.

The services provided by the NGO at Fiumicino airport seems to have changed in the recent years. During the last fact-finding mission of OSAR in 2016, the NGO at the airport was informed of the person's legal situation and the status of their procedure in Italy, so they could inform the new arrivals and offer them corresponding support.[102]

The **medical support** at Fiumicino Airport is limited to the first aid centre which is responsible for all airport medical cases. According to the Polizia di Stato, there are sometimes problems with vulnerable people whose health problems were not reported in advance by the sending country. Some cases even have to be sent back.

At Fiumicino Airport, there is still a problem with **luggage** that has been checked in by the transferred asylum seekers.[103] Their luggage is automatically put on the luggage conveyor belt together with the luggage of all other passengers after landing at Fiumicino. However, transferees cannot pick up their luggage from these belts as they are taken directly from the airplane by the border police. As a result, their luggage ends up in the lost property office of the airport. This can lead to problems, especially if the baggage contains important medication or documents. The 2016 OSAR report mentioned that the NGO at the airport collects the

[101] Interview with Synergasia, 9 September 2019.
[102] Interview with GUS, 2 March 2016.
[103] See also chapter «4.2.1 Fiumicino Airport (Rome)» in the previous version of this report (2016); for an example, see case 1 in the following report: Swiss Refugee Council and Danish Refugee Council, Mutual trust is still not enough – The situation of people with special reception needs transferred to Italy under the Dublin III Regulation, 12 December 2018, page 14.

luggage at the lost property office, but this seems to be no longer the case. According to Synergasia, people concerned have to search for their luggage themselves now.

No information on the organisation who will take over the desk at Fiumicino airport in 2020 was available on the internet or to our interview partners. Nor was the tender.

b.) Malpensa Airport (Varese)

Malpensa is the largest airport serving the city and region of Milan. However, it is situated in the province of Varese, which means that the prefecture of Varese is responsible for processing arrivals. Malpensa also has an NGO directly at the airport – Cooperativa Versoprobo – which is supposed to support and advise asylum seekers and returnees on behalf of the prefecture of Varese. The organisation is based in Vercelli. No further information on the organisation or its work at the airport of Malpensa could be found on the internet. Versoprobo had been involved in some scandals in 2017.[104]

The organisation was not well known by the other NGOs that were interviewed in Milan by the OSAR delegation. Their counter at Malpensa is open from 12 noon until 7 pm from Monday to Friday.[105] As their premises are located in Terminal 1 of the airport, outside the Schengen-area, this may lead to problems for people returned from another Schengen-state as their access to the counter depends on the support of the border authorities. If necessary, the operator can use a translation service on call. It is the only possibility to get a translation since the Polizia di frontiera does not have its own interpreters or cultural mediators.[106]

When Versoprobo was contacted for an interview, the OSAR delegation was informed that no meeting could take place without the prefecture agreeing to it. The organisation said it would clarify the situation with the prefecture and get back to OSAR. However, the OSAR delegation unfortunately did not hear any more from Versoprobo, nor from the prefecture of Varese, and could not interview Versopropo. No information on the organisation who will take over the desk at Malpensa airport in 2020 was available on the internet or to OSAR's interview partners. Only the call for tenders (bando) could be found.[107]

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104 www.ilgiornale.it/news/cronache/i-migranti-lavoravano-gratis-sanzionata-coop-dei-profughi-1524990.html, www.ilgiornale.it/news/cronache/coop-sfrutta-migranti-gratis-ristrutturarsi-albergo-1376512.html, both last visited on 3 January 2020.

105 Report of the Garante Nazionale dei diritti delle persone detenute o private della libertà personale «Rapporto sulle visite ai locali in uso alle forze di polizia presso alcuni valichi di frontiera (gennaio – febbraio 2019)» of 27 June 2019, page 11; also www.asgi.it/wp-content/uploads/2019/05/Zona-di-transito-Malpensa_rev.pdf, last visited on 3 January 2020. According to the new tender for the year 2020, the service must be granted from Monday to Friday, 12h until 18h, the new call for tenders can be found on the website of the prefecture of Varese: www.prefettura.it/FILES/allegatinews/1222/BANDO_DI_GARA_SPORTELLO_MALPENSA_2020.pdf, last visited on 3 January 2020.

106 Report of the Garante Nazionale dei diritti delle persone detenute o private della libertà personale «Rapporto sulle visite ai locali in uso alle forze di polizia presso alcuni valichi di frontiera (gennaio – febbraio 2019)» of 27 June 2019, page 11-12.

107 www.prefettura.it/FILES/allegatinews/1222/BANDO_DI_GARA_SPORTELLO_MALPENSA_2020.pdf, last visited on 3 January 2020.

4.4.4 Conclusion

Organisations have a mandate to provide a counter to support asylum seekers and, to a certain extent, status holders at the airports of Milan and Rome. The scope of their services has been reduced since 2016, and they no longer provide legal support and information. The services they offer include the distribution of food and train tickets to the Questura responsible for the person's asylum application, and accommodation for returnees for the first few nights.

In the context of the Dublin Returnee Monitoring Project (DRMP[108]), the Swiss Refugee Council observed that not all transferred people by far had access to the NGO at the airport. While in the first report[109] of the project, some of the people were supported by an NGO at the airport after arrival, none of the people described in the second report[110] ever met the NGO at the airport. There is therefore some doubt about the actual presence and visibility of these service providers.

A practice used by many countries in transferring refugees is also a problem in this regard. The refugees usually do not know when exactly they will be returned to Italy. They are often picked up by the responsible authorities – often the police – in the middle of the night. This means that they do not have a chance to pack their belongings properly, if they are allowed to pack them themselves at all. Transfers involving police (in the middle of the night) can also cause additional trauma.[111]

Returnees are often under great stress and worried about their luggage, as it often contains their only remaining property. For this reason, people who are returned to Italy should be told to put things that they urgently need in the days after their arrival in their hand luggage (relevant documents, evidence, medication, mobile phones, charging cables, etc.).

4.5 Accommodation facilities for asylum seekers returned under the Dublin III Regulation

Legislative Decree 142/2015 stipulates that asylum seekers are entitled to accommodation as soon they apply for asylum for the first time.[112] At present, this seems to work for those asylum seekers who arrive in Italy by sea, most of whom are given accommodation when they arrive. But for those who travel to Italy over land or who apply for asylum within the country, the situation is more difficult and reception is often delayed or impeded.

Newly arrived boat refugees in Italy have access to the first-line reception centres CPSA[113] and so-called hotspots. However, as Dublin returnees are not given accommodation in these centres, they are not considered further in this section.

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[108] More information and reports to be found here: www.fluechtlingshilfe.ch/herkunftslaender/dublin-staaten/italien-1/dublin-returnee-monitoring-project-drmp.html

[109] Swiss Refugee Council and Danish Refugee Council, Is mutual trust enough? – The situation of persons with special reception needs upon return to Italy, 9 February 2017.

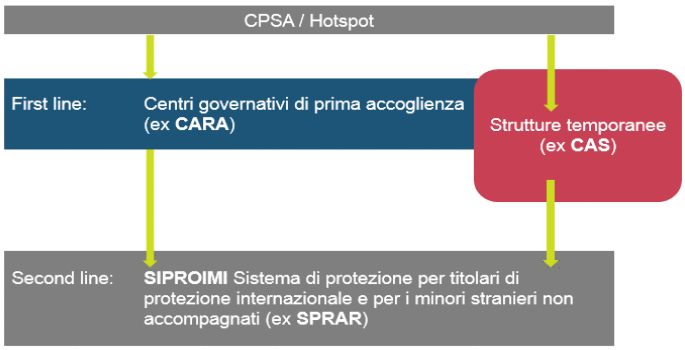
[110] Swiss Refugee Council and Danish Refugee Council, Mutual trust is still not enough – The situation of persons with special reception needs transferred to Italy under the Dublin III Regulation, 12 December 2018.

[111] Interview with Marco Mazzetti, Ferite Invisibili, 4 March 2016.

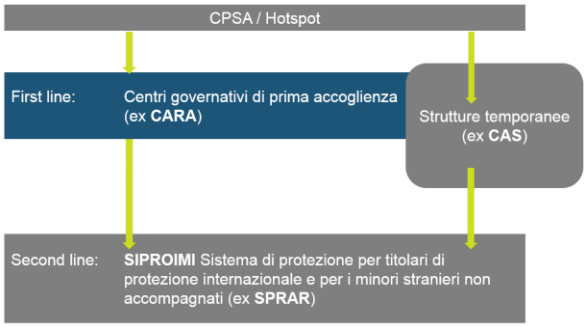
[112] Legislative Decree 142/2015, Article 1(2).

[113] *Centri di primo soccorso e accoglienza* (CPSA).

Since October 2018, asylum seekers who are returned to Italy under the Dublin III Regulation are no longer entitled to accommodation in SIPROIMI (former SPRAR, see chapter 5.4).[114] As long as they are in the asylum procedure, *and as long as their right to reception conditions has not been revoked*, Dublin returnees – as for all asylum seekers in Italy – can only be accommodated in first-line reception centres (see chapter 4.5.1) and temporary facilities (see chapter 4.5.2).



4.5.1 Governmental first-line reception centres – CARA



Centres formerly known as CARA[115] are first-line reception centres, the legal framework for which is set out in Article 9 of Legislative Decree 142/2015.

***Article 9. First reception measures*[116]**

1. To meet first-line reception needs and complete the necessary operations to establish legal status, foreigners are received in governmental first-line reception centres, which have been established by a decree of the Minister of the Interior, following a consultation with the Joint Conference referred to in Article 8 of Legal Decree no. 281 from 28 August 1997, according to the programmes and criteria identified by the National and Regional Coordination Bodies pursuant to Article 16.

2. The management of the centres referred to in paragraph 1 may be entrusted to local authorities, including when associated, as well as to unions or associations of municipalities, to public or private

[114] Legal Decree 113/2018, Article 12.
[115] *Centri di accoglienza per richiedenti asilo*.
[116] Translation by OSAR.

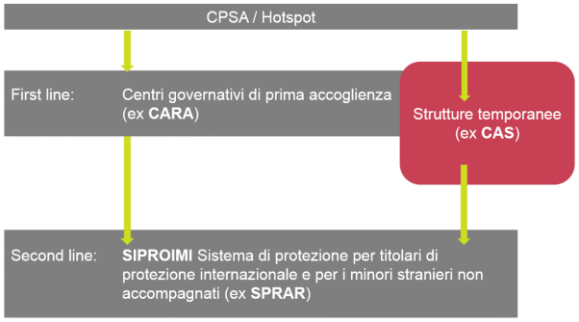
bodies which are active in the field of international protection or migration or social assistance, in accordance with the procedures for the award of public contracts.

3. The facilities set up by Legal Decree no. 451 from 30 October 1995, converted with amendments by Decree no. 563 from 29 December 1995, may be assigned by the Minister of the Interior according to the purposes stated in this article. The reception centres for asylum seekers that have already been set up at the date the present Decree came into force shall perform the functions referred to in this article.

4. The prefect, following a consultation with the Department for Civil Liberties and Immigration of the Ministry of the Interior, shall send the applicant to the facilities referred to in paragraph 1. Applicants are received as long it is required for the completion of the identification procedures, when not previously completed, the registration of the application and the start of the procedure examining the asylum application, as well as the medical check over their health conditions, which also aims at verifying the existence of potential vulnerabilities for the purposes referred Article 17, paragraph 3, from the moment in which they enter the reception centre.

These centres are often large and very remote. In the end of 2018, 8,990 people were accommodated in CARA.[117] Two large centres were closed in the beginning of 2019: Cona[118] in Venice and Castelnuovo di Porto[119] in Rome. In April 2019, 14 governmental first-line reception centres were in operation. CARA offers only a very small part of places in first-line reception, most places in first-line reception are CAS.

4.5.2 Temporary facilities – CAS[120]



The legal framework for the so-called *strutture temporanee*, better known as CAS centres is set out in Article 11 of the Legislative Decree 142/2015.

[117] www.lavoce.info/archives/57325/ecco-le-cifre-dellaccoglienza-in-italia/, last visited on 3 January 2020.

[118] www.veneziatoday.it/cronaca/chiuso-centro-accoglienza-conetta-dicembre-2018.html, last visited on 3 January 2020.

[119] www.infomigrants.net/en/post/14714/castelnuovo-cara-closes-priest-calls-for-humane-treatment; www.redattoresociale.it/article/notiziario/castelnuovo_di_porto_non_difendiamo_i_grandi_centri_ma_cosi_e_inumano_, last visited on 3 January 2020.

[120] *Centri di accoglienza straordinari*, the term CAS is used in this report in order to make the report more comprehensible for its readers.

Article 11. Extraordinary reception measures[121]

1. Where the availability of places on the premises referred to in Articles 9 and 14 is temporarily exhausted due to frequent and significant arrivals of asylum seekers, reception can be ordered by the Prefect, after a consultation with the Department for Civil Liberties and Immigration of the Ministry of the Interior, in temporary facilities that have been specifically arranged, upon evaluation of the health conditions of the applicant, also with a view to assess the existence of special reception needs.

2. The facilities referred to in paragraph 1 shall meet the essential reception needs in accordance with the principles of Article 10, paragraph 1, and are identified by the prefectures-territorial offices of the Government, after consultation with the local authorities of the territory in which the facility is placed, according to public procurement procedures. In cases of extreme urgency, it is permitted to resort to direct award procedures according to Decree no. 451 of 30 October 1995, converted, with amendments, by Law no. 563 of 29 December 1995 and its implementing rules.

3. The reception in the facilities referred to in paragraph 1 shall be limited to the time that is strictly necessary to transfer the applicant in the facilities referred to in Article 9 or in the facilities referred to in Article 14.

4. Identification procedures, as well as the registration of asylum applications, are carried out at the police station which is closer to the reception facility.

CAS centres were originally set up as emergency centres during the North African Emergency.[122] They are now part of the Italian reception system and have been institutionalised in Article 11 of Legislative Decree 142/2015, and provide for a parallel reception system of sorts. Most of the places currently available in the first-line reception system are in a CAS. The level of guaranteed services is a bare minimum.[123]

Mandates for CAS centres are awarded by the respective prefecture, the call for tenders can take place every six months. This short contractual period for some CAS leads to financial insecurity, preventing the establishment of good, sustainable projects.

The vast majority (about 75%[124]) of places in the accommodation system are in CAS centres; however there is no publicly available list of centres and their funding and mandates are opaque. Neither are there any clear national guidelines. CAS are run by various institutions, including municipalities, private organisations and NGOs. Their management often lacks experience in dealing with asylum seekers.[125]

[121] Translation by OSAR.

[122] North African Emergency is the name given to the approach used by Italy to react to the huge number (60,000) of people seeking protection in the course of the Arab Spring. The emergency lasted until the end of February 2013. For more information, please refer to the 2013 report by OSAR on reception conditions in Italy, chapter 3.4.

[123] Médecins sans Frontières, Out of Sight 2nd edition, report from February 2018, page 40.

[124] Ministerio dell'Interno, Dossier Viminale: Un anno di attività del Ministero dell'Interno - 1 agosto 2018 - 31 luglio 2019, page 33. www.interno.gov.it/sites/default/files/dossier_viminale_15_agosto_2019.pdf, last visited on 3 January 2020.

[125] Médecins sans Frontières, Out of Sight, report from March 2016, page 5 (the report is still accurate, since the situation in this regard did not improve), confirmed by Farsi Prossimo, 13 September 2019.

Many centres are very remote, overfull and unsuitable.[126] There are also reports of very poor hygienic standards.[127] This situation has not improved in recent years. On the contrary, the conditions in the CAS has deteriorated further as the tender specifications are now based on the new *Capitolato*[128], which was published together with the Salvini Decree in 2018. Reports on the recruitment of victims of human trafficking, sexual abuse and rape of women[129] show that there is a lack of supervision in CAS, and that these centres do not cater to the particular needs of vulnerable asylum seekers.

According to the law transposing the Salvini Decree,[130] the Minister of the Interior must monitor the trend of migration flows within the space of one year with a view to possibly closing the CAS structures. The year started at the date on which the law entered into force in December 2018. Until January 2020, no such efforts were reported to or observed by OSAR.

The new Capitolato

Tenders for the CAS are open to everybody, not only to organisations with experience in the field of migration. Therefore many centres are run by organisations with a different area of expertise. For example companies or hotels that faced bankruptcy have started to run centres for asylum seekers.[131] As there is no monitoring mechanism in place, there is no control as to where the money for services for asylum seekers flows, meaning that the system can be used in a lucrative way.

The tender specifications are based on provisions published by the Ministry of the Interior, called the *Capitolato.* A new *Capitolato*[132] which is currently in force was published together with the Salvini-Decree 2018. This *Capitolato* aims to drastically reduce the costs of the Italian reception system by cutting the state's contribution from 35 € per day to around 20 € per day (per asylum seeker).[133]

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126 Several reports of monitoring missions done by LasciateCIEntrare, between 2016 and 2019, www.lasciatecientrare.it/monitoraggio/, see also AIDA, Country Report: Italy, April 2019, page 99.

127 Several reports of monitoring missions done by LasciateCIEntrare, between 2016 and 2019, www.lasciatecientrare.it/monitoraggio/, see also AIDA, Country Report: Italy, April 2019, page 97.

128 Schema di capitolato di gara di appalto per la fornitura di beni e servizi relativo alla gestione e al funzionamento dei centri di prima accoglienza. www.interno.gov.it/sites/default/files/schema_capitolato.pdf, last visited on 3 January 2020.

129 GRETA, report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, 25 January 2019, §171. For more information on the reception of victims of human trafficking, see chapter 9.4.

130 Legislative Decree 132/2018, Article 12$^{bis.}$

131 Written statement regarding reception conditions in Italy of Dr. Ilaria Sommaruga, CSD – Diaconia Valdese, Milan, 6 Mai 2019.

132 Schema di capitolato di gara di appalto, approvato con DM 20 novembre 2018, riguardante la fornitura di beni e servizi per la gestione e il funzionamento dei centri di prima accoglienza, di cui al decreto legge 30 ottobre 1995, n.451, convertito dalla legge 29 dicembre 1995 no. 563, dei centri di accoglienza di cui agli articoli 9 e 11 del d.lgs. 18 agosto 2015, no. 142 e dei centri di cui all'articolo 10 – ter e 14 del d.lgs. 25 luglio 1998, no. 286 e successive modificazioni, con relativi allegati. www.interno.gov.it/sites/default/files/schema_capitolato.pdf, last visited on 3 January 2020.

133 www.repubblica.it/cronaca/2018/11/07/news/viminale_tagli_dell_accoglienza_per_i_migranti_da_35_a_20_euro_a_giorno-211025426/, last visited on 3 January 2020.

Competitors are therefore forced to charge less for the services provided by staff in centres. This led to a significant reduction in the number of staff employed in the reception system: from 36'000 in 2018 to 18'000 in 2019.[134]

This greatly reduces the time that staff can spend with each asylum seeker. Services such as Italian language courses, legal support and organising leisure activities (voluntary work, socialising with the host community, sporting activities) can no longer be offered. And there are hardly any resources available for the care of people with vulnerabilities.[135] The ratio in the CAS has fallen from one employee per ten asylum seekers to one employee per fifty asylum seekers.[136]

The new *Capitolato* also omitted psychological support, replaced legal support with a «legal information service» reduced to three hours a week for fifty people, and significantly reduce cultural mediation to 12 hours a week for fifty people overall. No services for vulnerable people are provided, thus leaving the protection of these people to purely voluntary contributions.[137]

The presence of employees during the night is not foreseen in centres with a capacity of fewer than 150 places. The presence of professional staff such as cultural mediators, social assistants and medical staff has been drastically reduced, and psychological support has been removed.[138]

As one of the consequences of the new *Capitolato*, smaller centres have been shut down as they cannot be financed anymore. Instead, large collective centres are being opened which are more likely able to operate with the very low financial contribution from the state.

UNHCR's regional representation in southern Europe has published a communication. [139] UNHCR warns that «[...] the amendment of Decree 142 restores the central role of the large collective institutions. In this context, UNHCR's experience [...] shows that a number of factors, including over-dimensioning, remote locations and structural conditions, have led to serious shortcomings in the administration of such bodies [...]. It would be advisable to provide for stricter regulation of the services provided to asylum seekers accommodated in such centres, in particular legal assistance, healthcare and psychological support, as well as effective access to services on the territory [...]. The decree states that asylum-seekers with special needs will also remain in the (large collective) centres and will no longer be assigned to the

[134] www.avvenire.it/attualita/pagine/decreto-sicurezza-18mila-posti-a-rischio; www.ilfattoquotidiano.it/2018/11/09/migranti-con-il-taglio-dei-35-euro-addio-allintegrazione-centri-saranno-svuotati-del-personale-ce-un-rischio-sicurezza/4752240/; www.corriere.it/cronache/18_dicembre_03/immigrazione-decreto-sicurezza-tagli-35-euro-pocket-money-3740ad04-f6f0-11e8-bd62-81aafd946bf7.shtml?refresh_ce-cp ; Naga, 2019, Senza (s)campo: Lo smantellamento del sistema di accoglienza per richiedenti asilo e rifugiati: un'indagine qualitativa.

[135] In Migrazione, 'La nuova (mala) accoglienza, page 4, 8 November 2018, www.inmigrazione.it/UserFiles/File/Documents/273_Dossier%20appalti%20accoglienza.pdf.

[136] Written statement regarding reception conditions in Italy by Dr. Ilaria Sommaruga, CSD – Diaconia Valdese, Milan, 6 Mai 2019.

[137] AIDA, Country Report: Italy, April 2019, page 85.

[138] Naga, 2019, Senza (s)campo: Lo smantellamento del sistema di accoglienza per richiedenti asilo e rifugiati: un'indagine qualitativa, page 14-15.

[139] www.unhcr.it/wp-content/uploads/2018/10/Nota-tecnica-su-Decreto-legge-FINAL_REV_DRAFT1_V2.pdf, last visited on 3 January 2020.

SPRAR centres [...] The decree does not create a legal framework for reception centres and thus leaves a considerable gap in terms of reception modalities and conditions as well as guarantees for the people accommodated there.»[140]

According to UNHCR, the reception of vulnerable asylum seekers in large collective centres, which has been customary since October 2018, is particularly problematic.

The organisation borderline-europe also takes a critical view of the housing situation: «The massive cuts in the housing system, which were supposed to lead to savings, as well as the abolition of the humanitarian residence permit [...] lead [...] to a worsening of the situation of the people concerned: fewer or no more integration services no psychological care at all in the *Centri di accoglienza straordinaria* (CAS), which are now mandatory for asylum seekers and were actually set up as emergency centres at a time when Italy had more arrivals by sea. Instead of focusing the system entirely on SPRAR secondary accommodation, which is geared towards integration, the opposite is the case: the CAS, with their inadequate services, are being merged into larger centres, as it is no longer worthwhile managing small centres due to the cutbacks for operators. [...] The aim of the government is to keep only a few centres open in Italy.»[141]

An example of the consequences of the new *Capitolato* is the situation of Farsi Prossimo in Milan, where Caritas agreed to contribute the same amount of money per person as the state in order to make sure that good projects could continue in 2019. However, Caritas cannot afford to invest money in 2020 in projects which are supposed to be financed by the state, so the organisation will no longer be able to be involved in many of the CAS projects it ran in previous years.[142]

In a call for tenders that was opened by the prefecture of Milan for 5,000 accommodation places in Milan, only offers for 3,000 of those places were made by organisations interested to run a CAS. This forced the prefecture to publish a new call for tenders for the remaining 2'000 places. However, organisations with an ideological background did not apply, because the money is not sufficient for any other service than offering a bed and food.[143]

The call for tenders in the prefecture of Milan foresees a quota of 18 € per person for centres with a capacity of less than 50 places and 21.50 € for centres that have space for more than 50 asylum seekers. This is an obvious incentive to open large collective centres since smaller centres are (relatively) more expensive to manage but nevertheless receive lower contributions.[144] The presence of social assistants is reduced to six hours weekly for centres hosting 50 asylum seekers, 8 hours for centres with up to 150 people, and 20 hours for centres with

[140] Translation by OSAR.

[141] Borderline-europe, Menschenrechte ohne Grenzen e.V. in cooperation with Borderline Sicilia Onlus, «Stellungnahme zu der derzeitigen Situation von Geflüchteten in Italien mit besonderem Blick auf die Unterbringung», 3. Mai 2019, translation by OSAR.

[142] Interview with Farsi Prossimo, 13 September 2019.

[143] Interview with Farsi Prossimo, 13 September 2019.

[144] Naga, 2019, Senza (s)campo: Lo smantellamento del sistema di accoglienza per richiedenti asilo e rifugiati: un'indagine qualitativa, page 13.

up to 300. A doctor is available on call four hours per day, and there are no nurses in centres hosting less than 300 people.[145]

As a result of the new tender specifications, many organisations have decided to withdraw from participating in procurement procedures for the management of CAS, arguing that a decent reception cannot be provided under these specifications. Several appeals against the tender under the new *Capitolato* have been made to regional T.A.R.s (*Tribunale Amministrativo Regionale*), as told by several interviewees and reported by Naga.[146]

4.5.3 Withdrawal of reception conditions

Under Italian law reception conditions can be withdrawn in certain cases:

Legislative Decree 142/2015, Article 23: Withdrawal of reception conditions

1. The prefect of the province in which the facilities referred to in Articles 9 and 11 are located, shall order the revocation of reception measures with a motivated decree in the following cases:
a) the applicant does not show up to the designated reception centre or abandons it, without prior notification to the prefecture – territorial office of the competent government;
b) the applicant fails to appear at the hearing before the body entitled to examine his or her application;

c) the applicant submits a subsequent application under Article 29 of Legal Decree no. 25 of 28 January 2008, as amended;
d) the applicant has sufficient financial resources;
e) repeated or serious violations of the rules of reception centres, including the intentional damage on movable or immovable property, or seriously violent behaviours.

Article 23 of Legislative Decree 142/2015 refers to the *centri governativi di prima accoglienza* (CARA, Article 9) and *strutture temporanee* (CAS, Article 11). Withdrawal of reception conditions is also foreseen in SIPROIMI.[147]

The practical application of the possibility of withdrawal is very strict. Asylum seekers can be thrown out onto the street for even minor charges.[148] A frequent problem occurs to Dublin returnees who have been accommodated in (or even only allocated to) a governmental first-line reception centre[149] or a temporary facility[150] and did not show up to make use of the reception centre or left this centre after spending just a few days there. In these cases, they will nevertheless have lost their right to be accommodated.

[145] Naga, 2019, Senza (s)campo: Lo smantellamento del sistema di accoglienza per richiedenti asilo e rifugiati: un'indagine qualitativa, page 14-15.
[146] Naga reports that among 20 organisations that have responded to their survey, ten have decided not to present any project, while five have reduced the number of offers made. Naga, 2019, Senza (s)campo: Lo smantellamento del sistema di accoglienza per richiedenti asilo e rifugiati: un'indagine qualitativa, page 21.
[147] Decree DM 9259 of 18 November 2019, Annex A, Article 40; see chapter 5.4.3.
[148] ELENA coordinator for Italy, information by email, 23 December 2019; see also Swiss Refugee Council and Danish Refugee Council, Mutual trust is still not enough – The situation of persons with special reception needs transferred to Italy under the Dublin III Regulation, 12 December 2018, page 29 (case 12).
[149] According to Legislative Decree 142/2015, Article 9.
[150] According to Legislative Decree 142/2015, Article 11.

If accommodated asylum seekers want to leave the centre for a few days – for example, to visit relatives elsewhere in Italy - they are legally obliged to obtain authorization from the centre's administration beforehand. If a person leaves the centre without giving notification, and is absent for more than 72 hours[151], it is assumed that they have given up their right to accommodation, and as a consequence they lose this right.[152] The centre is obliged to inform the prefecture immediately in case someone is absent.[153]

Asylum seekers can only regain the right to accommodation if they can prove that they did not show up or left the centre due to an accident or force majeure or any other serious personal reasons.[154] The prefecture decides whether the person can be readmitted. During this procedure, the person does not have access to a state-run accommodation facility. If the prefecture rejects readmission to the system, there is no alternative accommodation provided by the state. To regain access to the accommodation system, the support of a lawyer is necessary to appeal the decision before the Administrative Tribunal (TAR). In fact, according to several interview partners[155], the practice on regaining access to accommodation has changed in the last two years and is now more restrictive.

According to a study, carried out between 2016 and 2017 on the basis of data from 58 of 100 Italian prefectures, at least 39'963 asylum seekers lost their right to be accommodated in the reception system.[156]

The withdrawal of reception conditions is problematic for everyone in the Italian reception system, and even more so for Dublin returnees who already requested asylum in Italy (take back). In the light of the latest CJEU judgement regarding the withdrawal of material reception conditions, the Italian practice regarding the application of Article 23 of the Reception Conditions Directive clearly violates EU law: In November 2019, the CJEU found[157] that a withdrawal of accommodation, food and clothing, even for a short period of time, is incompatible with states' duty to ensure a dignified standard of living for asylum seekers under Article 20(5) of the recast Reception Conditions Directive and Article 1 of the EU Charter of Fundamental Rights as it would have the effect of depriving applicants of the possibility of meeting their most basic needs. The Court also noted that the requirement to ensure a dignified standard of living must guarantee that such a standard of living is provided continuously and without interruption.

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[151] The limit of 72 hours of permitted absence is laid down by the prefectures in regulations on the administration of CAS, as can be seen from the examples an agreement from between the prefecture of Ferrara and a local organization that wished to run a first-line reception centre on behalf of the prefecture in 2018, available under www.aspfe.it/media/uploads/allegati/5/convenzione-prefettura-per-accoglienza-richiedenti-protezione-internazionale-anno-2018-1.pdf; the example of similar regulations issued by the prefecture of Campobaso, available under www.prefettura.it/FILES/allegatinews/1161/ALLEGATO_N._5_Schema_di_convenzione__.doc and the prefecture of Nuoro, available under www.prefettura.it/FILES/allegatinews/1210/Regolamento%20strutture%20di%20accoglienza%20convenzionate.%20Nuoro.doc, all last visited on 3 January 2020.

[152] Legislative Decree 142/2015, Articles 13 and 23.

[153] Legislative Decree 142/2015, Article 23(3).

[154] Legislative Decree 142/2015, Article 23(3).

[155] Interview with ASGI, 10 September 2019; Interview with Caritas Roma, 12 September 2019.

[156] Altreconomia, 40mila richiedenti asilo tagliati fuori dal sistema di accoglienza in due anni, 30 May 2018, https://altreconomia.it/revoche-accoglienza-aggiornamento/.

[157] CJEU, judgement of 12 November 2019, *Haqbin,* C-233/18.

4.5.4 Detention

This chapter is not intended to give a full overview of the detention of migrants in Italy,[158] as – to the knowledge of OSAR – detention does not seem to be a major issue for people sent back to Italy under the Dublin Regulation, unless they do not apply for asylum in Italy or their asylum application has already been rejected.

The Italian law prohibits the detention of a person for the sole purpose of examining this person's asylum application.[159]

It is possible to apply for asylum while in detention.[160] The law states that third-country nationals who apply for asylum when they are already held in removal centres (CPR) and are waiting for the enforcement of a return order[161] or an expulsion order[162] shall remain in detention when there are reasonable grounds to consider that the application has been submitted with the sole reason of delaying or obstructing the enforcement of the expulsion order.[163] In such a case, the subsequent application may be declared inadmissible by the Questura, which is not in line with the law.[164]

The maximum length of detention for foreigners was doubled with Legal Decree 113/2018 to 180 days.[165]

According to the law,[166] asylum seekers can be detained in a CPR if they are considered a danger to public order and national security or if there is a risk of them absconding. The preconditions to detain a person in order to clarify the person's identity or citizenship have been relaxed and the maximum duration was prolonged to 180 days. People can even be held in police stations.[167]

In February 2019, there were 751 places in CPR.[168]

4.5.5 Conclusion

Dublin returnees who are still in the asylum procedure can find accommodation in both *centri governativi di prima accoglienza* (known as CARA) and in temporary centres (known as CAS). However, if the person previously lived in a centre before continuing their journey to a different

158 For more detailed information on the detention of asylum seekers, the legal framework, detention conditions and procedural safeguards, see AIDA, Country Report: Italy, April 2019, page 115.
159 Legislative Decree 142/2015, Article 6 (1).
160 Legislative Decree 142/2015, Article 6 (4).
161 Legislative Decree 286/1998, Article 10.
162 Legislative Decree 286/1998, Article 13/14.
163 Legislative Decree 142/2015, Article 6 (3).
164 See for example: Tribunale Ordinario di Roma, Sezione Diritti della Persona e Immigrazione, judgement of 3 April 2019, No. N. R.G. 20808/2019.
165 Article 2.
166 Legislative Decree 142/2015, Article 6.
167 Legal Decree 113/2018, Articles 2 and 3.
168 Guarantor for the rights of detained persons, Relazione al Parlamento 2019, 26 March 2019, page 136.

country and left this centre without notification, they lose their right of access to the reception system.[169]

Although the law gives the impression that the CARA are the most frequent accommodation types for people in the asylum procedure, the reverse is true - the vast majority of places are in CAS.

With the new *Capitolato*, the staff and services provided in first-line reception have been reduced significantly, leading to a deterioration of the quality of the centres.

The quality of the centres for asylum seekers varies considerably, even between the same type of centre, and depends on their size, occupancy rate and the company which runs the centre. While the SIPROIMI publishes an annual report on its reception system,[170] no comprehensive and updated reports on reception conditions are available on the other accommodation structures.[171]

Overall, OSAR is under the impression that support for transferees on arrival, their allocation to an accommodation, and even organising a train ticket for the journey to the respective Questura are relatively arbitrary and incidental. This impression was shared by our interview partners.[172]

Dublin returnees are treated the same as other asylum seekers once they arrive in Italy. If their right to reception has not been withdrawn, they are accommodated in collective centres. Asylum seekers are no longer entitled to second-line reception centres (SIPROIMI – former SPRAR). The conditions in the collective centres (former CARA and CAS) deteriorated significantly with the changes brought about by the Salvini Decree and the new *Capitolato*.

It is important to ask asylum seekers who face being transferred to Italy whether they have been accommodated in a first or second-line reception facility or a CAS before travelling to the other country in order to find out whether they still have the right to reception. Please note that their right to reception can be withdrawn even if the person never used the allocated accommodation. Simply having been allocated a place can be enough.

169 Legislative Decree 142/2015, Article 23.
170 www.sprar.it/wp-content/uploads/2019/11/Atlante-Sprar-Siproimi-2018-leggero.pdf, last visited on 3 January 2020.
171 AIDA, Country Report: Italy, April 2019, page 96.
172 Interviews with Baobab experience, 10 September 2019; Programma Integra, 11 September 2019; Naga, 13 September 2019.

5 Reception of people with protection status in Italy

5.1 Arrival of returnees with protection status

There are two types of protection status in Italy.

- International protection: recognition as a refugee under the terms of the Refugee Convention, which leads to a five-year permit, and subsidiary protection under the terms of the EU Qualification Directive, which also leads to a five-year permit;

- National protection: With the Salvini Decree, the landscape of national protection changed drastically. Five new forms were introduced: special protection for those who risk inhuman treatment on return to their country of origin but have not been granted international protection, resulting in a renewable one-year permit; a residence permit for calamities, to be issued to people who have fled disasters, leading to a six-month residence permit, renewable but not exchangeable for regular residence permits; a permit for medical treatment, valid for one year and renewable if medical treatment is still necessary, but not exchangeable for regular residence permits; residence permits for people who have done acts of particular civil value; and residence permits for so-called special cases (*casi speciali*) [173], such as victims of human trafficking or labour exploitation.

- Humanitarian protection status was abolished and can principally no longer be given to a person applying for protection in Italy.[174] People in possession of a humanitarian protection when the Salvini Decree came into force cannot apply for their humanitarian protection prolonged, but they can convert it into a work permit (if they are regularly employed in Italy), or apply for protection as a «special case». If they do not fulfil the requirements for such protection, and cannot convert their humanitarian protection into a work permit, they are left without a legal title.

Recognised refugees and people with subsidiary protection in Italy are not returned to Italy under the Dublin III Regulation, but under bilateral readmission agreements. People with (expired) humanitarian protection or protection as a «special case» can be returned with a Dublin decision, as they will have (had) a residence permit, and as such Article 12 of the Dublin Regulation applies to them.

Upon arrival in Italy, all people with protection status are in the same situation: From an Italian standpoint, they are regular residents with a residence permit. As such, they can enter Italy and travel freely throughout the country on principal. However, this also means that they receive no assistance at the airport, for instance in looking for accommodation, obtaining new

[173] AIDA, Country Report: Italy, April 2019, page 134.

[174] The Constitutional Court is expected to rule shortly on the possible retroactive effect of the Salvini Decree. Until now, there are diverging court rulings of lower instances, in which some courts rule that as of the coming into force of the Decree, the humanitarian protection can no longer be given to applicants for international protection, whereas other courts rule that humanitarian protection can still be given to applicants that lodged their application before the Salvini Decree entered into force.

papers (in case they are lost), or renewing their registration in the National health care system.

The Italian system is based on the assumption that once protection status has been granted, people are permitted to work and must therefore provide for themselves. People who travel on to another European country due to a lack of work and/or accommodation end up in the same situation after being returned. With regard to social rights and access to social benefits, beneficiaries of protection have the same status as Italians, for whom the social system is also insufficient (see chapter 6.1). In other words, from a purely legal standpoint, beneficiaries of protection have a better status than asylum seekers, but receive significantly less material support.

5.2 Renewal of the permesso di soggiorno

Often, applicants' documents (e.g. an Italian residence permit, a so-called *permesso di soggiorno*) are taken away from them when they apply for protection in other Dublin countries. On their return to Italy, they therefore have to ask the authorities to issue a copy of the residence permit.[175] If a person loses their *permesso di soggiorno*, in Italy or abroad, this must be declared at the Questura.[176] A new (copy of the) residence permit can be applied for with this declaration (the Questura's report of the loss of the previous residence permit), a document showing the applicant's residence address (or a declaration of hospitality which is accepted by the authorities[177]), three photographs, and proof of payment of the administrative expenses (16 € for the application, and 30.46 € for the issuance).

This procedure was previously done in person at the Questura. Nowadays, the person applying for the renewal or copy of the residence permit should do this at the post office, by using a so-called *kit*, designed for this purpose.[178] When sending in the «kit» at the post office, the person applying for the residence permit gets a receipt, showing that they have submitted a request for a renewal/copy of the residence permit. When the residence permit is ready to be picked up (or if there are other requirements that the person needs to fulfil), an invitation to come to the Questura is sent to the person by registered post to the address that they used in the application.[179]

This new procedure (using the *kit*) applies to the renewal of the residence permit for recognised refugees, the issuance of a residence permit that has been lost or stolen, and renewal

[175] Interview with Caritas Rome, 29 February 2016.

[176] Official information published on the website of the Polizia di Stato, https://questure.poliziadistato.it/statics/45/permesso-protezione-speciale-sussidiaria.pdf?lang=it, last visited on 3 January 2020.

[177] For example, the Questura of Venice explicitly accepts only official residence addresses or a declaration of hospitality that is accepted by the department «P.S.» (*Permesso di Soggiorno*, or residence permit), or a rental contract on the name of the applicant, also approved by the Revenue Office; see https://questure.poliziadistato.it/it/Venezia/articolo/21495d8de902e0658407982545, last visited on 3 January 2020.

[178] www.cinformi.it/ocmultibinary/download/10444/143459/2/90c14d73534c8b038cfbea7753c2767f.pdf/file/aggiornamentopermesso..pdf, last visited on 3 January 2020.

[179] For all information on the procedure for the renewal of the residence permit with the *kit*, see the official website here www.portaleimmigrazione.it/Nuova_Procedura.aspx, last visited on 3 January 2020.

of the recognition of statelessness.[180] The new procedure is not applicable to people with subsidiary protection.[181]

Without a registered residence or an authorised declaration of hospitality, it is impossible to get a renewal/copy of a residence permit. First of all, the system does not allow for the registration of an application for a renewal/copy without registered residence. Secondly, it is impossible for the applicant to receive the invitation to the Questura, as they cannot receive post.

The law states that holders of a residence permit must apply for a renewal at least 60 days before their residence permit expires.[182] The new residence permit must subsequently be issued within 60 days, according to the law,[183] but it is very common for applicants to have to wait longer in practice. Waiting times in some provinces are close to a year.[184] According to the Questura in Rome, this delay is caused by the fact that residence permits are now only being produced by one central office in Italy. This office is the *Istituto Poligrafico e Zecca della Stato* (State Polygraphic Institute and Mint, Ipzs).[185] However, this office is swamped in applications for the issuance of residence permits, and sometimes it cannot even issue new residence permits as it runs out of material resources.

Even though the law provides that a person waiting for the renewal of their residence permit – including cases in which they have to wait for more than 60 days[186] – has the right to work, without a valid residence permit employers hesitate to hire them. Furthermore, as people are more and more afraid that helping illegal people is punishable by law, people waiting for their residence permit to be renewed run the risk of eviction, despite the fact that their presence in Italy is legal. Therefore, the long waiting times bring hardship to those who are in the process of renewing their residence permits, and to those that have to ask for the issuance of a copy after they have lost their residence permit.

Extending or renewing a residence permit may take several months, during which time legally residing people run the risk of losing access to work, healthcare and housing.

Finally, the law provides that the prefecture may issue an expulsion order if a foreigner who has been apprehended in Italy has not applied for a renewal of their residence permit within 60 days of this permit expiring.[187]

[180] www.portaleimmigrazione.it/PDS_Stranieri.aspx, last visited on 3 January 2020.
[181] Ibid.
[182] Legislative Decree 286/1998 (TUI), Article 5 (4).
[183] Legislative Decree 286/1998 (TUI), Article 5 (9): «Il permesso di soggiorno e' rilasciato, rinnovato o convertito entro sessantagiorni dalla data in cui e' stata presentata la domanda [...].»
[184] 10 months for the province of Trento, www.ildolomiti.it/cronaca/2018/tempi-biblici-in-questura-per-il-rinnovo-del-permesso-di-soggiorno-fino-a-10-mesi-di, last visited on 3 January 2020.
[185] www.anusca.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/6819, last visited on 3 January 2020.
[186] Legislative Decree 286/1998 (TUI), Article 5 (9bis) (a).
[187] Legislative Decree 286/1998 (TUI), Article 13 (2) (b).

5.3 Conversion of the «humanitarian» residence permit

With the abolition of humanitarian protection status, following the entry into force of the Salvini Decree, it is no longer possible to renew the humanitarian residence permit.[188] Holders of this permit have the possibility of regularizing her/his status by either applying for a residence permit for employees, or applying for another protection status. This means that people with humanitarian status are protected under this status until it expires. It is estimated that the abolition will lead to 140'000 people without status by December 2020.[189]

ASGI informed during an interview that most of the holders of humanitarian protection status who had the chance to convert their residence permit into a residence permit for employees had already done so. To this end, they needed to show a list of documents including (*but not only*):[190]

- ✓ a work contract;
- ✓ a valid passport;
- ✓ the original residence permit and a copy of the decision of the *Commissione Territoriale* based on which the permit was issued;
- ✓ a rental contract (proving the employee's accommodation) authorized by the Revenue Office;
- ✓ proof of registration in the National Health Service SSN or another health insurance;
- ✓ payment slips of the wages from the last three months.

The conversion of a humanitarian residence permit into a residence permit for employees is therefore only possible if the applicant is already in employment in Italy, has a place to stay with a rental contract in their name, and a current health insurance. If these prerequisites are not fulfilled, the person cannot convert the humanitarian residence permit into a residence permit for employees.

Conversion of a humanitarian residence permit into a permit for *casi speciali* presupposes that the conditions for such a permit are fulfilled. As holders of humanitarian residence permits have often lived in Italy for a considerable number of years, they no longer fulfil these conditions. Therefore, this is not a viable alternative to the humanitarian residence permit in most cases.[191]

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188 Legal Decree 113/2018, Article 1.

189 Borderline-europe, Menschenrechte ohne Grenzen e.V. in collaboration with Borderline Sicilia Onlus, Stellungnahme zu der derzeitigen Situation von Geflüchteten in Italien mit besonderem Blick auf die Unterbringung, 3 May 2019.

190 For a complete list, see https://questure.poliziadistato.it/statics/33/all.-6---conversione-permesso-soggiorno-da-motivi-umanitari-o-protezione-sussidiaria-a-lavoro-subordinato.pdf?lang=it, last visited on 3 January 2020.

191 ASGI, Le modifiche in tema di permesso di soggiorno conseguenti all'abrogazione dei motivi umanitari e sull'Article 1, D.L. 113/2018, page 3, available here www.asgi.it/wp-content/uploads/2018/10/2018_10_25_scheda_ASGI_art_1_DL_Immigrazione_113_ok-_1_.pdf, last visited on 3 January 2020.

Holders of humanitarian residence permits who have not yet conversed these permits into residence permits for employees are often unable to regularise their presence in Italy on expiry of the humanitarian residence permit.

5.4 Accommodation for returnees with protection status

The Salvini Decree amended the legal framework for the reception and accommodation of asylum seekers and status holders, as already mentioned. Asylum seekers can no longer be accommodated in SIPROIMI (ex-SPRAR), unless they are unaccompanied minor asylum seekers (UMA). SIPROIMI are reserved for refugees and beneficiaries of subsidiary protection, UMAs, and beneficiaries of national protection.[192] Whether someone who falls into the categories of people who can benefit from accommodation in a SIPROIMI will have access to the system *again* on their return to Italy depends on the facts of the case. As a rule, if they have already been accommodated in a SIPROIMI (ex-SPRAR) before, and if they have finished their trajectory[193] in the SIPROIMI, they will not have the right to be accommodated in the SIPROIMI again.

5.4.1 SIPROIMI[194] (ex-SPRAR) projects

Under the SPRAR system, before it was amended on 4 October 2018,[195] not only status holders but also vulnerable asylum seekers were entitled to have access to a SPRAR project. This covered asylum seekers with health problems, but also families with children (approx. 18%)[196]. Because the SPRAR projects were relatively small, providing their residents with a considerable broader range of services than that offered in regular first-line reception centres, the ECtHR ruled in its *Tarakhel*-judgement[197] that, as long as the Italian authorities would guarantee placement in a particular SPRAR upon arrival, the transfer of asylum seeking families with a Dublin decision would not infringe Article 3 ECHR. The same was applicable, mutatis mutandis, to other vulnerable asylum seekers who are entitled to reception in facilities that meet their specific needs.

Since the Salvini Decree defined that SPRAR can no longer host asylum seekers, the project was renamed SIPROIMI (reflecting the new, narrower scope of beneficiaries of the system). Also, with the enforcement of the Salvini Decree, Legislative Decree 142/2015 on asylum accommodations was no longer applicable to SIPROIMI (ex-SPRAR). From October 2018 to November 2019, there was no legal framework for SIPROIMI, and the system functioned according to the provisions of Legislative Decree 142/2015. This changed when the Ministry of the Interior adopted Ministerial Decree (DM) 9259 on the financing of SIPROIMI projects,

192 www.sprar.it/attivita-e-servizi, last visited on 3 January 2020.
193 Each beneficiary of accommodation in SIPROIMI signs a contract with the administration of the project describing the individual steps of her/his integration trajectory.
194 SIPROIMI – *Sistema di protezione per titolari di protezione internazionale e per i minori stranieri non accompagnati* (Protection System for Beneficiaries of International Protection and for Unaccompanied Foreign Minors).
195 Legal Decree 113/2018, Article 12.
196 2018 SPRAR/SIPROIMI activity report, page 30, www.sprar.it/wp-content/uploads/2019/11/Atlante-Sprar-Siproimi-2018-leggero.pdf, last visited on 3 January 2020.
197 ECtHR, judgement of 4 November 2014, *Tarakhel v. Switzerland*, Application No. 29217/12, especially paragraphs 120-122 of the judgment.

which has guidelines on the functioning of SIPROIMI attached.[198] These guidelines codify the former practice between October 2018 and November 2019, essentially copying the provisions of Legislative Decree 142/2015. The following makes reference to the articles of the guidelines whenever relevant.

The SIPROIMI is a network of accommodation facilities (projects) based on cooperation between the Ministry of the Interior, the municipalities and various NGOs.[199] The objective of SIPROIMI projects is to assist with the integration of individuals who have access to SIPROIMI. To this end, the projects are supposed to offer language courses, work integration programs, psychological support, legal counselling and other services.[200] Most projects are relatively small, with an average of fewer than 40 people each.

The most important difference between the SPRAR and the SIPROIMI is its beneficiaries (those who can be accommodated in a project). Accommodation in a SIPROIMI project is reserved for holders of an international protection status (recognised refugees and people with subsidiary protection) and unaccompanied minor asylum seekers, and also to people holding a residence permit for special reasons: as victims of violence, trafficking, domestic violence, labour exploitation or calamities, due to poor health, or for acts of particular civic value.[201]

SIPROIMI is not accessible to asylum seekers, except UMAs.

SIPROIMI does not accommodate families with children during the asylum procedure.

Asylum seeking families as well as vulnerable asylum seekers are all hosted in first-line reception centres: CARA or CAS.

SIPROIMI is funded by and reports to the Ministry of the Interior, but is coordinated and monitored by the *Servizio Centrale* (Central Service). The *Servizio Centrale* is managed by ANCI,[202] the National Association of Italian Municipalities. Contracts for the running of a local SIPROIMI project are awarded as follows: The local authorities present a project to the Ministry of the Interior. If it corresponds to the guidelines and regulations according to the Evaluation Commission at the Ministry of the Interior, it is funded and incorporated into the system.[203] In 90% of cases, the local authority subcontracts the project to an NGO. Responsibility remains with the local authority.

Applications for placement in a SIPROIMI project must be sent to the *Servizio Centrale*. The applications are principally made by the prefecture, the Questura or, in some cases, lawyers,

198 Allegato A, DM 9259 of 18 November 2019.

199 See Swiss Refugee Council, Italy: Reception conditions – Report on the current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, report from October 2013, page 22.

200 SIPROIMI guidelines, Article 4 and Article 34 (minimum services).

201 www.sprar.it/english, last visited on 3 January 2020.

202 Associazione Nazionale Comuni Italiani (ANCI); National Association of Italian Municipalities.

203 Ministerial Decree of 18 November 2019 on local authorities' access to funding from the National Fund for Asylum Policies and Services and on the functioning of the Protection System for holders of international protection and unaccompanied foreign minors (SIPROIMI) (Modalita' di accesso degli enti locali ai finanziamenti del Fondo nazionale per le politiche ed i servizi dell'asilo e di funzionamento del Sistema di protezione per titolari di protezione internazionale e per i minori stranieri non accompagnati (Siproimi)).

who have to fill out an appropriate form and send it in. The *Servizio Centrale* then assesses the application. If the person for whom the application was made is entitled to placement in the SIPROIMI, the *Servizio Centrale* then checks whether an appropriate place is free in one of the projects. If there is a free slot, the person is placed immediately. The *Servizio Centrale* is also the only stakeholder that has an overview of the projects and vacant places in the projects. The availability of places in the projects varies almost daily and is not communicated publicly.

During the interview with the *Servizio Centrale* in Rome in September 2019, *the Servizio Centrale* stated that places are generally available for «regular» cases of individuals who have their asylum application approved (new status holders). However, it is not guaranteed that there will always be available places. There are no waiting lists. Therefore, if an application for placement in a SIPROIMI is approved but there is no appropriate place in a SIPROIMI project available, the lawyer/Questura/prefecture will have to apply again a month later, or even several times, until there is a place available for this person. During this waiting time, no accommodation is provided to the person.

5.4.2 Duration of accommodation in a SIPROIMI

According to Article 38(1) of the SIPROIMI guidelines, accommodation in a SIPROIMI project is usually for six months. Article 39(1) specifies that this can be prolonged for another six months if it is indispensable to complete the person's integration trajectory, in the case of extraordinary circumstances such as health problems, or in the case of vulnerabilities as defined in Article 17 of Legislative Decree 142/2015. In all of these cases, the need for prolongation must be properly motivated and documented. A second and final prolongation for a maximum of six months is allowed, according to Article 39(2) of the guidelines, in the case of persistent serious health problems that need to be adequately documented, or to allow for the completion of a school year.

With regards to unaccompanied minors, Article 38(2) specifies that unaccompanied minor *asylum seekers* who come of age may stay in a SIPROIMI project until the decision on their asylum application has been taken. Other unaccompanied minors (not asylum seekers) may stay in a SIPROIMI project for another six months after coming of age.

5.4.3 Withdrawal of the right to accommodation in the SIPROIMI

The right to accommodation in a SIPROIMI can be withdrawn (*revoca*), and thus the relationship between the beneficiary and the SIPROIMI project terminated, in cases defined by Article 40 of the SIPROIMI guidelines. Withdrawal is possible, inter alia, in the case of:

a) serious or repeated breach of the rules of the host establishment, including malicious damage to movable or immovable property, or grossly violent behaviour; or

b) unjustified absence of the beneficiary of more than 72 hours, without the prior authorisation of the local authority;

In principle, beneficiaries of international protection can be accommodated in a SIPROIMI for a period of six months.

Beneficiaries can lose their right to accommodation in a SIPROIMI if they breach the house rules or are absent for a period of more than 72 hours.

It is important to ask the status holder facing readmission to Italy if they have been accommodated in a SPRAR/SIPROIMI before travelling to another European state in order to find out whether they still have the right to reception in SIPROIMI. Please note that the right to reception may be withdrawn even if the person never used the accommodation previously allocated to them. Simply having been allocated a place can be enough. Each individual case needs to be assessed carefully and in consultation with the *Servizio Centrale.*

If a beneficiary of international protection loses their right to accommodation in second-line reception, there is no alternative shelter provided by the Italian state. The same goes for people whose maximum period of stay (six months, exceptions see below) has ended. For those who did not manage to find some kind of employment during this time, the end of their time in SIPROIMI leaves them without any support or financial means. There are no further state provisions regarding housing or adequate support. This lack of support can result in these people finding themselves in a situation of extreme material poverty, due to the indifference of the state.

5.4.4 Prolongation: the practice

Rules on how long a person can be accommodated in a SPRAR, now laid down in the SIPROIMI guidelines adopted in November 2019, were previously set out in Legislative Decree 142/2015. Although the legal basis was different, their content is very similar.

The reports on the implementation of the SPRAR system in past years usually contained information on how often people were allowed to extend their stay in a SPRAR for an additional six or twelve months. The most recent report, published by the *Servizio Centrale*, concerns the implementation of the SPRAR in 2018. At the end of 2018, the rules on access to the SPRAR (and the name of the SPRAR) changed with the Salvini Decree. The 2018 report therefore still mostly concerns the SPRAR system and its implementation, and does not yet show the effects of the Salvini Decree.

In 2018, the report states that 17,699 people left the SPRAR system, while 35,881 places were available in the same year.[204] That means that before the introduction of the SIPROIMI system, half of available places in the SPRAR system were vacated within a year. It is important to bear in mind that the previous SPRAR system was accessible for status holders as well as for vulnerable asylum seekers. Once a vulnerable asylum seeker found accommodation in a SPRAR project, they would be allowed to stay until the date of the decision on their asylum application. In the case of a positive decision, this person (now a protection status holder) would be allowed to stay another six months. Considering that asylum procedures on

[204] 2018 SPRAR/SIPROIMI annual report, page 12.

average took more than a year from the date of application to the date of the decision, fluctuation in a SPRAR would be relatively low. Even so, 50% of the available places were vacated in 2018. This means that for beneficiaries of protection status, prolonging their stay in a SPRAR was the exception rather than the rule.

With the change in rules on access to the SIPROIMI system, vulnerable asylum seekers are no longer eligible for accommodation in the SIPROIMI. Apart from the places earmarked for unaccompanied minors – who stay there for a longer period of time as a matter of course – and for sick people – who in most cases fulfil the conditions to get their stay in a SIPROIMI extended – the fluctuation in SIPROIMI centres for other beneficiaries (85% of all places) will be faster, and it will become clearer that prolonging a person's stay in the SIPROIMI is the exception and not the rule.

5.4.5 Limited availability of places for ill people in the SIPROIMI

Whereas there are frequently places available in SIPROIMI projects for «regular» beneficiaries of international protection (see above), who do not have to wait more than a few months before they get a place in a project, the situation is different for other people who are – in principle – eligible for accommodation in a SIPROIMI project. As can be seen from the overview of SIPROIMI projects and places below, only a small proportion of places (2%)[205] is reserved for people with special needs (mental health problems and/or handicaps, in Italian DM-DS: *disagio mentale, disagio sanitaria*), whereas also ANCI recently noticed the need for support has risen for exactly this segment of (asylum seekers and) protection status holders.[206]

The overview of projects and places (*posti*) financed by SIPROIMI is published once every three months by SIPROIMI. From the most recent overview, it is clear that of the 33,625 places available, only 684 are for people with mental health problems and/or handicaps for the whole of Italy.[207] This is an extremely low number, considering that according to MSF 60% of asylum seekers who make it to Italy have mental health problems.[208]

Surprisingly, there used to be more places available for mentally or physically ill people in 2018. According to the 2018 SPRAR/SIPROIMI report, published in November 2019, of the 35,881 places available in total in the SPRAR network, 734 were reserved for people with physical or mental health problems.[209] The total number of places available to them was reduced by 7% in the course of 2019, even though there is a clear need to increase this number instead of reducing it.

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[205] 2018 SPRAR/SIPROIMI activity report, page 22, www.sprar.it/wp-content/uploads/2019/11/Atlante-Sprar-Siproimi-2018-leggero.pdf, last visited on 3 January 2020.

[206] ANCI, 10 July 2019 www.anci.it/rete-sprar-siproimi-minori-non-accompagnati-e-global-compact-i-temi-al-centro-del-dibattito/, last visited on 3 January 2020.

[207] According to the overview of SIPROIMI projects, published by the *Servizio Centrale* in October 2019, available here www.sprar.it/wp-content/uploads/2019/10/2019-10-10-Numeri-SITO-p.pdf, last visited on 3 January 2020.

[208] www.ilfattoquotidiano.it/2016/07/25/rifugiati-msf-oltre-il-60-presenta-disagio-mentale-il-medico-poche-risorse-difficile-seguirli-tutti/2932061/, last visited on 3 January 2020.

[209] 2018 SPRAR/SIPROIMI activity report, page 12.

Type	2018 (Jan-Dec)	2019 (Oct)	%
Total SPRAR projects	877	844	**-4**
Total individual places	35,881	33,625	**-6**
Physically/mentally ill	734	684	**-7**
Unaccompanied minors	3'500	4'255	+21

Table by OSAR, based on the 2018 annual SPRAR/SIPROIMI report and the SIPROIMI overview of October 2019

In view of the fact that health problems are considered a reason to prolong a person's stay in the SIPROIMI (once or twice, for six months each), the places that are available to people with physical or mental health problems are often occupied for extended periods of time (12 to maximum 18 months compared to six months for regular places). Since the fluctuation is slow, the places for people with health problems are always occupied, and many in need of accommodation in a SIPROIMI geared to people with health problems can actually not find a place.

Furthermore, in an interview with the *Servizio Centrale*, we were told that the SIPROIMI places for people with physical and/or mental health problems are not suitable for people with very serious issues. Although these places are in SIPROIMI centres that are specialized in the accommodation and integration of people with special needs, they are not equivalent to public mental health institutions or hospitals. Therefore, they cannot guarantee accommodation to people with very serious health issues. As a result, there is no accommodation for these people and they run the risk of ending up on the streets.

There is a serious lack of SIPROIMI places for status holders with physical or mental health problems, considering that 60% of the asylum seekers have mental health issues, and the number of available places has been reduced further by 7% in the last year.

SIPROIMI places for status holders with physical or mental health problems are not suitable for people with grave health issues.

5.4.6 Limited availability of places/services for minors

This paragraph is relevant, not so much for Dublin returnees (as unaccompanied minor asylum seekers cannot be forced to return to Italy if they have not yet received a decision in first instance in Italy yet), as for unaccompanied minors who are recognised as refugees or who have subsidiary protection in Italy.

As the above table shows, the number of places that are available for unaccompanied minors has increased over the last year (whereas the number of places in total has decreased), bringing the number to 4,255 for the whole of Italy according to the *Servizio Centrale*. However, this is not enough to provide a place for all the UMAs arriving in Italy. This is confirmed

by a report jointly produced by UNHCR, UNICEF and IOM, in cooperation with Italian universities and NGOs, published in November 2019.[210] The report estimates the number of arrivals of unaccompanied minor asylum seekers between 2014 and 2018 at around 70'000.[211]

It is in itself a positive development that the newly adopted SIPROIMI guidelines of the Ministry of the Interior explicitly provide that unaccompanied minor asylum seekers are entitled to accommodation in the SIPROIMI until they come of age, or even beyond if the decision on their asylum application has not been taken (Article 38 (2) of the guidelines), and that other unaccompanied minors (not asylum seekers) may stay in a SIPROIMI project for another six months after coming of age. However, this also clearly means that the number of places for unaccompanied minors in the SIPROIMI is far too low, as the turnover – although constant, with unaccompanied minors coming of age – is much slower than the steadily growing number of unaccompanied minors in Italy.

The number of places for unaccompanied minors (with and without protection status) in SIPROIMI projects does not meet the need.

The report by UNHCR, mentioned above, also confirms that even though the SIPROIMI projects for unaccompanied minors aim at integrating the youngsters they supervise and mentor into Italian society by providing them with psychological care, education, and where possible internships and vocational training, some provide inadequate services, due to insufficient material and human resources, to address the needs of the youngsters they host. As a result, only those children who show more worrisome and apparent forms of psychological distress are entrusted to the care of specialized staff, whereas other less obvious forms of psychological distress are likely to remain undiscovered. The report also uncovered a lack of assessment of literacy and numeracy skills of the unaccompanied minors in the SIPROIMI projects, which leads to their integration process being slowed down.

Therefore, on turning 18, unaccompanied minors who were previously hosted in SIPROIMI projects face uncertainty. Most are left to fend for themselves. This includes regularizing their status, if they have not gone through the asylum procedure yet. The abolition of the humanitarian status with the Salvini Decree hits these youngsters (UMA and ex-UMA) hardest. During 2018, 5.8% of unaccompanied minors who applied for international protection were recognised as refugees, 2.6% received subsidiary protection and 61% humanitarian protection (compared with 20.9% of adults to whom the status was granted in the same year). Most of these people will therefore be unable to regularise their status under the Salvini Decree.

The process of being recognised as unaccompanied minor and being placed in a SIPROIMI does not run parallel to the asylum procedure as not all unaccompanied minors apply for asylum on arrival in Italy.[212] When unaccompanied minor asylum seekers leave the project after turning 18, they then become «regular » asylum seekers. UNHCR report above points out that asylum procedures for ex-UMAs are long and complex, and not always compliant with existing legislation, and that in some cases reception in facilities remains suspended». This

[210] UNHCR, UNICEF, IOM, At a crossroads Unaccompanied and separated children in their transition to adulthood in Italy, November 2019, available under www.europeanmigrationlaw.eu/documents/UN%20Report-Unaccompanied%20and%20separated%20Children%20in%20Italy.pdf, last visited on 3 January 2020.
[211] Idem, page 8.
[212] Idem, page 51.

can lead to serious violations of their rights and expose them to irreversible damages, according to the report.

5.4.7 «Special cases» in SIPROIMI

The Salvini Decree specified that as of October 2018, other categories of people would be eligible for accommodation in a SIPROIMI project. These include victims of human trafficking, domestic violence and labour exploitation, and people who are issued a residence permit for medical treatment, due to a natural calamity in the country of origin, or for acts of particular civic value. However, these are residence permits that can only be issued in exceptional cases, as the name already indicates.

Furthermore, there is only a limited availability of places for people who fall into these categories, and they can access the SIPROIMI only at a later stage in the asylum procedure. This usually happens at the interview with the *Commissione Territoriale*, where guidelines for the detection of special cases (such as victims of human trafficking) kick in and when these cases are first identified in the asylum procedure. Therefore, these people are not accommodated immediately following the lodging of their application for protection. In between submitting the application and the interview by the *Commissione Territoriale* – which may take place a few months or a year or more later[213] – these people will have to be accommodated in the first-tier accommodation centres. This is especially problematic for victims of human trafficking and domestic violence, as they are exposed to high risks in these structures.[214]

Victims of human trafficking and domestic violence are in most cases identified at the interview by the *Commissione Territoriale*, which then informs the prefecture, who makes an application to the SIPROIMI. Therefore, such potential beneficiaries of accommodation in the SIPROIMI system can only access the system after having spent a few months in regular accommodation centres.

With regard to the other «special cases»: the limited availability of places for people with specific mental or physical health needs means that holders of residence permits for medical treatment will not always be able to find a place in the SIPROIMI.

5.4.8 Access on being returned

A person who has been recognised as refugee or has been granted subsidiary protection can stay in a SIPROIMI project for six months.[215] If they leave before having completed their trajectory in the SIPROIMI project, they will, in principle, lose their right to accommodation in a SIPROIMI project.[216] If a person has already had access to a SIPROIMI (ex-SPRAR) project

[213] In Florence, the newspaper *Repubblica* reported in January 2019 that asylum seekers had to wait almost two years for their first interview, www.repubblica.it/solidarieta/immigrazione/2019/01/15/news/diritto_d_asilo-216613378/, last visited on 3 January 2020.

[214] See chapter 9 of this report.

[215] AIDA, Country Report: Italy, April 2019, page 146, where the report refers to a Circular Letter written in December 2018 by the Italian Ministry of the Interior.

[216] According to the manual, published by *Servizio Centrale*, the accommodation of people who have already benefited from accommodation in a SPRAR/SIPROIMI project must be authorized by the *Servizio Centrale*. The *Servizio Centrale* informed the OSAR delegation in September 2019 that, if a person has had access to

and is subsequently returned to Italy, this person will not have access to the SIPROIMI again. The only exception to this rule is if the person applies to the Ministry of the Interior producing new vulnerabilities.[217] (For more information about leaving the centre without notification or approval, see chapter 5.4.3).

5.4.9 Conclusion

The Italian system is based on the assumption that people with protection status can and must take care of themselves. Accordingly, there are only few accommodation places for them and these are generally temporary. Especially if someone has already exceeded the maximum length of stay at a centre (max. six months after receiving protection status), the chances of finding accommodation are very small. This puts people with protection status, including women, single mothers, families and the mentally ill and disabled at the risk of becoming homeless.

The living conditions for asylum seekers and refugees in squats, slums and on the street are abysmal. They live on the margins of society without any prospect of improving their situation. Their everyday life consists of covering their basic needs, such as searching for food and a place to sleep.

6 Social welfare

6.1 Italian system

The Italian asylum system grants asylum seekers support until a final decision is made about their application for international protection. Six months after they receive protection status, however, they are on their own and are expected to take care of themselves. According to Article 27 of the Italian Qualification Decree, beneficiaries of international protection are to be treated in the same way as Italian citizens in the area of healthcare and social security.[218]

In Italy, the main social policy instrument used to mitigate and reduce social exclusion is pensions; other instruments are not very effective and Italian national standards are not very high.[219] Italian family networks still constitute the most important though informal instrument of social welfare. While Italians can count on the help of their relatives should they need to, refugees naturally lack such a family network. As a result, they are actually worse off than

a project before, this person will not be given access to a project again on being returned to Italy, unless new vulnerabilities can be proved. For the SPRAR/SIPROIMI manual, see www.osservatoriomigranti.org/assets/files/manuale.pdf, page 89, last visited on 3 January 2020.

[217] Idem.

[218] Legislative Decree 251/2007, implementing Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, Article 27.

[219] Cotta e.a., Sustainable Governance Indicators 2019, page 15, available under www.sgi-network.org/docs/2019/country/SGI2019_Italy.pdf, last visited on 3 January 2020.

native Italians. The Commissioner of Human Rights of the Council of Europe emphasized this fact in an earlier report on Italy.[220]

The biggest change to Italy's social security system since OSAR's 2016 fact-finding mission has been the introduction of the Universal basic income (*Reddito di Cittadinanza*, see chapter 6.3) which does not actually change the situation for people with international protection status in Italy, as explained further below.

6.2 Financial contributions

According to the AIDA report on Italy from April 2019,[221] adult single asylum seekers accommodated in reception centres (CARA or CAS) receive approx. 2.50 € per day (7.50 € for families in CAS), either in the form of cash or material (such as cigarettes or bus tickets). People who do not live in a centre do not receive any financial contributions.

6.3 Universal basic income

Until January 2018, people who wanted to participate in the labour market were eligible for payment under the SIA (*Sostegno per l'Inclusione Attiva* – support for active inclusion) or the ASDI (*Assegno di disoccupazione* – unemployment benefit) if they were unable to find employment. These two measures, both of which were difficult for people with international protection status in Italy to access, were replaced by a so-called *Reddito di Inclusione* (inclusion income).[222] This inclusion income (of approx. 188 € for a single person) could be paid to Italian citizens or foreigners in need who had resided legally in Italy for at least two years, as well as fulfilling other conditions laid down in the relevant regulation.[223] The inclusion income was available from January 2018 to March 2019. In March 2019 it was replaced by the so-called universal basic income (in Italian: *Reddito di Cittadinanza*, in German known as: *Bürgergeld*).

The universal basic income was introduced in Italy by Legal Decree 4/2019 of 21 March 2019.[224] It replaced the so-called inclusion income, which could no longer be requested as of 1 March 2019. It is presented by the Italian State as a measure to promote labour market participation and to combat poverty, inequality and social exclusion.[225] Italian citizens, and some categories of EU citizens and third-country citizens, can apply for a supplement to their family incomes when they join a programme that aims to achieve occupational and social reintegration by signing either an Agreement for Work or an Agreement for Social Inclusion.

However, for protection status holders, this possibility seems merely theoretical, as the preconditions are difficult for them to fulfil. According to the official statistics of the Italian state

[220] Report by Nils Muižnieks, 18 September 2012, RZ 155, still valid as the situation in the Italian social system has not changed since.
[221] AIDA, Country Report: Italy, April 2019, page 86.
[222] Italian Ministry of Labour and Social Policies, www.lavoro.gov.it/temi-e-priorita/poverta-ed-esclusione-sociale/focus-on/Reddito-di-Inclusione-REI/Pagine/default.aspx, last visited on 3 January 2020.
[223] Legislative Decree 147/2017.
[224] Italian Parliament, https://temi.camera.it/leg18/provvedimento/d-l-4-2019-introdzione-del-reddito-di-cittadinanza-e-di-forme-di-pensionamento-anticipato-cd-quota-100.html, last visited on 31 October 2019.
[225] Italian Ministry of Labour and Social Policies' website dedicated to the Universal basic income: www.redditodicittadinanza.gov.it/schede/dettaglio, last visited on 3 January 2020.

ISTAT 1/3 of all foreigners in Italy (including protection status holders), equal to 1.6 million individuals, lives in a state of absolute poverty compared to 1/16 of Italians,

To be eligible for the Universal basic income, the person must be:

- an Italian or EU citizen; or
- a third-country national or stateless person in possession of an EU long-term residence permit; or
- a beneficiary of international protection.

In addition,

- the applicant must have been resident in Italy for at least ten years, the last two of which continuously. Furthermore,
- the applicant must be a member of a family with an income below a certain level (measured according to this person's ISEE, *Indicatore della Situazione Economica Equivalente*, or indicator for the economic situation), have no real-estate above a certain value in Italy or abroad, and not be in the possession of valuable movables.

The website of the Ministry of Labour and Social Policies on the Universal basic income specifies that, regarding the economic situation of the applicant, citizens of non-EU countries must produce the appropriate documents issued by the competent authority of their home country, translated into Italian and legalized by the Italian consular authority. This certification is not required if the applicant is a recognised refugee.

This means that:

- **Third country citizens, especially protection status holders, are discriminated against,** as most Italian citizens will automatically fulfil the residence requirement (at least ten years) whereas the same is not true for many protection status holders. The predecessor of the Universal basic income, the inclusion income, required a minimum residence period of two years. Therefore, third country citizens and especially **protection status holders are hit hardest by the amendment of this prerequisite**.[226]

- The condition of residence is impossible to fulfil for asylum seekers and status holders who end up on the streets – and are in dire need of social assistance – as homeless people can often not register their residence at the civil registry office.[227]

- **Beneficiaries of other kinds of (national) protection are excluded from the Universal Basic Income, even if they have been resident in Italy for at least 10 years.** The Universal Basic Income is practically only available to recognised refugees. Considering that in previous years the share of people with national protection was considerably higher than that of people with international protection[228], the universal basic income will not be available to many (if not most) people with protection status in Italy.

[226] *I grandi penalizzati dal Reddito di Cittadinanza sono in primo luogo gli stranieri,* https://secondowelfare.it/povert-e-inclusione/come-si--arrivati-al-reddito-di-cittadinanza.html, last visited on 3 January 2020.
[227] See chapter 8.2, and particularly 8.2.2, of this report.
[228] See chapter 3.1 on numbers and the table reporting protection rates.

- **Status holders who are not recognised as refugees (again, this used to be the largest share of status holders in the past) are unable to show that they fulfil the economic requirements as it is impossible for them to obtain proof that they do not own movable or immovable property in their country of origin.** The Ministry was under the obligation to draft a list of third countries whose citizens would be exempted from this obligation, as it was deemed «objectively impossible» to obtain such documents from these countries. However, such a list has not been published yet, and the authorities with the competence to decide on a person's eligibility for the Universal Basic Income (INPS, *Istituto Nazionale della Previdenza Sociale)* have officially[229] suspended the examination of all applications submitted by nationals from third countries that are unable to provide proof that they fulfil the economic requirements from their country of origin.[230]

- **Recent litigation shows that, despite it being very clear from the wording of the Decree and the website of the Ministry of Labour and Social Policies, the INPS even suspended the application of recognised refugees who were unable to show proof of fulfilment of the economic preconditions from their country of origin**.[231] This is a clear indication that the authorities responsible for the implementation of the legal framework of the Universal Basic Income apply this – willingly and knowingly – in such a way that discriminates protection status holders, and shows that the measure is used as an instrument of exclusion (of protection status holders and other legally resident foreigners) instead of inclusion.

- The administrative hoops a person has to jump through are already too numerous and too difficult even for most Italian citizens who would, theoretically, be eligible for the Universal Basic Income.[232] **For third country citizens who live at the margins of society, the highly technical application procedure poses an insuperable obstacle.**

To sum up, the conditions for being eligible for a Universal Basic Income place a disproportionate burden on people with protection status in Italy. In practice, it is impossible for them to receive a Universal Basic Income. The Universal Basic Income is therefore a discriminatory measure.[233]

6.4 Social and public housing

Although the common aim of social and public housing is to provide the population with affordable accommodation, ownership of the property that is let and the conditions for tenure

[229] Circolare INPS 100/2019 of 5 July 2019, www.inps.it/bussola/VisualizzaDoc.aspx?sVirtualURL=%2FCircolari%2FCircolare%20numero%20100%20del%2005-07-2019.htm, last visited on 3 January 2020.

[230] IDOS, Dossier Statistico Immigrazione 2019, Scheda di Sintesi, page 6, www.dossierimmigrazione.it/wp-content/uploads/2019/10/scheda-dossier_colori-2019-def.pdf, last visited on 3 January 2020; also Dal REI al Reddito di Cittadinanza, https://welforum.it/dal-rei-al-reddito-di-cittadinanza-questioni-di-metodo-e-di-merito/, last visited on 3 January 2020.

[231] ASGI, 3 October 2019, www.asgi.it/asilo-e-protezione-internazionale/linps-non-puo-bloccare-le-domande-di-reddito-di-cittadinanza-dei-titolari-di-protezione-internazionale/, last visited on 3 January 2020.

[232] Ma tanti poveri non chiedono il Rdc. Ecco perché, www.lavoce.info/archives/59724/reddito-di-cittadinanza-il-nodo-di-chi-non-presenta-la-domanda/, last visited on 3 January 2020.

[233] www.meltingpot.org/Reddito-di-cittadinanza-Nuove-norme-discriminatorie.html, last visited on 3 January 2020.

are different, although social and public housing also may overlap. Public housing is accommodation offered by the public sector (state-owned housing), whereas social housing, which may be state-owned or privately owned, is accommodation that is rented out at a price that is below the market price to people who would otherwise not be able to afford it.

According to the European Commission's 2019 report on Italy on the prevention and correction of macroeconomic imbalances, «[...] the public and social housing stock in Italy is among the lowest in the EU (only 4% of the housing stock is owned by the public sector). Dwellings are often in a precarious condition and declared unfit for habitation. Housing needs were exacerbated by the economic crisis [...]. The social housing system is characterized by limited investment and lack of coordination between government levels.»[234] It continues to say that: «Chronic homelessness is also on the rise».[235]

Social housing is a phenomenon that is still relatively young in Italy. It was not institutionalized until Ministerial Decree no. 112 of 25 June 2008.[236] Public housing (*Edilizia Residenziale Pubblica*, ERP) was established with Law no. 865 of October 1971, the so-called Housing Reform Law. However, its development and the building of subsidised public housing (*case popolari)* have been slow, as it had to be financed by the public budget, and has at times almost come to a halt. When the Ministerial Decree of 2008 came into force, public housing became one of the options for providing social housing (*Edilizia Residenziale Sociale*, ERS) in Italy.[237] In addition, private market players may offer social housing if they fulfil the building standards of the ERP and offer social housing at the same cost and the same conditions as those that apply to ERP. Due to the lack of incentives to become active on the social housing market, however, social housing offered through the private sector has not quite got off the ground in Italy.[238] Therefore, access to ERP is still the main avenue to gain access to social housing.

The conditions for access to public housing (ERP) vary per region in Italy. These conditions also affect the possibilities for protection status holders in Italy to be housed in ERP. Despite rulings of the Constitutional Court, in which the Court held that eligibility for public housing could not be made dependent on residence for a period of ten years in a municipality before the application for public housing in that municipality can be filed,[239] there are still regions that maintain excessively long residence criteria.[240] Even if the prerequisite length of residence has been fulfilled, the waiting lists for ERP are long, and it may take up to a few years for eligible people to be given a place to live.[241]

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234 European Commission, 2019 European Semester: Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU) No 1176/2011 {COM(2019) 150 final}, page 44.

235 Idem, page 46.

236 Decreto Legge 25 giugno 2008, no. 112; Disposizioni urgenti per lo sviluppo economico, la semplificazione, la competitivita', la stabilizzazione della finanza pubblica e la perequazione Tributaria.

237 Laura Fregolent, Povera Casa, page 25 and page 27.

238 Augustoni, Il caso italiano. Aree critiche, politiche e iniziative a livello nazionale e regionale, in Agustoni and Alietti, Migrazioni, politiche urbane e abitative: dalla dimensione europea alla dimensione locale, page 100.

239 www.cgil.lombardia.it/wp-content/uploads/2018/05/pronuncia_106_2018.pdf, last visited on 3 January 2020.

240 It is now mostly five years, see the regulations in Veneto for example, see Article 25 (2)(a) of the regional law available under www.consiglioveneto.it/crvportal/leggi/2017/17lr0039.html, and also Genova, https://smart.comune.genova.it/NODE/10657, both last visited on 3 January 2020.

241 www.ilponte.com/alloggi-popolari-rimini-ne-mancano-piu-mille/, last visited on 3 January 2020.

In Milan, beneficiaries of international protection formally have access to social housing (*case popolari*) after five years of residence in the territory[242], but the waiting lists are very long.[243] In Rome, the waiting time amounts to approximately seven years.[244]

Social and public housing is hard to access for refugees and other status holders. There is no housing solution for the time between their accommodation in the SIPROIMI (six months after their status has been confirmed) and access to public housing after five years of residence.

6.5 Conclusion

Like native Italians, beneficiaries of protection do not necessarily have a right to social welfare payments that could help to secure their livelihood. The social welfare system in Italy is based primarily on private support from the family. However, as beneficiaries of protection in Italy lack this support, they are actually worse off than Italian citizens. The waiting time for social housing can be several years, even for families, and beneficiaries of protection need to show that they have their residence in the municipality in which they apply for public housing in order to be eligible for it. This means that in practice, it is very difficult to get access to public housing for beneficiaries of international protection. From the time they have to leave the SIPROIMI project, generally six months (in exceptional cases up to eighteen months) after receiving protection status, they are left without accommodation.

7 Employment and integration

According to the European Commission's 2019 report on Italy on the prevention and correction of macroeconomic imbalances, «[...] the integration of migrants, especially refugees, remains challenging. Asylum applications decreased in 2018 but no significant progress has been made in implementing the first National Plan for the Integration of Beneficiaries of International Protection adopted in 2017».[245]

According to the Italian Ministry of Labour, the risk of poverty for immigrants in Italy is much higher than in other OECD countries, as 38.2% of immigrants live in poverty.[246] Especially considering the barriers in access to the social welfare system that asylum seekers and status holders experience in Italy, as analysed in the previous chapter, finding a job is of the utmost importance for asylum seekers and especially status holders, if they want to escape poverty in Italy.

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[242] Interview with Comune di Milano, 12 September 2019

[243] According to the general secretary of the tenants' union by CISL, in 2019, there were 25'000 requests waiting for an answer, www.cislmilano.it/dettagli_articolo/9208/Case-popolari-liste-di-attesa-infinite, last visited on 3 January 2020.

[244] Interview with Cooperativa Integra, Rome, 11 September 2019.

[245] {COM(2019) 150 final}, page 44.

[246] Ministry of Labour, Ninth Annual Report. Foreigners in the Italian labour market - Summary of the main findings and International perspective, 2019, page 41, available at www.lavoro.gov.it/documenti-e-norme/studi-e-statistiche/Documents/Nono%20Rapporto%20Annuale%20-%20Gli%20stranieri%20nel%20mercato%20del%20lavoro%20in%20Italia%202019/Sintesi-IX-Rapporto-ita-e-ing.pdf, last visited on 3 January 2020.

As of 2015, asylum seekers are permitted to work two months after lodging their asylum application until the final decision on their application has been made.[247] Asylum seekers whose application for international protection has been rejected lose the right to work in Italy. People who have been recognised as refugees or benefit from subsidiary protection continue to be entitled to access the labour market in Italy. In fact, they are expected to be able to look after themselves six months at the latest after receiving protection status, as they are only entitled to participate in a SIPROIMI project for six months. After this time, they are supposed to be integrated and able to participate in the Italian economy like any other Italian.

7.1 Regular employment

The unemployment rate in Italy is higher than it has been in the last 40-50 years. It was around 10% in 2019, with youth unemployment at a particularly high level (28% among young people between 15 and 29 years of age in July 2019).[248] This is the age group in which most of the asylum seekers coming to Italy also fall.

Due to the high unemployment rate, it is difficult for native Italians to find a job.[249] That is why the emigration of young people is also increasingly becoming an problem for Italy.[250] Finding a job in Italy is even more difficult for asylum seekers and people with protection status who have little knowledge of the language and inadequate vocational training or whose qualifications – if they have any – are not recognised.

Whereas this has long been the case, it has become especially problematic for asylum seekers accommodated in CAS since the Salvini Decree came into force, as language courses are no longer offered and the assistance of social workers or cultural mediators has been cut under the new *Capitolato*.

But the situation is also difficult for recognised refugees and beneficiaries of subsidiary protection who benefit from the support of a SIPROIMI centre. The regular trajectory in a SIPROIMI project is six months. In this time, the participant has to learn Italian from scratch (as there are no language courses in CAS and CARA), get vocational training and possibly also do a traineeship. It is not surprising, therefore, that only 39.5% of beneficiaries who left the SPRAR (now SIPROIMI) in 2018 did so after finding a job (*inserimento socio-economico*, see figure below). This number was slightly higher in 2018.[251]

Youth unemployment in Italy is the second highest in the Eurozone.[252]

60% of those leaving a SPRAR did not have a job when they left the SPRAR. The impact of socio-economic integration in the ex-SPRAR, now SIPROIMI, on beneficiaries of international protection is limited.

[247] Decree 42/2015, Article 22 (1).
[248] OECD publication, October 2019, available at /www.oecd.org/sdd/labour-stats/harmonised-unemployment-rates-oecd-10-2019.pdf, last visited on 3 January 2020.
[249] www.thelocal.it/20180302/voting-with-their-feet-young-italians-leaving-italy, last visited on 3 January 2020.
[250] www.ft.com/content/cb9bd2ee-c07d-11e7-9836-b25f8adaa111, last visited on 3 January 2020.
[251] www.sprar.it/wp-content/uploads/2018/11/Atlante-Sprar-2017_Light.pdf, page 63, last visited on 3 January 2020.
[252] www.ft.com/content/49ebe172-3c0e-11e9-b72b-2c7f526ca5d0, last visited on 3 January 2020.

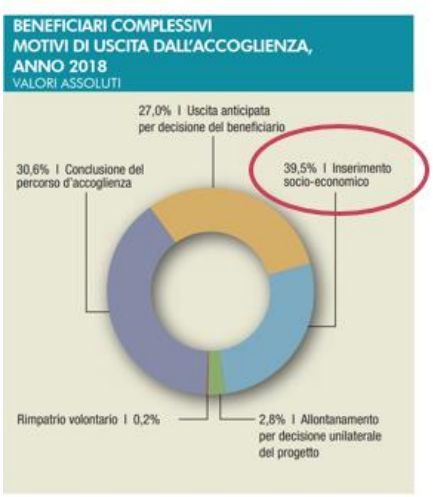

Illustration from the 2018 report (the most recent publication) on the activities of the SPRAR/SIPROIMI.[253]

According to the 2019 report of the Ministry of Labour, many of the recognised refugees in Italy are young, uneducated men, and unemployment among them has remained high over the last couple of years.[254] Those who have found employment have done so in low-skilled jobs.[255] These jobs are also often dangerous, and the number of **fatal injuries of non-EU foreign employees** is on the rise.[256]

Employment rates for people with international protection in Italy are low, and those who are employed are often employed in low-wage jobs and jobs on the black market, which may be dangerous.

7.2 Unreported employment and exploitation

Because of the lack of opportunities on the regular job market, many people look for work on the black market, where it is often easier to find jobs. Unreported employment is also widespread among other groups of people who are legally resident in Italy, especially in nursing, domestic work and agriculture.[257] According to official statistics published by ISTAT, more than 44% of all employees have irregular work in the nursing and domestic work sectors. In the agricultural sector the figure is 24%. In total, more than 13% of all employment in Italy is irregular. [258] People with irregular employment are at a high risk of exploitation as they are not hired legally and can therefore not fall back on dedicated protection mechanisms.

For migrants without protection status, irregular employment is regarded as the only way to survive. In addition, some holders of «new» protection status (such as the protection for health

[253] www.sprar.it/wp-content/uploads/2019/11/Atlante-Sprar-Siproimi-2018-leggero.pdf, page 56, last visited on 3 January 2020.
[254] Ministry of Labour, Ninth Annual Report. Foreigners in the Italian labour market, pp. 34-37.
[255] Idem, page 39.
[256] Idem, page 25.
[257] ISTAT, Occupazione regolare, irregolare e popolazione : Tassi di irregolarità, http://dati.istat.it/Index.aspx?DataSetCode=DCCN_OCCNSEC2010, last visited on 3 January 2020.
[258] ISTAT, Occupazione regolare, irregolare e popolazione : Tassi di irregolarità, http://dati.istat.it/Index.aspx?DataSetCode=DCCN_OCCNSEC2010, last visited on 3 January 2020.

reasons, in the case of natural calamities and for reasons of Article 3 EHCR), who are regular migrants in Italy, will nevertheless not have access to the labour market.[259] Moreover, beneficiaries of humanitarian protection are now also gradually losing their status, if they have not been able to convert their humanitarian residence permit into a work permit.[260] According to the ISPI, this could lead to an increase of 140,000 in the number of irregular migrants in Italy.[261] These individuals will no longer be able to find regular employment. The number of people «depending» on irregular employment will therefore increase, making the conditions for irregularly employed migrants even more precarious.

According to research published in June 2019,[262]

- People employed irregularly in the agricultural sector earn 20 to 30 € per day, and have to work between 8 to 12 hours per day to earn it. Female workers earn about 20% less than their male «colleagues», and
- People employed irregularly in the agricultural sector work fewer than 50 days per year, and their income is therefore unreliable.

This grim picture is confirmed by MEDU in its 2019 report on working conditions in an agricultural production area in Calabria, where the organisation had also been active in previous years. This area is representative for most rural areas in southern Italy, and MEDU's findings should be seen in this light. MEDU's medical and legal personnel noticed that the situation, which had already been terrible in the years before, has become worse since the Salvini Decree came into force: people are unable to access health services, there are cases where people have been burned alive in the makeshift tent camp near the agricultural site, there is evident – labour and sexual - exploitation that the authorities turn a blind eye to, degradation and despair.[263]

7.3 Housing and homelessness

The cost of rent for an apartment, particularly in large cities like Rome and Milan, is very high.[264] A temporary, low-wage job is not sufficient to pay for an apartment. Apart from the price, it is often difficult to find one to rent at all. Many landlords demand an employment contract as a guarantee (for information on social housing, see chapter 6.4). An additional problem is that landlords are increasingly afraid to be seen as «housing irregular migrants», something that is considered a criminal act under Italian law. Therefore, they also demand that their tenants have a valid residence permit. Considering the fact that applications for renewals of residence permits (or applications for the issuance of duplicates, after the loss of

[259] MEDU, Terra Ingiusta, V Rapporto sulle condizioni di vita e lavoro dei braccianti stranieri nella Piana di Gioia Tauro, May 2019, page 6, available at https://mediciperidirittiumani.org/medu/wp-content/uploads/2019/05/REPORT-CALABRIA_DEF-maggio-2019.pdf, last visited on 3 January 2020.
[260] ASGI, interview 10 September 2019.
[261] www.unhcr.it/risorse/carta-di-roma/fact-checking/2019-gennaio-cambiamenti-del-decreto-sicurezza-immigrazione, last visited on 3 January 2020.
[262] www.flai.it/osservatoriopr/osservatorio-placido-rizzotto/, last visited on 3 January 2020.
[263] MEDU, Terra Ingiusta, V Rapporto sulle condizioni di vita e lavoro dei braccianti stranieri nella Piana di Gioia Tauro, May 2019, page 6, available at https://mediciperidirittiumani.org/medu/wp-content/uploads/2019/05/REPORT-CALABRIA_DEF-maggio-2019.pdf, last visited on 3 January 2020.
[264] Average rents in Rome are around 14 € per square metre and 21 € in Milan. www.immobiliare.it/mercato-immobiliare/lombardia/milano/, last visited on 3 January 2020.

a valid residence permit) may take several months (see chapter 5.2), people with protection status may lose their tenancy contract while waiting for the new residence permit to be issued. Therefore, people with protection status in Italy are at a high risk of becoming homeless. The following paragraphs describe the accommodation services that are offered to homeless people in Italy (including Italian citizens, and foreigners with and without protection status).

7.3.1 Municipal and emergency accommodation in Rome

Preliminary note: Despite intensive efforts and repeated requests, the municipality of Rome (*Ufficio Immigrazione*) was not prepared to meet the delegation, neither was any answer received on repeated requests for written information. The social ooperative Programma Integra, the NGO that collaborates with the municipality of Rome in the management of its *Sportello Unico Immigrazione*, did agree to meet with the OSAR delegation.

The city of Rome still operates an information counter in Via Assisi, where it is possible to register for a place in municipal accommodation.[265] The website informs visitors that the counter for migrants will be open until 31 December 2019. It does not provide any information on what happens to this counter after that date. Furthermore, due to a lack of information on the kind of places offered by the city of Rome, it is impossible to judge whether its facilities go beyond the state-run accommodation system and municipal emergency accommodation offered to all homeless people. Church organisations and other NGOs also offer a few places in emergency accommodation in addition to the centres they manage on behalf of the municipalities.

The Municipality of Rome runs a telephone hotline for social support, *Sala Operativa Sociale - S.O.S.*[266], which has dealt with social emergencies since 2002. One of its aims is to provide homeless people with a place to sleep. On its homepage, it lists seven centres for adult homeless people,[267] and five for mothers with small children.[268] However, these places are only open at night, usually from late in the evening,[269] and must be vacated early in the morning. No reservation for these places can be made, they are distributed on a first come – first served basis. These emergency places are also available to homeless Italians; there are no places reserved specifically for asylum seekers or migrants. However, migrants that wish to make use of these services must be legally present in Italy.[270]

The *Sala Operative Sociale* (S.O.S.) is not always able to take the family unity into account. On monitoring a family that was transferred to Italy with a Dublin decision within the Dublin Returnee Monitoring Project,[271] OSAR contacted the S.O.S., trying to find accommodation for the family. S.O.S. offered accommodation in the structure for adult homeless people to the mother, and accommodation in a structure for minors to the child, separately from her mother. S.O.S. was not able to find accommodation for the father. This happened in October 2019.

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265 www.comune.roma.it/pcr/it/newsview.page?contentId=NEW477135, last visited on 3 January 2020.
266 www.comune.roma.it/pcr/it/newsview.page?contentId=NEW116819, last visited on 3 January 2020.
267 www.comune.roma.it/pcr/it/circ_acc_adulti_sfdf.page, last visited on 3 January 2020.
268 www.comune.roma.it/pcr/it/newsview.page?contentId=NEW1164487, last visited on 3 January 2020.
269 At around 10 or 11 pm, according to a volunteer from the Red Cross.
270 Interview with Programma Integra, 11 September 2019.
271 For more information on the DRMP, see www.fluechtlingshilfe.ch/herkunftslaender/dublin-staaten/italien-1/dublin-returnee-monitoring-project-drmp.html.

7.3.2 Municipal and emergency accommodation in Milan

Housing in the city of Milan is very expensive and access to social housing is difficult (see chapter 6.4). People residing in Milan can be provided with a *residenza sociale temporanea* under recommendation of a social worker. This type of accommodation is limited to 18 to 24 months, and the first six months are free of charge.[272]

Despite the existence of shelters and temporary accommodation, Milan has an large homeless population. 2,608 homeless people were reported in a census carried out in 2018.[273] Approximately 73% of them were foreigners, although data on their legal status is not available. A number of shelters for homeless people are provided at the municipal level, mostly managed by the third sector. New forms of accommodation for homeless people are provided called «housing first» and «housing led», with 20 places each.

Emergency shelters are accessible for Italian citizens and foreigners, regardless of their legal status. There are no places reserved specifically for asylum seekers or migrants. The capacity of the shelters is increased during winter as part of the «emergenza freddo» scheme (November to March). During this period, these shelters should be accessible to everyone, for the night. During the rest of the year, however, the capacity of the system of shelters is reduced and only the most fragile and vulnerable people are accommodated.[274] In cases concerning women with children, the service *Pronto Intervento Minori* can intervene to place the family unit in a mother-child community when this is feasible.[275]

The CASC (*Centro Aiuto Comune di Milano*), situated at the Central Railway Station, coordinates access to different types of accommodation at the municipal level, including those provided by NGO and charities. It also aims at facilitating users' access to different resources that exist in the territory. It is open every day (Monday to Sunday) and is accessible for anyone needing support and advice, including foreigners with and without legal status. One of our interviewees said that until recently, the CASC used to report homeless asylum seekers to the prefecture with the aim of getting them a place in one of the asylum centres in the territory (usually a CAS). However, at the time of our meeting (September 2019), several cases were reported in which the assignation of a place in the accommodation system by the prefecture was significantly delayed.[276] The CASC explained that for people who want to claim asylum for the first time, they arrange an appointment at the Questura with the aim of initiating the procedure and placing them in the reception system (in case of destitution). If the asylum seeker is not accommodated in a CAS – which can happen for various reasons, including a revocation of reception conditions – the CASC refers the case to the municipality which acts on a case-by-case basis and is sometimes able to provide a temporary solution.[277]

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[272] Interview with the Municipality of Milan, 12 September 2019.

[273] RacCONTAMI 2018: 3° Censimento dei Senza Dimora a Milano: Primi risultati, 9 April 2018, www.frdb.org/page/novita-progetti/categoria/progetti/scheda/raccontami-2018-milano/doc_pk/11314

[274] Email on 16 December 2019 from Miriam Pasqui, CASC, Comune di Milano.

[275] Email on 16 December 2019 from Miriam Pasqui, CASC, Comune di Milano.

[276] Interview with Caritas ambrosiana. Milan, 12 September 2019; NGO Naga reported several cases in which asylum seekers in search of accommodation were referred from one office to another; Naga, 2019, Senza (s)campo: Lo smantellamento del sistema di accoglienza per richiedenti asilo e rifugiati: un'indagine qualitative.

[277] Email on 16 December 2019 from Miriam Pasqui, CASC, Comune di Milano.

7.3.3 Homelessness

a.) On the street, in squats and slums

Based on the lack of capacity in the official reception system, or due to losing their right of access to the reception system, many asylum seekers and beneficiaries of protection are homeless and live on the streets, or in informal settlements, squats or shanty towns in various Italian cities, usually in inacceptable conditions.[278]

In 2018, Médecins sans Frontières (MSF) published their second «Out of Sight» report, in which they describe their work in approximately 50 of these informal settlements throughout Italy.[279] MSF noted that, compared to the picture outlined in the 2016 edition of the report, the forced evictions from informal settlements in 2018 and 2019, are causing the fragmentation of communities and the creation of small groups of people living in increasingly marginal places, where the police cannot find them to fine them for sleeping rough.[280] As a result, they are unable to access not only territorial social and health services, but also the most basic goods such as water, food, electricity.

According to a recent report from the NGO Naga, there are several squats and slums in Milan. As part of their observations of these informal settlements, they mention abandoned closed structures, construction areas and houses, parks and green areas. Asylum seekers and beneficiaries of international protection live here who have lost or exhausted their right of reception. Naga also reports a number of clearances and evictions of such informal settlements.[281]

As many of the informal settlements and squats were bulldozered under Matteo Salvini, and rules on accommodation in CAS and CARA as well as SIPROIMI are implemented strictly, many asylum seekers and status holders end up on the streets.[282] Homeless can be seen at various places at night. They often sleep in full view on street corners, at railway stations, on pavements, in parks or on temporarily abandoned construction sites. Volunteers from the NGO Sant'Egidio and MEDU visit the homeless once or several times a week. Sant'Egidio distributes meals and MEDU offers medical advice and treatment.

b.) Selam Palace in Rome

Palazzo Selam is the largest occupied building inhabited by beneficiaries of international protection status in Rome. Migrants started to occupy the ex-University building in 2006. Selam Palace is a self-contained system with an autonomous administration. All important decisions

[278] Médecins sans Frontières, Out of Sight, report from February 2018.
[279] www.medicisenzafrontiere.it/news-e-storie/pubblicazioni/fuori-campo-secondo-rapporto/, last visited on 3 January 2020.
[280] Examples of police actions evicting squatters or fining asylum seekers for sleeping rough, see AIDA Country Report Italy (April 2019), page 100 and 101.
[281] Naga, 2019, Senza (s)campo: Lo smantellamento del sistema di accoglienza per richiedenti asilo e rifugiati: un'indagine qualitativa, pp. 41-44 and 53-55.
[282] Deutsche Welle, 1 September 2019, Italy: Salvini is out, but migrants still endure his policies, www.dw.com/en/italy-salvini-is-out-but-migrants-still-endure-his-policies/a-50229057.

are made by a committee comprising equal numbers of representatives of the various countries of origin. Rooms are rented out at a monthly rate. The proceeds are used for electricity and water, for example.[283]

In 2019, Cittadini del Mondo (an NGO that offers advice and medical support to the inhabitants of Selam Palace) estimated that about 700 to 800 people lived there. The inhabitants are exclusively from Eritrea, Ethiopia, Somalia and Sudan. The majority are beneficiaries of subsidiary protection (32%), recognised refugees (56%) or humanitarian protection status; they are mostly men, but there are also families, women (26%) and children.[284]

Of the 800 inhabitants of the occupied building Selam Palace, 67% have been in Italy for more than five years. 76% of them are unemployed, 16% are employed regularly and the remaining 8% are employed on the black market.[285] This shows that the perspectives for integration and participation in the labour market do not improve over time for status holders in Italy.

7.4 Language courses and other integration programmes

Legal Decree no.18/2014 foresees the publication of a national integration plan every two years. The national integration plan for people entitled to international protection was published in October 2018 and includes language training, access to education and participation on the labour market as priorities. However according to the website of the European Commission, «at the end of 2019, the implementation of the Plan was limited to pilot actions carried out in three regions (Piedmont, Emilia Romagna and Calabria) with the collaboration of UNHCR, which co-drafted the Plan».[286]

Language courses are usually provided in SIPROIMI projects. However, they are no longer offered in CAS centres, which postpones the process of learning Italian and jeopardises asylum seekers' integration. In Rome, several NGOs, school libraries and adult education centres provide Italian courses, usually carried out by volunteers, which are of variable quality and intensity.[287] Learning Italian alone does not guarantee integration in the labour market as it is still very difficult to find a job. In Milan, the CELAV (*Centro di Mediazione al Lavoro*) provides support to status holders and asylum seekers searching for a job.

Integration programmes in the form of traineeships are accessible within the SIPROIMI system. According to social cooperative Programma Integra, there are also some projects in this area that are financed by the Ministry of Labour. Nevertheless, asylum seekers and status holders – especially vulnerable ones – suffer from the scarcity of integration programmes and encounter many obstacles to their integration.[288]

[283] Interview with people living in Selam Palace, 3 March 2016.
[284] Cittadini del Mondo, 2018 Report, page 6, www.associazionecittadinidelmondo.it/wp-content/uploads/2019/06/Report-Selam-Palace-2018-English-Version.pdf, published in June 2019.
[285] Cittadini del Mondo, 2018 Report, www.associazionecittadinidelmondo.it/wp-content/uploads/2019/06/Report-Selam-Palace-2018-English-Version.pdf, published in June 2019.
[286] Accessible under https://ec.europa.eu/migrant-integration/governance/italy, last visited on 3 January 2020.
[287] Interview with Cooperativa Integra, Rome, 11 November 2019.
[288] Interview with Cooperativa Integra, Rome, 11 November 2019.

7.5 Conclusion

In view of Italy's high unemployment rate, it seems nearly impossible for people in the asylum process, recognised refugees or people with subsidiary or national protection to find a job. At most they find work on the black market, where the risk of exploitation is very high. The few existing jobs are usually temporary. The wage is not generally sufficient to rent an apartment and build a future with long-term prospects in Italy. However, this is the premise on which the social system is based (see chapter 6). In addition, the necessary integration schemes are not in place. Many beneficiaries of protection therefore inevitably end up homeless and dependent on soup kitchens and emergency places to sleep run by charitable organizations. Constantly worrying about finding a bed for the night and the next meal makes it impossible for refugees to effectively integrate.

8 Access to healthcare

8.1 The legal framework

The interviews held with stakeholders in Italy show that that asylum seekers, beneficiaries of international protection and irregular migrants face a wide range of difficulties when it comes to accessing healthcare. These problems can arise while trying to obtain the *tessera sanitaria* or the STP card, getting an exemption from the obligation to contribute to the cost of healthcare, getting medical personnel to understand the patient's complaint or getting referred to a specialist doctor. In the following, we first set out the legal framework for access to healthcare for asylum seekers and protection status holders, and then analyse existing problems in accessing these rights.

The right to enjoy the highest attainable standard of physical and mental health is enshrined in Articles 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has been universally ratified by Council of Europe Member States. It is also enshrined in Article 24 of the United Nations Convention on the Rights of the Child, Article 25 of the Convention on the Rights of People with Disabilities and Article 12 of the Revised European Social Charter. The right to health is also closely connected with the right to benefit from scientific progress enshrined in Article 15(b) of the ICESCR.

According to Article 32 of the Italian constitution, access to healthcare is a fundamental right of the individual and in the interest of the community. This constitutional norm also applies to foreigners – whether they are staying in Italy regularly or irregularly.[289]

8.1.1 Regular migrants (including asylum seekers)

Article 32 (1) (b) of Legislative Decree 286/1998, specifies that foreigners with a regular presence in Italy, such as asylum seekers, recognised refugees, beneficiaries of subsidiary protection or people in the process of renewing their residence permit are obliged to enrol in the

[289] Legislative Decree 286/98, Article 32 and 33.

national health service[290] (*Servizio Sanitario Nazionale*, SSN) for this purpose. The same Article also provides that foreigners thus registered must be treated the same as Italian citizens with regard to contributions, the assistance provided in Italy by the national health service and its temporal validity. With regard to the registration procedure, paragraph 7 of the same Article specifies that foreigners must be registered with the local health authority (*Azienda Sanitaria Locale*, ASL) of the municipality in which they live.[291]

8.1.2 Irregular migrants

Article 33 (3) of the Legislative Decree 286/1998 provides that foreigners with an irregular presence in Italy have the right to access emergency and essential basic healthcare in case of illness or accidents, as well as preventive treatment with a view to safeguarding individual and public health. The Article continues by specifying that these health services shall be provided free of charge to irregular foreigners if they lack sufficient economic resources, except for a share of the costs, on an equal footing with Italian citizens, and that the costs will be borne either by the Ministry of the Interior or by the National Health Fund.[292]

According to Article 43(3) and (4) of Presidential Decree No. 394 of 31 August 1999,[293] foreigners with an irregular presence (called foreigners with a temporary presence, or *Stranieri Temporaneamente Presenti,* STP) may be issued a special STP card by a regional public health facility (ASL). The STP number on it identifies the person as being entitled to emergency and basic health services. In order to be issued an STP card, irregular migrants need to present themselves to an ASL with a declaration of economic hardship, a declaration that they are unable to register with SSN and identity papers. The STP card is valid for the whole of the Italian territory for a period of six months.

8.2 Problems registering with the SSN

In order to register with the national health service (SSN), asylum seekers or beneficiaries of international or national protection must go to the local ASL.[294] According to the information on the website of the Ministry of Health, the competent ASL is the ASL where the person has their residence as shown on the residence permit.[295] The documents they need to bring along are listed as being

- a valid residence permit or proof that prolongation / issuance for purposes of work has been requested;
- a certification of residence or, in the absence thereof, a declaration of actual residence, as stated on the residence permit;
- a tax identification number.

[290] Article as modified by the Salvini Decree of 4 October 2018.
[291] The Article uses the notion *dimora.*
[292] Legislative Decree 286/1998, Article 33 (4) and (6).
[293] Decreto del Presidente della Repubblica 31 agosto 1999, no. 394, Regolamento recante norme di attuazione del testo unico delledisposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero, a norma dell'articolo 1, comma 6, del decreto legislativo 25 luglio 1998, no. 286.
[294] www.salute.gov.it/portale/temi/p2_6.jsp?id=2521&area=Assistenza%20sanitaria&menu=vuoto, last visited on 3 January 2020.
[295] www.salute.gov.it/imgs/C_17_opuscoliPoster_118_allegato.pdf, last visited on 3 January 2020.

Before the Salvini Decree entered into force, these prerequisites were already problematic for people who were not in the possession of a residence permit. This affected mostly asylum seekers whose applications were not yet formally registered (*verbalizzazione*) at the Questura, or people transferred back to Italy with a Dublin decision who have to reopen their proceedings. These prerequisites also posed unsurmountable obstacles to beneficiaries of international protection who had become homeless and for that reason have difficulties prolonging their residence permit and/or showing proof of residence. Furthermore, the unknown administrative processes and language barriers also contributed to a large share of status holders not being registred with the SSN.[296]

8.2.1 Lack of certification of residence by the civil registry office

In addition, the Salvini Decree abolished the possibility of civil registration (*iscrizione anagrafica*) at the municipality for asylum seekers. The Decree amended Article 4 of Legislative Decree 142/2015, which in its amended version provides that a residence permit for asylum seekers shall no longer be considered a title for registration at the civil registry.[297] Not being registered in the civil registry of a municipality still regarded by some ASL as a barrier to registering the asylum seeker with the SSN.

As discrimination between regular migrants and Italian citizens is prohibited[298] and based on jurisprudence on the right to civil registration from the Cassation Court[299] as well as guidelines on civil registration developed by the Ministry of the Interior, UNHCR and ASGI,[300] the civil registry offices should only ask regular migrants for proof of their regularity (residence permit) and an effective address. However, it became clear in interviews with ASGI and MSF that this varies in practice in civil registry offices throughout Italy. In reaction to the Salvini Decree, the mayors of several cities confirmed that the civil registry in their municipality would still register asylum seekers. In many cases though, civil registry offices refuse to register asylum seekers in the civil registry to avoid conflicts with the law.

Since the Salvini Decree came into force, many asylum seekers are confronted with the fact that they can no longer obtain a certification of residence from the municipality, which means that they cannot register for a *tessera sanitaria* at the local health authority ASL. This leaves them with restricted access to healthcare, limited to emergency services.

[296] MSF, Fuori Campo, Insediamenti Informali: marginalità sociale, ostacoli all'accesso alle cure e ai beni essenziali per migranti e rifugiati, 2nd Report, 2018, pp. 20 and 30, available at https://www.medicisenzafrontiere.it/wp-content/uploads/2018/06/Fuoricampo2018.pdf; also MEDU, Terra Ingiusta, V Rapporto sulle condizioni di vita e lavoro dei braccianti stranieri nella Piana di Gioia Tauro, May 2019, page 7, available at https://mediciperidirittiumani.org/medu/wp-content/uploads/2019/05/REPORT-CALABRIA_DEF-maggio-2019.pdf, last visited on 3 January 2020.

[297] Legal Decree 113/2018, Article 13.

[298] Article 3 of the Italian Constitution.

[299] The Court of Cassation ruled in 2000 in Case no. 449 that civil registration is not a concessionary measure but a right of the citizen and an obligation of the civil registry office.

[300] Servizio centrale del Sistema di protezione per richiedenti asilo e rifugiati, Ministero dell'Interno, UNHCR, A.N.U.S.C.A., ASGI, Linee guida sul diritto alla residenza dei richiedenti e beneficiari di protezione internazionale, dicembre 2014, www.asgi.it/notizie/linee-guida-sul-diritto-alla-residenza-dei-richiedenti-e-beneficiari-di-protezione-internazionale/, last visited on 3 January 2020.

A small number of regional health authorities[301] have furthermore informed the local health authorities ASL in their jurisdiction that they should accept a so-called declaration of actual residence (one that is not officially registered at the civil registry), made by the asylum seeker on his own account, instead of the certification of residence issued by the civil registry office. This declaration allows asylum seekers to use the address on their residence permit as their residence for the purpose of registering with the SSN. However, even in these regions ASGI is aware of cases in which the local health authority ASL initially refused to register an asylum seeker with the SSN.

8.2.2 Lack of habitual residence or real address: Homeless migrants

An additional problem that accompanies possibility is the fact that a large number of asylum seekers, especially those that have been transferred back to Italy through the Dublin Regulation, are mostly no longer entitled to accommodation,[302] and are thus unable to show a real address as their habitual residence. The same holds true for protection status holders who are (no longer) able to afford proper accommodation after having to leave the SPRAR/SIPROIMI project and are thus homeless.

One solution to this problem was sought in the acceptance of a fictional residence (*residenza fittizia*) by the authorities. Some NGO – for example Centro Astalli or Caritas in Rome, or Naga Har in Milan – used to allow asylum seekers and status holders to use the address of the NGO as their residence. This is no longer always possible, as most authorities insist on the asylum seeker or status holder using an address at which they can be contacted and found at any time. The Questura of Rome is one of the authorities that claimed that for reasons of public security it is imperative that real addresses are used instead of the address of an NGO, as the NGO does always know where the registered person can be found. This stance has repeatedly lead to litigation,[303] yet it remains the usual practice for many authorities.

A «virtual» address on the *Via Fittizia* (Fictional Road) or on the *Via Modesta Valenti*[304] is accepted by some authorities instead of a real address. However, a recent research project called *Senza Tetto, non Senza Diritti* (Homeless but not without rights) carried out by the NGO *Avvocato di Strada*[305] showed that of the 302 municipalities they interviewed on this subject, only 168 of them allow the use of a fictional address as a residence. Of these 168 municipalities, 117 provided information on the procedure that needs to be followed in order

[301] These regions are Lazio, Piemonte and Le Marche; http://inmigration.caritas.it/node/638, last visited on 3 January 2020.

[302] See chapter 4 of this report.

[303] For example, a decision from 6 September 2019 from the Tribunal of Rome, in which the judge rules against the practice of the Questura of Rome to not renew the residence permit of a recognised refugee due to the fact that he did not have a real address, www.meltingpot.org/IMG/pdf/cautelare_trib_roma_residenzavirtuale07092019_1_.pdf, last visited on 3 January 2020, and also two cases that were pending when this report was drafted, which were represented by CIR, www.cir-onlus.org/2019/04/30/i-due-ricorsi-che-il-cir-e-a-buon-diritto-hanno-presentato-al-tribunale-di-roma-contro-lufficio-immigrazione-della-questura-2/, last visited on 3 January 2020.

[304] Modesta Valenti was a homeless citizen that died at Termini Station, Rome, on 31 January 1983. The use of her name to allow homeless persons to show a residence for bureaucratic purposes was instituted in her memory.

[305] www.volabo.it/iscrizione-anagrafica-delle-persone-senza-dimora-manca-procedura-condivisa/, last visited on 29 October 2019.

to register a fictitious address as an official residence. Therefore, in almost 66% of the municipalities it is problematic or impossible to register a fictitious address as official residence.

The same is reported by the NGO Borderline Sicily.[306] According to their research, fictitious residences are not accepted in the provinces of Caltanissetta, Enna, Trapani and Agrigento. In the provinces of Palermo, Siracusa, Catania, Ragusa and Messina, a fictitious residence is issued by the respective municipalities but always with the reference of a humanitarian association in the territory. In Palermo and Ragusa a fictitious residence is registered (in Via Cipro Lupo or Via di Gelsomina), but only through the intermediation of accredited charitable associations. However, in Palermo a fictitious residence is not accepted by the Questura for the issuance and renewal of residence permits. In Siracusa, a fictitious address cannot be used for the renewal of a residence permit.

For homeless regular migrants – whether they are asylum seekers who have lost their right to accommodation in the reception centres, or status holders who have been unable to secure a place to live – the fact that they cannot show an address leads them to being unable to obtain or prolong their residence permit. Without a valid residence permit, even regular migrants cannot register with the SSN, even though they would be entitled to, and have therefore no access to healthcare apart from emergency health services. These people, already vulnerable because they are homeless, are thus rendered more vulnerable, and pushed further to the margins of society.

8.2.3 Lack of a tax identification number

The final prerequisite for registration with the SSN is a tax identification number. In theory, when issuing a residence permit for an asylum seeker,[307] the Questura asks the Italian Revenue Agency to generate a tax identification number. This number will then be written on the residence permit by the Questura.[308] However, very frequently asylum seekers get a residence permit without a tax identification number.[309] If asylum seekers do not have a tax identification number, they cannot be registered with the SSN.

8.2.4 Regional differences: Limited SSN registration in Milan

On 25 October 2019, the Regional Health Service Authority (*Azienda di Tutela della Salute*, ATS) of Milan and the Region of Lombardy distributed a notification to general practitioners according to which, based on the Salvini Decree:

[306] www.borderlinesicilia.org/senza-dimora-e-senza-diritti/#, last visited on 3 January 2020.
[307] At the moment the C3 form is filled out and registered (*verbalizzazione*).
[308] Agenzia Entrate (Italian Revenue Agency), www.agenziaentrate.gov.it/portale/web/english/nse/individuals/tax-identification-number-for-foreign-citizens, last visited on 3 January 2020.
[309] MEDU, Le Residenze Invisibili - Indagine Sulle Emergenze Abitative a Firenze, March 2019, page 57, https://mediciperidirittiumani.org/medu/wp-content/uploads/2019/03/residenze-invisibili-Medu.pdf.

In Milan, applicants for international protection will be enrolled in the National Health Service SSN for a maximum of one year, without being assigned to a particular General Practitioner; they will not be issued a *tessera sanitaria* during the year they are registered in the SSN system.[310]

NAGA is following up, and is contemplating taking legal action against this decision.

This development clearly shows that, despite the legal framework regarding access to healthcare for legally resident foreigners, in practice asylum seekers face many difficulties in registering or remaining registered with the Italian national health system SSN.

8.3 Cost of healthcare

As mentioned above, according to Legal Decree 286/98, foreigners registered with the SSN should be treated the same as Italian citizens with regard to the obligation of contributing to the cost of healthcare, and irregular migrants with an STP card should also contribute to the cost of healthcare on an equal footing with Italian citizens. This contribution is called a «ticket» in Italian.

8.3.1 Exemptions for regular migrants

With regard to the obligation to contribute to the cost of the services provided within the framework of the SSN,[311] some categories of people have the possibility of applying for an exemption from this obligation. The categories that all regions in Italy have in common are:

- Code E01: Citizens under the age of 6 and over the age of 65 if the family has a total annual income not exceeding 36,151.98[312] €.
- **Code E02: Unemployed people and their dependent family members if the family has a total annual income of less than 8,263.31 € [...].**
- Code E03: Pensioners and their dependent family members.
- Code E04: Pensioners of at least 60 years of age [...].

Regular migrants may be eligible for exemption E02, according to Circular Letter No. 5 of 24 March 2000 of the Ministry of Health. This circular specifies that: «foreigners with a residence permit for asylum applications, who, not having been given the right of access to the labour market during the time the asylum application was pending, are exempted from the obligation

[310] https://naga.it/2019/10/26/accesso-alle-cure-regione-lombardia-piu-razzista-dei-decreti-sicurezza/, and https://rep.repubblica.it/pwa/locali/2019/10/25/news/effetto_salvini_via_il_medico_ai_richiedenti_asilo-239436766/, both last visited on 4 November 2019.

[311] Legislative Decree 537/1993, Article 8 (16), www.trovanorme.salute.gov.it/norme/dettaglioAtto?id=23848&articolo=8.

[312] The precise income a person may earn if they still wants to be eligible for an exemption is adjusted each year.

to contribute to the cost of health services by treating them analogously to people registered as unemployed on the employment list».[313]

As mentioned before, as of 2015, asylum seekers are granted access to the Italian labour market two months after they have lodged their asylum application.[314] According to some regional health services, this means that 60 days after lodging their asylum application, asylum seekers would be under the obligation to contribute to the cost of any health service given to them, on an equal footing with Italian citizens.

According to the website of the Ministry of Health,[315] the exemption may cover all instrumental and laboratory diagnostics and other specialist outpatient services provided by the SSN that are necessary and appropriate to the health condition, but *not* pharmaceuticals. In most cases, patients are charged a cost of two or three euros per packet by pharmacies.[316]

The exemption with regard to contributing towards the costs of pharmaceuticals is decided by the local health authority (ASL) of the person's place of residence, according to applicable (national and local) regulations.[317]

The website of the Ministry of Health further provides that «the term 'unemployed' refers exclusively to a citizen who, for any reason whatsoever (dismissal, resignation, termination of a fixed-term contract), has ceased to work as an employed person and is registered with the Centre for Employment pending further employment. A person who has never worked, or a person who has ceased self-employment, or who is in a layoff fund, whether ordinary or extraordinary, cannot be considered unemployed».[318]

A person who is unemployed, according to the above definition, and who wants to have an exception from the obligation to contribute towards the cost of healthcare has to declare this to the local health authority (ASL) of his or her residence, and has to provide the ASL with proof that the conditions for the exemption are fulfilled. An example of the form that is used by a local health authority for the purpose of an E02 exemption can be found in Annex I of this report.

[313] According to an official letter from the Agenzia Sanitaria Regionale della Liguria, dated 20 May 2015, which can be found here www.galliera.it/files/pdf_vari/richiedenti-asilo, last visited on 3 January 2020.

[314] According to Legislative Decree 142/2015, Article 22, comma 1.

[315] Italian Ministry of Health, www.salute.gov.it/portale/esenzioni/dettaglioContenutiEsenzioni.jsp?id=1019&area=esenzioni&menu=vuoto#targetText=Disoccupati%20e%20loro%20familiari%20a,(CODICE%20E03)%3A, last visited on 3 January 2020.

[316] See, for example, the website of one of the ASL in the Region Piemonte, http://portale.asl.at.it/Apps/portaleasl.nsf/visite_esami_ticket_esenzionifarmaci.htm?OpenPage&Click=, last visited on 3 January 2020.

[317] See, for example, the website of one of the ASL in the Region of the Veneto, www.aulss6.veneto.it/index.cfm?method=mys.page&content_id=462, last visited on 3 January 2020.

[318] Italian Ministry of Health, www.salute.gov.it/portale/esenzioni/dettaglioFaqEsenzioni.jsp?lingua=italiano&id=206, last visited on 3 January 2020.

Even when an asylum seeker or a person with protection status is registered with the SSN, they will still need to contribute to the costs of the health service received and/or the medications, prescribed by the SSN doctor (by paying a so-called ticket). Even though SSN registration ensures that health services are rendered at reduced cost, the obligation to pay even a small amount of money will deter many asylum seekers and people with protection status in Italy from using SSN health services, as most of them already live in precarious financial situations.

8.3.2 Exemptions for irregular migrants

Depending on the kind of service rendered to irregular migrants with an STP card, the Ministry of the Interior or the local health authority will reimburse the costs of the service to the institution providing the service.[319] The cost of health services that do not fall within the scope of emergency and essential healthcare services have to be borne fully by the STP holder. The STP card does not make the holder eligible for an E02 exemption from the obligation of contributing to the cost of rendered health services that fall outside the scope of emergency and essential healthcare services.

Regional health authorities draw up lists with pharmaceuticals included in the category of medicines that should be made available free of charge to STP holders.

Irregular migrants with an STP card will only be entitled to health services and pharmaceuticals that fall within the scope of emergency and essential healthcare services. STP holders must pay the cost of any other health service they need in full themselves.

8.3.3 Problems with the cost of healthcare

In the first two months after lodging an asylum application, asylum seekers – who are not given access to the labour market – are exempted from the obligation to contribute to the cost of health services in analogy to unemployed Italian citizens.[320] How exemptions are applied after the initial two months varies greatly throughout Italy.

Some ASLs have interpreted the information provided on the website of the Ministry of Health[321] to mean that, since a person who has never worked (*inoccupato*) cannot be considered unemployed (*disoccupato*), an asylum seeker or a status holder who has never worked in Italy cannot be considered unemployed, and is therefore not eligible for an exemption. Asylum seekers and status holders registered at these ASLs will therefore have to pay for part of the cost of the health services rendered to them.

Therefore, the Ministry of the Interior has asked the Ministry of Health for a clarification of the position of asylum seekers in relation to the cost of healthcare. The letter written by the Ministry[322] points out that the formulation of the circular letter of the Ministry of Health, read in

[319] Presidential Decree 394/1999, Article 43 (4).
[320] Circular Letter No. 5 of 24 March 2000 of the Ministry of Health.
[321] www.salute.gov.it/portale/esenzioni/dettaglioFaqEsenzioni.jsp?lingua=italiano&id=206.
[322] www.simmweb.it/archivio-sito/fileadmin/documenti/Simm_x_news/2016/2016.Risposta_ministero_interno.pdf, last visited on 3 January 2020.

conjunction with the revised law shortening the period of time during which asylum seekers are not allowed to work to 60 days after the date they lodged their application, leads to the conclusion that asylum seekers would only be exempted from the cost of healthcare during the first two months of the procedure. The Ministry also admits in its letter that this would lead to asylum seekers being unable to access healthcare. The clarification requested explicitly from the Ministry of Health by the Ministry of the Interior had not been received at the time this report was published.

A number of regional court decisions have been made on cases brought by a person recognised as refugee in Rome and by an asylum seeker in Milan.[323] In the case in Milan, the asylum seeker asked for renewal of his E02 exemption after his residence permit for asylum seekers was renewed (six months after he had made his application). He requested the renewal of the exemption on 10 January 2017. On 3 May 2017, the ASL decided that he was no longer exempted from the obligation to contribute, as he was «inoccupato» (economically inactive), and not «disoccupato» (unemployed). The asylum seeker appealed against this decision to the Tribunal of Milan and lost on 13 December 2017. It was only in the second instance at the Court of Appeal, labour section, that the case was won. On 15 October 2018, almost two years after the asylum seeker had made the request for a renewal of his exemption, the court made a final decision that there should be no distinction between *inoccupati* and *disoccupati* for the purpose of access to social assistance.

The case in Rome was similar, only in this case the complainant was a recognised refugee. The Tribunal of Rome made a similar decision to the Milanese Court of Appeal.[324] A year later, however, the same tribunal had to rule on *exactly* the same issue again.[325]

The above shows that even at the level of the central administration (the Ministry of the Interior) and among the judiciary, there is a need for a confirmation of the right of asylum seekers and recognised refugees who have never participated in the Italian labour market to be exempted from the obligation to contribute to the cost of health services rendered to them in the Italian health system SSN. The ambiguous practice with regard to the exemption from the obligation to contribute to the cost of healthcare therefore continues.

In Tuscany, for example, asylum seekers are exempted from paying the «ticket» during **the first 12 months** following the date of their application, as long as they are officially registered as unemployed at the local employment office or as long as they work but earn wages that are below the maximum wages for exemption valid also for Italian citizens. The code which is

[323] Corte d'Appello di Milan, sentenza no. 1626/2018 del 22 ottobre 2018, pres. Picciau, xxx c. ATS Milan, ASST Fatebenefratelli, ASST Rhodense, available here www.asgi.it/wp-content/uploads/2018/10/Corte-dAppello-di-Milan-sentenza-22-ottobre-2018-pres.-Picciau-xxx-avv.ti-Guariso-e-Neri-c.-ATS-Milan-ASST-Fatbenefratelli-ASST-Rhodense.pdf, last visited on 3 January 2020.

[324] Tribunale di Roma, sentenza no. 33627/16 R.Gen del 17 febbraio 2017, est. Pagliarini, XXX c. ASL Roma 1, available here www.quotidianosanita.it/allegati/allegato6073156.pdf, last visited on 3 January 2020.

[325] Tribunale di Roma, sentenza no. 40785/R.A.C.C. del 13 giugno 2018, XXX c. ASL Roma 1, available here www.asgi.it/wp-content/uploads/2018/06/Tribunale-di-Roma-13.06.2018-est.-Pangia-XXX-avv.to-Fachile-c.-Azienda-Sanitaria-Locale-di-Roma-avv.ti-Di-Gregorio-e-Molfo.pdf, last visited on 3 January 2020.

used for this exemption (for asylum seekers) is E93 «foreigners who have applied for asylum»).[326]

In Rome (ASL Roma 2), the exemption for asylum seekers is E06. According to updated information on their website, this exemption is only valid for the **first six months** following the date of the application, and is not renewable.[327] This is quite the opposite of the Tribunal of Rome's decisions above.

The information on the website of the regional health service authority of the region of Le Marche repeats the information provided by the Ministry of Health by providing only for four categories of exemptions (E01-04), with the specification that exemption E02 is applicable to *disoccupati*.[328] *Disoccupati* are defined on the website as people who have stopped working and are actively looking for new employment; the definition continues in bold: «People who have never worked cannot be considered as unemployed».[329] Therefore, in the region of Le Marche, asylum seekers may not be able to benefit from the exemption E02. This is confirmed by stakeholders who work in the reception system in Le Marche.[330]

In those Italian regions in which the general exemptions listed by the Ministry of Health apply, asylum seekers have to show that they are unemployed, despite being allowed to work, in order to obtain the exemption E02. The exemption is valid for as long as the person is officially unemployed. A foreigner who is allowed to work in Italy but who is not employed and is actively looking for a job must register as unemployed at the local employment centre (*Centro per l'Impiego*) using the same procedures as Italian citizens. This leads to various problems.

First of all, job seekers need to declare that they are immediately available to work – using a so-called DID (*dichiarazione di immediata disponibilità al lavoro*) – to the local employment centre. As of December 2017, this declaration must be made online, after which the job seeker needs to go personally to the local employment centre. The online procedure is daunting to many Italian citizens, let alone to asylum seekers who are new to the language and have no longer access to language courses at the reception centres. The administrative procedures in Italy are highly formal and difficult to understand for outsiders.

Secondly, for the online declaration and to registration at the local employment centre, a person needs to be able to show their official residence. The same problems concerning the registration of a residence as explained above[331] also apply here.[332]

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326 Regione Toscana, Direzione Diritti di cittadinanza e coesione sociale, (2017). «Esenzione dalla compartecipazione alla spesa sanitaria in favore dei cittadini stranieri richiedenti asilo politico», nota regionale del 31 May 2017.

327 «E 06: Cittadino di Stato non appartenenti all'U.E., richiedente protezione internazionale, limitatamente ad un periodo di 6 mesi dalla data di rilascio del permesso di soggiorno o cedolino o modulo C3 o attestato nominativo rilasciato dalla Questura», www.ASLroma2.it/index.php/home-7-distretto/uoc-cure-primarie, last visited on 3 January 2020.

328 www.asur.marche.it/web/portal/esenzione-del-ticket?inheritRedirect=true, last visited on 3 January 2020.

329 www.asur.marche.it/documents/20182/421586/Disoccupato.pdf/458ebbef-5f14-47ca-a051-278a29d12ffb, last visited on 3 January 2020.

330 www.cronachefermane.it/2018/10/20/per-i-migranti-lesenzione-dal-ticket-e-un-diritto-lo-sprar-contesta-le-scelte-di-regione-e-asur/223131/, last visited on 3 January 2020.

331 See chapters 8.2.1 and 8.2.2.

332 www.asgi.it/asilo-e-protezione-internazionale/liscrizione-anagrafica-e-laccesso-ai-servizi-territoriali-dei-richiedenti-asilo-ai-tempi-del-salvinismo/, last visited on 3 January 2020.

The above clearly shows that in practice, it may not be possible for an asylum seeker or a protection status holder to obtain an exemption from the obligation to pay part of the cost of health services rendered within the framework of the SSN in various regions of Italy. If asylum seekers or status holders do not have such an exemption, they are under the obligation to pay the «ticket». Even the smallest amount of money that they need to pay presents an enormous obstacle to the execution of their right of equal access to adequate medical care, in line with Article 6 of the Refugee Convention, Article 17(3) of the EU Reception Directive and Article 3 of ECHR.

8.4 Further obstacles to accessing healthcare.

Interviews with various organisations that provide medical health services to asylum seekers reported further obstacles to gaining access to healthcare.

- **Language barrier**: One problem that also existed previously but has been exacerbated by the Salvini Decree is the language (and/or cultural) barrier. Since the *Capitolato* that now governs first-tier reception centres reduced the cultural and linguistic mediation services for asylum seekers to (virtually) none at all, asylum seekers have to go to the general practitioner they are registered with by the local ASL without the support of a cultural mediator or translator. This makes it very difficult for general practitioners to make a proper diagnosis.

- **Long waiting lists**: Other organisations reported problems with regard to access to healthcare include long waiting lists for a referral to a specialist doctor or a medical intervention. According to 2019 data, the waiting time is 15 months for a cataract operation, 13 months for a mammography, 12 months for an MRI, 10 months for a CAT scan, and 9 months for a Doppler ultrasound examination.[333] The treatment of any health problem that is not labelled as a priority can take longer than a year.[334] Patients who are dependent on the health services provided within the SSN just have to wait; those who can afford it therefore use their resources to access private healthcare.[335]

- **Only medical reports by SSN** are taken into account: Furthermore, as SSN structures tend to only accept medical reports drafted by medical personnel employed by SSN, medical reports provided by doctors employed by national health services of another European country tend to be ignored.[336] Especially in the case of Dublin Returnees with

[333] According to data published by Sanita Informa, www.sanitainformazione.it/salute/liste-di-attesa-cittadinanzattiva-piano-nazionale/, last visited on 3 January 2020.

[334] For example, for some treatments provided by public health structures in the Valle d'Aosta, patients had to wait longer than a year, www.ausl.vda.it/elementi/www2016/areaospedaliera/tda_interventi_2_quadrimestre_2019.pdf, last visited on 3 January 2020.

[335] As also described in an open letter to the Minister of Health, written by a medical doctor who also works as professor at the University of Milan, www.ilfattoquotidiano.it/2019/06/17/sanita-abbattere-le-liste-dattesa-e-possibile-lettera-aperta-alla-ministra-giulia-grillo/5259770/, last visited on 3 January 2020.

[336] Experience from OSAR's Dublin Returnee Monitoring Project (DRMP) has shown that a suicidal patient diagnosed with severe depressions by a university clinic in Switzerland needed to have her condition diagnosed by an Italian doctor before she could get treatment in Italy. As the waiting list for a referral to a specialized doctor was too long, she had to finance a private psychiatrist to have her condition diagnosed in Italy so that she could access the necessary medication.

health problems, this adds to the time an asylum seeker has to wait to commence suitable treatment.

Finally, some kinds of healthcare services are hard to find within the Italian national health service. One example is mental healthcare, as is explained in more detail below.

8.5 Mental healthcare

The Italian mental healthcare system was completely reformed in 1978.[337] The new law laid down that patients with mental disorders should be treated the same way as patients with other health problems. As a result, psychiatric hospitals were closed down and mental health conditions are to be treated in psychiatric wards located in general hospitals. The wards cannot exceed 15 beds. Furthermore, treatment is provided on a voluntary basis, with compulsory admissions only possible if an emergency intervention is needed, the patient refuses treatment and alternative (open) treatment is not possible. Such compulsory admissions need to be authorized by the mayor, and can only be undertaken in the psychiatric wards of a general hospital. Since investments in public healthcare have stalled under the new law, this has had a bad effect on the availability of mental healthcare in the public healthcare system.

According to recent data collected by the OECD and the World Health Organisation (WHO), Italy lags far behind other G7 countries reviewed by the OECD, with regard to human resources and available places in mental healthcare, as can be seen below, and has the lowest proportion of government expenditure on mental health.[338]

	Canada	France	Germany	Italy
Staff[a]				
Psychiatrists working in mental health sector (per 100,000)	12.61	22.35	15.23	7.83
Nurses working in mental health sector (per 100 000)	65.0	86.21	56.06	19.28
Social workers working in mental health sector (per 100 000)	NA	3.83	NA	1.93
Psychologists working in mental health sector (per 100 000)	46.56	47.9	NA	2.58
Inpatient facilities[b]				
Beds for mental health in general hospitals (per 100 000)	NA	22.72	41.08	10.95
Beds in community residential facilities (per 100 000)	NA	NA	NA	46.41
Beds in mental hospitals (per 100 000)	31.38	71.81	47.62	0
Outpatient facilities[b]				
Mental health outpatient facilities (per 100,000)	NA	5.75	30.32	1.43
Day treatment facilities (per 100,000)	NA	3.50	0.61	1.34

Consequently, patients experience problems accessing mental healthcare in Italy. This is true for Italian citizens as well as for asylum seekers and protection status holders. However, access is made even more difficult for asylum seekers and protection status holders for reasons that have been stated in this report regarding access to physical healthcare. This is especially problematic considering that most asylum seekers and protection status holders

[337] With Law No. 180/1978 (Legge 13 maggio 1978, no. 180, Accertamenti e trattamenti sanitari volontari e obbligatori).

[338] Barbui, C., Papola, D. & Saraceno, B. Forty years without mental hospitals in Italy. Int J Ment Health Syst 12, 43 (2018).

are traumatised by what they have experienced in their home country, during their often perilous journey to Europe and the reception conditions they live in while waiting for their asylum application to be processed.[339]

MSF noted that 89% of travellers reported having had traumatic experiences prior to and during their journey to Italy, ranging from witnessing violence and death to sexual assault. Once at their destination, the Migration Policy Institute found that many migrants experience loneliness, boredom, fear of deportation, and worries about the future, as well as mental health conditions as asylum processing drags on.[340]

The need for mental healthcare among asylum seekers, status holders and those without status in Italy is high, yet the access to adequate services is very difficult.

During an interview with MEDU, one of the doctors who works on a bus which functions as a mobile medical clinic for migrants without SSN or STP registration in Rome confirmed that although the number of people who access their services has remained stable in the past couple of years, the profile of these people has changed. Their services were previously predominantly accessed by people in transit – asylum seekers who had landed in Italy but were hoping to reach another European country. These would be cases that needed only basic care before they moved on. At present, most of the people that are dependent on MEDU services are long-term homeless protection status holders who have been in Italy for a number of years or Dublin Returnees who fell through the cracks of the reception system when they were sent back to Italy. Also, these patients' needs have changed from simple medical problems to severe physical and mental health problems.

According to MEDU, many of those on the streets with mental health problems have spent time in the psychiatric ward of a general hospital, as they were considered to be a danger to themselves and to the general public. They are picked up from the streets by the police and brought to the psychiatric ward for a compulsory stay, which can be up to 14 days. Compulsory stays in the psychiatric ward cannot be extended beyond 14 days, so afterwards they have to be released. Placement in a rehabilitation centre (where out-patients are normally referred to after a compulsory stay in the psychiatric ward) involves extremely high costs that are borne by the state (Caritas Farsi Prossimo mentioned 250'000 € per year) and places are rare. So, the only possibility is, theoretically, to accommodate these people, once they have been released from the psychiatric ward, in SIPROIMI centres which have places for people with mental health problems.[341] However, the number of SIPROIMI projects that offer services to people with mental health problems is also limited,[342] and more importantly, these SIPROIMI centres are not geared to treating people with severe mental health problems. Therefore these

[339] Migration Policy Institute, Life After Trauma: The Mental-Health Needs of Asylum Seekers in Europe, 30 January 2018, available at https://www.migrationpolicy.org/article/life-after-trauma-mental-health-needs-asylum-seekers-europe, last visited on 3 January 2020.

[340] https://pulitzercentre.org/reporting/italian-communities-combatting-hidden-struggles, last visited on 3 January 2020.

[341] The accommodation of foreigners with mental health problems is a (new) service now offered by SIPROIMI. The numbers of posts for which these services are provided is however extremely low.

[342] According to official numbers of the SIPROIMI central service, 47 out of 844 projects offer places for people with mental health problems, providing for a total of 625 places for the whole of Italy. See table on SIPROIMI places annexed to this report.

centres sometimes deny accommodation to ex-psychiatric ward patients.[343] Thus, asylum seekers, protection status holders and other migrants that have spent time on the psychiatric ward of a hospital are often released without providing them with further in- or out-patient trajectories. They end up on the streets, depending on the non-state-run healthcare services provided by organisations such as MEDU, with limited capacities.

Asylum seekers, status holders and irregular migrants with serious mental health problems often end up on the street after having spent time at the psychiatric ward, as their cases are too serious for the regular reception system.

Whereas the problems in accessing mental health services for asylum seekers, protection status holders and those without status in Italy were already known in past years,[344] recent developments have made the situation more difficult still. Along with the introduction of the Salvini Decree and the new *Capitolato*, the budget for physical and mental healthcare in the CAS has been further reduced. Asylum seekers placed in the reception centres functioning under the new *Capitolato* only have access to a social worker for 15 minutes on average per month (the bigger the centre the fewer minutes a social worker can spend per asylum seeker). Medical doctors can also only spend 15 minutes per asylum seeker per month.

Under the new *Capitolato*, the CAS no longer have to employ psychiatrists or psychologists.

Reducing the time the personnel at the reception centre can spend on each individual asylum seeker has led to a visible decrease in the number of referrals from reception centres to mental healthcare institutions and to the Rehabilitation Centre for Torture Survivors.

Therefore, asylum seekers are only very rarely diagnosed with mental health problems and thus identified as having special needs by the structures in the centre.[345] This is true for patients with mild mental health problems, but also for asylum seekers who have been victims of torture, human trafficking or other severely traumatic experiences and whose wellbeing cannot be guaranteed without immediately initiating the appropriate mental health treatment. Their only hope is that, once they are interviewed by the Territorial Commission (which, despite decreasing numbers of newly arrived asylum seekers in Italy, still takes a few months at the very least), they will be identified and referred to an NGO that provides professional mental health care, and that this NGO will have the capacity to take them on. However, until their interview at the Territorial Commission, they will still be housed in the regular reception centres, where there is virtually no mental healthcare available to them.

One of MSF's activities in Rome was running a Rehabilitation Centre for Torture Survivors, in collaboration with *Medici Contro la Tortura* (Doctors against Torture) and ASGI.[346] Unfortunately, MSF only participated in this program until 2019, as the centre's resources have been reduced. It is not known to the OSAR delegation whether and how the centre will continue to be able to offer services to torture survivors. During the time MSF was involved in running the rehabilitation centre, patients were often referred to the centre by social workers, mental

[343] Interview Servizio Centrale Rome, 9 September 2019.
[344] See OSAR 2016 report on reception conditions in Italy.
[345] WHO, Report on the health of refugees and migrants in the WHO European Region, page 54.
[346] www.msf.org/international-activity-report-2018/italy, last visited on 3 January 2020.

health personnel and/or doctors employed by the first-line reception centres. After the Salvini Decree and the new *Capitolato* came into force, the number of cases referred to them through personnel employed in the reception centres decreased.

Some NGOs provide programs to fill the gap left by the state for the support of people with psychological or psychiatric needs. It needs to be highlighted that these alternative programs cannot meet the ever-growing demand for their services. The following are some examples in Rome and Milan:

In Milan, volunteer psychologists, doctors, cultural mediators, art therapists and other experts work at the Naga-Har centre run by the organisation **Naga**.[347] The **Terrenuove** cooperative also offers psychological counselling and ethno-psychiatry for migrants. In recent years, this service has been used above all by refugees and asylum seekers.[348]

SaMiFo (*Salute Migranti Forzati*) is a joint project in Rome run by the national health service and Centro Astalli. SaMiFo functions as regional reference service, and supports the reception centres in the region which have difficulties finding effective assistance in the official healthcare structures in their territory, especially for the most complex cases. It offers general and specialist medical care for asylum seekers and beneficiaries of protection as well as psychiatric treatment in an out-patient facility in Rome. To gain access to treatment, a person must already be registered with the public healthcare system SSN.[349] In 2018, SaMiFo provided health services to 2'292 people, including 241 in psychiatric and 105 in psychological care.[350] In the second half of 2018, SaMiFo registered growing difficulties ensuring that asylum seekers are adequately taken care of due to the Salvini Decree, which increased legal insecurity, and continues to pose many bureaucratic obstacles to the renewal of residence permits, resulting in restrictions of social rights, including the right to health care.[351]

The demand for mental healthcare services outside the ambit of regular healthcare services, such as those provided by SaMiFo, MSF, Caritas, Naga, MEDU and other organisations, is greater than these organisations can fulfil. Despite these services, many asylum seekers, status holders and irregular migrants still fall through the cracks of the mental healthcare system. Additionally it needs to be pointed out that programmes like the examples given are mainly located in big cities like Rome and Milan, more remote locations lack such provisions.

8.6 Sexual and reproductive healthcare

Several studies and international organisations have highlighted that migrants from sub-Saharan Africa are at a high risk of sexual victimisation and that many women are forced to pay for their migration through prostitution or are subject to brutal sexual exploitation and torture along the journey.[352] Women in refugee settings therefore need better reproductive health services and psychosocial services. It is the responsibility of states to provide safe abortions

[347] www.naga.it/index.php/centro-har.html, last visited on 3 January 2020.
[348] www.terrenuoveonlus.it/immigrati-e-rifugiati/, last visited on 3 January 2020.
[349] Centro Astalli / SaMiFo, information by email, 7 August 2016.
[350] Centro Astalli, SaMiFo statistics, https://centroastalli.it/servizi/progetto-samifo/statistiche/, last visited on 3 January 2020.
[351] https://centroastalli.it/servizi/progetto-samifo/, last visited on 3 January 2020.
[352] Piscitelli, Iadicicco, e.a. Italy's battle to identify dead migrants, Lancet Glob Health. 2016; 4: page 512.

to women who wish to have one because they became pregnant as the result of rape or other forms of sexual violence. Victims of sexual violence should furthermore be given adequate ethno-psychiatric care for post-traumatic stress disorder. This care will improve women's health, improve human rights and save lives.[353]

Sexual and reproductive health and rights are at the intersection of healthcare and the legal and moral system of a country. Nevertheless, they are also intrinsic elements of the human rights framework, and effective state action to guarantee sexual and reproductive health and rights is imperative.[354]

Fulfilling women's rights to sexual and reproductive health further requires states to provide universal access for all women, including marginalised groups of women, to the full range of sexual and reproductive healthcare that they need. This includes, but is not limited to, maternal healthcare, safe abortion care, modern contraceptive products and services, youth-friendly sexual and reproductive healthcare, and services related to the prevention, diagnosis and treatment of infertility, reproductive cancers, sexually transmitted infections and HIV/Aids.[355]

Maternal healthcare in Italy is considered basic healthcare and is provided to migrants who are registered with the SSN or as STP. Abortion care is a completely different story. Even though abortion – within certain legal boundaries – is legal in Italy, many women are unable to find a medical practitioner or hospital willing to provide the legal abortion services to which they are entitled. Others face such serious delays in accessing services that they fall outside the legal time limits for legal abortion services. Reports indicate that approximately 70% (in some regions even 90%!)[356] of medical professionals refuse to provide abortion care.

MSF and MEDU reported that for migrants – whether regular or irregular – it is even more difficult to find a practitioner willing to assist with legal abortion, as these practitioners are scared that they will receive threats from the ethnical community of the woman asking for an abortion. Therefore, many of the female asylum seekers or status holders in Italy who were victim of sexual violence or have otherwise become pregnant against their will have almost no possibility to terminate their pregnancy.

In Italy, furthermore, emergency contraceptives can only be accessed at local family planning offices. As the regions have discretion with regard to setting the criteria for the programming, operation, management and control of family planning services,[357] access to modern contraceptives in Italy varies per region. This means that some areas – Emilia Romagna, Piemonte, Lombardia and Puglia – have advanced contraception counselling and family planning services, while other regions have no programmes[358], so that access to (emergency) contracep-

[353] Goldenberg, Trafficking, migration, and health: complexities and future directions, Lancet Glob Health. 2015; 3: page 118 ff.
[354] Council of Europe, Women's sexual and reproductive health and rights in Europe, December 2017.
[355] Idem, page 49.
[356] European Parliament, Sexual and reproductive health rights and the implication of conscientious objection, October 2018, pp. 11 and 12.
[357] Article 2 of Law no. 405/1975 (Legge 29 luglio 1975 no. 405, Istituzione dei consultori familiari).
[358] www.ilfattoquotidiano.it/2018/08/11/contraccezione-in-italia-e-ancora-un-lusso-gratis-solo-in-4-regioni-nonostante-la-legge-lo-stato-rinuncia-a-risparmi/4537590/, last visited on 3 January 2020.

tives in these regions is problematic. Birth control pills can be prescribed by general practitioners, and pharmacies are able to hand them out free of charge if the person who received the prescription from the doctor is registered with the SSN, and is exempted from paying the contribution. Other contraceptives have to be paid for by the person using them.

Sexual and reproductive healthcare for regular and irregular female migrants in Italy is problematic, and is not in line with relevant provisions of international and European law.

8.7 Relationship between housing situation and health

A person's housing situation has a major impact on their health and the success of medical treatment. Health, social and legal problems are interrelated. It is therefore important to clarify the housing situation first. People requiring treatment must be given a place in a house or accommodation centre; otherwise, it is impossible to guarantee meaningful and targeted treatment.[359] This confirms the statement made by Centro Astalli during the last fact-finding visit by OSAR: Life on the street is detrimental to a person's health. It is impossible to provide suitable treatment for mental illness under these circumstances. The example was given of a traumatised person suffering from a sleep disorder: If they have to sleep on the streets, the doctor cannot prescribe strong sleeping pills that would otherwise impair their reflexes, because they must be capable of reacting in situations of danger. In other words, treatment must be adapted to the person's living situation. In such cases, it is often only possible to relieve the symptoms, but proper, healing treatment cannot be guaranteed.[360] People who spend their whole day hunting down the next meal and the next place to sleep have no time to address their mental health.

There is a risk of so-called *post-migratory living difficulties*. This means that people become re-traumatised after their treatment is completed. Re-traumatisation can have many different causes. As ending treatment also coincides with having to leave accommodation, the risk is even higher.[361]

8.8 Conclusion

Whereas asylum seekers, people with protection status and irregular migrants have access to emergency treatment in Italy, access to other healthcare services is made difficult by administrative hurdles, language problems and insufficient information. Asylum seekers and protection status holders may not be able to register with the Italian national health system SSN, and even if they are registered, they may still have to pay a contribution to the health services and medications prescribed by SSN personnel.

There are not enough adequate reception facilities for people with health problems, and too few adequate treatment options and available accommodation for the mentally ill in particular. These people run a high risk of falling through the cracks of the reception system, and end up living on the street or spending the night in emergency accommodation. Suitable treatment

[359] Interview with MEDU, 10 September 2019.
[360] Interview with MEDU, 10 September 2019.
[361] Interview with MSF Fuori Campo, 11 September 2019.

and healing is impossible under these circumstances. Asylum seekers and status holders with (mental) health problems therefore live an extremely precarious life in Italy.

9 Situation for vulnerable people

9.1 The European framework

The recast Asylum Procedure Directive and the recast Reception Conditions Directive[362] do not provide an exhaustive definition of who should be considered a vulnerable asylum seeker. Yet, they do acknowledge that vulnerable asylum-seekers[363] are in need of special procedural guarantees and have special reception needs. In practice, this means that Member States should ensure that vulnerable people are always provided with adequate support in order "to allow them to effectively access procedures and to present the elements needed to substantiate their application for international protection"[364]. Also, they should be accommodated (as quickly as possible) in facilities that adequately take into account their vulnerability, and receive proper medical assistance. For this purpose, Article 24(1) of the recast Asylum Procedures Directive requires Member States to assess within a reasonable period after the application is made whether the applicant is in need of special procedural guarantees.

9.2 The Italian framework

Legislative Decree 25/2008[365] lists some groups of asylum seekers, who are considered vulnerable. These include minors (both accompanied and unaccompanied), victims of torture, victims of trafficking, victims of female genital mutilation (FGM) and people with (mental or physical) health problems. Yet, the Italian law does not include any specific provision for the identification of vulnerable people, nor for the assessment of their special needs. Officers at the Questura who are in charge of the registration of applications for international protection are rarely expected to detect vulnerabilities.[366]

In the absence of formal identification mechanisms, the role of civil society organisations is central to the recognition of vulnerabilities. Yet, the lack of legislative provisions to coordinate

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362 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, and Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

363 Even though it is worth remembering that according to ECtHR, *M.S.S. v. Belgium and Greece*, asylum seekers in general are members of a «particularly underprivileged and vulnerable population group in need of special protection»; ECtHR, judgment of 21 January 2011, *M.S.S. v. Belgium and Greece*, Application No. 30696/09.

364 Directive 2013/22, §29.

365 Legislative Decree 25/2008 «Implementation of Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status», Article h-bis) «persone vulnerabili»: minori; minori non accompagnati; disabili, anziani, donne in stato di gravidanza, genitori singoli con figli minori, vittime della tratta di esseri umani, persone affette da gravi malattie o da disturbi mentali; persone per le quali è accertato che hanno subito torture, stupri o altre forme gravi di violenza psicologica, fisica o sessuale, vittime di mutilazioni genitali»

366 AIDA, The concept of vulnerability in European asylum procedures, 2017, page 24, www.asylumineurope.org/sites/default/files/shadow-reports/aida_vulnerability_in_asylum_procedures.pdf.

and prioritise the operators' activities may still result in vulnerable asylum seekers not being recognised and supported.[367] In addition, the restriction of the role of NGOs in the accommodation of asylum seekers following the new *Capitolato* (see chapter 4.5.2) reduces the chances of NGOs identifying vulnerabilities.

9.3 The Italian framework on the accommodation of vulnerable asylum seekers

Legislative Decree 142/2015[368] clearly states that the specific situation of vulnerable asylum seekers must be taken into account when arranging their accommodation. The same Decree provides for access to adequate medical and psychological treatment.

The current legal framework concerning the reception and accommodation of asylum seekers is explained in detail in chapter 4.5. This chapter gives an overview of specific problems with regard to the accommodation of specific categories of vulnerable asylum seekers and beneficiaries of protection, with particular reference to victims of human trafficking (VHT).

9.4 The specific case of victims of human trafficking

According to the Palermo Protocol[369], and the Convention against Trafficking in Human Beings[370], the recruitment, transportation, transfer, harbouring or receipt of a human being for the purpose of their exploitation amounts to trafficking. The following chapters specifically focus on women who are victims of trafficking for purposes of sexual exploitation, because of its present relevance in the Italian setting.[371]

9.4.1 Legal framework

Pursuant to Article 18 of the Consolidated Immigration Act No. 286/98 there are two paths for victims of human trafficking to acquire a legal status.

In the first path (social path), the social services, the specialized NGO or the victim herself plead a situation of exploitation and abuse. The victim then agrees to enter a recovery and rehabilitation programme, which requires her to cut any ties with her trafficking/exploitation network. On the other hand, the victim does not necessarily have to lodge a complaint against her abusers. The NGO that takes charge of the victim's case then submits an application to the local Questura for an 'Article 18' permit to be granted. These permits are generally for six months, renewable, and can be converted into a normal working permit.

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367 Further information can be found for instance in the Aida Report, The concept of vulnerability in European asylum procedures, 2017 (see footnote above) as well as in the AIDA Country Report: Italy, last updated in April 2019.

368 Legislative Decree 142/2015.

369 United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000.

370 Council of Europe Convention on Action Against Trafficking in Human Beings, 16 May 2005.

371 GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, 25 January 2019, pages 21-26, esp. §100 and §101.

The second path is very similar, but in this case, the victim's legal position is intertwined with the criminal proceedings. According to the so-called 'judicial' version of Article 18, the public prosecutor applies for a permit for the VHT if she agrees to testify against her trafficking network. Again, the victim must enter a rehabilitation programme to distance herself from her exploitation ring; the permit is generally valid for a period of six months, and is renewable depending on the length of the criminal proceedings; it is convertible into a normal working permit.

The provision of Article 18 of the Consolidated Immigration Act was hailed at the time as an important step towards better protection of VHTs – especially because it was one of the first European provisions on the topic that actually allowed the victim to have a permit without her necessarily having to take part in the criminal proceedings. Yet, the actual implementation of those provisions is far from satisfactory. The GRETA report highlights that the number of 'Article 18 permits' that have been issued over the past years is much lower than the number of possible victims reported.[372] This is most probably due to the significant difficulties faced by authorities when identifying possible VHTs, which we will discuss in detail below. Local NGOs also stress that the interpretation of Article 18 provided by some prosecutors is extremely strict, and nullifies in practice the reach and effects of the so-called 'social path'[373]. Furthermore, a VHT waiting for an 'Article 18 permit' is not issued with any provisional permit during the wait, which means that she may remain without status (and therefore vulnerable) until she is recognised as a VHT.

9.4.2 VHTs in the asylum procedure: identification

According to the European Convention against Trafficking, each party shall "provide its competent authorities with people who are trained and qualified in identifying and helping victims of trafficking"[374]. Early identification of possible VHTs in the asylum procedure is crucial to grant them the best possible conditions to properly present their asylum claim, and to protect them from further exploitation or from the risk of re-trafficking. As a general screening for vulnerabilities is not part of the Italian asylum procedure, as described before, Italy falls short of its obligations under the Convention.

Recognizing this deficiency, a steering committee (*Cabina di regia*) was set up in 2016, which is intended to serve as "a national inter-institutional forum for planning, implementation and financing of measures to combat human trafficking under the National Action Plan". Four working groups set up within the steering committee have the task of implementing different aspects of the National Action Plan «dealing respectively with prevention, protection, co-operation and co-ordination between the protection system for asylum seekers and the protection system for trafficking victims». Many of the members of the steering committee have changed following the general elections of 2018, and its activities seem to have significantly slowed down[375]. In the meantime, the National Action Plan has expired and, while talks are being held to set up a new one, nothing has been established yet. This is a cause of concern,

[372] GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, 25 January 2019, §199.
[373] Interview with Be Free, 10 September 2019.
[374] Article 10 of the European Convention against Trafficking in Human Beings.
[375] GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, 25 January 2019, §32.

as the lack of national supervision on the challenges related to the identification and protection of VHTs (whether in the asylum procedure or not) prevents the authorities from effectively tackling the phenomenon.[376]

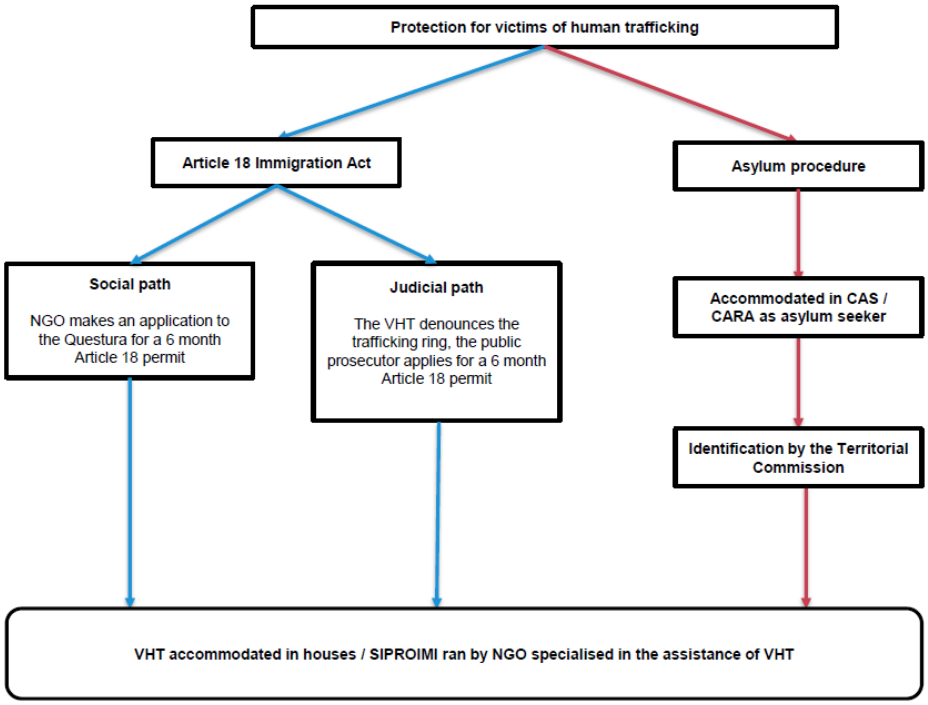
Anti-trafficking NGOs exist in most Italian regions.[377] Until now, these NGOs received most of the referrals to their programs from their own personnel engaged in prevention and monitoring missions in the field (for example, interception of women prostituting themselves on the street). Sometimes, the victims come forward themselves. Very few referrals, on the contrary, come from the local police forces. In turn, this implies that VHTs are unlikely to have access to appropriate accommodation at the beginning of the asylum procedure, with important consequences on for their personal safety and integrity.[378] On the contrary, the NGOs reported that in some cases police forces take possible VHTs they have intercepted on the streets directly to the CPR (*Centri di Permanenza per il Rimpatrio*, or «expulsion centres»).[379] Asylum applications, if lodged in a CPR, are fast-tracked.[380] This clearly makes it even more difficult to provide the necessary support to these VHTs.

The guidelines for the identification of victims of trafficking among applicants for international protection and referral procedures were published in 2017.[381] Prepared by the Ministry of the Interior with the support of UNHCR, these guidelines are specifically conceived for the Territorial Commissions in charge of examining applications for international protection. They provide officers with checklists and detailed SOPs (Standard Operating Procedures) aimed at streamlining the identification and protection of possible VHTs. In addition, they foresee that, if the Territorial Commission believes that the applicant may be a possible VHT, the asylum procedure can be stalled for up to four months: during this period, the possible VHT is referred to a specialized local NGO. After conducting interviews with the presumed victim, the specialized organization issues a report to the Territorial Commission, which details the NGO's assessment of the VHT's claim and of its relevance for the international protection claim. The two protection procedures can continue in parallel, i.e. a person who is identified and assisted as a victim of VHT can obtain international protection.

The NGOs and employees at the Territorial Commissions reported that the publication of the guidelines and the training provided to staff have had a positive impact on the collaboration between the Territorial Commissions and the local NGOs, and that the number of referrals coming from the Territorial Commissions has increased. While this is certainly good news, there are some critical points that need to be stressed. First, as the training received by the local Territorial Commissions varies, so does the knowledge and application of the guidelines, with discrepancies all over the national territory.[382] Second, while the number of referrals coming from the Territorial Commissions has increased, the funding and resources available

[376] Interview with Be Free, 10 September 2019.
[377] GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, 25 January 2019, §33.
[378] For more information on the accommodation of VHT, see chapter 9.4.3.
[379] Interview with Differenza Donna, Prendere il volo, 9 September 2019.
[380] Legislative Decree 25/2008, Article 28(2).
[381] Ministero dell'Interno e UNHCR, L'identificazione delle vittime di tratta tra i richiedenti protezione internazionale e procedure di referral – Linee guida per le Commissioni territoriali per il riconoscimento della protezione internazionale, agosto 2017, www.unhcr.it/wp-content/uploads/2018/02/Linee-Guida-identificazione-vittime-di-tratta.pdf.
[382] Interview with Be Free, 10 September 2019.

to the local NGOs that support possible victims have not. This in turn means that sometimes these NGOs do not have the capacity to properly assist all the VHTs referred to them.[383] Last but not least, the fact that most VHTs are identified at the stage of the asylum procedure in which the applicant comes in front of the Territorial Commission means, against the overall context of the Italian asylum procedure, that the possible victim has spent a significant amount of time[384] without being identified, and thus without having access to the adequate reception conditions.



9.4.3 VHTs in the asylum procedure: accommodation

Given the fact that asylum seekers can no longer access the SIPROIMI system, VHTs are accommodated in first-line accommodation centres (CAS, CARA) until the moment they are identified.

The conditions in the CAS and CARA – especially those that operate under the new *Capitolato*[385] – have a negative effect on VHTs. The interviewed NGOs observe that VHTs frequently leave the first-line centres at night to prostitute themselves and only return in the morning, with no one questioning them.[386] Worse even, trafficking and re-trafficking take place

[383] GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, 25 January 2019, page 66, §284.
[384] Depending on the backlog of pending applications, and the amount of new applications made, the time a person has to wait for an interview at the Territorial Commission was estimated by the interview partners to be between 6 to 18 months.
[385] See chapter 4 of this report.
[386] Interview with Differenza Donna, Prendere il volo, 9 September 2019.

inside the centres, where young girls and women are recruited, with no control nor supervision. Cases of sexual abuse, and even rape inside the centres have also been reported. The level of assistance and support that can be provided to victims of trafficking within these collective centres is by no means adequate.[387]

9.4.4 VHTs in the asylum procedure: the special case of Dublin transfers

As discussed in chapter 4 of this report, if a VHT asylum seeker leaves a reception centre (CAS/CARA) without prior notification for more than 72 hours[388], she loses her right to accommodation. This also means that she will no longer have access to accommodation in one of the centres if she is returned to Italy under the Dublin Regulation. While it is true that the person can appeal against the administrative decision excluding them from accommodation (*revoca*) to the local Administrative Tribunal, such procedures are expensive and highly technical, therefore not at all accessible to someone who is penniless, does not know the language and has no supporting network. This in practice means that the person is left to her own devices.

Airport NGO do not have knowledge of the particular vulnerability of VHT, and in practice they are not aware that the person arriving with a Dublin decision is a VHT. Thus, potential VHT who are returned to Italy are extremely unlikely to receive any kind of guidance and support, and to be therefore properly placed into care.[389]

9.4.5 Conclusion

Victims of human trafficking who are in the asylum procedure in Italy are usually only identified as such when they are interviewed by the *Commissione Territoriale*. From the moment they apply for asylum to the moment they get identified by the *Commissione Territoriale* – and subsequently referred to the appropriate NGO – they do not receive any support, nor are they accommodated in a suitable reception centre. All asylum seekers, including VHTs, are accommodated in first-line reception centres, which do not offer any special care to vulnerable asylum seekers. Until their identification and referral, VHTs are easy targets for trafficking rings, and for further (sexual) abuse and other forms of exploitation in the reception centres and outside. This goes for VHTs awaiting the outcome of their asylum application in Italy as well as to those that are transferred to Italy as the result of a Dublin procedure, and VHTs who have received protection status (but not necessarily as a VHT).

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[387] GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, 25 January 2019, §171: «Reception centres (CARA, CAS) which do not meet their specific needs of victims of trafficking and create risks of trafficking. There is a lack of dedicated places for asylum seekers who are presumed victims or victims of THB in reception centres. GRETA is concerned by media reports about organised crime organisations having penetrated the running of reception centres. The situation with regard to the accommodation and assistance of victims of THB has led some countries, such as Finland, to stop returning victims of THB to Italy».

[388] See Chapter 4.5.3 of this report.

[389] None of the NGOs interviewed in September 2019 received any referral from either the NGO at Roma Fiumicino, or the one operating at Milan Malpensa.

It is well-documented that asylum seekers that are victims of human trafficking do not receive the care and support they are entitled to in Italy. This should be taken into account by authorities when deciding on the legality of the transfer of VHTs who are asylum seekers under the Dublin III Regulation and the readmission of VHTs who have been granted protection in Italy.

9.5 Couples and families

In its *Tarakhel*[390] ruling, the ECtHR determined that, considering the conditions in the regular Italian asylum reception centres, transferring an Afghan asylum seeking family of eight to Italy under the Dublin Regulation would violate the prohibition of inhuman and degrading treatment according to Article 3 of the ECHR, unless Switzerland obtained an individual assurance beforehand from the Italian authorities that adequate, child-friendly accommodation would be available, access to education would be guaranteed and the family unity would be preserved.

In its landmark decision of 12 March 2015,[391] the Swiss Federal Administrative Court (TAF) ruled that such *Tarakhel*-guarantees are a substantive legal condition for transfers under international law that must be verifiable at appeal level and not simply act as a mere transfer modality. The Swiss court[392] did not consider a general list with places in SPRAR centres (sent to all Dublin units by the Italian Ministry of the Interior in June 2015 and in February 2016) to be sufficiently specific. Explicit guarantees that the whole family would be placed in one of three SPRAR projects mentioned in the reply from the Italian Dublin unit were accepted by the TAF as being in line with the *Tarakhel* ruling.

Such guarantees can no longer be given by the Italian Dublin unit, as the Salvini Decree means that asylum seeking families are no longer eligible for accommodation in SIPROIMI centres. As long as they are in the asylum procedure, asylum seeking families can only be accommodated in collective reception centres (CAS and CARA). The Italian Dublin Unit sent out a circular letter to all other Dublin Units on 8 January 2019, informing them that all asylum seekers transferred to Italy under the Dublin Regulation (except unaccompanied minors), will be accommodated in regular reception centres, which «are adequate to host all possible beneficiaries, so as to guarantee the protection of their fundamental rights, particularly the family unity and the protection of minors».[393]

Our analysis in chapter 4 of this report, in particular the section showing the impact of the Salvini Decree and the *Capitolato* on the quality and quantity of the necessary services in CAS, clearly show that CAS do not offer a child-friendly environment, and that the accommodation of families in the CAS is not in line with Article 3 ECHR as interpreted by the ECtHR in its *Tarakhel* ruling.

Asylum seekers, including families, no longer have access to the second-line reception system (ex-SPRAR/SIPROIMI).

390 ECtHR, judgment of 4 November 2014, *Tarakhel v. Switzerland*, No. 29217/12.
391 TAF, judgement 2015/4, Recital 4.3.
392 TAF, judgment from 27 July 2015, D-4394/2015, Recital 7.2 f.
393 Italian Dublin Unit, circular letter, 8 January 2019.

The Italian Dublin Unit of the Ministry of the Interior guarantees that families can find a place inside the CAS and the CARAs, and that these structures have child-friendly environments.[394] CIR, on the other hand, finds that it is increasingly difficult to ensure that families with children are guaranteed an appropriate environment inside the new CAS/CARA reception system.[395] OSAR is aware of cases in which families get separated as the partners are not registered as being married. It requires a huge effort and can take months to reunite the families in shared accommodation. Therefore, the email from the Italian Dublin Unit to the Dublin Units of other Dublin Member States sent on 8 January 2019 in which it guarantees that all asylum seekers returned to Italy with a Dublin decision will be accommodated in accordance with the law, should be read in the light of the aforementioned.

9.6 Children

9.6.1 Access to education for children

Children in the asylum procedure and with protection status have a right to schooling, just like Italian children. Usually, children go to school in the place they live (*residenza*). The guidelines[396] issued by the Ministry of Education explicitly say that all children should be enrolled in the current school year, even if they do not have a legal status. Despite these provisions, their practical implementation is not always straightforward. This is mostly due to the fact that there is no coordination at the national level, so in practice, parents end up applying to several schools until they find one that agrees to enrol their child. This leads to some schools becoming inundated with immigrant pupils, while others have almost none.[397]

9.6.2 Unaccompanied minors[398]

ASGI reported in April 2019 that «Although the Italian law states that up to the appointment of the guardian requests for international protection by unaccompanied minors are made by the manager of the reception facility, in some police stations unaccompanied minors were not allowed to submit the application for asylum until the guardian has been appointed, which often happens with months of delay».[399] ASGI further reports that «even though the number of unaccompanied children arriving in Italy decreased in 2018, and even though SIPROIMI is no longer available to adult asylum seekers, the number of places dedicated to unaccompanied children still falls short of current needs, i.e. 10'787 unaccompanied children present in the reception system.»[400] SIPROIMI has 4'255 places for unaccompanied minors.[401]

394 Interview with Ministry of the Interior, Dublin Unit, 11 September 2019.
395 Interview with CIR, 11 September 2019.
396 Linee guida per l'accoglienza e l'integrazione degli alunni stranieri, 2014, available here: http://didatticainclusiva.loescher.it/linee-guida-per-l-accoglienza-e-l-integrazione-degli-alunni-stranieri.n2967, last visited on 3 January 2020.
397 Interview with Sant'Egidio, 9 September 2019.
398 For the accommodation of unaccompanied minor asylum seekers, see chapter 5.4.
399 AIDA, Country Report: Italy, April 2019, page 32.
400 Idem, page 109.
401 www.sprar.it/i-numeri-dello-sprar, number from October 2019, last visited on 3 January 2020.

9.6.3 Pushbacks at the border

The situation on the border between Italy and Switzerland is no longer as tense and precarious as it was back in the summer of 2016, when roughly 600 people were camping in the city of Como, waiting to try to cross the Swiss border. During that period, reports had been made of asylum seekers, and especially minors, being pushed back at the border by the Swiss authorities without any specific examination of their asylum claim, nor of their situation under the Dublin Regulation.[402] Despite the much calmer situation at present and the significant reduction in the number of arrivals at the Italian and Swiss borders in general, the Dublin Unit of the Ministry of the Interior was unofficially informed of people being pushed back at the border between Como and Chiasso.[403] In these cases, Italian authorities receive minors (but also adults) who have been sent back on the basis of the Italo-Swiss readmission agreement[404], without proper identification. This is in violation of the Convention on the Rights of the Child, according to which the best interest of the child should take precedence over any other consideration and should always receive careful assessment.

9.7 Women

Single women are not classified as vulnerable in Italy, but pregnant women are. In individual cases, the Swiss State Secretariat for Migration SEM and the Swiss Federal Administrative Court (TAF)[405] hold the view that pregnant women are not yet a «family» in the sense of the *Tarakhel* ruling. If the child is born while the woman is still in Switzerland, guarantees must be obtained before the transfer. However, if the woman can be transferred while still pregnant, no guarantees are deemed necessary in line with the *Tarakhel* ruling. The Swiss practice, which does not consider pregnant women as particularly vulnerable, is problematic also according to the information we received from the Dublin Unit of the Ministry of the Interior. We were informed that, further to this approach, the obvious vulnerability of the woman and therefore her specific accommodation needs are often not communicated in advance to the Italian authorities in charge of the 'take back' procedure, which may have an impact on how quickly suitable reception conditions are found.[406]

9.8 Men

Single men are not considered vulnerable. However, the ECtHR has ruled that asylum seekers should generally be considered a vulnerable group alone on account of their precarious legal status.[407]

Young, healthy men in particular are expected to be able to look after themselves. They are therefore transferred under the Dublin system without any further clarifications, and appealing

[402] Amnesty International, La Svizzera non rispetta I diritti dei minorenni, 31 August 2016, www.asgi.it/wp-content/uploads/2016/08/310816_AI_cs_ConfineSud.pdf, last visited on 3 January 2020.
[403] Interview with Ministry of the Interior, Dublin Unit, 11 September 2019.
[404] Accordo tra la Confederazione svizzera e la Repubblica italiana sulla riammissione delle persone in situazione irregolare, 10 September 1998, www.admin.ch/opc/it/classified-compilation/20022507/index.html.
[405] E.g. TAF, judgment of 6 April 2016, D-1942/2016 and D-1944/2016; TAF, judgment of 18 May 2016, D-2978/2016.
[406] Interview with Ministry of the Interior, Dublin Unit, 11 September 2019.
[407] ECtHR, judgment of 21 January 2011, *M.S.S. v. Belgium and Greece*, Application No. 30696/09.

against the transfer is more or less futile.[408] As they are not considered vulnerable, NGOs have limited success in appealing against the Italian authorities' decisions to withdraw reception conditions, which heightens the danger of these healthy young men becoming homeless. At the same time, they belong to the group most affected by unemployment in Italy.

Single men in the asylum procedure, or those with protection status, who are sent back to Italy, are therefore highly likely to end up homeless or living in a squat, without any hope of improving their situation.

9.9 Conclusion

There are no provisions in Italian law on the identification of vulnerable asylum seekers. Most of the identification and referral activities are handled by specialised NGOs that do an extremely important and complex task in very difficult conditions. Yet the lack of coordination at national level hinders their efforts. Also, the changes implemented as the result of the Salvini Decree and the *Capitolato* make it increasingly difficult to identify vulnerable asylum seekers on arrival in Italy. Vulnerable asylum seekers are therefore not identified or only identified after having been in the asylum procedure for a period of time, in which they have not received the adequate care they are entitled to under European and international law.

10 Legal Analysis

This section elaborates, in a non-exhaustive manner, on various legal provisions which may be applicable in individual cases.

With regard to relevant EU law, reference will be made to the EU Charter of Fundamental Rights[409] the recast Qualification Directive (QD)[410], the recast Reception Conditions Directive (RCD)[411] and the recast Procedures Directive (PD)[412], which have been transposed into Italian law by Legislative Decree 142/2015.

10.1 Access to the asylum procedure

Asylum seekers arriving across the Mediterranean or those claiming asylum in different Questure have to fill in a form (*foglio notizie*) stating their reason for entering Italy. If they do not tick the «asylum» box, they are served with a removal decision and may be detained. In practice, this constitutes a significant obstacle to effective access to the asylum procedure

[408] E.g. TAF, judgment of 27 April 2016, D-2509/2016; TAF, judgement of 18 April 2016, E-2251/2016; TAF, judgment of 23 September 2015, E-5782/2015.
[409] Charter of Fundamental Rights of the European Union of 18 December 2000, 2000/C 364/01.
[410] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).
[411] Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).
[412] Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast).

as people are rarely adequately informed about the consequences of filling in the form. This is not in line with Article 8 PD which determines that information and counselling should be given to people who may wish to make an application for international protection at border crossing points and in detention facilities. Furthermore, this practice may also infringe Article 14 of the Universal Declaration of Human Rights (UDHR[413]).

In major Italian cities like Rome and Milan, it may take several weeks to months before an asylum application is formally registered (*verbalizzazione*). The PD provides that an application for international protection must be registered within three working days, provided it was lodged with the correct authority. If it was lodged with a different authority, the time limit is six days (Article 6 (1) PD). This time limit can be extended to ten working days in case of simultaneous applications of a large number of applicants (Article 6 (5) PD). Member States must ensure that a person who has made an application for international protection has an effective opportunity to formally lodge it as soon as possible (Article 6 (2) PD). In major Italian cities the delay of several weeks to months in registering asylum applications departs significantly from the time limits provided for in the PD and thus constitutes a breach of EU law.

If a person's asylum procedure was suspended for 12 months and is therefore closed – in cases where the person in question cannot be found by the authorities – the person concerned will have to bring forward reasonable grounds for their absence. If those grounds for being absent are not seen as reasonable by the Italian authorities, the procedure cannot be reopened. In these cases, it is only possible to make a subsequent application with new (material) elements. This may lead to asylum seekers' applications never being examined on their merits, which goes against the very basic idea of the Common European Asylum System and the Dublin Regulation, and may lead to a breach of the principle of non-refoulement.

The refusal of access to the asylum procedure for certain nationalities is in breach of Article 3 of the Refugee Convention[414] and may also infringe the principle of non-refoulement, laid down in Article 33 of the Refugee Convention and in Article 19 of the EU Charter of Fundamental Rights.[415]

10.2 Reception conditions and their withdrawal

According to the RCD, Member States must ensure that material reception conditions are available to applicants from the moment they lodge their application for international protection (Article 17 RCD). Legislative Decree 142/2015 also provides that such material reception conditions must be available from the moment an asylum application is lodged in Italy.

However, there are difficulties with its implementation in practice. Given that the vast majority of people seeking international protection enter Italy the first time by crossing the Mediterranean, the system is geared to accommodating these asylum seekers. People who lodge an asylum application at a Questura inland can expect delays in receiving accommodation.

[413] UN General Assembly, Universal Declaration of Human Rights, 10 December 1948.
[414] Convention relating to the Status of Refugees of 28 July 1951.
[415] Charter of Fundamental Rights of the European Union of 18 December 2000, 2000/C 364/01.

Article 23 of Legislative Decree 142/2015 furthermore determines that it is possible to withdraw first-line reception conditions under certain circumstances. The provision for second-line reception is stated in Article 40 of Annex A to Ministerial Decree 9259 of 18 November 2019. The main ground for the withdrawal of reception conditions is if the accommodated person abandons the reception centre without prior notification, which affects almost all returnees, as people who plan to leave the country will most likely not notify the centre about their plans. Another ground is the breach of house rules. In practice, the withdrawal of reception conditions is ordered even for minor breaches. Once withdrawn, the chances of regaining access to reception conditions are very low. This leaves people on the street without shelter and without any support from the state.

Although the reduction or withdrawal of material reception conditions is also foreseen in Article 20 RD, paragraph 4 of this Article states that Member States shall under all circumstances ensure access to healthcare in accordance with Article 19 and shall ensure a dignified standard of living for all applicants. This was recently also underlined by the CJEU.[416] The practice of withdrawing reception conditions and the administrative and the legislative hurdles to getting access to reception again, which are unsuccessful in most cases, is not in line with the CJEU nor with Article 20 (5) RD.

The ECtHR stressed in its judgment in the case of *M.S.S. v. Belgium and Greece*[417] that asylum seekers are particularly vulnerable by virtue of their legal situation. If they have to live on the streets for months, unable to cater for their most basic needs, with the ever-present fear of being attacked and robbed and with the total lack of any likelihood of the situation improving, the situation is likely to amount to a violation of Article 3 ECHR.

10.3 Quality of accommodation

According to the RCD, Italy is under an obligation to provide asylum seekers with material reception conditions that guarantee an adequate standard of living to ensure their subsistence and the protection of their physical and psychological health, particularly for people who are vulnerable within the meaning of Article 21 RCD (Article 17 RCD). This includes housing, food, clothing provided in kind or as financial allowances or in vouchers and a daily expenses allowance (Article 2(g) RCD).

The new *Capitolato* results in a serious lack of services in first-line reception centres, due to a reduction in the quantity and quality of services that the organisations running the centres are required to provide, combined with a simultaneous significant cut in financial contributions from the state. This affects all asylum seekers accommodated in first-line reception centres, but hits vulnerable asylum seekers hardest on account of their special needs. Due to the lack of adequate care and specialised staff, they run the risk of not even being identified as vulnerable. Even if they are identified, there are no special services foreseen that they could benefit from. The medical and social care available in the first-line reception centres is so decimated that serious treatment of physical and psychological health problems cannot be

[416] CJEU, judgement of 12 November 2019, *Haqbin,* C-233/18.
[417] ECtHR, judgment of 21 January 2011, *M.S.S. v. Belgium and Greece*, Application No. 30696/09, paras. 249 et seq., paras. 263-264.

expected. Consequently, first-line reception (CAS/CARA) cannot be considered as being adequate for people with special needs.

Second-line reception centres (SIPROIMI) have designated places for people with physical or psychological problems, where special services are provided. Nevertheless, the total share of such places in SIPROIMI is 2% (684 places), which does not meet the need by far. Furthermore, SIPROIMI cannot offer services that are comparable to those offered by (mental) health institutions. Therefore, people whose – above all mental – illness is considered as «excessive» by the *Servizio Centrale* of the SIPROIMI cannot be accommodated in a SPROIMI, but are not provided with an alternative state-run shelter either.

The lack of adequate accommodation for vulnerable people in Italy is conspicuous, particularly for mentally ill people. According to the RCD, Member States have to take account of the specific situation of vulnerable people, such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and people who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence in relation to material reception conditions (Article 21 RCD). Given the glaring and serious lack of appropriate accommodation for vulnerable people, Italy is in breach of its obligations under the RCD. In addition, pursuant to the RCD, Italy is under an obligation to identify special needs. This requirement is insufficiently implemented in the Italian reception system, which leads to systematic violations of the rights of such people during their reception.

10.4 Lack of support for beneficiaries of protection

According to the QD, beneficiaries of international protection have a right of access to housing under equivalent conditions as other third-country nationals (Article 32 (1) QD). Furthermore, Member States have to endeavour to implement policies aimed at preventing discrimination of beneficiaries of international protection and at ensuring equal opportunities regarding access to accommodation when implementing a national practice of dispersal (Article 32 (2) QD). The Refugee Convention[418] also provides that refugees must be treated no less favourably than other third-country nationals in the same circumstances (Article 21). As regards social assistance, the Refugee Convention provides for equal treatment of refugees and nationals (Article 23). Equal treatment is also guaranteed pursuant to the QD to recognised refugees and beneficiaries of subsidiary protection (Article 29 (1) QD).

Under Italian law, beneficiaries of international protection have the same rights of access to housing and social assistance as nationals. However, there is hardly any state support and the Italian social security system relies heavily on family support. Unlike nationals, beneficiaries of protection cannot normally rely on a family or social network for support. Family networks can therefore not provide them with alternative solutions where the national social security system fails. This is true for financial assistance as well as for assistance “in kind”. When it comes to housing, this means that beneficiaries of protection run the risk of becoming homeless after they have finished their trajectory at the SIPROIMI. This is because, in order

[418] Convention relating to the Status of Refugees of 28 July 1951.

to be eligible for social housing, beneficiaries of international protection must have been resident in Italy for an average of five years, and even if they are eligible, they often have to wait for several years, as the waiting lists are very long.

Refugees in Italy are thus de facto disadvantaged when it comes to access to housing and financial support, since they lack a family network which could support them. The question that remains is therefore whether having equal treatment to nationals pursuant to the Refugee Convention and the QD only refers to theoretical rights or the implementation of these rights in practice. If the former is the case, this may amount to indirect discrimination, given that beneficiaries of international protection are normally in a different and less favourable situation than nationals (lack of family network). Therefore, it is obvious that the Refugee Convention and the QD refer to the practical implementation of equality. In that case, Italy must take positive support measures, as indeed stipulated in Article 32 (2) QD and called for by the Council of Europe Commissioner for Human Rights and UNHCR.[419]

There is a serious lack of sufficient adequate accommodation for vulnerable beneficiaries of protection in Italy (particularly the mentally ill). Numerous beneficiaries who would qualify as vulnerable live in precarious circumstances on the streets or in squats like all other beneficiaries of protection. According to the QD, Member States are obliged to take account of the specific situation of people with special needs, with explicit reference to minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and people who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence (Article 20 (3) QD). In addition, paragraph 16 of the preamble to the QD refers to the EU Charter of Fundamental Rights[420] and particularly to fully respecting human dignity (Article 1 CFR). By failing to adequately support vulnerable beneficiaries of international protection, Italy does not properly comply with the requirements of the QD. The desperate situation of numerous beneficiaries of international protection - and other forms of protection - who qualify as particularly vulnerable and permanently live on the streets or in squats, is not compatible with the respect for human dignity that the EU-Charter requires from EU Member States.

Under the QD, the positive duties with regard to beneficiaries of international protection may not be as self-evident as those relating to asylum seekers under the RCD. Nevertheless, according to the QD, it is clear that in their day-to-day lives beneficiaries of international protection must not be put in a situation that is less favourable than that of asylum seekers under the RCD. Since there are serious indications that Italy fails to properly comply with its duties owed to beneficiaries of international protection, it is necessary to examine on a case-by-case basis whether the situation of beneficiaries of international protection, who lived in desperate conditions on the streets prior to their departure from Italy without any prospect of the situation improving, amounts to a violation of Article 3 ECHR. The CJEU stated the following with regard to Article 4 of the Charter: «[...] the Common European Asylum System and the principle of mutual trust depend on the guarantee that the application of that system will not result, at any stage and in any form, in a serious risk of infringements of Article 4 of the Charter. It would, in that regard, be contradictory if the existence of such a risk at the

[419] Report by Nils Muižnieks, 18 September 2012, para. 166; UNHCR Recommendations Italy, July 2013, page 21, still valid as no amendments were made since.
[420] Charter of Fundamental Rights of the European Union of 18 December 2000, 2000/C 364/01.

stage of the asylum procedure were to prevent a transfer, while the same risk would be tolerated when that procedure has been completed with the recognition of international protection.»[421]

10.5 Healthcare

The CJEU stated that it is not enough to merely consider the consequences of physically transporting the person concerned from one Member State to another, but all the significant and permanent consequences that might arise from the transfer must be taken into consideration.[422]

According to the RCD, Member States have to ensure that asylum seekers receive the necessary health care including, at the very least, emergency care and fast treatment of illness (Article 17/19 RCD). The QD provides that recognised refugees and beneficiaries of subsidiary protection are eligible for the same access to health care as nationals, including the treatment of mental disorders (Article 30 (1) and (2)). Furthermore, according to the RCD, Member States have to provide asylum seekers with information on any established benefits and organisations that might be able to help with access to health care (Article 5 (1) RCD). The QD stipulates that as soon as possible after international protection status has been granted, beneficiaries must be provided with access to information, in a language that they understand or can be reasonably expected to understand, on their rights and obligations relating to their status (Article 22 QD). Furthermore, according to Article 17 (4) RCD, Member States may only require applicants to cover the cost of medical treatment if they have sufficient resources.

On the face of it, emergency care seems to be generally available to asylum seekers and beneficiaries of international protection in Italy. However, in practice there are several reasons why it is sometimes impossible for asylum seekers and beneficiaries of international protection to access the healthcare they need.

First of all, due to a lack of information on their rights to access health care and on the procedure leading to registration with the Italian national health system SSN, people that are entitled to register with the SSN often do not make use of this possibility. In some Italian regions, the conditions for registration cannot be fulfilled if people lack proof that they are registered with the civil registry of the municipality (due to the implementation of the Salvini Decree) or are homeless and can for that reason not provide the SSN with an address at which they are registered. In other regions, eligibility for the SSN ends a year after the asylum seeker has lodged his/her application. Others, still, do not have a tax number and can for that reason not register with the SSN.

For those who have registered, the obligation to contribute towards the costs of the rendered health services and toward the cost of the medications (in the form of a so-called «ticket») prevents effective access to health care, as even the smallest financial amount to be paid can constitute an unsurmountable hurdle for asylum seekers and beneficiaries of international

[421] CJEU, judgement of 19 March 2019, *Jawo*, C-163/17, para. 89; regarding persons with international protection status see also CJEU, judgement of 19 March 2019, *Ibrahim et al*., C-297/17, para. 86-93 as well as CJEU, judgement of 13 November 2019, *Hamed and Omar*, C-540/17 and C-541/17.

[422] CJEU, judgment of 16 February 2017, *C.K. and others*, Case C-578/16 PPU, para. 76.

protection, due to their precarious economic situation. Whereas asylum seekers in few Italian regions are given a special exemption code with which they are exempted from making this contribution, in most regions there is either ambiguity with regard to the eligibility for exemption (for example, because they are not registered as unemployed due to the fact that in most cases they have not worked yet in Italy) or they are downright refused an exemption. Notwithstanding the fact that several courts have ruled against the exclusion of asylum seekers and beneficiaries of international protection from existing exemptions for which Italian citizens are eligible, a discriminatory practice continues to exist.

Particularly in relation to the treatment of mentally ill people, Italy does not comply with the requirements of the RCD and the QD. Due to the reduction of qualified personnel in the first-line reception centres that function under the new *Capitolato*, asylum seekers' vulnerabilities are often not identified, and they are therefore not referred to specialized NGOs or medical personnel. In the second-line reception conditions, there is a serious lack of places for people with mental or physical illness, and these places are not suitable for people with mental issues that need to be treated in closed facilities. The SIPROIMI are not mental health institutions, and therefore refuse beneficiaries of protection with serious mental health problems, so that these people fall through the cracks of the reception system.

The above shows that the provisions in the RCD and QD with regard to access to healthcare are not complied with in Italy. Access to adequate healthcare is not guaranteed, and is especially problematic for people with mental health issues. This does not only lead to an infringement of the relevant provisions of EU asylum law, but also leads to an infringement of Article 3 ECHR, as access to (mental) healthcare is paramount if asylum seekers and beneficiaries of international protections are to lead a humane and dignified life in Italy.

10.6 Vulnerable people

Article 24 (1) of the PD requires Member States to assess within a reasonable period after the application is made whether an applicant is in need of special procedural guarantees. Although Italian law recognises particular categories of people as being «vulnerable», it does not provide a legal framework for identifying vulnerable asylum seekers. Especially in first-line reception centres, which are presently forced to function with fewer (qualified) personnel, vulnerabilities remain unidentified. Furthermore, since the Salvini Decree, all asylum seekers must be accommodated in first-line reception centres, which do not cater for their needs. Accommodation in second-line reception centres, an option that existed before the Salvini Decree came into force, is no longer available to asylum seekers. Italy therefore does not comply with its obligations under EU asylum law with regard to the identification of and care for vulnerable asylum seekers.

10.6.1 Victims of human trafficking

Asylum seekers that are victims of human trafficking (VHT) are, for the above reasons, mostly not identified until they are interviewed on their reasons for applying for asylum by the Territorial Commission. This interview may take place several months after the applicants have lodged their application, during which time they are accommodated in first-line reception centres, and are easy targets for exploitation and re-trafficking. Furthermore, even when VHTs are identified by the Territorial Commission, the NGOs they are subsequently referred to do

not have the capacity to assist all of them adequately. Italy therefore does not comply with the obligations stemming from the Council of Europe Convention on Action against Trafficking in Human Beings, as also repeatedly concluded by GRETA.

10.6.2 Families (and children in particular)

Article 8 ECHR provides for the right to respect for family life. A limitation of this right is only possible in accordance with the law and when it is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. Pursuant to Article 12 RCD the family life of applicants must be protected as far as possible and families should be accommodated together. In its judgment in *Tarakhel* the ECtHR found the separation of families in the asylum system to constitute a violation of Article 3 ECHR. Concerning beneficiaries of international protection the QD provides that Member States must ensure that family unity can be maintained (Article 23 (1) QD).

In practice, though, the existence of family ties between people in the same family can be ignored in asylum procedures, especially when documents such as marriage certificates have been lost on the long road to Europe. Also, families formed after the family members left their home country fall under the scope of Article 8 ECHR; whereas they are not always recognised as such in the Dublin procedure. Last but not least, due to problems accessing the asylum procedure, not all members of a family may have a right to accommodation in the reception system. Therefore, family unity is not always guaranteed to asylum seekers in Italy.

For beneficiaries of international protection who have to leave SIPROIMI after completing of their trajectory, it may under circumstances also be impossible to maintain the unity of the family. A large number of people who are granted international protection in Italy, including families, become homeless temporarily. Whereas women and children sometimes find accommodation with charities, husbands and fathers barely have any prospect of being accommodated with their wives and children.

With regard to children, whether they are part of a family of asylum seekers or unaccompanied minors, the UN Convention on the Rights of the Child (CRC) provides that the best interest of the child have to be a primary consideration in all actions concerning children (Article 3 (1) CRC). Inaction, for example when social welfare authorities fail to act to protect children from neglect or abuse, is also considered as action in the sense of the CRC.[423] The child's best interests may not be considered on the same level as all other considerations, such as for instance migration policy considerations, but must be given more weight.[424] In the case of vulnerable children, the child's best interests are to be determined with due regard to other human rights norms related to these specific situations, such as the Refugee Convention in relation to refugee children.[425] The QD refers to the CRC and stresses that the best interests

[423] Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Article 3, para. 1), 29. Mai 2013, para. 18, www.refworld.org/docid/51a84b5e4.html.
[424] Ibid., para. 37, 39.
[425] Ibid., para. 75.

of the child should be a primary consideration when implementing the Directive (para. 18 of the preamble of the QD). Similarly, the Dublin III Regulation refers to the best interests of the child as a primary consideration (Article 6 (1) Dublin III Regulation).

According to the prohibition of discrimination under Article 2 CRC, Member States are under an obligation to take adequate measures to protect a child from discrimination. This is not a passive obligation, but also requires proactive state measures on effective equal opportunities for all children to enjoy the rights under the Convention. This may require positive measures aimed at redressing a situation of real inequality.[426]

Article 6 CRC provides for the child's right to life, survival and development. States must create an environment that respects human dignity and ensures the holistic development of every child.[427] The same risks and protective factors that underlie the child's life, survival, growth and development need to be considered when realising the child's right to health pursuant to Article 24 CRC. In particular, these factors include the child's socioeconomic status and domicile.[428] Article 24 CRC imposes a strong duty of action on State parties to ensure that a primary healthcare system is available and accessible to all children, with special attention to under-served areas and populations.[429]

Pursuant to Article 27 CRC, States Parties also recognise the right of every child to an adequate standard of living for the child's physical, mental, spiritual, moral and social development. Further, children have the right to rest and leisure, to engage in play and recreational activities appropriate to the age of the child in accordance with Article 31 CRC. Without these measures children can suffer irreversible physical and psychological damage. The right set out in Article 31 CRC must be guaranteed without discrimination of any kind, including to children living in poor or hazardous environments or street situations and expressly also to asylum-seeking and refugee children.[430] All children are generally entitled to receive appropriate protection and humanitarian assistance in enjoying their rights (Article 22 CRC).

Article 37 (a) CRC prohibits subjecting children to torture or other cruel, inhuman or degrading treatment or punishment. According to Article 19 CRC State parties must take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. The term «violence» includes all forms of neglect, such as failure to protect a child from harm or failure to provide the child with basic necessities including adequate food, shelter, clothing and basic medical care. Psychological neglect also includes exposure to violence, drug or alcohol abuse.[431]

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426 Ibid., para. 41.

427 Ibid., para. 42.

428 Committee on the Rights of the Child, General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (Article 24), 17. April 2013, paras. 16-17, www2.ohchr.org/english/bodies/crc/docs/GC/CRC-C-GC-15_en.doc, last visited on 3 January 2020.

429 Ibid., para. 28.

430 Committee on the Rights of the Child, General comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (Article 31), 17. April 2013, paras. 13, 16, 23 and 26, www2.ohchr.org/english/bodies/crc/docs/GC/CRC-C-GC-17_en.doc, last visited on 3 January 2020.

431 Committee on the Rights of the Child, General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, 18. April 2011, paras. 4 und 20: www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf.

The above analysis of the relevant Articles of the CRC show, that states hosting asylum seeking families with children are under a far-reaching obligation to take all necessary action to ensure that those children can grow and develop into (mentally and physically) healthy, fulfilled young adults.

As all asylum seeking families are accommodated in CAS since the Salvini Decree came into force, children in such families live in conditions that do not meet the standards set out in the CRC. They are accommodated in buildings that were not built for the purpose of housing asylum seekers, in reception centres that offer little more than a place to sleep and food to eat. Their needs are not catered to, and instead of having their traumas treated they run a serious risk of being re-traumatized and never being able to develop their potential.

Furthermore, children of families that have been granted international protection are accommodated in SIPROIMI for a limited amount of time only. After that, they leave the SIPROIMI and have to move away from the area they were socialized in – even if it was for a short while – moving from place to place while their parents are temporarily employed in agriculture or domestic service. Mostly, their parents work long hours in jobs on the black market, that leave them with little time or strength to get involved in caring for their children. These children are left to their own devices, and end up skipping school. Especially if their family becomes homeless, as many have in the past years, they will not be able to access most if not all of their rights, theoretically guaranteed by the CRC.

Thus, Italy is in breach of its positive duties according to the CRC, particularly as regards special measures for the protection of asylum-seeking and refugee children. In relation to the *de facto* unequal treatment of nationals regarding social assistance, systematic positive discrimination measures are required where children are affected.

10.7 Duty to exchange all relevant information

Article 31 and 32 of the Dublin III Regulation oblige the transferring Member State to pass on to the receiving Member State information on any special needs of the person to be transferred. The Commission Implementing Regulation[432] already contains standard forms[433] that Member States are obliged to use to provide information about special needs of Dublin returnees, and also regulates how Member States transmit health data prior to a Dublin transfer.

According to the experience of the Dublin returnees documented in the Dublin Returnee Monitoring Project[434] and other information received by OSAR, those responsible for meeting the special reception needs of vulnerable returnees are often unaware of their existence.

[432] Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

[433] Annex VI and IX of the Implementing Regulation.

[434] Swiss Refugee Council and Danish Refugee Council, Is mutual trust enough? – The situation of persons with special reception needs upon return to Italy, 9 February 2017 and Swiss Refugee Council and Danish Refugee Council, Mutual trust is still not enough – The situation of persons with special reception needs transferred to Italy under the Dublin III Regulation, 12 December 2018.

It is not clear at what stage or by which authority the relevant information is not being properly transferred. As the lack of information regarding special reception needs can lead to a violation of human rights for the person concerned, it is the duty of the sending state to make sure that the information according to Article 31 and 32 of the Dublin III Regulation is transferred so that the relevant players can take the needs of the person transferred into account. If there are doubts whether the needs of vulnerable people will be met after the transfer, the transferring state should abstain from doing so as it could bear the risk of significantly and permanently affecting the person's state of health and therefore constitute inhuman and degrading treatment.[435] The authorities of the sending state are under the obligation to eliminate any serious doubts concerning the impact of the transfer on the state of health of the person concerned.[436]

10.8 Duty to examine the legal and factual situation

The Dublin III Regulation[437] states that it is the duty of a Member State to examine the legal and factual situation in the Member State to which the applicant will be transferred (para. 19 of the preamble). In this context the right to be heard plays an important role. As a general rule, asylum seekers are informed in a personal interview about the Dublin-system and are provided with an opportunity to make representations on the relevant facts (Article 5 Dublin III Regulation). The ECtHR and the CJEU stressed the duty of Member States to verify the legal and factual situation in their leading judgments on Greece. The ECtHR held in *M.S.S.* that the Belgian authorities should have been aware of the situation in Greece given the numerous reports and materials about it. In these circumstances the applicant could not be expected to bear the entire burden of proof. Based on the available information the Belgian authorities were not entitled to merely assume that the applicant would be treated in conformity with the Convention standards upon his return to Greece. Instead, they were under a duty to verify how the Greek authorities applied their legislation on asylum in practice.[438] The CJEU held that Member States may not transfer an asylum seeker to the Member State responsible where they «cannot be unaware» that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that Member State provide substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment.[439] These principles have been implemented in Article 3 (2) of the Dublin III Regulation.

Given the high number of reports and information available, it is hardly legally tenable for Member States to merely assume that Italy complies with all of its legal obligations or that applicable rights can be enforced in Italy. In the light of all available information and in accordance with the standards set out by the ECtHR and the CJEU, Member States are under

[435] CJEU, judgment of 16 February 2017, *C.K. and others*, Case C-578/16 PPU, para. 74.
[436] CJEU, judgment of 16 February 2017, *C.K. and others*, Case C-578/16 PPU, para. 76.
[437] Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).
[438] ECtHR, judgment of 21 January 2011, *M.S.S. v. Belgium and Greece*, Application No. 30696/09, paras. 352, 359.
[439] CJEU, judgment of 21 December 2011, *N.S. v Secretary of State for the Home Department and M.E. et al. v Refugee Applications Commissioner,* joined cases C-411/10 and C-493/10, para. 94.

a duty of enquiry in relation to what will happen to the person concerned upon their removal to Italy on a case-by-case basis, both for asylum seekers and for beneficiaries of international protection. As the CJEU stated, the Common European Asylum System and the principle of mutual trust depend on the guarantee that the application of that system will not result, at any stage and in any form, in a serious risk of infringements of Article 4 of the Charter[440]. «It would, in that regard, be contradictory if the existence of such a risk at the stage of the asylum procedure were to prevent a transfer, while the same risk would be tolerated when that procedure has been completed with the recognition of international protection.»[441]

As held by the ECtHR and the CJEU the burden of proving that no rights will be breached lies with the authorities who want to return someone to Italy. Asylum refusal decisions frequently rely on standard phrases and general observations regarding the legal obligation to comply with their duties without any reference to the individual circumstances and specific risks of the case. Generally there is no rigorous scrutiny of the individual case. This fails to do justice to the personal fate and the high likelihood of a very difficult future that these people face. The situation has changed again in the light of the decisions *Ghezelbash*[442] and *Karim*[443]. Any court faced with a return decision now has to enquire more comprehensively as to whether the allocation of responsibility was correct. The CJEU has departed from its assessment in *Abdullahi*[444] and now postulates a comprehensive duty of enquiry both legally and factually. With regard to returns to Italy this includes a duty to correctly apply the discretionary clauses and a rigorous scrutiny of the prohibition of removal encapsulated in Article 3 (2) Dublin III Regulation.

10.9 Enforcing rights in Italy

Asylum authorities and courts frequently rely on applicants' duty to enforce their rights before the Italian authorities. However, this is hardly realistic for the following reasons.

If EU Member States fail to implement a Directive properly and on time, they may under certain conditions be liable for state compensation for any resulting damage (*Francovich* judgment).[445] However, the problem in Italy does not mainly consist in the failure to transpose EU legal obligations into domestic law, but rather the lack of support in practice. In addition, as opposed to proceedings for failure to fulfil an obligation under the Treaties, proceedings for failure to comply with legal obligations in practice are considerably more complex. It is therefore rarer for the EU Commission to pursue such proceedings until final judgment. Even if the criteria according to the *Francovich* judgment were met, it would in practice hardly be possible to pursue such proceedings and obtain the necessary legal support for them. In addition,

[440] «It must be recalled that the prohibition of inhuman or degrading treatment laid down in Article 4 of the Charter corresponds to that laid down in Article 3 of the ECHR and that, to that extent, its meaning and scope are, in accordance with Article 52(3) of the Charter, the same as those conferred on it by that convention.» CJEU, judgment of 16 February 2017, *C.K. and others*, Case C-578/16 PPU, para 67.

[441] CJEU, judgement of 19 March 2019, *Jawo*, C-163/17, para. 89; regarding persons with international protection status see also CJEU, judgement of 19 March 2019, *Ibrahim et al*., C-297/17, para. 86-93 as well as CJEU, judgement of 13 November 2019, *Hamed and Omar*, C-540/17 and C-541/17.

[442] CJEU, judgment of 7 June 2016, *Ghezelbash*, C-63/15.

[443] CJEU, judgment of 7 June 2016, *Karim*, C-155/15.

[444] CJEU, judgment of 10 December 2013, *Abdullahi*, C-394/12.

[445] CJEU, joined cases C-6/90 and C-9/90, Andrea Francovich and Danila Bonifaci et al. v Italian Republic, judgment of 19 November 1991.

Italian administrative law proceedings last an excessively long time. For people who live in precarious conditions all of these constitute insurmountable obstacles in accessing their entitlements under the RCD and the QD.

10.10 Conclusion

There are deficiencies with regard to the housing of applicants and beneficiaries of protection in Italy, based on systematic breaches of the rights of applicants under European and international law. Italy is thus in violation of its obligations under the EU asylum acquis in general. Italy is also in violation of its obligations in relation to access to information on healthcare and considering the special needs of particularly vulnerable people. The lack of support for applicants and beneficiaries of protection may also lead to a violation of Article 3 ECHR.

Where decision-making authorities and courts do not already assume a situation of systemic deficiencies in the Italian reception system, they must at least examine on a case-by-case basis whether access to reception is still valid and whether any rights might be breached in the individual case.

There are regional differences regarding the application of the law as well as the availability of places and services. The situation after arrival can therefore be described as unpredictable and sometimes arbitrary. In case a breach of fundamental rights as described above cannot be ruled out, Member States must refrain from transferring people to Italy. Further, state authorities should not rely on services provided by NGOs to fill gaps left by the Italian state.

In this regard, the authorities of a sending Member State are under a duty of enquiry. Member States cannot invoke an individual's ability to enforce their rights in Italy, given that this is not a realistic possibility.

11 Recommendations

The Dublin system is intended to ensure that every person in the European area has the chance to apply for asylum and have their asylum claim properly examined. It also has the purpose of preventing asylum seekers from applying for asylum in several Member States. However, a joint system such as this can only work if Member States have equivalent procedure and reception conditions and the same common standards are upheld.

Where responsibility for examining an asylum application lies with Italy according to the Dublin III Regulation, Italy must provide an adequate asylum and reception system. However, as long as this is not the case, as detailed in the present report, the remaining Dublin Member States must take this into consideration.

Based on OSAR's findings and the above legal analysis, the Swiss asylum authorities and those of other Dublin Member States, who do not come to the conclusion after reading this report that the Italian asylum system has systematic failings, are recommended the following by OSAR:

1. It is important to verify specifically in each individual case what would happen to the person if they were returned to Italy. In doing so, special attention should be paid to the situation of vulnerable people.

2. As the Italian authorities stated clearly in their circular letter of 8 January 2019 that all asylum seekers – including families – will be placed in a first-line reception centre (CARA or CAS) and after the situation in those centres has deteriorated significantly, the accommodation of asylum seeking families is not in line with the ECtHR judgment *Tarakhel v. Switzerland*. Therefore, asylum seeking families should not be transferred to Italy.

3. In view of the significant reduction of services in first-line reception centres (CARA and CAS), adequate accommodation and treatment is not provided for asylum seekers with physical or mental illness. Therefore, asylum seekers with physical or mental illness should not be transferred to Italy.

4. For beneficiaries of international protection with physical or mental illness, there is only a very limited number of adequate places. For serious cases, even those places are not available. Regarding access to medical treatment, there are significant administrative hurdles. Therefore, protection status holders who depend on immediate and long-term physical, psychiatric or psychological treatment should not be transferred to Italy.

5. For beneficiaries of international protection with special needs state authorities should obtain individualised guarantees with regard to adequate reception.

6. Asylum seekers and beneficiaries of protection in Italy that are victims of human trafficking should not be returned to Italy, unless immediate, adequate accommodation for these people in reception facilities that cater to their specific needs is guaranteed by the Italian authorities. These guarantees should be specific and individual, taking account of the provisions of the Council of Europe Convention on Action Against Trafficking in Human Beings. In case such guarantees are not given by the Italian authorities, the authorities of the sending states should abstain from transferring the person to Italy.

7. Where an individual assessment shows that the person would not receive any support upon being returned to Italy and would have no chance of gaining financial independence, countries should not transfer the person. This applies particularly to people who already have protection status in Italy. Where it is evident that an asylum seeker will be left homeless after being granted protection status, the sovereignty clause should be applied.

8. If a transfer is found to be admissible after rigorous scrutiny of the facts of a case, the Italian authorities must be informed in due time (and not only at the point of arrival) about the person's special needs, particularly medical needs, as specified by the Dublin III Regulation.[446]

9. If a transfer is found to be admissible after rigorous scrutiny of the facts of a case, the principle of proportionality must be observed in carrying out the transfer. The person must be given the possibility to make the journey under their own conditions. Forced transfers where people are removed from their accommodation in the middle of the night under police presence and without prior notice should generally be avoided. The experience can result in the person becoming (re)traumatised, among others.

10. If a transfer is found to be admissible after rigorous scrutiny of the facts of a case, the affected person must be informed of the modalities of the transfer. For example, they must be able to take important documents, medicines, etc. with them in their hand luggage; people with medical problems must take or be given sufficient medication to last a few weeks, as well as any diagnoses, translated into English at the very least if possible. This ensures that in addition to communicating the medical data to the host state as specified in the Dublin III Regulation, the transferees themselves are in possession of the corresponding documents.

[446] Article 31 and Article 32 Dublin III Regulation.

12 Annex

12.1 Annex I: Exemption application form (medical costs)

AUTOCERTIFICAZIONE DI ESENZIONE DALLA PARTECIPAZIONE ALLA SPESA SANITARIA PER MOTIVI DI REDDITO

DATI DEL SOGGETTO DICHIARANTE	
NOME	
COGNOME	
DATA DI NASCITA	
COMUNE O STATO ESTERO DI NASCITA	
CODICE FISCALE	
TITOLO	INTERESSATO

Ai sensi del Decreto del Presidente della Repubblica n. 445/2000, consapevole della responsabilità penale, per le false dichiarazioni, la falsità negli atti o l'uso di atti falsi

DICHIARA

CHE

DATI DELL'ASSISTITO	
NOME	
COGNOME	
DATA DI NASCITA	
COMUNE O STATO ESTERO DI NASCITA	
CODICE FISCALE	

Dal **al**

E02	Disoccupati e loro familiari a carico con reddito familiare inferiore a 8.263,31 euro incrementato a 11.362,05 euro in presenza del coniuge ed in ragione di ulteriori 516,46 euro per ogni figlio a carico (ex art. 8 comma 16 della L. 537/1993 e succ. modifiche e integrazioni)

E quindi ha diritto all'esenzione per motivi di reddito

(legge n.537/1993 e successive modificazioni ed integrazioni)

DATI DEL SOGGETTO TITOLARE DELLA CONDIZIONE DI DISOCCUPATO	
NOME	
COGNOME	
DATA DI NASCITA	
COMUNE O STATO ESTERO DI NASCITA	
CODICE FISCALE	

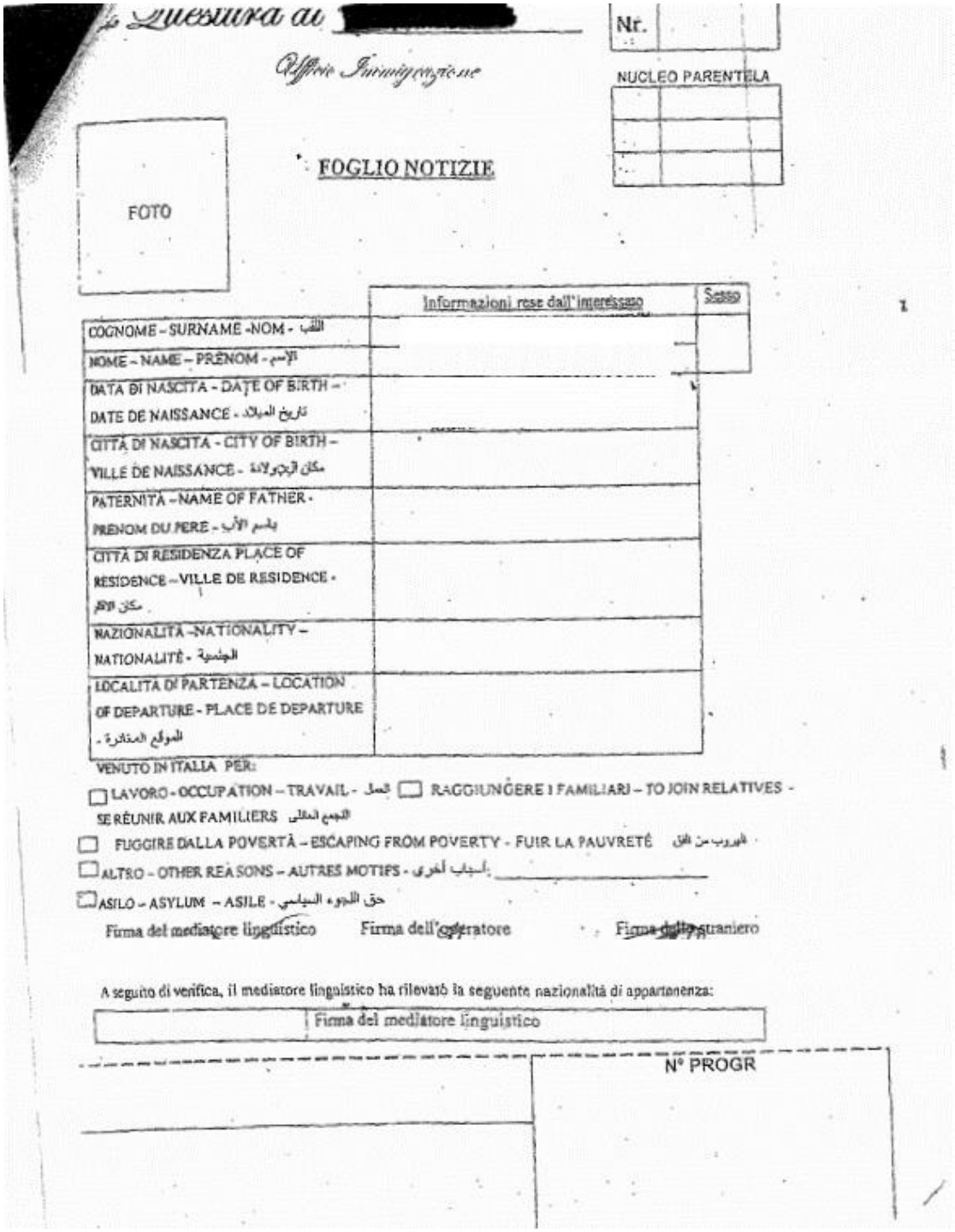
Informativa ai sensi della legge sulla tutela dei dati personali (D.lgs. 196/03.)
I dati forniti dall'utente verranno trattati dall'amministrazione, anche in forma digitale, nella misura necessaria al raggiungimento dei fini istituzionali e comunque nel rispetto della suddetta legge. All'utente competono i diritti dall'art. 13 della legge 675/96, in particolare il diritto di accedere ai propri dati, chiedendone la correzione, l'integrazione e, ricorrendo i presupposti previsti dalla vigente normativa, la cancellazione ed il blocco degli stessi.

La ASL attiverà il controllo della dichiarazione resa (D.M. 11/12/2009 Art.1, comma 7, lettera c)

Firma leggibile:		Operatore:	
Data:		Protocollo:	Timbro dell'azienda:

NOTA: Si evidenzia che è obbligatorio comunicare tempestivamente alla ASL l'eventuale perdita dei requisiti del diritto all'esenzione autocertificati e comunque di non avvalersi più di tale diritto.

12.2 Annex II: Foglio notizie



Questura di [redacted]

Nr.

Ufficio Immigrazione

NUCLEO PARENTELA

FOTO

FOGLIO NOTIZIE

	Informazioni rese dall'interessato	Sesso
COGNOME - SURNAME -NOM - اللقب		
NOME – NAME – PRENOM - الإسم		
DATA DI NASCITA - DATE OF BIRTH – DATE DE NAISSANCE - تاريخ الميلاد		
CITTÀ DI NASCITA - CITY OF BIRTH – VILLE DE NAISSANCE - مكان الميلاد		
PATERNITÀ – NAME OF FATHER - PRENOM DU PERE - إسم الأب		
CITTÀ DI RESIDENZA PLACE OF RESIDENCE – VILLE DE RESIDENCE - مكان الإقامة		
NAZIONALITÀ –NATIONALITY – NATIONALITÉ - الجنسية		
LOCALITÀ DI PARTENZA – LOCATION OF DEPARTURE - PLACE DE DEPARTURE - الموقع المغادرة		

VENUTO IN ITALIA PER:

☐ LAVORO - OCCUPATION – TRAVAIL - العمل ☐ RAGGIUNGERE I FAMILIARI – TO JOIN RELATIVES - SE RÉUNIR AUX FAMILIERS التجمع العائلي

☐ FUGGIRE DALLA POVERTÀ – ESCAPING FROM POVERTY - FUIR LA PAUVRETÉ الهروب من الفقر

☐ ALTRO – OTHER REASONS – AUTRES MOTIFS - أسباب أخرى: _____

☐ ASILO – ASYLUM – ASILE - حق اللجوء السياسي

Firma del mediatore linguistico Firma dell'operatore Firma dello straniero

A seguito di verifica, il mediatore linguistico ha rilevato la seguente nazionalità di appartenenza:

Firma del mediatore linguistico

N° PROGR

12.3 Annex III: Expulsion order

IL PREFETTO DELLA PROVINCIA DI VARESE

Cat.A11/2016 Imm. nr. 141/PG

ESAMINATI *gli atti in possesso all'Ufficio Immigrazione della Questura di Varese dai quali si rileva che il cittadino straniero* [redacted], *è stato riammesso in Italia in data odierna presso lo scalo aereo Malpensa p i nte da Zurigo, in attuazione al Regolamento CE 604/2013 come richiedente del riconoscimento dello status di protezione internazionale;*

VERIFICATO *che il cittadino straniero, all'atto di formalizzare la richiesta di protezione internazionale avanti al personale della Polizia di Frontiera, dichiarava spontaneamente di volervi rinunciare, in quanto nel proprio Paese d'origine non avrebbe alcun problema di natura politica o personale;*

ATTESO *quindi, venuto meno il requisito per il quale lo straniero veniva riammesso in Italia e che lo stesso non ha altro titolo per permanervi, che non sussistono le condizioni affinché sia possibile rilasciare un permesso di soggiorno per motivi umanitari o ad altro titolo e che non sussistono i divieti di espulsione di cui all'art. 19 del D.L.vo 286/98 e successive modifiche;*

RILEVATO *che* [redacted] *deve essere espulso dal territorio italiano e che vi è il pericolo che possa sottrarsi alla volontaria esecuzione del provvedimento di espulsione, in quanto:*

- *non possiede un passaporto od altro documento equipollente utile all'espatrio, in corso di validità;*
- *non ha idonea documentazione atta a dimostrare la disponibilità di un alloggio ove possa essere agevolmente rintracciato in Italia;*
- *la sua condotta pregressa evidenzia che non ha alcun concreto interesse a tornare quanto prima nel proprio Paese d'origine, senza prolungare la sua permanenza irregolare sul territorio italiano o negli Stati appartenenti all'area della Convenzione di Schengen;*

VISTI *il D. L.vo 25/2008 e gli artt. 4, 5, 13, 19 e 20 del D. L.vo 286/98 e successive modifiche;*

DECRETA

L'ESPULSIONE DAL TERRITOR[redacted] LE CON EFFETTO IMMEDIATO DI [redacted]

informa il predetto

- che non potrà rientrare nel territorio italiano prima che siano decorsi 5 anni dalla data del suo effettivo allontanamento dallo Stato, salvo che ottenga specifica autorizzazione del Ministro dell'Interno;

- che avverso questo decreto può essere presentato ricorso, a pena di inammissibilità, entro trenta giorni dalla data di notifica del provvedimento, ovvero entro sessanta giorni se risiede all'estero, al Giudice di Pace del luogo ove ha sede l'Autorità che ha disposto l'espulsione;

- che il ricorso può essere depositato anche a mezzo del servizio postale ovvero per il tramite di una rappresentanza diplomatica o consolare italiana e che, qualora sia sprovvisto di difensore, potrà richiedere al Giudice di Pace la nomina di un difensore d'ufficio anche avvalendosi, ricorrendone i presupposti, del gratuito patrocinio a spese dello Stato - spettante alle medesime condizioni previste per il cittadino italiano - e l'assistenza di un interprete;

- che la presentazione del ricorso non sospende comunque l'efficacia del presente decreto.

Il Questore di Varese provvederà alla notifica del presente decreto unitamente a copia sinteticamente tradotta in lingua conosciuta dallo straniero, ovvero in lingua inglese, francese o spagnola; provvederà altresì all'immediata esecuzione del presente decreto.

Varese, 16/03/2016

PER COPIA CONFORME ALL'Originale
VARESE, li 16 MAR 2016
IL FUNZIONARIO
ASSISTENTE CAPO DELLA POLIZIA DI STATO

IL PREFETTO
Zanzi

12.4 Annex IV: Revoca

Questura di Milano
Ufficio di Gabinetto
Firmato il 03/10/2019 15:43
Seriale Certificato: 6431
Trust Technologies per il Ministero dell'Interno CA

Prefettura di Milano
Ufficio territoriale del Governo

[redacted]

VISTO Il Decreto Legislativo 18 agosto 2015, n. 142 "Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale", nonché della direttiva 2013/32/UE recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale;
VISTA La Convenzione per la messa a disposizione di posti straordinari per la prima accoglienza di cittadini stranieri temporaneamente presenti tra la Prefettura di Milano e Fondazione Progetto Arca Onlus;
ATTESO che [redacted] risulta ospitato nella struttura "Centro Fantoli 1" gestito da Fondazione Progetto Arca Onlus.
VISTO l'avvio al procedimento di revoca delle misure di accoglienza, ai sensi dell'art.10 c.2, art 23 c.1 lettera a) del D.Lgs. 142/2015, inviato dalla scrivente Prefettura in data 03/09/2019.
VISTO che, nell'ambito di attività d'accertamenti d'ufficio, questa Prefettura ha rilevato che [redacted] si è ingiustificatamente assentato, nelle date 09/07/2019 10/07/2019 13/07/2019 16/07/2019 25/07/2019 26/07/2019, dal Centro di Accoglienza presso cui era ospitato, senza aver conseguito il necessario nulla osta.
CONSIDERATO che tale comportamento, come previsto dall'art. 23 c. 1 lettera a) del D.Lgs. 142/2015 comportano la revoca delle misure di accoglienza;
RITENUTO di dover procedere a revocare le misure di accoglienza di cui usufruisce [redacted] per i fatti di cui si è reso responsabile;
VISTI il D.Lgs. 25/2008 e la circolare del Ministero dell'Interno, Dipartimento per le Libertà Civili e l'Immigrazione n. 2255 del 30/10/2015;
RICHIAMATI l'articolo 23, comma 1 lettera a) del Decreto Legislativo n. 142/2015;

DECRETA

Le misure di accoglienza nei confronti [redacted] sono revocate.
Il presente provvedimento ha effetto dal momento della sua comunicazione, ai sensi dell'articolo 23 comma 5 del decreto legislativo 142/2015.
Avverso il provvedimento di revoca è ammesso ricorso al Tribunale amministrativo regionale competente entro 60 gg. dalla notifica del presente atto.
Copia del presente provvedimento viene trasmessa alla Questura di Milano che provvederà alla notifica dello stesso.
Inoltre una copia viene inviata per conoscenza all'ente gestore Fondazione Progetto Arca Onlus-Centro Fantoli 1
Milano, data del protocollo

IL VICE PREFETTO
(Laurenza)
Documento firmato digitalmente

Originale conservato agli atti presso la Prefettura di Milano.
Alle Prefetture ed alle Questure della Repubblica **LORO SEDI**
Alla QUESTURA di **MILANO**
Al responsabile della struttura di accoglienza Centro Fantoli 1

QUESTURA DI MILANO
Commissariato di P.S. "MECENATE"
il 23-10-19 ed ore 12:15 in Milano, Via FANTOLI 28/8 avanti al sottoscritto Agente di PG ZUCCARELLO P
è presente [redacted]
DOM [redacted] cui viene notificato il retroscritto provvedimento del quale si rilascia copia.
Fatto, confermato e sottoscritto.
INTERESSATO

Prefettura Milano - UTG - Ufficio Migranti - Prot. Uscita N.0203421 del 03/10/2019

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