



Reception conditions in Italy

Report on the current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy

Swiss Refugee Council SFH/OSAR

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Information on the organisation: The Swiss Refugee Council SFH/OSAR (referred to in the following as 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, the reception centre in Zurich ("test centre") and the coordination and training of representatives of 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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Imprint

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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 Regulation¹ 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 report² 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.³

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 2013 report have not been given sufficient attention by the authorities and law courts. The *Abdullahi* ruling⁴ by the Court of Justice of the European Union (CJEU) further encouraged the practice of disregarding individual claims by limiting the opportunities for transferees to lodge a complaint in the case of a violation of their individual rights. Although this constraint no longer applies under the Dublin III Regulation, as explicitly emphasized by the CJEU in its *Ghezelbash*⁵ and *Karim*⁶ rulings of June 2016, it remains to be seen how these decisions affect national appeal procedures. It can be assumed that the practice will remain restrictive: For example, even after the ECtHR judgment *Tarakhel v. Switzerland*,⁷ which holds that individual guarantees of child-sensitive accommodation and the preservation of family unity must be obtained before transferring (accompanied) minors, the situation has not improved with lasting effect and continues to be highly restrictive: The State Secretariat for Migration (SEM) only desists from transferring asylum seekers to Italy in exceptional cases. As the Federal Administrative Court (BVGer) has largely endorsed this practice, there is little chance of success at the judicial level either. Against this background, OSAR saw a need to clarify the current situation once more.

¹ Regulation (EG) Nr. 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).

² Swiss Refugee Council /Juss-Buss, Asylum procedure and reception conditions in Italy, Berne and Oslo, May 2011: <https://www.refugeecouncil.ch/assets/asylrecht/rechtsgrundlagen/2011.05.04-italy-report-sfhjussbuss-edited-final.pdf>

³ Swiss Refugee Council, Italy: Reception conditions – Report on the current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, Berne, October 2013: <http://www.cserpe.org/wp-content/uploads/2014/08/Reception-Conditions.pdf>

⁴ CJEU judgment of 10 December 2013, *Abdullahi*, C-394/12.

⁵ CJEU judgment of 7 June 2016, *Ghezelbash*, C-63/15.

⁶ CJEU judgment of 7 June 2016, *Karim*, C-155/15.

⁷ CJEU judgment of 4 November 2014, *Tarakhel v. Switzerland*, No. 29217/12.

The situation for asylum seekers in the Dublin procedure considerably improved following the decisions made in the case of *Ghezelbash* and *Karim*, as the CJEU declared in these rulings that the constraints on lodging a complaint no longer apply under the Dublin III Regulation. In doing so, the court stated that the restrictions imposed in the *Abdullahi* ruling are no longer valid and explicitly abandoned this jurisdiction.

According to the case law of the ECtHR⁸, poor reception conditions for asylum seekers and a lack of effective access to the asylum procedure constitute a violation of Art. 3 ECHR or a violation of Art. 3 in conjunction with Art. 13 ECHR. It is therefore important⁹ to examine the legal and factual situation in the receiving state during the appeal procedure at the latest before transferring an asylum seeker.

The aim of this 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. It does not deal with the subject of unaccompanied minor asylum seekers, as these are accommodated in a separate system and, according to the ruling by the CJEU in the case of *M.A. and others*¹⁰ of June 2013, can only be transferred under the Dublin procedure if they have family members or relatives in Italy.

1.2 Method

A delegation comprising two employees from the legal service of OSAR, OSAR project team member Laura Rezzonico (postgraduate student at the University of Neuchâtel, NCCR-on the move and the Centre for Migration Law) and Felicina Proserpio from CSERPE (Center for Migration Research), Basel, undertook a fact-finding mission to Rome and Milan between 27 February and 4 March 2016. Two additional meetings took place in Bologna. The delegation interviewed various NGOs, authorities, asylum seekers and refugees. In addition to the knowledge gained from these interviews, the report also includes recent reports on the situation in Italy.

1.3 Preliminary observations

This report describes the situation in Italy based on the examples of Rome and Milan. As there are considerable differences between regions and municipalities, it is not possible to outline the overall situation in the country. Dublin returnees from Switzerland are generally transferred by plane to Rome or Milan. The focus of the fact-finding mission was therefore on the situation in these two cities.

The fact-finding visit took place in late February/early March 2016. There were relatively few people travelling to Italy via the Mediterranean at this time. One reason for this is the cooler weather: In winter, fewer boats tend to hazard the crossing. On the other hand, the Balkan route was still an option for refugees travelling to the

⁸ ECtHR judgment of 21 January 2011, *M.S.S. v. Belgium and Greece*, Application No. 30696/09.

⁹ Art. 27 in conjunction with Recital 19 of the Dublin III Regulation.

¹⁰ CJEU judgment of 6 June 2013, *M.A. and others*, C-648/11.

Schengen/Dublin zone until shortly before our mission took place. Especially in the second half of 2015, this was the main access route to Europe for people seeking protection. Consequently, this report depicts the Italian asylum system at a relatively quiet time. This should be taken into account when using this report, as the number of asylum seekers arriving in Italy will probably increase when the weather improves in the summer.

1.4 Interview and cooperation partners

Despite intensive efforts on the part of the delegation to interview a member of the *Dipartimento per le libertà civili e l'immigrazione*, the Italian Ministry of the Interior did not react to our requests. As a result, information and statements from this department of the Ministry of the Interior were only available in the form of published documents, which we used in producing this report. However, we were able to meet a member of the *Dipartimento della Pubblica sicurezza, Polizia di Stato, Direzione Centrale dell'immigrazione e della polizia delle frontiere*.

The Swiss State Secretariat for Migration (SEM) employs a liaison officer in the Italian Dublin unit in Rome. Regrettably, the SEM was not prepared to arrange a meeting with this person.

The delegation would like to thank the following organisations and authorities in particular for their valuable information and cooperation during the fact-finding visit:

1.4.1 In Bologna

- Cooperativa Piazza Grande, Filippo Nuzzi, 27 February 2016.
- On a stopover on the way to Rome, the delegation was able to interview the same female Eritrean refugee on 27 February 2016 in Bologna as during the last fact-finding trip.

1.4.2 In Rome

- Skype interview with Emanuele Selleri, Progetto C.A.I. Casa Scalabrini, Rome, 12 February 2016.
- A very young male asylum seeker, who had been transferred from Switzerland to Italy a few weeks earlier under the Dublin Regulation, 28 February 2016.
- ASGI (Associazione per gli Studi Giuridici sull'Immigrazione), Loredana Leo, lawyer, Skype interview, 17 June 2015, and meeting, 29 February 2016.
- Caritas Rome, Caterina Boca, legal adviser, 29 February 2016.
- MEDU (Medici per i Diritti Umani), Anita Carriero, 29 February 2016.
 - o We accompanied MEDU volunteers to Rome Termini railway station, and held interviews with various refugees and asylum seekers, 1 March 2016.

- Comunità di Sant'Egidio, Cecilia Pani, 1 March 2016.
 - o We accompanied Sant'Egidio volunteers in distributing food to homeless people, 1 March 2016.
- CIR (Consiglio Italiano per i Rifugiati), Daniela Di Rado, Legal Department, and Djamila Derradji, Department for Social Affairs, 1 March 2016.
- SPRAR (Sistema di protezione per richiedenti asilo e rifugiati), Servizio Centrale, Lucia Iuzzolini and Cristina Passacantando, 1 March 2016.
- UNHCR, Beat Schuler, Senior Regional Protection Officer (legal), telephone interview of 12 June 2015; Roland Schilling (Regional Deputy Representative), Andrea Pecoraro (Funzionario della Protezione), Andrea De Bonis (protection associate), 1 March 2016.
- Cittadini del Mondo, Donatella d'Angelo, doctor, Paolo Guerra, Raffaella De Felice, Arcangelo Patriarca (Sportello sociale), 1 March 2016.
 - o We accompanied volunteers of Cittadini del Mondo to the Selam Palace squat (Romanina/Anagnina) on 3 March 2016.
- GUS (Gruppo Umana Solidarietà), Alessandro Dessi and Maysa Jarous, 2 March 2016.
- Italian Ministry of the Interior, Dipartimento della Pubblica sicurezza, Polizia di Stato, Direzione Centrale Immigrazione e Polizia, Vincenzo Tammaro, 2 March 2016.
- Fondazione Centro Astalli, Chiara Peri, and Martino Volpatti (Project SaMiFo - Salute Migranti Forzati), 2 March 2016.
- Italian Red Cross, Giorgio De Acutis, 3 March 2016.
 - o We accompanied a mission to find accommodation for various asylum seekers.

1.4.3 In Milan

- Municipality of Milan/Comune di Milano, Claudio Maurizio Minoia (Direzione Centrale Politiche Sociali e Cultura della Salute), Maura Gambarana and Antonella Colombo (municipality of Milan, immigration); together with
- Fondazione ARCA, Alberto Sinigallia, Director, 4 March 2016;
- Also present: Valerio Prato, ISS Geneva.
- Ferite Invisibili, Marco Mazzetti, psychiatrist, 4 March 2016.
- Prefettura Varese: Prefetto, Giorgio Franco Zanzi, Vicario: Dott. Roberto Bolognesi, Dott. Antonio De Donno; Polizia frontiera: Dr.ssa Di Santi, Dott. Mazzotto; and Cooperativa Integrale, Sportello asilo Malpensa, Aulona Hametaj.

- HUB Milan run by Progetto ARCA, Rosamaria Vitale (doctor), young asylum seeker returned to Milan from Switzerland, 3 March 2016.
- Naga (Naga Associazione Volontaria di Assistenza Socio - Sanitaria e per i Diritti di Cittadini Stranieri, Rom e Sinti), 4 March 2016.
- Caritas Ambrosiana Milan, Servizio Accoglienza Immigrati, Luca Bettinelli, Skype interview, 17 June 2015, and meeting, 3 March 2016.
- Farsi Prossimo, Paolo Pagani, 4 March 2016.
- Maria Cristina Romano, lawyer and Italian ELENA coordinator, 4 March 2016.

1.4.4 In Como

- Information via e-mail from Caritas Como, Anna Merlo, 18 May 2016.

1.4.5 In Switzerland

- Fondation Suisse du Service Social International (SSI), Valério Prato, telephone interview, 31 May 2016.

2 Summary

A delegation from OSAR travelled to Rome and Milan between 27 February and 4 March 2016, where they interviewed NGOs, authorities, asylum seekers and people with protection status 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. Around half of all of asylum seekers and refugees returned to Italy under the Dublin Regulation from Europe are from Switzerland.

There are still **shortcomings in gaining access to the asylum procedure**. In Milan (and until recently also in Rome), a kind of residence permit (*dichiarazione di ospitalità*) is still required to apply for asylum. In both Milan and in Rome it can take several months for an asylum application to be formally registered (*verbalizzazione*). During this time, asylum seekers are not guaranteed a place to live.

NGOs at Fiumicino Airport in Rome and Malpensa Airport in Milan (in Bologna on demand only) offer advice to **asylum seekers transferred to Italy under the Dublin Regulation**. They can also refer them to a place in accommodation. However, this is only possible if the prefecture of Rome or Varese is responsible for the person's asylum procedure locally, or becomes responsible if the person did not apply for asylum in Italy before travelling on to another country. If a different prefecture is responsible, the person is given a train ticket to travel to this region. In these cases, the NGO at the airport cannot organise accommodation in the responsible region. The FER projects funded by the European Refugee Fund to shelter Dublin returnees expired in the summer of 2015 without a follow-on project having been established so far. According

to information from GUS (Gruppo Umana Solidarietà), new projects are planned from August 2016 under the current EU fund AMIF¹¹. They are set to last 24 months.¹²

In its **Tarakhel ruling** of 4 November 2014¹³, the **European Court of Human Rights** 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 Art. 3 ECHR (prohibition of torture and inhuman or degrading treatment). The Italian Ministry of the Interior has since twice¹⁴ produced a general list with SPRAR places reserved for families transferred under Dublin III. The information regarding the implementation and application of this list is largely unclear and partly contradictory.

Decree 142/2015 from 18 August 2015, which came into force on 30 September 2015, incorporated the recasts of the EU Reception Directive¹⁵ and the EU Asylum Procedures Directive¹⁶ into Italian law.

The **reception system** essentially comprises first-stage and second-stage reception. In the case of direct arrivals, especially across the sea, people are first given food and accommodation in a CPSA¹⁷. First-stage reception centres include CDA¹⁸ and *Centri governativi di prima accoglienza*. SPRAR (Protection System for Asylum Seekers) is the second-stage reception system. It is supplemented by emergency reception centres (CAS)¹⁹, which make up the greater part of the reception system and are intended to absorb capacity bottlenecks in other centres. They can also be assigned as first-stage reception centres.

The system is directed at 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. This may be one reason why Dublin returnees are treated differently and the statements of our interview partners did not always concur either with each other or with the specific experience of people who have been transferred to Italy under the Dublin III Regulation. Dublin returnees therefore constitute a special case in the Italian reception system.

According to UNHCR estimates, some 80,000 **people with protection status** live in Italy.²⁰ The situation of people who already have protection status in Italy has changed little since the 2013 report by OSAR. Unlike asylum seekers who are returned to Italy,

¹¹ Asylum, Migration and Integration Fund (AMIF; Italian FAMI: Fondo Asilo, Migrazione e Integrazione).

¹² GUS, information by e-mail, 15 June 2016.

¹³ ECtHR judgment from 4 November 2014, *Tarakhel v. Switzerland*, No. 29217/12.

¹⁴ Ministero dell'Interno, circular letters to all Dublin units dated 8 June 2015 and 15 February 2016.

¹⁵ Directive EU/2013/33 of the European Parliament and of the Council of 26 June 2013, laying down standards for the reception of applicants for international protection (recast).

¹⁶ Directive EU/2013/32 of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast).

¹⁷ *Centro di primo soccorso e accoglienza*.

¹⁸ *Centro di accoglienza*.

¹⁹ *Centri di accoglienza straordinaria*.

²⁰ UNHCR, information by e-mail, 16 June 2016.

returnees who already have protection and a corresponding status in Italy are **not entitled to support**. Even if they have access to NGOs at airports, these can only provide them with information about their situation, but cannot arrange accommodation. People with protection status are free to travel to Italy, but cannot receive state support. The Italian system stipulates that they must be able to provide for themselves once they have protection status. As a result, they no longer have access to first-stage reception centres. People with official protection status theoretically have access to SPRAR centres, but this depends on whether they have already stayed the maximum permitted length of time and whether a place can be found for them. People with protection status are usually allowed to stay in SPRAR centres for another six months after being granted asylum. However, in most cases this is not long enough to gain independence or at least earn sufficient financial means and income. As there are far fewer places in SPRAR than in first-stage reception centres, this leads to considerable problems when transferring people from first-stage reception to a second-stage SPRAR centre.

The municipalities of both Rome and Milan have information counters, where they arrange **accommodation in municipal centres**. Some of these also take in other foreigners (not only asylum seekers).

In addition, **NGOs or church organisations** in both Rome and Milan offer a few places to sleep, but their capacity is extremely limited. Many are in emergency accommodation, which is only open at night and is available to **anybody in an emergency**.

Many people therefore end up **homeless or living in squats and slums**. The delegation paid another visit to Selam Palace, a squat in Rome, which is home to 1000-1200 people, mainly from the Horn of Africa, including families and single mothers with children. The house is managed by a committee. The living conditions are not child-sensitive, and women are exposed to the risk of sexual assaults. People with mental illness are not accepted in the squat if their conduct is not socially acceptable. Large numbers of homeless refugees can be seen in Rome in particular, and many sleep under a projecting roof at the Termini railway station at night. According to estimates, some 20 percent of residents of informal accommodation have never had access to the Italian reception system.

Considering the current **high level of unemployment** in Italy, it is more or less impossible 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. 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. The situation is precarious in all respects. As a result, those affected roam the streets all day, queuing up for food 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 as it is. Around 70 percent of residents in informal accommodation have protection status, which shows that sustainable integration is not realistic for most people with protection status.

With regard to **social welfare**, recognised refugees enjoy the same legal status as Italians. However, the Italian social welfare system is very weak and cannot guarantee a minimum subsistence level. The waiting time for social housing is several years, even for families. The Italian system strongly relies on family support. However, refugees are generally not able to build on an informal network such as this. As a result, equivalent status cannot be effectively guaranteed.

Access to **health care** is restricted in practice by the fact that many asylum seekers and people with protection status are not informed about their rights and the administrative procedure to obtain a health card. This is particularly the case if their living conditions are precarious. Asylum seekers have the right to work after they have been in the country for two months. In practice, this means that in some regions, they are no longer exempt from paying the fee for medical services (except in the case of acute emergencies). 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. In addition, there are too few suitable places in reception centres for people with mental illness or who are traumatised. People with mental health problems such as post-traumatic stress disorder cannot be treated effectively if they are living on the street, if access to treatment is possible at all in this situation.

In the opinion of OSAR, there are still **systemic shortcomings in the Italian reception system** for asylum seekers and beneficiaries of international protection. As a result, reception and access to the asylum procedure are not always guaranteed. Italy therefore fails to meet its obligations resulting from EU directives and international law. Italy still does not have a coherent, comprehensive and sustainable reception system. Reception is based on short-term emergency measures and is highly fragmented. Accordingly, the interfaces often do not function well either, something that emerged as one of the central problems during the fact-finding visit. In addition, this could mean an imminent **violation of Art. 3 ECHR** in individual cases and arising from the individual circumstances.

In view of this situation, Member States of the Dublin Regulation that return people to Italy have, at least from a legal perspective, a **greater obligation to clarify** the situation in Italy and to obtain guarantees regarding the accommodation, preservation of family unity and adequate medical care for each individual case. If a person to be returned will, in all probability, end up on the streets without the possibility of achieving independence, the **sovereignty clause** should be applied in the opinion of OSAR. That is the only way to effectively prevent a violation of Art. 3 ECHR and thus achieve the goal of the common European area of freedom, security and the duty to give people in need of protection a perspective and the possibility to shape their own life.

3 Italy and asylum: Facts and figures

3.1 Number of applications for asylum and protection rate

Because of its geographic position, Italy is the first European country that many asylum seekers reach. Most come to Italy by boat from North Africa. In its 2012 *Hirsi Jamaa* ruling,²¹ the European Court of Human Rights (ECtHR) confirmed that boat refugees, who are intercepted at sea, have a right to access the asylum procedure.

The sharp and steady rise in the number of applications for asylum since 2013 only reflects part of the problem, as many people arrive without applying for asylum. For example, 63,456 requests for asylum were received in 2014 compared with 170,100 registered arrivals²² (the vast majority via the Mediterranean). In 2015 there were 83,970 applications compared with 153,842 arrivals²³ by sea.²⁴ The number of formal asylum requests submitted by the end of July 2016 was 61,024²⁵ with 93,611²⁶ arrivals. The increase in the number of asylum applications in 2015 and 2016 is probably due to the EU putting more pressure on refugees to register on arrival in Italy as part of its *relocation* scheme.

Of the 71,117 asylum requests processed in the court of first instance in 2015, 41 percent were awarded protection status (five percent were given refugee status, 14 percent subsidiary protection and 22 percent a (national) residence permit for humanitarian reasons due to obstacles to removal). Fifty-eight percent of asylum requests were refused. The number of rejected applications for asylum has risen sharply, resulting in an increase in the number of appeals. As asylum seekers are allowed to stay in reception centres until the final decision has been made on their procedure, this means that the maximum permitted stay for asylum seekers who have been awarded accommodation is also extended, further limiting the capacity of the reception system.

According to estimates by the UNHCR, some 80,000 people with international protection status lived in Italy at the end of 2015.²⁷

²¹ ECtHR judgment of 23 February 2012, *Hirsi Jamaa and Others v. Italy*, Application No. 27765/09.

²² Médecins sans Frontières, *Out of Sight*, report from March 2016, p. 3.

²³ UNHCR, *Refugees/Migrants Emergency Response – Mediterranean*, <http://data.unhcr.org/mediterranean/country.php?id=105> accessed on 10 July 2016.

²⁴ Ministero dell'Interno, statistics of the Italian Ministry of the Interior, www.interno.gov.it/it/sala-stampa/dati-e-statistiche/i-numeri-dellasil, accessed on 3 June 2016.

²⁵ <http://data.unhcr.org/mediterranean/country.php?id=105>, accessed on 15 July 2016.

²⁶ Ministero dell'Interno statistics of the Italian Ministry of the Interior, www.interno.gov.it/it/sala-stampa/dati-e-statistiche/i-numeri-dellasil, accessed on 12 August 2016.

²⁷ UNHCR, information by e-mail, 16 June 2016.

Esiti richieste d'asilo 2015

	2014	%	2015	%
rifugiati	3.641	10%	3.555	5%
sussidiaria	8.338	23%	10.225	14%
umanitaria	10.034	28%	15.768	22%
diniego	14.217	39%	41.503	58%
altri esiti	40	0%	66	0%
Totale esaminati^a	36.270	100%	71.117	100%

Source: 2015 statistics of the Italian Ministry of the Interior²⁸

3.2 Dublin and other third-country transfers

In 2015, Italy received a total of 24,990 take-charge or take-back requests from other European countries based on the Dublin III Regulation.²⁹ Of these, Italy agreed on the transfer of 15,914 cases. Switzerland alone made 11,073 requests, however Italy only recognised its responsibility (by agreement or after expiry of the deadline) in 4,886 of these cases.³⁰ This goes to show that many take-charge or take-back requests to Italy are without good reason and fulfil migration policy purposes rather than representing a proper application of the Regulation. The total number of people transferred to Italy in 2015 was 2,436,³¹ including 1,196 sent from Switzerland.³²

There are also transfers of official refugees that are not included under the Dublin III Regulation, but under bilateral readmission agreements. In 2015, Switzerland made 218 requests to Italy, of which 205 were approved, resulting in 52 transfers.³³

The majority of transfers to Italy are from Switzerland, Germany, Austria and Sweden.³⁴

The main airport for Dublin transferees sent to Italy by plane is Fiumicino Airport in Rome. In May 2015, there was a fire in the transit area of Fiumicino Airport, which meant that more Dublin returnees were sent to Malpensa Airport in Milan in 2015 than in previous years.³⁵

3.3 Number of places in accommodation

The reception system essentially comprises first-stage and second-stage reception. In the case of direct arrivals, especially across the sea, people are first given food

²⁸ Accessible at: www.interno.gov.it/sites/default/files/modulistica/riepilogo_dati_2014_2015.pdf accessed on 16 June 2016.

²⁹ Eurostat.

³⁰ Eurostat; State Secretariat for Migration SEM, annual statistics 2015 (7-50).

³¹ Eurostat.

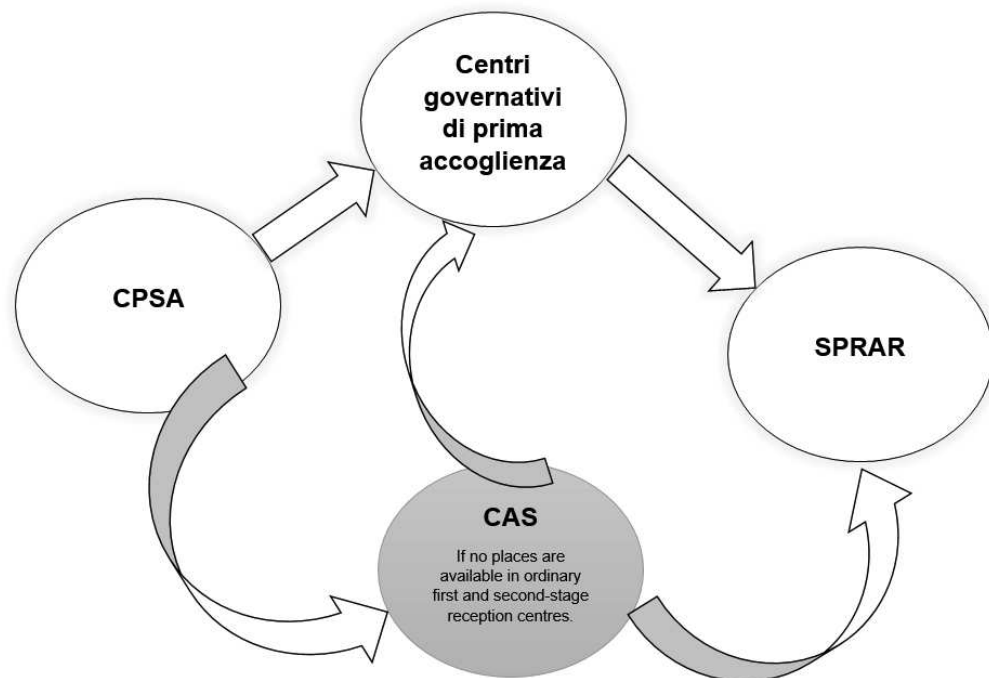
³² Eurostat; State Secretariat for Migration SEM, annual statistics 2015 (7-50).

³³ State Secretariat for Migration SEM, annual statistics 2015 (7-55).

³⁴ Eurostat.

³⁵ Interview with GUS, 2 March 2016.

and accommodation in a CPSA.³⁶ First-stage reception centres include CDA³⁷ and *Centri governativi di prima accoglienza*. SPRAR is the second-stage reception system. However, as CDA, *Centri governativi di prima accoglienza* and SPRAR centres have too little capacity, emergency reception centres (CAS)³⁸ are used as an alternative. These constitute a parallel system, which also functions as a first-stage reception system. Many asylum seekers, however, remain in CAS centres until the final decision on their asylum application. Despite a considerable increase in the number of beds, the capacity in SPRAR centres is insufficient. Therefore, many people never have access to a second-stage reception centre.



Source: Based on diagram by Médecins sans Frontières³⁹

The reception system in Italy has grown from 5,000 to 120,000 places within four years. There were 105,248 places in state-run reception centres in February 2016.⁴⁰ The majority of these are in so-called CAS centres with some 80,000 places.⁴¹ This figure fluctuates as CAS centres are opened and shut down every week. In addition, there are around 7,300 places in so-called *Centri governativi di prima accoglienza* (formerly CARA).⁴² The SPRAR system currently has 22,000 places, with a further 10,000 planned. The delegation obtained inconsistent information on the actual implementation of first and second-stage reception and the number of available places.

³⁶ *Centro di primo soccorso e accoglienza*.

³⁷ *Centro di accoglienza*.

³⁸ *Centri di accoglienza straordinaria*.

³⁹ Médecins sans Frontières, Out of Sight, report from March 2016, p. 4.

⁴⁰ ECRE, AIDA, Wrong counts and closing doors: The reception of refugees and asylum seekers in Europe, March 2016, p. 23.

⁴¹ Interview with UNHCR, 1 March 2016.

⁴² UNHCR, information by e-mail, 15 July 2016; figure refers to 31 December 2015.

Some municipalities also have accommodation, but this is often part of the SPRAR system. NGOs and church institutions offer some places (usually just a bed for the night). However, the many different players are not coordinated, making it almost impossible to get a full picture of the accommodation situation.⁴³

There has been a sharp increase in the number of accommodation places in recent years. At the same time, the number of arrivals has soared (especially across the Mediterranean) and the number of applications for asylum has grown dramatically. Organizing so much new accommodation within a short time also creates problems and complications. Personnel have to be trained and coached. The quality of the centres varies immensely and is very difficult to control. The *Mafia Capitale*⁴⁴ scandal brought to light corruption in the area of accommodation and care for asylum seekers, with unknown dimensions.

The Ministry of the Interior has introduced a monitoring system, and there are also monitoring departments in the prefectures for first-stage reception centres. The second-stage reception system SPRAR has access to an ad-hoc monitoring system of the Ministry of the Interior. UNHCR supports the Ministry of the Interior both in setting up operational monitoring and in evaluating the data. However, with so many accommodation places and centres and with the operators changing so often, it is questionable whether monitoring is reliable or the findings meaningful.

This situation makes it difficult to get an exact picture of the total number of available places. It also means that not all accommodation centres run by NGOs and church organisations can be counted as additional to the state system, but that many of them are part of the state system or are integrated into it. This is particularly significant when, as often in Swiss asylum practice, the rationale for a transfer is based on the availability of accommodation places offered by NGOs and churches. It is also important to know that many of these places are not exclusively available to asylum seekers, but to all local and foreign people in need. In view of the large number of people arriving in Italy, who do not apply for asylum, this is an important factor when it comes to the availability of accommodation (see chapters 5.3.2 and 5.3.3 for more information).

3.4 Excursus: “Hotspot”⁴⁵ approach and relocation scheme

As a result of an increase in migration flows towards Europe, the European Commission adopted an Agenda on Migration⁴⁶ on 13 May 2015 to promote “better migration

⁴³ UNHCR indicated that it does not have any information about the number of non-state-run accommodation centres (information by e-mail, 14 June 2016).

⁴⁴ E.g. the article “Geld stinkt doch” in the German newspaper ZEIT from 25 December 2014, www.zeit.de/2014/51/mafia-skandal-rom accessed on 3 June 2016.

⁴⁵ A “hotspot” is a section of the EU external border or a region with extraordinary migratory pressure, which calls for reinforced and concerted support by EU Agencies (definition by the EU Commission, COM(2015) 510, p. 3). Current hotspots in Italy are in Sicily: Pozzallo, Trapani, Lampedusa, (since June 2016) Mineo, Messina; in Apulia: Taranto. Six further mobile hotspots are planned in Reggio Calabria, Cagliari and four further places, which are yet to be determined (http://palermo.repubblica.it/cronaca/2016/06/01/news/migranti_viminale_a_ue_due_hotspot_a_mineo_e_messina-141102722/ accessed on 10 July 2016). Current reports can be found in the blog of borderline-europe and Borderline Sicily: <http://siciliamigranti.blogspot.it/> accessed on 15 June 2016.

⁴⁶ European Commission, A European Agenda on Migration, COM(2015) 240 final, 13 May 2016.

management". One measure in this agenda is the so-called "Hotspot approach" to assist EASO, Frontex and Europol together with the authorities of frontline member states in guaranteeing the swift identification of arriving migrants, as well as the registration and fingerprinting of people seeking asylum. The purpose of this is to relieve countries that face considerable "pressure" in connection with the rise in the number of arrivals of (not only) people seeking protection across the outer borders of the Schengen zone.

Hotspot is an operational approach that is not linked to a particular place. It remains to be clarified what legal form this will take.⁴⁷

Hotspots are intended to support a central concern of new European migration policy and migration control until new relocation mechanisms are in place, based on a revised proposal of the Commission to reform the Dublin system.⁴⁸ One important component of this approach is the *relocation*⁴⁹ of persons who are very likely to be eligible for protection due to their nationality.⁵⁰ In the course of this programme, 39,600 asylum seekers should be channelled from Italy to other European countries within two years. By 10 August 2016, 961 asylum seekers had been relocated from Italy.⁵¹

The situation in the hotspots is shocking. They are basically confined centres, where people are held until they have been identified, even though systematically detaining asylum seekers is not permitted under Italian law.⁵² The government is apparently working on creating a corresponding statutory basis for this. However, hotspots do not all work the same way; the system is heterogeneous and is seen as being chaotic.⁵³

A major problem that was mentioned in several interviews is that refugees are required to specify their reason for entry directly after arriving in Italy across the Mediterranean. New arrivals are interviewed briefly on this by the police or by Frontex and are given a form (*foglio notizie*), on which they have to place a cross next to their reason for entering Italy (described in more detail in chapter 4.1).

Only after clarifying the reason for entry can the authorities consider in a second step, which people are possible candidates for *relocation*. This means that without even having access to the asylum procedure, people are divided into different "classes": potential asylum seekers, potential *relocation cases* and economic migrants.⁵⁴ Due to

⁴⁷ Interview with Loredana Leo, ASGI, 29 February 2016.

⁴⁸ See COM(2016) 270 final from 4 May 2016. This stipulates an obligatory reallocation of asylum seekers, if the number of applications for international protection for which a Member State is responsible exceeds 150% of the figure identified in the reference key based on the size of the population and the economy. According to the 2015 figures, this would not relieve the pressure on Italy, as the calculation is based on the number of asylum applications rather than the number of illegal arrivals.

⁴⁹ To relieve the pressure on Italy and Greece, in the context of Council Decisions 1523/2015 and 1601/2015 from 14 and 22 September 2015 respectively.

⁵⁰ Currently relevant in particular for people from Syria and Eritrea.

⁵¹ IOM, <http://migration.iom.int/europe/>, accessed on 12 August 2016.

⁵² Interview with Loredana Leo, ASGI, 29 February 2016.

⁵³ Borderline-europe, information by e-mail from Judith Gleitze, 15 June 2016, and Oxfam, Hotspot, il diritto negato, report from 19 May 2016; current information on the situation in the different hotspots can also be found at: <http://siciliamigranti.blogspot.ch/>

⁵⁴ Borderline-europe, information by e-mail from Judith Gleitze, 15 June 2016.

the high error rate of this clarification procedure and the lack of information and support for asylum seekers at this stage of the asylum procedure, the practice is highly problematic.

Further points of criticism of the hotspot approach include the fact that refugees are subjected to summary interviews regardless of the trauma they have experienced, a lack of consideration of special needs and vulnerabilities, and discrimination based on nationality (*racial profiling*).⁵⁵ CIR complains that arrivals rarely have access to UNHCR or other NGOs, are given no or insufficient information about the procedure and the option of applying for asylum, or about the possibilities and modalities of lodging a complaint.⁵⁶ Although UNHCR is present at the hotspots, it seems to have insufficient capacity to be able to advise the many arrivals. As a rule, whole groups of people are informed at the same time, and in some cases written information is also handed out. According to various interviews by *borderline-europe*, many people are not given information about their situation or do not perceive this information as being relevant, while others do not understand the information given to them either verbally or in written form.⁵⁷ This means that access to asylum law and the asylum procedure is highly selective and restricted.

Another major problem of the *relocation* programme is the lack of information. People only find out very late in the procedure, or not at all, to which country they are being relocated and how the selection process is run. Neither are legal advice and support given. As a result, there is considerable mistrust in the *relocation* programme, as confirmed by employees of the European Asylum Support Office (EASO⁵⁸) at a chance meeting in Rome.

4 Reception of asylum seekers

4.1 Access to the asylum procedure

A formal asylum request can be made to the border police or to a Questura^{59, 60}. 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. The procedure is similar in other places. On arriving via the sea and in some Questuras, applicants must first complete a form (*foglio notizie*), on which they have to place a cross next to their reason for entering Italy. They can choose between a.) To find work; b.) Relatives in Italy; c.) Fleeing poverty; d.)

⁵⁵ ASGI, *Il diritto negato: dalle stragi in mare agli hotspot*, report from 22 January 2016.

⁵⁶ CIR/AIDA, *Country Report: Italy*, December 2015, p. 26.

⁵⁷ *Borderline-europe*, information by e-mail from Judith Gleitze, 15 June 2016.

⁵⁸ The European Asylum Support Office is an EU agency set up by Regulation (EU) No. 439/2010 of the European Parliament and the Council. The support office assumes tasks relating to the specific implementation of the Common European Asylum System (CEAS). It was set up to promote practical cooperation in aspects of asylum and to support the Member States.

⁵⁹ The Questura is a local administrative body that is responsible for registering asylum applications, etc.

⁶⁰ Decree 25/2008, Art. 6.

Asylum; e.) Other reasons.⁶¹ If applicants do not place their cross next to “Asylum”, they are given a standardised removal order (*provvedimento di respingimento*) and are either left to roam the streets or are detained in a CIE^{62,63}. People who receive a removal order do not have access to the reception system.⁶⁴ There is no way of monitoring this questionnaire and its results, and accordingly no reliable information or possibility of checking whether the person’s request has been correctly recorded.⁶⁵

This removal order does not necessarily prevent a refugee from gaining access to the asylum procedure. However, according to Italian law, a person who has received a removal order and later applies for asylum is detained in a CIE if a place is available.⁶⁶

If a person with a removal order travels to another country and is sent back to Italy under the Dublin III Regulation, they also risk being detained. At the time of the fact-finding mission, however, there was no reliable information about the impact of this new practice on Dublin cases.⁶⁷

If the person expresses the intention to apply for asylum, this is entered into the Eurodac data sheet.⁶⁸ The person is asked about their personal data and the application is registered. The person is given a confirmation that they have applied for asylum (*attestazione*)⁶⁹ and the application is formally registered in a second step by means of form C/3 (also called formalisation or *verbalizzazione*). Their personal history and their journey to Italy are also recorded.⁷⁰ After formal registration, the asylum seeker is given a provisional identity card (*ricevuta* of asylum application⁷¹) with which they can apply for their *permesso di soggiorno per richiesta di asilo*.

4.1.1 Waiting times to submit / continue the asylum application

Asylum seekers sometimes have to wait a long time until they get a first appointment (*fotosegnalamento*). This also applies to Dublin returnees who did not apply for asylum in Italy before they were transferred. In Rome, the waiting period can be up to one month. During this time, applicants have no identification and no access to reception or accommodation. This problem does not affect those who reach Italy via the “classical” Mediterranean route, as they are recorded in the system as soon as they arrive.⁷²

⁶¹ Commissione straordinaria per la tutela e la promozione di diritti umani del Senato (2016), Rapporto sui centri di identificazione ed espulsione in Italia, February 2016, p. 19.

⁶² *Centro di identificazione ed espulsione*; identification and expulsion centre, see chapter 4.3.3.

⁶³ Interview with Caritas Rome, 29 February 2016.

⁶⁴ Interview with Loredana Leo, ASGI, 29 February 2016, and Médecins sans Frontières, Out of Sight, report from March 2016, p. 6.

⁶⁵ Interview with Loredana Leo, ASGI, 29 February 2016.

⁶⁶ Interview with UNHCR, 1 March 2016.

⁶⁷ Interview with Loredana Leo, ASGI, 29 February 2016.

⁶⁸ Interview with Vincenzo Tammaro, Polizia di Stato, Direzione Centrale dell’Immigrazione e della Polizia delle Frontiere, 2 March 2016.

⁶⁹ Interview with Vincenzo Tammaro, Polizia di Stato, Direzione Centrale dell’Immigrazione e della Polizia delle Frontiere, 2 March 2016.

⁷⁰ CIR/ECRE, Asylum Information Database, Country Report: Italy, December 2015, p. 21.

⁷¹ Provisional identity card as definitive identification during the asylum procedure (*permesso di soggiorno per domanda di protezione internazionale*).

⁷² Interview with MEDU, 29 February 2016.

By law⁷³, people who already applied for asylum in Italy before their transfer should receive an identification card for asylum seekers (*permesso di soggiorno per domanda di protezione internazionale*) after two months at the latest. In practice, however, this can take as long as eight to twelve months.⁷⁴ The reason for this delay is staff shortages both at the Dublin unit and at the Questuras.⁷⁵

In some Questuras (for example in Milan) asylum seekers may be given a form (*foglio notizie*) to clarify their reason for entering Italy, much the same as those arriving by sea. Lawyers in Milan are not allowed to accompany refugees to the office of the Questura.⁷⁶ This procedure also seems customary in other places in Italy (see also chapter 3.4).⁷⁷

4.1.2 Residence permit

To apply for asylum at the Questura, a residence permit is required. In the past, this presented a considerable barrier to gaining access to the procedure and to accommodation at the beginning of the asylum procedure. Decree 142/2015 aimed to defuse this problem; article 5 of the decree stipulates that the address of the accommodation centre or CIE can also be given as a valid address. However, this does not seem to be guaranteed in practice in all regions.

People who would like to apply for asylum at the Questura in Milan have to produce a so-called *dichiarazione di ospitalità*.⁷⁸ This is a document from a host or landlord confirming that the person lives there.

In Rome, the *dichiarazione di ospitalità* is currently no longer a prerequisite to apply for asylum (contrary to the situation in autumn 2015⁷⁹), but is only demanded at a later date.

The need for a residence permit represents an unlawful barrier to gaining access to the asylum procedure and to accommodation in the context of the asylum procedure.⁸⁰

4.1.3 Gap between the asylum application and “verbalizzazione”

Art. 25 para. 1 (s) of Decree 142/2015 passed in autumn 2015 specifies a maximum duration of three days between filing the initial application for asylum at the Questura (*fotosegnalamento*) and its formal registration (*verbalizzazione*). If the application is made to the border police, the maximum duration is six days. This can be extended to ten days if there are a large number of arrivals. However, this requirement has had

⁷³ Decree 286/1998, Art. 5 para. 9.

⁷⁴ Interview with Farsi Prossimo, 4 March 2016, interview with Caritas Ambrosiana Milan, 3 March 2016.

⁷⁵ Interview with Farsi Prossimo, 4 March 2016, interview with Caritas Ambrosiana Milan, 3 March 2016.

⁷⁶ ASGI, notification from 2 May 2016, www.asgi.it/notizia/asgi-naga-e-avvocati-per-niente-contro-le-prassi-illegittime-della-questura-di-milano/, accessed on 10 June 2016.

⁷⁷ Oxfam, “Hotspot, il diritto negato”, report from 19 May 2016.

⁷⁸ Naga, information by e-mail, 6 June 2016.

⁷⁹ Centro Operativo per il Diritto all’Asilo (2015), *Diritto di asilo. Regole ed eccezioni nella prassi della Pubblica Amministrazione: Il monitoraggio di Coda sul territorio di Roma*, October 2015, p. 16.

⁸⁰ For legal analysis, see chapter 10.1.

little impact so far in practice.⁸¹ The actual period of time depends on the Questura in question. No legal consequences are specified if this limit is exceeded.⁸²

The waiting time for the *verbalizzazione* varies by region.⁸³ It is longer in larger cities or in cases where there are staff shortages at the Questura.⁸⁴ The length of time also depends on the number of new asylum applications⁸⁵ and the waiting period can change accordingly.⁸⁶

In Rome the *verbalizzazione* can take two to three months.⁸⁷ According to the *Polizia di Stato*⁸⁸ the gap between applying for asylum and formalisation is 16 days on average. There are also considerable differences between Questuras.⁸⁹ In Milan it can take several months for the asylum application to be formalised.⁹⁰

Dublin returnees are also affected by these delays as after being returned to Italy, they are treated in exactly the same way as newly arrived asylum seekers, as long as they did not apply for asylum before being transferred.⁹¹

In the time between applying for asylum and the *verbalizzazione*, applicants are not always guaranteed a place in accommodation.⁹² Decree 142/2015 stipulates that the reception procedure should start as soon as a person applies for asylum for the first time. However, there are still problems implementing this in practice.⁹³ People who enter Italy by sea (around 90 percent of asylum seekers) are given accommodation as soon as they arrive. But for those who travel over land or apply for asylum in the country, the situation is more difficult and reception is often delayed or impeded. These people therefore often end up on the streets or are forced to find accommodation in informal settlements or temporarily in accommodation provided by NGOs.⁹⁴

In Milan, on the other hand, the provision of immediate access to accommodation on applying for asylum seemed to work at the time of our fact-finding visit.⁹⁵

Until the asylum request has been formalised, not only are there problems finding accommodation, but applicants also have restricted access to the healthcare system (see chapter 8).

⁸¹ Médecins sans Frontières, Out of Sight, report from March 2016, p. 4 f.

⁸² Interview with Loredana Leo, ASGI, 29 February 2016.

⁸³ Interview with Sant'Egidio, 1 March 2016.

⁸⁴ Interview with Caritas Ambrosiana Milan, 3 March 2016.

⁸⁵ Interview with CIR, 1 March 2016 and interview with UNHCR, 1 March 2016.

⁸⁶ Interview with Caritas Ambrosiana Milan, 3 March 2016.

⁸⁷ Interview with Loredana Leo, ASGI, 29 February 2016.

⁸⁸ Interview with Polizia di Stato, Direzione Centrale dell'Immigrazione e della Polizia delle Frontiere, 2 March 2016.

⁸⁹ Interview with Vincenzo Tammaro, Polizia di Stato, Direzione Centrale dell'Immigrazione e della Polizia delle Frontiere, 2 March 2016.

⁹⁰ Interview with Maria Cristina Romano, lawyer and ELENA coordinator, 4 March 2016.

⁹¹ UNHCR, information by e-mail on 14 June 2016; Caritas Ambrosiana Milan, information by e-mail on 17 June 2016.

⁹² Interview with UNHCR, 1 March 2016; interview with MEDU, 29 February 2016; Médecins sans Frontières, Out of Sight, report from March 2016, p. 4 f.

⁹³ Interview with Loredana Leo, ASGI, 29 February 2016; Médecins sans Frontières, Out of Sight, report from March 2016, p. 4 f.

⁹⁴ Interview with UNHCR, 1 March 2016.

⁹⁵ Interview with Farsi Prossimo, 4 March 2016.

4.1.4 Conclusion

Despite legal adjustments, there are still considerable administrative hurdles that regularly lead to long time delays in gaining access to the asylum procedure and accommodation at the beginning of the asylum procedure.

4.2 Arrival of asylum seekers transferred under the Dublin III Regulation

The treatment of people transferred under the Dublin system differs depending on their legal situation. Two constellations can be distinguished in particular:

- a. People who have not yet applied for asylum in Italy (*take charge*): They must submit their application for asylum when they arrive at the airport. They are then given an appointment to register for the *verbalizzazione* at the responsible Questura.
- b. People who have travelled on to another European country during their ongoing asylum procedure or whose asylum procedure has already been turned down with legal effect (*take back*):
 - If the prefecture of the province in which the airport is situated is responsible (i.e., if the person was previously allocated to the province of Rome or Varese, for example), they can continue their asylum procedure there.
 - If the prefecture of the province in which the airport is situated is not responsible, they should be given a train ticket by the NGO at the airport to continue their journey to the responsible region. After all, they must register at the responsible Questura within five days for their asylum procedure to be resumed. The Dublin unit has to agree to their procedure being resumed.⁹⁶ However, according to UNHCR, this already happens before they are returned to Italy. Dublin returnees are subject to the same waiting times for the asylum procedure as other asylum seekers.⁹⁷

In 2015 alone, 2,436 asylum seekers were returned to Italy under the Dublin Regulation,⁹⁸ including 1,196 from Switzerland.⁹⁹ In addition, a further 52 people were returned from Switzerland to Italy under a readmission agreement between Switzerland and Italy.¹⁰⁰

The Italian authorities specify where a person is to be transferred to when the transfer is approved. If approval is due to expiry of the deadline, the person is generally transferred to Rome or Milan.¹⁰¹ The terms of the transfer are defined in advance between the Swiss and Italian authorities based on the Dublin Implementing Regulation.

⁹⁶ Interview with SSI, 31 May 2016.

⁹⁷ UNHCR, information by e-mail, 14 June 2016.

⁹⁸ Eurostat.

⁹⁹ State Secretariat for Migration SEM, annual statistics 2015 (7-50).

¹⁰⁰ State Secretariat for Migration SEM, annual statistics 2015 (7-55).

¹⁰¹ Interview with SSI, 31 May 2016.

People transferred to Italy under the Dublin III Regulation are given a letter (*verbale di invito*) from the border police (at the airport), informing them which Questura is responsible for reviewing their asylum application.¹⁰²

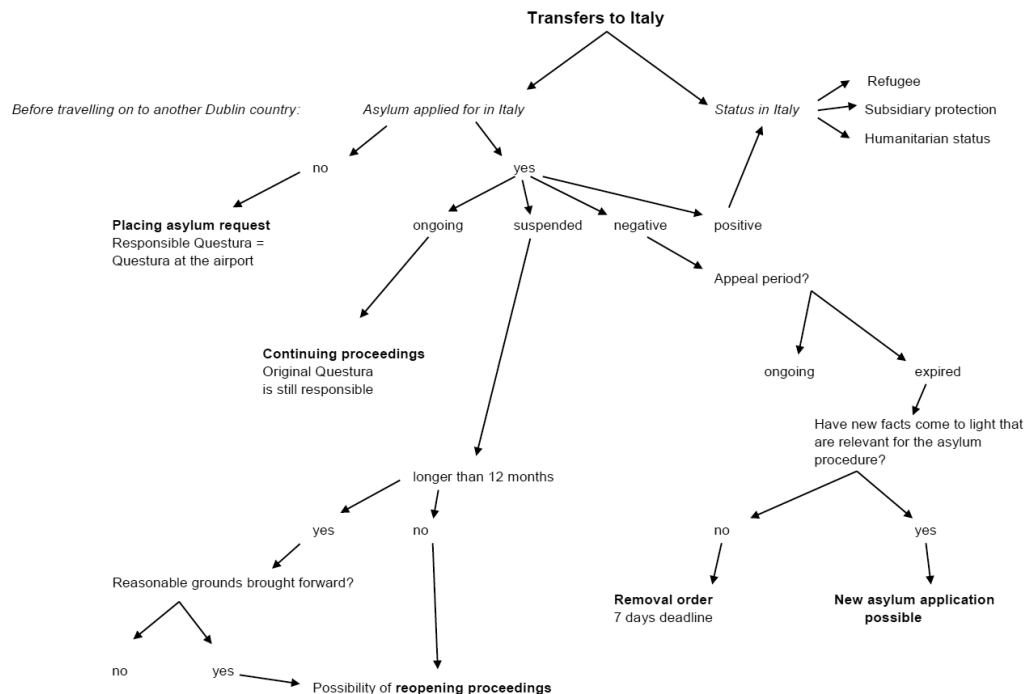
There is an NGO at each of the airports in Rome and Milan, which advises and supports people arriving in Italy by plane who want to apply for asylum, as well as people transferred to Italy from another Member State under the Dublin III Regulation. There is also an NGO in Bologna that offers advice and support, however, it is not situated at the airport, but works on demand. In Rome, the responsible NGO has changed almost every year in recent years due to the way contracts are awarded, while in Milan, the same NGO has been in place for years. This is particularly problematic when a new organization receives the mandate, as it must first find its feet and knowledge is wasted. GUS reports that after its contract had expired, it even had to dismantle and remove the deckchairs it had installed.

What happens next depends on the stage of proceedings and the status of the newly arrived refugee;

- a. If no asylum application has been submitted in Italy, this is done at the Questura in the region in which the airport is situated.
 - However, if the person does not want to apply for asylum, they have to go through the identification and registration process like all other returned refugees, including having their fingerprints taken. However, they are then given a removal order with a deadline to leave the country in seven days.
- b. If an asylum application was submitted in Italy before the applicant travelled on to another Dublin state, the original Questura is still responsible for the application. According to the AIDA report dated December 2015, the following constellations are possible:
 - If the application for asylum was rejected before the person left the country or travelled on to another country, the person was notified of the decision and the appeal period has already expired, the person is issued an expulsion order and sent to a CIE (if there is an available place). However, if the appeal period has not expired, they can still lodge an appeal.¹⁰³
 - Follow-up applications are possible if new elements can be put forward.
 - If proceedings are not yet concluded, they are continued. Once suspended, proceedings can only be reopened once within a period of twelve months after the person has disappeared. After this time, it is legally possible to resume the procedure, but only if good reasons can be given.
 - If the person travelled on before their personal interview with the *Commissione territoriale per il riconoscimento della protezione internazionale* (second personal hearing after the *verbalizzazione*) or no interview has taken place for some other reason, they can apply for a new interview.

¹⁰² CIR/AIDA, Country Report: Italy, December 2015, p. 40.

¹⁰³ CIR/AIDA, Country Report: Italy, December 2015, p. 40.



Unlike asylum seekers, returnees with protection status in Italy are not eligible for support from the NGOs at the airports. However, if returnees with protection status nevertheless seek out the NGO, they are usually informed about their situation and possibilities.¹⁰⁴ This seems to depend on the NGO at the airport. The organisation that ran the counter at Fiumicino Airport (Rome) before GUS did not give beneficiaries of protection any support, according to ASGI.¹⁰⁵ It is not (yet) possible to say how the new organisation at Fiumicino Airport will deal with the situation. ASGI reckons that people with protection status probably do not receive support at other airports, either.¹⁰⁶

4.2.1 Fiumicino Airport (Rome)

*Note: Directly before our fact-finding visit, there was a change of NGO at Fiumicino Airport. Previously, GUS (Gruppo Umana Solidarietà) had been responsible for around one year, which is why we have based our findings on the information provided by GUS. The new organisation is called ITC and is basically an organisation that offers translation and interpreting services.*¹⁰⁷

According to GUS, the NGO at Rome Airport is informed a month in advance about the exact date and the expected number of transfers from other Dublin countries on a certain day. However, there is no definitive confirmation and no further information is given if the transfer does not take place on that day, for example if the person being transferred lodges a complaint against the Dublin decision in the other Dublin country

¹⁰⁴ Interview with GUS, 2 March 2016.

¹⁰⁵ ASGI, The Dublin System and Italy: A wavering Balance, report from March 2015, p. 40.

¹⁰⁶ ASGI, The Dublin System and Italy: A wavering Balance, report from March 2015, p. 40.

¹⁰⁷ www.cooperativaitc.org

or goes into hiding, or if the transfer does not take place for some other reason. In addition, the airport NGO is only given very little additional information about the person being transferred. If the person is particularly vulnerable due to physical or mental illness, this makes it more difficult to find adequate care and prepare for their special needs. What's more, the NGO is not always informed about the medical needs of arrivals.¹⁰⁸

People transferred to Rome are met by the border police at the airplane and accompanied to the offices of the Questura at the airport, where they are registered and their fingerprints and photographs are taken. As the NGO at the airport is informed of the person's legal situation and the status of their procedure in Italy, they can inform the new arrivals and offer them corresponding support.

In Rome, the NGO at the airport tries to organise accommodation for people who have not yet applied for asylum in Italy before their transfer to Italy and for whose asylum procedure the Questura in Rome is therefore responsible.

If the person previously applied for asylum in Italy before travelling on to another country, the NGO can organise a train ticket, but not accommodation. In this case, a different Questura is usually responsible for controlling their asylum request.

At Fiumicino Airport, there is still a problem with luggage that has been handed in. This is sent out on the luggage conveyor belt together with other baggage after landing. However, transferees cannot pick up their luggage here as they are collected by the border police directly at the airplane. As a result, the luggage ends up in the lost property office of the airport. After two days, it can be picked up by the NGO at the airport, which takes up a great deal of their time.¹⁰⁹ As a result, the returnees often have to leave the airport without their bags. This can lead to problems, especially if the baggage contains important medication. The arrivals 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.).

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.¹¹⁰

Sometimes, transferees have to sleep at the airport, but normally for no longer than two days. The office of the border police is only open at 2 pm from Monday to Friday. If a person lands outside these hours, they have to wait at the airport until the office opens.¹¹¹

¹⁰⁸ GUS, information by e-mail on 15 June 2016.

¹⁰⁹ Interview with GUS, 2 March 2016.

¹¹⁰ Interview with Marco Mazzetti, Ferite Invisibilie, 4 March 2016.

¹¹¹ Interview with GUS, 2 March 2016.

Services for asylum seekers and returnees at Fiumicino Airport have apparently been reduced – there are now no longer mattresses or changing facilities.¹¹²

4.2.2 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 organisation directly at the airport – Cooperativa Integra –, which supports and advises asylum seekers and returnees on behalf of the prefecture of Varese. Although this organisation claims to be autonomous, we were only able to meet members of the Cooperativa Integra accompanied by representatives from the prefecture during our visit.

People who are transferred to Malpensa and have not applied for asylum in Italy before are often sent on to Milan, even though the prefecture of Varese is actually responsible for them.¹¹³

4.2.3 Conclusion

Basically, all people who are transferred to Rome, Milan or Bologna have access to the responsible NGO. However, the NGOs can only support people whose asylum procedure is ongoing or who have not applied for asylum in Italy previously. People whose asylum request is linked to another Questura are normally only given a train ticket so that they can travel on to the responsible region. However, this does not always seem to work in practice.¹¹⁴ The NGO at the airport can only give people with protection status in Italy or with a removal order, who are transferred by plane¹¹⁵, information about their situation.

People who have been transferred to Italy often have no access to their luggage during the first days, which is why they should always carry important items like identification, medication, etc. in their hand luggage.

Furthermore, the NGO at the airport is not usually informed about returnees' health requirements or other vulnerabilities and special needs and can therefore not respond appropriately. In addition, returnees may be traumatised, for example because force was used during their transfer, something that is impossible to predict but can generally be avoided.

¹¹² Interview with SSI, 31 May 2016.

¹¹³ The delegation met an asylum seeker in Milan, who had been transferred from Switzerland to Malpensa under the Dublin Regulation. When he arrived, he was given a Post-It with the address of the HUB in Milan (emergency place to sleep, not an accommodation centre, not to be confused with the regional hubs). According to volunteers working in the Hub, this was not an isolated case.

¹¹⁴ Interview with SSI, 31 May 2016.

¹¹⁵ People with protection status in Italy are usually accompanied to Chiasso and handed over to the Italian police. Only people with protection status, who count as Dublin cases for Switzerland, because Italy has not clarified their protection status, are transferred by plane.

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

The NGOs at the airports cannot organise accommodation for people who applied for asylum in Italy before traveling on to another Dublin state. These people have to travel back to the responsible Questura or prefecture. The train ticket is generally provided by the NGO at the airport.¹¹⁶

The FER¹¹⁷ projects set up specifically to accommodate people returned to Italy under the Dublin Regulation expired in summer 2015 without replacement.¹¹⁸ Subsequent projects under the current EU fund AMIF¹¹⁹ should come into force in August 2016, according to GUS. The project is scheduled to last 24 months.¹²⁰

Asylum seekers who are returned to Italy under the Dublin III Regulation usually find accommodation in a CAS or another first-stage reception centre.¹²¹ However, they can also be accommodated in the following centres in principle:

- Regional hubs or “*Centri governativi di accoglienza*” (formerly CARA)
- CAS
- SPRAR (Sistema di protezione per richiedenti asilo e rifugiati)
- Municipal accommodation (not specifically for asylum seekers)

The accommodation situation is problematic for people who already lived in a centre before they continued their journey. If people leave the centre, they are legally required to obtain authorization to be absent from the centre beforehand. If a person leaves the centre without giving notification, it is assumed that they have left of their own free will and they lose their right to a place.¹²² They can regain this right under certain conditions if they make an appointment at the prefecture and explain why they left the centre.¹²³ The prefecture then decides whether the person can be readmitted. Until that time, the person does not have access to a state-run accommodation facility.¹²⁴ If the prefecture rejects readmission to the system, there is no alternative accommodation provided by the state. If a person is readmitted to the system and there is a scarcity of beds, they are put at the end of the waiting list, unless their situation is an emergency, for example if they are particularly vulnerable.¹²⁵

MEDU visits precarious housing facilities (squats, slums, railway stations) with a mobile clinic and meets many migrants, including people who are in the asylum

¹¹⁶ Interview with GUS, 2 March 2016.

¹¹⁷ European Refugee Fund (ERF; Italian FER, Fondo europeo per i rifugiati)

¹¹⁸ CIR/ECRE, Asylum Information Database, Country Report: Italy, December 2015, p. 67.

¹¹⁹ Asylum, Migration and Integration Fund (AMIF; Italian FAMI, Fondo Asilo, Migrazione e Integrazione).

¹²⁰ GUS, information by e-mail, 15 June 2016.

¹²¹ Interview with UNHCR, 1 March 2016.

¹²² Decree 142/2015 from 18 August 2015, Art. 13 and 23.

¹²³ Interview with ASGI, 29 February 2016.

¹²⁴ Interview with GUS, 2 March 2016.

¹²⁵ Interview with SSI, 31 May 2016.

(or appeal) procedure, people with protection status or in transit. Migrants who take advantage of MEDU's services are given a form where they can anonymously put a cross next to the box describing their situation. At the time of our fact-finding mission, MEDU had only come across few homeless Dublin returnees. According to MEDU, this could be because these people are less likely to end up living on the streets, or that MEDU does not meet them as it does not offer its services everywhere. However, MEDU meets plenty of asylum seekers (in the asylum or appeal procedure).¹²⁶

The following description of the conditions in accommodation facilities is limited to those that specifically provide for asylum seekers. The conditions in other centres that also take in people with protection status (SPRAR and municipal centres) are described in chapter 5.3.

Newly arrived boat refugees in Italy have access to the first-stage reception centres CSPA¹²⁷ and CDA¹²⁸. However, Dublin returnees are not given accommodation in these centres, which is why they are not considered further here.

4.3.1 Regional hubs or “Centri governativi di prima accoglienza” (formerly CARA)

Centres formerly known as CARA¹²⁹ are first-stage accommodation centers in Italy. According to Italy's roadmap, the aim is to convert CARA together with CDA and CSPA centres into so-called “regional hubs”.¹³⁰ As this process has not yet been concluded, CARA centres currently still exist. In addition, further accommodation places are planned, for example in former military barracks. This process is still ongoing and should be completed by the end of 2016. Some 15,550 places are planned by the end of 2016¹³¹. By this time, there should be a hub in each region.¹³²

These centres are often large and very remote. The quality varies considerably¹³³ and integration measures therefore differ accordingly.¹³⁴ Some are mass accommodation with little support. These are unsuited to families and other vulnerable groups or people with special needs.

Normally, a stay in a hub should be used for registration and identification purposes as well as *verbalizzazione* of the asylum request, and last between seven and 30 days. After that, asylum seekers should be given a place in a second-stage reception system (SPRAR).¹³⁵ In practice, however, the legal requirements are not met. Some people live in former CARA centres for up to two years.¹³⁶

¹²⁶ Interview with MEDU, 29 February 2016.

¹²⁷ *Centro di soccorso e prima accoglienza.*

¹²⁸ *Centro di accoglienza.*

¹²⁹ *Centri di accoglienza per richiedenti asilo.*

¹³⁰ Ministero dell'Interno, Roadmap Italiana, 28 September 2015, p. 4 f.

¹³¹ Ministero dell'Interno, Roadmap Italiana, 28 September 2015, p. 4 f.

¹³² Ministero dell'Interno, Roadmap Italiana, 28 September 2015, p. 5.

¹³³ CIR/ECRE, Asylum Information Database, Country Report: Italy, December 2015, p. 71.

¹³⁴ Maria Cristina Romano, lawyer and ELENA coordinator, information by e-mail, 15 June 2016.

¹³⁵ Ministero dell'Interno, Roadmap Italiana, 28 September 2015, p. 4.

¹³⁶ Rapporto sulla protezione internazionale in Italia 2015, ANCI, Caritas Italiana, Cittalia, Fondazione Migrantes, SPRAR in cooperation with UNHCR, report from September 2015, p. 8.

If a person receives their asylum decision while living in a hub/*Centro governativo di prima accoglienza*, they must leave the centre. However, they have the possibility of a place in a SPRAR project for six months.¹³⁷

In Rome, the former CARA centre (Castelnuovo di Porto) also housed people in the *relocation* programme at the time of our visit. Such cases generally take a long time to process.¹³⁸ In March 2016, 20 percent of the 892 people living there were in the *relocation* programme.¹³⁹ Dublin returnees who land in Fiumicino are only rarely given accommodation in Castelnuovo di Porto.¹⁴⁰

These centres are contracted out every three years. The building remains the same, but the management changes.¹⁴¹

Returned asylum seekers under the Dublin III Regulation can sometimes find accommodation in a *Centro governativo di prima accoglienza*.¹⁴²

4.3.2 CAS¹⁴³

CAS centres were originally set up as emergency centres during the North African Emergency.¹⁴⁴ They are now part of the Italian reception system and were institutionalised in Art. 11 of Decree 142/2015.¹⁴⁵ Mandates for CAS centres are awarded by the respective prefecture.

The majority (72 percent¹⁴⁶) 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 intransparent. Neither are there any clear national guidelines.¹⁴⁷ CAS are run by various institutions, including municipalities, private organisations and NGOs. Management often lacks experience in dealing with asylum seekers.¹⁴⁸ Many centres

¹³⁷ Interview with Loredana Leo, ASGI, 29 February 2016.

¹³⁸ Interview with Loredana Leo, ASGI, 29 February 2016.

¹³⁹ www.rainews.it/dl/rainews/articoli/Aspettando-Papa-Francesco-II-Cara-di-Castelnuovo-di-Porto-b950af80-c1b3-4dc2-b280-004d742922f2.html?refresh_ce accessed on 15 June 2016.

¹⁴⁰ Interview with GUS, 2 March 2016.

¹⁴¹ Interview with UNHCR, 1 March 2016.

¹⁴² UNHCR, information by e-mail on 14 June 2016.

¹⁴³ *Centri di accoglienza straordinari*.

¹⁴⁴ 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.

¹⁴⁵ ECRE, AIDA, Wrong counts and closing doors. The reception of refugees and asylum seekers in Europe, March 2016, p. 31.

¹⁴⁶ Ministero dell'Interno, Rapporto sull'accoglienza di migranti e rifugiati in Italia: aspetti, procedure, problemi, report from October 2015, p. 28.

¹⁴⁷ Médecins sans Frontières, Out of Sight, report from March 2016, p. 5.

¹⁴⁸ Médecins sans Frontières, Out of Sight, report from March 2016, p. 5.

are very remote, overfull and unsuitable.¹⁴⁹ There are also reports of very poor hygienic standards.¹⁵⁰ Due to the dramatic increase in the number of centres and constant changes to management, staff are often unqualified and/or overworked.¹⁵¹

There are CAS centres that only take in single men, and others for families or single women.¹⁵² In some cases, however, unaccompanied minors are put in the same accommodation as adults.¹⁵³

CAS centres are contracted out every six months; the resulting financial insecurity hinders the establishment of good, sustainable projects. To be awarded a contract, operators apply together with an accommodation (unlike contracts for *Centri governativi di prima accoglienza*), which means that both the management and location can change.¹⁵⁴

People who are transferred to Rome under the Dublin III Regulation and whose asylum application is dealt with by the Questura of Rome are usually accommodated in CAS centres. The number of CAS in each prefecture is intransparent, and nobody interviewed could provide any definite figures. The NGO at the airport is given a list with CAS centres from the prefecture, and then tries to find a suitable place for new arrivals. If no suitable place can be found from the list, the NGO has to contact the prefecture to get more addresses.¹⁵⁵

Theoretically, new arrivals should only stay in a CAS for a short time until accommodation can be found in a SPRAR.¹⁵⁶ However, as the SPRAR system does not have sufficient places, most people stay in CAS for longer or for the whole duration of their asylum procedure.¹⁵⁷ There used to be a maximum duration for a stay in a CAS, but this restriction was lifted.¹⁵⁸ People can stay in a CAS centre at least until their asylum request has been approved or rejected. If the person appeals against a rejection of their asylum application, they are given the same status as an asylum seeker and can also stay in the centre. However, in some CAS centres, people have to leave 15 days after receiving their asylum decision. In these cases, there is a high probability that they will end up on the street.¹⁵⁹

¹⁴⁹ Médecins sans Frontières, *Neglected Trauma – Asylum seekers in Italy: an analysis of mental health distress and access to healthcare*, report from 15 July 2016, p. 20.

¹⁵⁰ Cittadinanzattiva, Libera and LasciateCIEntrare, *InCAStrati: Iniziative civiche sulla gestione dei centri di accoglienza straordinaria per richiedenti asilo*, February 2016, p. 7 ff.

¹⁵¹ Cittadinanzattiva, Libera and LasciateCIEntrare, *InCAStrati: Iniziative civiche sulla gestione dei centri di accoglienza straordinaria per richiedenti asilo*, February 2016, p. 26.

¹⁵² Interview with GUS, 2 March 2016.

¹⁵³ E.g. the case of a minor, who was the only woman in accommodation with men. From: Cittadinanzattiva, Libera and LasciateCIEntrare, *InCAStrati: Iniziative civiche sulla gestione dei centri di accoglienza straordinaria per richiedenti asilo*, February 2016, p. 28.

¹⁵⁴ Interview with UNHCR, 1 March 2016.

¹⁵⁵ Interview with GUS, 2 March 2016.

¹⁵⁶ GUS, interview on 2 March 2016.

¹⁵⁷ Interview with GUS, 2 March 2016; interview with Caritas Ambrosiana Milan, 3 March 2016; Médecins sans Frontières, *Neglected Trauma – Asylum seekers in Italy: an analysis of mental health distress and access to healthcare*, report from 15 July 2016, p. 21.

¹⁵⁸ Interview with Caritas Rome, 29 February 2016.

¹⁵⁹ Interview with GUS, 2 March 2016.

4.3.3 Excursus: CIE¹⁶⁰

CIE centres are a kind of deportation centre. According to the Italian roadmap, illegal migrants in Italy who have not applied for asylum are moved to a CIE and deported from there.¹⁶¹

For foreigners who are not seeking asylum, the maximum length of detention is 90 days. It is possible to apply for asylum while in a CIE. Asylum seekers, on the other hand, can be detained for up to twelve months, according to Art. 6 of Decree 142/2015 if they are considered a danger to public order and national security or if there is risk of them fleeing.

At the time of the fact-finding mission there were fewer CIE places then in the past. Currently, six such centres exist in Bari, Brindisi, Caltanissetta, Crotone, Rome and Torino.¹⁶²

4.3.4 Conclusion

NGOs at the airports can organise accommodation if the prefecture in which they are situated is responsible for the transferee. If another prefecture is responsible, they can only organise a train ticket.

Dublin returnees who are still in the asylum procedure can find accommodation in both *Centri governativi di prima accoglienza* and in CAS centres.

If a person previously lived in a centre before continuing their journey to a different country and left this centre without notification, they lose their right of access to the reception system and have to apply for readmission to the system with the responsible prefecture.¹⁶³

Overall, we were under the impression that support for transferees on arrival and 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.¹⁶⁴

¹⁶⁰ *Centro di identificazione ed espulsione.*

¹⁶¹ Ministero dell'Interno, Roadmap Italiana, 28 September 2015, p. 14 f.

¹⁶² Commissione straordinaria per la tutela e la promozione dei diritti umani del Senato (2016), Rapporto sui centri di identificazione ed espulsione in Italia, February 2016, p. 13.

¹⁶³ Decree 142/2015, Art. 23.

¹⁶⁴ Interview with SSI, 31 May 2016.

5 Reception of people with protection status in Italy

5.1 Arrival of returnees with protection status

There are three types of protection status in Italy: Recognition as a refugee under the terms of the Geneva Convention (in connection with a five-year permit), subsidiary protection under the terms of the EU Qualification Directive (five-year permit) and humanitarian protection under national law (two-year permit).¹⁶⁵ People with humanitarian protection are sent to Italy by other European countries under the Dublin Regulation.¹⁶⁶ Recognised refugees and people with subsidiary protection are not returned under the Dublin III Regulation, but in connection with bilateral readmission agreements. There have also been cases where the wrong legal basis was applied in practice.

However, upon arrival in Italy, all people with protection status are in the same situation: From an Italian standpoint, they are people with a valid residence permit. As such, they can enter Italy and travel freely throughout the country. However, this also means that they receive no assistance at the airport, for instance in searching for accommodation, apart from information from the NGO at the airport, if they have access to the office.

The NGOs at the airports are in the non-Schengen zone. This means that returnees with protection status from other European countries, who generally arrive in the Schengen zone, cannot reach the NGOs at all without a police escort.

5.2 Extending the “permesso di soggiorno”

Often, people's documents (e.g. residence permit from Italy, so-called *permesso di soggiorno*) are taken away from them in other Dublin countries. They therefore have to reapply for them on returning to Italy.¹⁶⁷ If a person loses their *permesso di soggiorno*, this must be declared.¹⁶⁸ The residence permit for recognized refugees is normally extended automatically. To extend a residence permit for a person with subsidiary or humanitarian protection, a new interview must be arranged, as long as this is deemed necessary by the Italian authorities due to a change in the person's situation.¹⁶⁹

The new residence permit must be issued within 60 days, but delays are possible.¹⁷⁰

¹⁶⁵ CIR/AIDA, Country Report: Italy, December 2015, p. 12 and p. 16.

¹⁶⁶ It must be kept in mind that persons with subsidiary protection no longer come under the revised Dublin III Regulation, which entered into force in January 2014. They are now transferred – like recognized refugees – under bilateral readmission agreements.

¹⁶⁷ Interview with Caritas Rome, 29 February 2016.

¹⁶⁸ Interview with Vincenzo Tammaro, Polizia di Stato, Direzione Centrale dell'immigrazione e della polizia delle frontiere, 2 March 2016.

¹⁶⁹ Interview with Vincenzo Tammaro, Polizia di Stato, Direzione Centrale dell'immigrazione e della polizia delle frontiere, 2 March 2016.

¹⁷⁰ Interview with Vincenzo Tammaro, Polizia di Stato, Direzione Centrale dell'immigrazione e della polizia delle frontiere, 2 March 2016.

Some Questure demand proof of *residenza* to renew the permit. In Italy, there is a difference between the term *residenza* (residence) and *domicilio*, which designates the applicant's current place of residence, but is not necessarily their permanent address. Although the Ministry of the Interior (*Dipartimento per le Libertà civili e l'Immigrazione*) sent a circular¹⁷¹ to all Questure, making it clear that proof of *residenza* is not required to renew a permit, some Questure (e.g. Rome and Bologna) have not changed this practice.¹⁷² As a *permesso di soggiorno* is required to apply for a *residenza*, the administrative process is often long and difficult. Some people have considerable problems renewing their residence permit. Centro Astalli reports on cases where people have lost their job for this reason. Although it is possible to give the address of an NGO as a *residenza*, the NGO has to vouch for the person and regularly check that they are still in the region,¹⁷³ making the process much more complex and time-consuming than for a *domicilio*, where it is enough to simply give the NGO's address.¹⁷⁴ The method described above used by certain Questure is on the one hand illegal, and has contributed to the development of a black market for *residenze* on the other.¹⁷⁵

According to the *Centro operativo per il diritto all'asilo*, the Questura in Rome also requires proof of professional and social integration to extend a residence permit.¹⁷⁶ However, without a valid residence permit, it is more difficult to find work, which in turn stands in the way of professional and social integration.

The administrative barriers to extending the residence permit mentioned above also mean that the process can be time-consuming and expensive. In Rome, it takes eight to nine months on average, sometimes more. This is problematic in particular for people who have to have their permit extended at the Questura in Rome, but do not live in Rome, for example people who work in agriculture in southern Italy. They do not have a place to stay while extending their permit and have to live on the streets.¹⁷⁷ In addition, taking a long absence from work to renew their permit can also mean that they lose their job. Many people do not have enough money for the fees¹⁷⁸ for extending a permit and for other official documents.¹⁷⁹

¹⁷¹ With reference to the guidelines *Linee guida sul diritto alla residenza dei richiedenti e beneficiari di protezione internazionale*, http://www.sprar.it/images/QuadernoSC_lineeguida.pdf accessed on 15 June 2016.

¹⁷² Interview with UNHCR, 1 March 2016.

¹⁷³ Interview with Centro Astalli, 2 March 2016.

¹⁷⁴ Interview with Caritas Rome, 29 February 2016.

¹⁷⁵ Centro Operativo per il Diritto all'Asilo (2015). *Diritto di asilo. Regole ed eccezioni nella prassi della Pubblica Amministrazione: Il monitoraggio di Coda sul territorio di Roma*, October 2015, p. 16 and Médecins sans Frontières, *Out of Sight*, report from March 2016, p. 14.

¹⁷⁶ Centro Operativo per il Diritto all'Asilo (2015). *Diritto di asilo. Regole ed eccezioni nella prassi della Pubblica Amministrazione: Il monitoraggio di Coda sul territorio di Roma*, October 2015, p. 15.

¹⁷⁷ Interview with MEDU, 29 February 2016; when the delegation accompanied volunteers in Rome, they talked to several people who had come to Rome to extend their residence permit and were sleeping on the street at Termini railway station.

¹⁷⁸ Information on fees can be found at www.stranieriinitalia.it/l-esperto-risponde/lesperto-risponde/lesperto-risponde/tassa-sui-permessi-di-soggiorno-quanto-costa-e-chi-la-deve-pagare.html accessed on 10 July 2016, or at www.poliziadistato.it/articolo/217-Come-dove-e-quanto-costa/ accessed on 10 July 2016.

¹⁷⁹ Interview with Cittadini del Mondo, 1 March 2016.

5.3 Accommodation options (also) for returnees with protection status

The following section describes accommodation in the SPRAR system and in the municipalities of Rome and Milan. These two types of housing are available not only to beneficiaries of protection, but also to asylum seekers (for more on accommodation provided exclusively for asylum seekers, see chapter 4.3)

The situation for beneficiaries of protection in Italy has not changed. Generally speaking, it is extremely difficult for people transferred to Italy to find accommodation. 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 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.

5.3.1 SPRAR¹⁸⁰

SPRAR is the second-stage reception system in Italy. It is a network of accommodation facilities based on cooperation between the Ministry of the Interior, the municipalities and various NGOs.¹⁸¹ SPRAR projects not only provide a place to live, but also integration schemes including language courses and support in searching for work and other matters.¹⁸² In principle, each SPRAR project is meant to have a person available to give legal advice. However, it seems debatable whether this is guaranteed everywhere in practice.¹⁸³

Asylum seekers and people with protection status have access to SPRAR. In 2011/2012, 72 percent of people in these accommodation centres were beneficiaries of protection and 28 percent were asylum seekers.¹⁸⁴ In 2014, however, 39 percent of people in SPRAR centres were beneficiaries of international protection and 61 percent were asylum seekers. According to SPRAR's *Servizio Centrale*, this is due to the larger number of arrivals and longer procedures.¹⁸⁵

SPRAR centres are contracted out for three years. Compared to the shorter contract periods for CAS centres, this length of time ensures somewhat more stability, which should theoretically have a positive impact on quality. However, this is not yet evident due to the ever-increasing number of places and arrivals.

¹⁸⁰ Sistema di protezione per richiedenti asilo e rifugiati.

¹⁸¹ 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, p. 22.

¹⁸² SPRAR, 2014 annual report, p. 55 ff.

¹⁸³ Interview with Loredana Leo, ASGI, 29 February 2016.

¹⁸⁴ SPRAR, 2011/2012 annual report, p. 19.

¹⁸⁵ SPRAR, 2014 annual report, p. 31.

SPRAR is funded by and reports to the Ministry of the Interior, but is run by ANCI¹⁸⁶. SPRAR's *Servizio Centrale* in Rome coordinates the various SPRAR projects and is also responsible for monitoring.¹⁸⁷ Contracts are awarded as follows: The local authorities present a project to the Ministry of the Interior; if it corresponds to the guidelines and regulations, it is funded and incorporated into the system. In 90 percent of cases, the local authority subcontracts the project to an NGO. Responsibility remains with the local authority.

If a person was previously accepted into the SPRAR system and left it again, there is no way of being readmitted. The only exception to this rule is if the person applies to the Ministry of the Interior producing new vulnerabilities.¹⁸⁸ (For more information about leaving the centre without notification or approval, see chapter 4.3.)

a.) Number of places

There are currently 22,000 places in the SPRAR system.¹⁸⁹ Another 10,000 places are planned. According to SPRAR's *Servizio Centrale*, each place in the SPRAR system is occupied by 1.5 people per year.

This means that the number of places has increased significantly (from 4,800 places at the beginning of June 2013). However, it is still not enough by far, considering that people in the 92,000¹⁹⁰ places in first-stage reception centres are theoretically waiting to be given a place in the SPRAR system. As SPRAR has far fewer places than CAS, SPRAR centres are normally always full¹⁹¹ and places can only be allocated to a small number of asylum seekers and beneficiaries of protection.

It should be pointed out that not all of these additional places have been newly created; existing accommodation places have been incorporated into the SPRAR system, for example, places in the Morcone system in Milan.¹⁹² The quality and standard of accommodation in the SPRAR centres seem to have declined somewhat due to the significant increase in the number of places in recent years.

The vast majority of accommodation places in centres are set aside for single people. No single people are accommodated in centres for families.¹⁹³

In July 2015 a total of 280 places in the SPRAR system were reserved for people with mental illness or physical disabilities.¹⁹⁴ Moreover, people with psychological problems can only be given places in SPRAR projects if they do not require in-patient treatment, as SPRAR does not have its own clinics.¹⁹⁵

¹⁸⁶ Associazione Nazionale Comuni Italiani; National Association of Italian Municipalities.

¹⁸⁷ Interview with SPRAR, 1 March 2016.

¹⁸⁸ Interview with SPRAR, 1 March 2016.

¹⁸⁹ Interview with SPRAR, 1 March 2016.

¹⁹⁰ According to the Roadmap Italiana by the Ministry of the Interior from 28 September 2015, p. 4, there are 12,000 places in CPSA, CDA and former CARA centres, plus 80,000 places in CAS centres according to UNHCR.

¹⁹¹ Interview with Caritas Ambrosiana Milan, 3 March 2016.

¹⁹² Interview with Caritas Ambrosiana Milan, 3 March 2016.

¹⁹³ Interview with SPRAR, 1 March 2016.

¹⁹⁴ Rapporto sulla protezione internazionale in Italia 2015, ANCI, Caritas Italiana, Cittalia, Fondazione Migrantes, SPRAR in cooperation with UNHCR, report from September 2015, p. 114.

¹⁹⁵ Interview with SPRAR, 1 March 2016.

b.) Access

To apply for admission to the SPRAR system, a form (*richiesta di inserimento*) must be filled out with personal details as well as a report with the most important information on the person's situation (for example particular vulnerability, health condition or minority). SPRAR then compares this information with the accommodation available in its centres. Sometimes a place can be found relatively quickly. Finding accommodation is considerably more difficult if there are a large number of requests for admission. Sometimes there are no free places. If a lot of people arrive at the same time, it can be difficult to find a place in second-stage reception centres at short notice (various interviewees compared the situation with a bottleneck). This was the case at the time of the delegation's visit in March.¹⁹⁶

During our visit, SPRAR was instructed by the Ministry of the Interior to give priority to integrating people from first-stage reception centres who had been granted asylum into the SPRAR system in order to free up accommodation places in the CAS centres for new asylum seekers.¹⁹⁷

Available places in SPRAR are basically allocated according to the length of time a person has waited. Vulnerable people are also given priority. SPRAR said that the number of requests by victims of human trafficking and people with mental illness had grown. However, the waiting time for people with mental health problems is still often longer than for those without a particular vulnerability, as there are only very few adequate places and these are usually occupied for longer due to the time required for rehabilitation.¹⁹⁸

If people have special medical needs, SPRAR's *Servizio Centrale* sends their medical report, if possible and available, to a project to check whether the facility is compatible with the person's needs. However, SPRAR's *Servizio Centrale* said that medical documents are sometimes not sent because there is no declaration signed by the applicant to release physicians from the obligation of medical secrecy (*liberatoria*).¹⁹⁹

c.) Length of stay

Once a person has been admitted to the SPRAR system, they can normally stay in a SPRAR facility until the final decision on their asylum application has been made. According to the Recast Reception Conditions Directive²⁰⁰, asylum seekers have the right to accommodation until the end of the asylum process including the appeal procedure, as long as no restrictions or reasons for revocation apply in accordance with Art. 20 of the Directive. As there are several appeal bodies in Italy, it can take between three months and three years for an appeal to be dealt with, depending on the region and court.²⁰¹

¹⁹⁶ Interview with SPRAR, 1 March 2016.

¹⁹⁷ Interview with SPRAR, 1 March 2016.

¹⁹⁸ Interview with SPRAR, 1 March 2016.

¹⁹⁹ Interview with SPRAR, 1 March 2016.

²⁰⁰ 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)).

²⁰¹ Interview with SPRAR, 1 March 2016.

After their asylum application has been accepted, people can generally stay in the SPRAR accommodation for another six months. This is not stipulated by law but set out in the internal directives of SPRAR.²⁰² In certain cases, it is possible to extend a person's stay in the SPRAR centre for another six months.²⁰³

This leads to the paradoxical situation in which a person with a negative asylum decision and two negative court rulings has the option of staying in a SPRAR centre for up to three years, whereas a person whose application is immediately accepted only has access to accommodation and other benefits of SPRAR for six months.²⁰⁴ This length of stay is usually not enough to enable people to provide for themselves subsequently, especially in view of the current situation on the job market (see chapter 7). After their maximum stay has expired, participants must leave the SPRAR centre and are left entirely to their own devices.

d.) Access for returnees from other European countries

People transferred to Italy from other European countries have access to the SPRAR system if they have not previously exhausted the maximum period of stay in SPRAR and a place is available. People who left the centre previously without notification must first be readmitted to the accommodation system. This can be problematic depending on the individual case and the responsible Questura (see chapter 4.3).

According to SPRAR, various organisations and authorities have the right to submit requests for admission; asylum seekers cannot make the application themselves. However, the procedure is different for Dublin returnees, whose request for admission is processed via the Italian Dublin unit or the prefecture.

In 2014, only around four percent of people accommodated in the SPRAR system were Dublin cases. Of the 848 people returned under the Dublin Regulation who found accommodation in the SPRAR system, eleven percent came from Switzerland.²⁰⁵ Considering that Dublin transfers from Switzerland account for a very large share of all Dublin returnees to Italy, this small number is surprising. It indicates that only a very small percentage of those returned from Switzerland to Italy under the Dublin Regulation are accommodated in the SPRAR system.

e.) Reasons for leaving SPRAR and subsequent solutions

According to SPRAR's 2014 annual report, just 32 percent of people left SPRAR because they were "successfully integrated".²⁰⁶ In 2015, this share was 33 percent.²⁰⁷ In 2014, 30 percent left SPRAR because their maximum length of stay had expired, while 33 percent decided to leave of their own accord, four percent were excluded and 0.3 percent chose to return home voluntarily.²⁰⁸

According to Cittadini del Mondo, SPRAR does not prepare people at all, or only insufficiently, for leaving the system. SPRAR's *Servizio Centrale* does not follow up on

²⁰² Interview with UNHCR, 1 March 2016.

²⁰³ Interview with SPRAR, 1 March 2016.

²⁰⁴ Interview with Farsi Prossimo, 4 March 2016.

²⁰⁵ SPRAR, 2014 annual report, p. 42.

²⁰⁶ SPRAR, 2014 annual report, p. 46.

²⁰⁷ Ministero dell'Interno, Tavolo di Coordinamento Nazionale, Piano Accoglienza 2016, p. 24.

²⁰⁸ SPRAR, 2014 annual report, p. 46.

what happens to people after they leave.²⁰⁹ They disappear from the official registration systems for asylum procedures and are generally left without accommodation and usually without work.

f.) Vulnerable people

The SPRAR system has not offered any projects for “vulnerable” people since 2013. It justifies this on the grounds that all people in the asylum procedure are vulnerable. Only unaccompanied minors and asylum seekers with mental disorders or physical disabilities are now classified separately.²¹⁰ In 2014, five percent of asylum seekers in accommodation were unaccompanied minors, and one percent were people with mental health issues.²¹¹ SPRAR assumes the translation and medication costs for people being treated for psychological disorders.²¹²

In 2014, twelve percent of residents in SPRAR projects were women.²¹³

g.) Places in SPRAR as defined by the Tarakhel ruling: Circular by the Ministry of the Interior

Following the ECtHR ruling *Tarakhel v. Switzerland*,²¹⁴ countries that transfer families to Italy²¹⁵ must obtain individual guarantees regarding adequate accommodation and the preservation of family unity.

In its landmark decision²¹⁶ of 12 March 2015, the Swiss Federal Administrative Court (BVGer) held that such guarantees are a substantive legal condition for transfer under international law that must be verifiable at appeal level and do not simply act as a mere transfer modality.

It can be assumed that creating and documenting procedures to comply with this legal condition would constitute an enormous administrative effort for the Italian authorities. In addition, the assigned places in the centres would have to be kept free for months until the person is actually transferred. This is presumably why the Italian Ministry of the Interior published a general list on 8 June 2015 with places in the SPRAR system that are reserved for families returned to Italy under the Dublin Regulation. This list was sent to all Dublin units in other Dublin member states.

In a ruling²¹⁷ from July 2015, the Federal Administrative Court found the list to constitute an individual guarantee as defined by the ECtHR ruling, as long as the Italian authorities made it clear in their answer that they were aware that the returnees were a family by specifying their individual names and ages. The court came to a different

²⁰⁹ Interview with Cittadini del Mondo, 1 March 2016.

²¹⁰ SPRAR, 2014 annual report, p. 16.

²¹¹ SPRAR, 2014 annual report, p. 28.

²¹² Interview with Marco Mazzetti, *Ferite Invisibilie*, 4 March 2016.

²¹³ SPRAR, 2014 annual report, p. 36.

²¹⁴ ECtHR judgment from 4 November 2014, *Tarakhel v. Switzerland*, No. 29217/12, Nr. 29217/12.

²¹⁵ Depending on individual interpretation by the courts, this also applies to other countries or constellations, e.g. see the Federal Administrative Court (BVGer) ruling from 25 August 2015, D-2677/2015: In the case of a mentally impaired man, who was transferred to Slovenia, the State Secretariat for Migration (SEM) should have obtained guarantees regarding access to health care and accommodation.

²¹⁶ Federal Administrative Court 2015/4, Recital 4.3.

²¹⁷ Federal Administrative Court judgment from 27 July 2015, D-4394/2015, Recital 7.2 f.

conclusion in December 2015:²¹⁸ As the list was already six months old, it no longer corresponded to the requirements of an individual guarantee as it was out-of-date.

In February 2016, the Italian Ministry of the Interior sent an updated list with reserved places to all Dublin units. In this second letter, the number of places was halved compared to the first list in summer 2015 to 85 places.

GUS explained to the delegation that during its time as the responsible NGO at Fiumicino Airport, it had not seen one single case where a person or family was sent directly to a SPRAR centre from the airport. This was because SPRAR is run by the Ministry of the Interior and not the prefecture. In this case, as for all other people in the CAS system, the CAS manager is responsible for transferring them to the SPRAR system if a place can be found for them.²¹⁹

Despite intensive efforts (both on our part and via third-party contacts), the *Dipartimento per le libertà civili e l'immigrazione* of the Ministry of the Interior was not prepared to meet us. Its perspective is therefore missing in this report, which we regret.

Overall, the delegation was not able to obtain transparent and clear information regarding the practical implementation of guarantees for families as defined by the *Tarakhel* ruling. Countries that transfer families or other vulnerable people to Italy need to make further and more individual investigations regarding guarantees to avoid violating Art. 3 ECHR.

h.) Conclusion

The SPRAR system offers good support for those who can find a place. However, because of the dramatic increase in the number of places, it is impossible to ensure the same high quality standards as when there were fewer places. Despite the large number of additional places, there are still not enough by far to satisfy demand. Allocation seems to be random and, in a certain sense, a matter of luck. SPRAR places are always temporary and the length of stay in the project is hardly ever long enough to ensure that people can look after themselves subsequently in the long term, and thus become successfully integrated.

According to SPRAR, the situation was already difficult in March, due to a large number of people waiting to be admitted to the system. When more refugees arrive across the Mediterranean, it will probably be even more difficult to find accommodation in the SPRAR system. Dublin returnees only make up a small percentage (four percent) of people accommodated in SPRAR.

5.3.2 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 did we receive an answer to our repeated requests for written information. Accordingly, there is no comprehensive information regarding the number of places, waiting times, etc. at municipal level.

²¹⁸ Federal Administrative Court judgment from 9 December 2015, E-6261/2015, Recital 4.5.2.

²¹⁹ Interview with GUS, 2 March 2016.

The city of Rome still operates an information counter in Via Assisi, where it is possible to register for a place in municipal accommodation.²²⁰ 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 (sometimes as part of SPRAR or CAS).

A volunteer in Rome gave the delegation a self-compiled list of places where food is handed out, where people can sleep and wash, as well as contact points for medical support. The list also indicates the telephone number of the contact point for social support of the municipality of Rome, *Sala Operativa Sociale* - S.O.S.²²¹, which has dealt with social emergencies since 2002. On its homepage, it lists seven centres for homeless women and men and five for women with children.²²² The homepage²²³ of the city of Rome also lists various emergency sleeping places in Roma Capitale. However, these places are only open at night, usually from late in the evening,²²⁴ and must be vacated early in the morning. These emergency places are also available to homeless Italians; there are no places reserved specifically for asylum seekers or migrants.

5.3.3 Municipal and emergency accommodation in Milan

Until the end of 2014, the Morcone system²²⁵ provided first-stage reception in Milan. The Morcone system was incorporated into the SPRAR system in 2015.²²⁶

The city of Milan operates an information counter in Via Scaldasole (formerly in Via Barabino), where asylum seekers and beneficiaries of protection can report and receive social and legal counselling.²²⁷ This counter is also open to Dublin returnees. As part of their duties, the staff there try to organise accommodation places in the SPRAR system and in facilities for vulnerable people.²²⁸

In 2015, the counter served 2,803 people, of whom 765 were given in-depth counselling. Eighteen percent had subsidiary protection, 17 percent were recognized refugees, 18 percent were beneficiaries of humanitarian protection and 43 percent were in the asylum procedure; the remaining nine percent of people were not asylum seekers.²²⁹

²²⁰ www.comune.roma.it/pcr/it/newsview.page?contentId=NEW477135, accessed on 13 June 2016.

²²¹ www.comune.roma.it/pcr/it/newsview.page?contentId=NEW116819, accessed on 13 June 2016.

²²² www.comune.roma.it/pcr/it/emergenza_soc_e_acc.page, accessed on 13 June 2016.

²²³ www.comune.roma.it/pcr/it/xiii_acc_notturna.page, accessed on 13 June 2016.

²²⁴ At around 10 or 11 pm, according to a volunteer from the Red Cross.

²²⁵ The so-called Morcone project dated back to a 2007 agreement between the cities of Milan, Rome, Turin and Florence and the Ministry of the Interior, according to which the state partly funded the centres for seven years to cover the increase in demand for accommodation in the cities.

²²⁶ Interview with Caritas Ambrosiana Milan, 3 March 2016.

²²⁷ Information by e-mail from Antonella Colombo, municipality of Milan, 16 June 2016.

²²⁸ Homepage of the municipality of Milan, www.comune.milano.it/wps/portal/ist/it/servizi/sociali/servizi_interventi_sociali/adulti_immigrati/servizi_immigrazione, accessed on 7 June 2016.

²²⁹ Comune di Milano, Rapporto statistico sui Rifugiati e i Richiedenti, Asilo a Milano: analisi delle fonti e dei dati, Sesto Rapporto (dati 2015), p. 6 ff.

There are 360 SPRAR places in the municipality of Milan, including 70 for women and families, eight for people with severe mental health problems, 20 for a resettlement project, and the rest for men travelling alone. An additional 62 SPRAR places are planned in summer 2016.²³⁰ Accommodation capacity at municipal level is not far over and above the national accommodation system.

In addition, the municipality of Milan has accommodation facilities that were originally intended for short stays for people passing through, but where asylum seekers who are unable to find any other accommodation are now allowed to stay for longer. In March 2016 they included accommodation in Casa Suraya, Via Aldini, Via Mambretti, Via Corelli, Via Pedroni and Via Pollini.²³¹ According to our information, the accommodation in Via Aldini was to close down in June 2016.²³² **Casa Suraya** with 150 beds is an emergency accommodation for refugee families offering material support (hygiene, clothing, etc.) as well as support in gaining independence for residents who stay longer.²³³ The accommodation is run by Farsi Prossimo and supported by various volunteers. People are either referred to this accommodation by the city of Milan or by the prefecture.

Farsi Prossimo and other NGOs run several smaller facilities and apartments, which are also open to foreigners.²³⁴ They include centres for families as well as special centres for women and for victims of trafficking. These facilities face huge demand, as the number of people leaving reception centres and requiring a follow-on solution is much larger than the available places in accommodation.

In Milan, the so-called HUB was set up near the main railway station in 2013 (in Galleria Mortirolo at the time of our fact-finding visit, in Via Sammartini 120 since May 2016). It should not be confused with the regional hubs into which former CARA centres are being transformed. HUB is run as a contact point by volunteers of the ARCA project.²³⁵ It offers emergency places to sleep, but is not intended as an accommodation centre. It serves food, offers first aid²³⁶ and information, and volunteers try to organize accommodation where needed. If accommodation is found, it is also possible to spend a few nights in the HUB. The delegation met a young man there who had been returned from Switzerland to Malpensa (prefecture of Varese) under Dublin. The NGO at the airport told him that they could not find accommodation for him and gave him a Post-It with the address of HUB in Milan (prefecture of Milan). The young man was able to spend one night in the HUB, and in another provisional centre after that. However, it should be mentioned that the man was only given help by chance because somebody at the HUB had read the summary of his psychiatric report from Switzerland, which was written in English. The volunteers from the ARCA project were able

²³⁰ Information by e-mail from Antonella Colombo, municipality of Milan, 16 June 2016.

²³¹ Interview with the municipality of Milan, 3 March 2016. Since then, several new accommodation centres have been opened; information by e-mail from Antonella Colombo, municipality of Milan, 16 June 2016.

²³² http://milano.repubblica.it/cronaca/2016/05/07/news/il_comune_chiude_il_centro_al-dini_si_muovano_gli_altri_-139242915/?refresh_ce, accessed on 13 June 2016.

²³³ www.farsiprossimo.it/aree-di-intervento/area-stranieri-centri-di-accoglienza/la-casa-di-suraya-2, accessed on 13 June 2016.

²³⁴ For a current overview, see www.farsiprossimo.it/aree-di-intervento, accessed on 13 June 2016.

²³⁵ Fondazione Progetto Arca, www.progettoarca.org, accessed on 13 June 2016.

²³⁶ www.ilgiorno.it/milano/hub-emergenza-profughi-1.2128223, accessed on 16 June 2016

to organise a place for him in the SPRAR system, where he now lives.²³⁷ According to a volunteer doctor from the project, the HUB is visited daily by people who have been sent back to Italy from other European countries.

It is impossible to gain an overview of the total number of programmes and places offered by NGOs and church institutions, because the system is highly fragmented and there is a lack of coordination between the individual providers. In any case, capacity is very limited. According to Farsi Prossimo, there are not enough places.²³⁸

Many of these places are simply a place to spend the night in an emergency for a short period of time, often for just one night. This is far from a sustainable solution. Under these conditions it is virtually impossible for people to gain a foothold in Italy and become independent.

5.3.4 Squats and slums

Because of the lack of capacity in the official reception system, many asylum seekers and beneficiaries of protection live in squats or shanty towns in various Italian cities, usually in unacceptable conditions.²³⁹

Seventy-two percent of residents of informal accommodation centres have protection status in Italy (22 percent have refugee status, 27 percent subsidiary protection and 23 percent humanitarian status), and six percent are in the asylum procedure.²⁴⁰ Residents have lived in various kinds of accommodation in the past: 61 percent were in a state-run centre for more than a month, 15 percent were in two state-run centres, and 23 percent did not have access to the reception system.²⁴¹ Seventy-three percent of residents are unemployed, while the situation for those who have found work is at times precarious (see chapter 7 for the current employment situation in Italy).²⁴²

In Rome, between 2,250 and 2,880 women, men and children live in slums and squats, according to estimates.²⁴³ In Milan, squats are much less tolerated compared to Rome. As a result, they do not last as long and are hidden away. They probably also change location regularly.

a.) Selam Palace in Rome

On its fact-finding tour, the delegation visited Selam Palace in Rome together with the NGO Cittadini del Mondo.²⁴⁴ The NGO regularly visits the Palace to offer advice and medical support. The building has been a squat for ten years. At the time of the delegation's visit, between 1,000 and 1,200 people²⁴⁵ from East Africa (Somalia, Eritrea,

²³⁷ Dublin returnees (transfers from Switzerland), encounter in HUB Galleria Mortirolo in Milan, 3 March 2016.

²³⁸ Farsi Prossimo, information by e-mail, 14 June 2016.

²³⁹ Médecins sans Frontières, Out of Sight, report from March 2016, p. 31.

²⁴⁰ Médecins sans Frontières, Out of Sight, report from March 2016, p. 12.

²⁴¹ Médecins sans Frontières, Out of Sight, report from March 2016, p. 13.

²⁴² Médecins sans Frontières, Out of Sight, report from March 2016, p. 13.

²⁴³ Médecins sans Frontières, Out of Sight, report from March 2016, p. 7.

²⁴⁴ Visit to Selam Palace, 3 March 2016.

²⁴⁵ In summer 2015, the number of people living in Selam Palace soared temporarily, as many people in transit found accommodation there for a few days. A similar development is expected for summer 2016.

Ethiopia, Sudan) lived in the former university building. Most people in Selam Palace come from Eritrea.²⁴⁶ Selam Palace is a self-contained system with an autonomous administration. All important decisions 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.²⁴⁷

For a while, it was possible to give the address of Selam Palace as a *residenza* (residence). However, the situation has deteriorated for asylum seekers since the *Decreto Lupi*²⁴⁸, which rules out approval of a residence permit for people living in squats.²⁴⁹ As a result, if they want to extend their residence permit, these people face a considerable hurdle that requires a considerable effort to overcome. The same is true when applying for a health card or for all benefits that require a *residenza*. So-called *residenze fittizie* (fictitious residence) are often bought or handed in by NGOs.²⁵⁰ Several NGOs (e.g. Centro Astalli) are allowed to provide their address as a fictitious *residenza*, however, that also means they have to vouch for the person and check that they are still in Italy.²⁵¹ In addition, as the NGOs and accordingly the addresses are mostly in Municipio 1 (city centre), this creates further problems (see chapter 8.1).

Many residents of Selam Palace have protection status in Italy, but Dublin returnees also live there. In 2014, 57 percent of residents had subsidiary protection, 25 percent had refugee status, eight percent had other permits, five percent were illegally in Italy and five percent had protection status on humanitarian grounds.²⁵² Seventy-six percent of residents had been in Italy for longer than five years. This clearly shows that the situation is unlikely to improve and there is little prospect of successful integration. The majority of residents are men, but single women, single mothers and families with children and infants also live there. Many men try to find accommodation for their women elsewhere, as Selam Palace is not a good place to bring up children.²⁵³

In June 2014, 65 percent of residents were unemployed.²⁵⁴ There are numerous cases of people who have moved away, but then returned because they do not have sufficient financial means to rent an apartment in the longer term.²⁵⁵ In 2014, 35 percent of residents had lived in Selam Palace for longer than five years, 33 percent had lived there for more than a year.²⁵⁶ These figures, among others, show that residents of Selam Palace have great difficulty finding other accommodation.

A major problem is the lack of drinking water in the building. Residents are therefore forced to buy mineral water. This is expensive, unpractical and unecological. As the building is situated on the outskirts of the city, residents have to make a considerable effort if they want to eat in a charity-run cafeteria in the city centre. They can only do this once a day at most due to the long distances in Rome. Poor nutrition due to a lack of money and insufficient knowledge of available food in Italy often lead to health-

²⁴⁶ Interview with Cittadini del Mondo, 1 March 2016.

²⁴⁷ Interview with people living in Selam Palace, 3 March 2016.

²⁴⁸ Decree 47/2014, Art. 5.

²⁴⁹ Interview with Cittadini del Mondo, 1 March 2016.

²⁵⁰ Interview with Cittadini del Mondo, 1 March 2016.

²⁵¹ Interview with Centro Astalli, 2 March 2016.

²⁵² Cittadini del Mondo, Palazzo Selam: la città invisibile, report from 2014, p. 21.

²⁵³ Interview with Cittadini del Mondo, 1 March 2016.

²⁵⁴ Cittadini del Mondo, Palazzo Selam: la città invisibile, report from June 2014, p. 26.

²⁵⁵ Interview with Cittadini del Mondo, 1 March 2016.

²⁵⁶ Cittadini del Mondo, Palazzo Selam: la città invisibile, report from June 2014, p. 21.

related problems, according to Cittadini del Mondo. People often suffer from bone and muscular problems as well as respiratory diseases. Cittadini del Mondo therefore not only organises preventive courses, but also courses with nutritional experts.²⁵⁷

A lack of perspective is often compensated with alcohol. This can even happen to people who have never drunk before.²⁵⁸ Mental health problems also tend to deteriorate as a result of the precarious conditions.²⁵⁹

The situation for people with **mental illnesses** is also extremely difficult, especially in squats like Selam Palace: On the delegation's visit in 2013, a man with a mental disorder had his bed outside the building under a porch. He was not permitted to spend the night inside the building because he reportedly caused problems there. Other residents brought him meals outside. This example dramatically shows that people with mental illnesses are not even able to find accommodation in squats, because they are considered unfit for communal living and are not accepted socially.²⁶⁰ The situation is similar to that in the state-run CARA and SPRAR centres and in the municipal centres, all of which have few or no suitable places for people with mental illness. This situation has not changed (see chapter 8.2).

b.) Other squats and slums in Rome

Via Curtatone (Piazza Indipendenza): Some 600-900 people live here, mostly refugees, including women and children.²⁶¹ Many were previously in Selam Palace.²⁶²

Via Collatina: Roughly 600-700 people live in this squat, mostly refugees, including women and children.²⁶³ About 70 percent of residents come from Eritrea and 30 percent from Ethiopia.²⁶⁴

Via Tiburtina: Around 50-80 refugees live here including men, women and children.²⁶⁵

The huts near the **Ponte Mammolo** metro station with up to 400 residents were evacuated in May 2015. Around 200 people were relocated to the **Baobab centre**. Before this centre was also evacuated in November 2015, it offered support and temporary accommodation to a total of 35,000 people in transit (so-called *transitanti*). Médecins sans Frontières (MSF) offered psychological counselling there between July and October 2015. After it was evacuated, MSF openly expressed its concern about the lack of alternatives.²⁶⁶ One of the few alternatives is a centre supervised by the Red Cross with 60 places that the delegation visited. Despite being closed down, the Baobab Centre still appears to be a known address for people seeking protection. In front of the former centre, the delegation found a group of 20 people who had reached Italy across the Mediterranean two days previously and had hoped to find accommodation in the Baobab centre.

²⁵⁷ Interview with Cittadini del Mondo, 1 March 2016.

²⁵⁸ Interview with Cittadini del Mondo, 1 March 2016.

²⁵⁹ Interview with Cittadini del Mondo, 1 March 2016.

²⁶⁰ Interview with Cittadini del Mondo, 1 March 2016.

²⁶¹ Médecins sans Frontières, Out of Sight, report from March 2016, p. 31.

²⁶² Interview with Cittadini del Mondo, 1 March 2016.

²⁶³ Médecins sans Frontières, Out of Sight, report from March 2016, p. 31.

²⁶⁴ Interview with Cittadini del Mondo, 1 March 2016.

²⁶⁵ Médecins sans Frontières, Out of Sight, report from March 2016, p. 31.

²⁶⁶ Médecins sans Frontières, Out of Sight, report from March 2016, p. 10.

Volunteers as well as migrants told the delegation about the extremely desolate accommodation situation in summer 2015. People even lived in underground parking garages without showers and toilets, which had a detrimental effect on their health.

c.) Conclusion

Especially in Rome, a large number of asylum seekers and people with protection status live in squats and slums. Most have no job and little hope of finding one. Their everyday life is determined by trying to cover their most basic needs. Under these circumstances, it is impossible to participate in language courses or other activities organised by NGOs. Conditions in the squats are inadequate for children and pose a risk to their development. The potential for violence here and in other squats is dangerous and often unpredictable, not only for women and children, but also for men. As a rule, people living in this emergency accommodation have no hope of improving their situation.

In addition, following the *Decreto Lupi*, squats cannot be used as a *residenza*. This creates further obstacles, for example when it comes to applying for a health card, extending a residence permit, gaining access to childcare, and all other matters for which a *residenza* is required.

5.3.5 Homelessness

Many asylum seekers and people with protection status in Rome are homeless. The homeless can be seen at various places at night. They often sleep in full view on street corners, at Termini railway station, on pavements, in parks or on temporarily abandoned construction sites. Volunteers from the NGOs Sant'Egidio and MEDU visit the homeless once or several times a week. Sant'Egidio distributes meals and MEDU offers medical advice and treatment. The delegation accompanied Sant'Egidio and MEDU on their visits.²⁶⁷

There are also homeless refugees in Milan, but they are less visible. There are shelters for the homeless, especially in winter. There were hardly any asylum seekers in these at the time of the fact-finding visit, according to Caritas, but many people with protection status in Italy.²⁶⁸ Naga told us about numerous cases where people have to leave CAS after gaining protection status, and end up living on the streets until a place becomes available in the SPRAR system, which can take months. This problem is growing worse, according to Naga.²⁶⁹

Many homeless people who visit the Naga Har centre do not know where to leave their luggage. Naga sometimes keeps their luggage as there is no other place in Milan to put it.²⁷⁰

The municipality of Milan confirmed that they sometimes have to turn people away from the information counter because no places in accommodation can be found for them. Presumably these people end up homeless and on the streets.²⁷¹

²⁶⁷ Accompanying volunteers from Sant'Egidio who distributed food to homeless people, 1 March 2016.

²⁶⁸ Interview with Caritas Ambrosiana Milan, 3 March 2016.

²⁶⁹ Naga, information by e-mail on 17 June 2016.

²⁷⁰ Naga, information by e-mail on 17 June 2016.

²⁷¹ Interview with the municipality of Milan, 3 March 2016.

People who cannot find a place in an accommodation centre or are not allocated one are also excluded from state-provided meals. However, some religious communities, NGOs and soup kitchens distribute food.²⁷² As mentioned above in connection with squats and in the 2013 OSAR report,²⁷³ refugees still spend most of their time covering their basic needs: queuing up at soup kitchens for meals, finding somewhere to shower and wash and a place to sleep. Under these circumstances, it is not clear how a person can participate in a language course or other integration programme, if these are offered at all. Cittadini del Mondo reports that it is hard for residents of Selam Palace to get to soup kitchens, as they are in the centre of Rome and Selam Palace is on the outskirts.

5.3.6 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 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

As already mentioned, the Italian asylum system grants asylum seekers support until a final decision is made about their application for asylum. Shortly after they receive protection status, however, they are on their own and are expected to take care of themselves.

Formally, people with protection status have the same social rights as native Italians. This also applies to social benefits. The social system in Italy has not changed since OSAR's last fact-finding mission in 2013. It is still very weak, even for Italian citizens, and cannot meet demand. Unlike the Swiss system, there are no regular monthly social welfare payments that secure a minimum subsistence level. The Italian system is strongly based on support from the family. While Italians can count on the help of their relatives should they need to and the system is more or less based on the assumption that families must make this contribution in such cases, refugees naturally lack such a family network. As a result, they are actually worse off than native Italians. The

²⁷² UNHCR, information by e-mail on 14 June 2016.

²⁷³ SFH/OSAR, Italy: Reception conditions: Current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, report from October 2013.

Commissioner of Human Rights of the Council of Europe emphasized this fact in an earlier report on Italy (which is still valid as the situation in the Italian social system has not changed since).²⁷⁴

6.2 Financial contributions

According to the AIDA report on Italy from December 2015,²⁷⁵ asylum seekers in *Centri governativi di prima accoglienza* (which were still called CARA at the time) receive approx. 2.50 euros per day, either in the form of cash or material (such as cigarettes or bus tickets). People living in SPRAR centres are also given a form of pocket money, which can vary between 1.50 and 2.50 euros per day depending on the project. No information was available for CAS centres. People who do not live in a centre do not receive any financial contributions.

With regard to social welfare contributions, people with protection status in Italy have the same rights as native Italians.²⁷⁶ There is no social welfare as such, but an amount is paid for a certain time if a person loses their (legal) employment (unemployment benefit).²⁷⁷ It is also possible to apply for a financial contribution if a person has no, or only a very small, income. This amount varies: In Rome it is (up to) 500 euros per year.²⁷⁸ In the municipality of Milan, it is theoretically possible to apply for social welfare benefits comprising a cash contribution of 250 euros per month that is paid for six months. However, this is not guaranteed and depends on the number of requests and the available budget.²⁷⁹

6.3 Social housing

The municipalities have social housing available to all people in need, including people with protection status. However, applicants need to have lived in Italy for at least five years.²⁸⁰ There is only very little social housing and the waiting lists are long. The waiting time can be several years, both for locals and for foreigners.²⁸¹ In Milan alone there are 10,000 people on the waiting list; around 400 people are given social housing each year.²⁸²

6.4 Conclusion

Like native Italians, beneficiaries of protection do not necessarily have a right to social welfare payments that could secure their livelihood. The social welfare system in Italy is based primarily on private support from the family. However, as beneficiaries of

²⁷⁴ Report by Nils Muižnieks, 18 September 2012, RZ 155.

²⁷⁵ CIR/AIDA, Country Report: Italy, December 2015, p. 65.

²⁷⁶ ASGI, The Dublin System and Italy: A wavering Balance, report from March 2015, p. 36 f.; legal basis for people with refugee status or subsidiary protection: Art. 27 Decree 251/07; legal basis for people with humanitarian protection: Art. 41 Decree 286/98.

²⁷⁷ Interview with Cecilia Pani, Sant'Egidio, 1 March 2016.

²⁷⁸ Interview with Cittadini del Mondo, 1 March 2016.

²⁷⁹ Interview with Antonella Colombo, Municipality of Milan, 3 March 2016.

²⁸⁰ Interview with Farsi Prossimo, 4 March 2016.

²⁸¹ Interview with UNHCR, 1 March 2016.

²⁸² Interview with Farsi Prossimo, 4 March 2016.

protection in Italy lack this support, they are actually worse off than Italians. The waiting time for social housing can be several years, even for families. This means that six months at the latest after receiving protection status, people are generally left on their own.

7 Employment and integration

Asylum seekers are permitted to work after two months.²⁸³ Six months at the latest after receiving protection status (depending on whether they have spent six months in a SPRAR centre as provided for in theory), people are expected to take care of themselves. This transition to sudden, total independence after spending months in a centre, where they are usually not even allowed to cook for themselves, is very abrupt for many people and they are generally not prepared for it. A very small number of projects have recognised this problem and support refugees in the transitional phase.²⁸⁴

A residence permit on humanitarian grounds can be converted into a work permit if the person finds regular employment.²⁸⁵

7.1 Regular employment

The unemployment rate in Italy is higher than it has been in the last 40-50 years. It was around 12 percent in 2015,²⁸⁶ and 29 percent among young people between 15 and 29 years of age in May 2016.²⁸⁷

Due to the high unemployment rate, it is difficult for native Italians to find a job.²⁸⁸ It 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 are not recognized. Many refugees are young men and thus fall into the group with the highest employment rate.

Therefore, the unemployment rate among refugees is presumably higher than for the overall population. This was confirmed in a June 2012 study by CIR on the integration of people with international protection status in Italy.²⁸⁹ OSAR assumes that the unemployment and integration situation has not changed substantially, as the authorities have not taken or implemented any adequate measures to resolve this situation.

²⁸³ Interview with Caritas Ambrosiana Milan, 3 March 2016.

²⁸⁴ For example, Progetto C.A.I. Casa Scalabrini in Rome with 32 places in eight apartments. The project aims to help people become self-sufficient (language courses, driving lessons, training, cooking courses etc.).

²⁸⁵ Maria Cristina Romano, lawyer and ELENA coordinator, information by e-mail, 5 May 2016.

²⁸⁶ Eurostat.

²⁸⁷ Interview with UNHCR, 1 March 2016, with reference to ISTAT.

²⁸⁸ Interview with UNHCR, 1 March 2016.

²⁸⁹ CIR/Sapienza Università di Roma/Comitato Centro Sociale/Xenia, Le Strade dell'Integrazione, study financed by the Italian Ministry of the Interior and the EU Refugee Fund, June 2012, p. 45: www.cir-onlus.org/RICERCA%20PER%20%20presentazione_LE%20STRADE%20DELL'INTEGRAZIONE.pdf, accessed on 13 June 2016.

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 somewhat easier to find jobs. Unreported employment is also widespread among other groups of people who are legally resident in Italy, especially in the south and in agriculture.²⁹⁰

Many people living in CAS centres also work illegally and are often exploited. A lack of adequate support means that these people frequently wind up in the black market, drug trade and prostitution.²⁹¹ In certain CAS (especially in southern Italy), residents reported that they had found unreported employment against a cash payment of 25 euros for ten hours of work via an illegal employment service.²⁹²

Other people sell umbrellas, sunglasses and the like on the street. It is highly questionable whether they earn enough doing this to make ends meet.

It can be assumed that a number of women turn to prostitution or are exploited in other ways due to the hopeless situation.

Trafficking in women is still a serious problem that mostly affects Nigerians.²⁹³ However, there are hardly any formalised procedures and processes in Italy to identify victims of trafficking.²⁹⁴ The subject of trafficking in Italy should be examined in more detail. However, this would go beyond the scope of this report.

7.3 Housing

The cost of rent for an apartment, particularly in large cities like Rome²⁹⁵ and Milan, is very high. 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 6.3).

²⁹⁰ ECRI – European Commission against Racism and Intolerance, report on Italy from 7 June 2016, p. 27.

²⁹¹ Cittadinanzattiva, Libera and LasciateCIEntrare, InCAStrati: Iniziative civiche sulla gestione dei centri di accoglienza straordinaria per richiedenti asilo, February 2016, p. 27.

²⁹² Cittadinanzattiva, Libera and LasciateCIEntrare, InCAStrati: Iniziative civiche sulla gestione dei centri di accoglienza straordinaria per richiedenti asilo, February 2016, p. 27.

²⁹³ La tratta di donne dalla Nigeria all'Italia, documentary from 8 December 2015, www.il-post.it/2015/12/08/tratta-donne-prostituzione-nigeria-italia/, accessed on 12 July 2016.

²⁹⁴ See Group of Experts on Action against Trafficking in Human Beings GRETA, report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy from 22 September 2014, p. 54 ff.; U.S. Department of State, 2016 Trafficking in Persons report from June 2016, p. 215.

²⁹⁵ According to an article in the newspaper Corriere della Sera on 17 March 2016, a room/apartment in Rome costs 550 euros on average, the price for three rooms is 1,040 euros on average, http://roma.corriere.it/notizie/cronaca/16_marzo_17/affitti-roma-piu-cari-d-italia-oltre-mille-euro-un-trilocale-6cd3be22-ec33-11e5-b4bb-fbc47dd8e9c6.shtml?refresh_ce-cp, accessed on 13 July 2016.

7.4 Language courses and other integration programmes

According to UNHCR, there are no specific programmes in place to integrate people with international protection. The *Tavolo Nazionale di Coordinamento* is supposed to publish a national integration plan every two years.²⁹⁶ However, there seem to be problems implementing this, at least no such plan exists.²⁹⁷ The few integration schemes in place are run not by the government, but by relief organisations.

The programmes in first-stage reception centres vary, and language courses are limited. CAS centres are often difficult to reach as they are very remote. Under these circumstances, it is almost impossible for people living there to build up a social network outside. They spend their lives mainly in the centres, which makes integration almost impossible.²⁹⁸

The SPRAR system offers Italian courses, but they often lack sufficient personnel, and one teacher can end up teaching 200 students.²⁹⁹ Most Italian courses are run by NGOs and not by the state. In Rome there are only twelve state-run schools that offer Italian courses, which is not enough to cover demand for language programmes, according to Cittadini del Mondo.

Cittadini del Mondo has a library with 20,000 books in more than 25 languages. It also arranges programmes to raise awareness of the topics of flight and migration. In addition, it offers Italian courses several times a week. Sometimes, the responsible staff in the SPRAR centres contact Cittadini del Mondo to register residents for language courses. Cittadini del Mondo also runs a *Sportello sociale* in the library, where it offers social and legal advice.

If people are expected to gain knowledge of the language and thus have a chance of becoming integrated, it is counterproductive to force them to leave accommodation centres after they have received protection status (or six months after receiving protection status at the latest). By this time, they often do not speak enough Italian to communicate adequately, making it much more difficult to find work and gain independence.

As soon as a person leaves an accommodation centre, it is difficult for them to regularly attend a language course or other integration programme. On the one hand, people with protection status are no longer entitled to such support measures, in other words they generally rely on programmes offered by the NGOs. On the other, their everyday life is often spent covering their basic needs like sleeping and eating.

Ninety-five percent of people advised by the volunteers at Cittadini del Mondo have international protection status in Italy. Of these, 76 percent have already been in Italy for more than five years, 21 percent for more than one year and just three percent for

²⁹⁶ Interview with Cecilia Pani, Sant'Egidio, 1 March 2016.

²⁹⁷ Médecins sans Frontières, Out of Sight, report from March 2016, p. 5.

²⁹⁸ Médecins sans Frontières, Neglected Trauma – Asylum seekers in Italy: an analysis of mental health distress and access to healthcare, report from 15 July 2016, p. 20.

²⁹⁹ Interview with Cittadini del Mondo, 1 March 2016.

less than one year. These figures clearly demonstrate that measures to integrate beneficiaries of protection into Italian society have failed.³⁰⁰ According to ASGI, the system for social integration must be radically reformed to effectively counter this problem.³⁰¹

7.5 Conclusion

In view of Italy's high unemployment rate, it seems nearly impossible for people in the asylum process, official refugees or people with subsidiary or humanitarian 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 Health care

8.1 Access to health care

Asylum seekers and people with protection status in Italy must register with the national health service (*servizio sanitario nazionale*).³⁰² They have the same status as native Italians when it comes to health care. However, 30 percent of people with a resident permit in Italy are not registered with the national health service.³⁰³

All people in Italy, even those without legal status, have a right to basic and emergency medical care in the case of illness or accidents, as well as preventive treatment with a view to safeguarding individual and public health.³⁰⁴ Access to emergency hospital treatment appears to function well. For people in transit who do not have any papers, access to health care is more difficult.³⁰⁵

On the other hand, a health care card (*tessera sanitaria*) is required to visit a general practitioner and receive other medical services. This can be obtained from the municipality where a person has their place of residence (*residenza*). To get their *tessera sanitaria*, people have to register at a public regional local health unit ASL (*Azienda*

³⁰⁰ ASGI, The Dublin System and Italy: A wavering Balance, report from March 2015, p.43 with further reference to: Cittadini del Mondo, Palazzo Selam: la città invisibile, report from June 2014, p. 39.

³⁰¹ ASGI, The Dublin System and Italy: A wavering Balance, report from March 2015, p. 43.

³⁰² Art. 34 Decree 286/1998. (Regarding health care, Decree 142/2015 Art. 21 para. 1 refers to Art. 34 and Art. 35 of Decree 286/1998.)

³⁰³ Médecins sans Frontières, Out of Sight, report from March 2016, p. 13.

³⁰⁴ Art. 35, para. 3, Decree 286/1998.

³⁰⁵ Interview with MEDU, 29 February 2016.

Sanitaria Locale) for which they need identification (*cedolino* or *permesso di soggiorno*) and a *residenza*.³⁰⁶ This means that people whose asylum application has not yet been formally registered (*verbalizzazione*) are excluded from medical care beyond basic or emergency treatment. Until their proceedings are reopened, it also applies to people transferred to Italy under the Dublin III Regulation, who had previously applied for asylum in Italy.³⁰⁷ People with protection status who are not registered with the health service (around 30 percent according to MSF³⁰⁸), do not have access to these benefits either.

Homeless people also have problems obtaining a *residenza*.³⁰⁹ Several NGOs (e.g. Centro Astalli) provide their address as a fictitious *residenza*, however the NGO then also has to vouch for the person and check that they are still in Italy.³¹⁰

A health card grants access to a general physician and various medical services beyond basic and emergency treatment. However, patients are allocated to a local doctor at their place of residence, which can mean travelling a long way, especially if the address of an NGO has been given as a *residenza*.³¹¹ This so-called fictitious *residenza* causes many problems and makes access to the health system, among others, more difficult. Residents of Selam Palace or the squat in Via Collatina often have their *residenza* in the city centre (ASL 1), but live in the district of ASL 2. That means they have to travel to ASL 1 to get treatment. Some people even have their *residenza* in another Italian province or region. In this case, they only go to the doctor in an emergency.³¹²

8.1.1 Fee, so-called “ticket”

The Italian health care system stipulates that both people who work and those who have never worked in Italy (*inoccupati*) must contribute to the cost of treatment by paying a fee, a so-called “ticket”, for medical services (with the exception of emergency treatment). As asylum seekers and people with protection status have the same status as native Italians in this respect, it also applies to them. If a person is destitute, they can be exempt from paying the fee. The administrative procedure for this exemption can take some time.³¹³ Asylum seekers are guaranteed exemption, as long as they are not permitted to work. Decree 142/2015 reduced the time limit for this from six months to 60 days after they have submitted their asylum application. The Ministry of Health as well as some regions and local institutions (ASL) interpret this change to the law in such a way that asylum seekers are only exempt from paying the fee in the first 60 days after submitting their asylum application, as they theoretically have access to the labour market after that. ASGI and various other organisations intervened in a letter³¹⁴ to the Ministry of Health, pointing out the illegality of this practice, also

³⁰⁶ Interview with MEDU, 29 February 2016.

³⁰⁷ OSAR is in contact with a couple that was transferred to Bari under the Dublin III Regulation. The woman was pregnant at the time of the transfer, and it was impossible for her to gain access to medical examination during her pregnancy.

³⁰⁸ Médecins sans Frontières, Out of Sight, report from March 2016, p. 13.

³⁰⁹ Interview with MEDU, 29 February 2016.

³¹⁰ Interview with Centro Astalli, 2 March 2016.

³¹¹ E.g. residents of Selam Palace.

³¹² Interview with Cittadini del Mondo, 1 March 2016.

³¹³ Doctor working for MEDU, Sapienza University of Rome, Faculty for Physiology and Pharmacology, information by e-mail, 6 July 2016.

³¹⁴ ASGI, Asilo e assistenza sanitaria: lettera delle associazioni al Ministero di Salute, 7 January 2016.

with regard to art. 17 para. 3 of the EU directive on reception conditions, which rules out a person contributing to the cost of health services if they do not have sufficient financial means. Asylum seekers should therefore only have to pay the fee if they actually have a job or they have adequate financial means for other reasons.

Decree 142/2015 has not yet been applied in the region of Lazio. As a result, asylum seekers there are exempt from paying the fee in the first six months after applying for asylum (*esenzione sanitaria*).³¹⁵

As long as a person has accommodation in the SPRAR system, the *ticket* is paid by SPRAR.³¹⁶

If a person had a job and the contract was terminated (so-called *disoccupato*), the government assumes the cost of the ticket, as long as the person is unemployed and the family's annual income does not exceed 8,000 euros. This is subject to periodical reviews.³¹⁷

According to several interviewees, the fee amounts to between 20 and 40 euros depending on the treatment; this is enough to stop many people from getting medical treatment and the corresponding medical assessments. Sant'Egidio reported on various cases where people were deterred from getting treatment by the fee.³¹⁸ During the delegation's visit, a man had obviously been trying for some time to scrape together 20 euros for a blood test. However, as the relief organisations themselves are underfunded, they generally cannot contribute even smaller amounts.

8.1.2 Access to health care for people with irregular status

As long as a person is an irregular migrant in Italy, the so-called STP card (*straniero temporaneamente presente*) gives them access to free urgent medical care. The STP card can be applied for at a public local health institution ASL or a major hospital.³¹⁹

The STP card guarantees free medical treatment for patients with severe illnesses, even if they do not have a residence permit. Patients are only exempt from the cost of treatment once their illness is diagnosed. If exemption is granted, the public health care system assumes the cost of prescribed medication.³²⁰ However, it should be noted that exemption only applies to the treatment and medication prescribed in the diagnosis on which the exemption was based. Patients may have to pay for drugs prescribed for other health-related problems themselves.³²¹

³¹⁵ Interview with MEDU, 29 February 2016.

³¹⁶ Interview with Marco Mazzetti, Ferite Invisibile, 4 March 2016 and interview with Cecilia Pani, Sant'Egidio, 1 March 2016.

³¹⁷ Interview with Caritas Ambrosiana Milan, 3 March 2016.

³¹⁸ Interview with Cecilia Pani, Sant'Egidio, 1 March 2016.

³¹⁹ Sant'Egidio, information by e-mail on 22 and 24 June 2016.

³²⁰ Doctor working for MEDU, Sapienza University of Rome, Faculty for Physiology and Pharmacology, information by e-mail, 6 July 2016.

³²¹ Doctor working for MEDU, Sapienza University of Rome, Faculty for Physiology and Pharmacology, information by e-mail, 6 July 2016.

There are no regional differences in terms of medical treatment, but there are when it comes to the cost of medication.³²²

It should be pointed out that the administrative procedure to gain exemption from costs can take some time. It is therefore important that if a person returned to Italy has medical problems, they should take sufficient medication with them to last several weeks. They also require all their medical documents, which should be translated into English at least to theoretically guarantee the chance of follow-on treatment.³²³

8.1.3 Problems accessing health care

The main problem in accessing health care is that many people are not informed about their rights and about the procedure for getting a *tessera sanitaria*.³²⁴ In addition, access to health care is made more difficult by the fee that many patients have to pay and that often exceeds the budget of asylum seekers and beneficiaries of protection in Italy. NGOs like MEDU and Cittadini del Mondo in Rome and Naga in Milan therefore visit refugees in squats and on the streets to inform them of their rights and offer them medical treatment.

Another problem is the communication difficulties between medical personnel and refugees.³²⁵

8.2 Treating people with mental health problems

MSF has observed an increase in the number of asylum seekers and migrants with mental health problems.³²⁶ There are serious deficits in the provision of psychological and psychiatric treatment in terms of examinations, support and care. Only very few places offer out-patient care. However, a visit to the doctor is often not enough to guarantee effective treatment in the case of mental health problems.³²⁷ In-patient care is rarely possible at all, as there are too few places on the one hand and usually nobody to translate on the other.³²⁸

To identify and classify a trauma, mental illness or another cause of mental suffering, it must be possible to communicate with the patient. Knowledge of the language – and possibly intercultural translation – is essential for treating mental illness effectively.

Many accommodation facilities for asylum seekers do not offer any psychological or psychiatric support. CAS centres in particular do not cater for the treatment of mental

³²² Doctor working for MEDU, Sapienza University of Rome, Faculty for Physiology and Pharmacology, information by e-mail, 6 July 2016.

³²³ Doctor working for MEDU, Sapienza University of Rome, Faculty for Physiology and Pharmacology, information by e-mail, 6 July 2016.

³²⁴ Naga, (Ben)venuti! Indagine sul sistema di accoglienza dei richiedenti asilo a Milano e provincia, report from April 2016, p. 29.

³²⁵ Interview with Centro Astalli / SaMiFo, 2 March 2016.

³²⁶ Médecins sans Frontières, Neglected Trauma – Asylum seekers in Italy: an analysis of mental health distress and access to healthcare, report from 15 July 2016, p. 1.

³²⁷ Interview with Cecilia Pani, Sant'Egidio, 1 March 2016.

³²⁸ Interview with Centro Astalli / SaMiFo, 2 March 2016.

health problems³²⁹ and are therefore unsuitable for people who require psychological or psychiatric support. Although CAS accounts for the largest number of places in the accommodation system, it is only intended for short stays as a kind of “safety net” whenever there are bottlenecks in the regular reception system. Owing to the temporary nature of CAS centres and the fact that providers are often not specialists in the area of asylum (e.g. hotel operators), it seems questionable whether they fulfil the basic conditions for professional treatment. In cases where CAS centres offer psychological support, it is often improvised and patchy. This is exacerbated by the lack of communication between the CAS centres and the health services and the practically non-existent relationship between ASL and the prefectures.³³⁰ These barely functioning interfaces make it more difficult to allocate patients to adequate accommodation and to access psychological or psychiatric care.

SPRAR pays for translation and mediation services for psychological treatment in certain cases. If a person is being treated for mental health problems, they can apply to stay in the SPRAR system until their treatment is completed. This application is generally approved.³³¹ However, SPRAR does not accept patients with mental health problems, who should really be treated in a clinic. In such cases, another project has to be found that will accept the person. However, as there are many cases and only very few places, this can take months.³³²

The lack of psychological and psychiatric care also presents a major problem for lawyers when it comes to the asylum process. Without an assessment and corresponding diagnosis, they do not know whether their client is traumatised or suffering from some other psychological problem and cannot use it to argue their case.³³³

Both Rome and Milan have programmes that offer psychological or psychiatric treatment:

In Milan, volunteer psychologists, doctors, cultural mediators, art therapists and other experts work at the Naga-Har centre run by the organisation **Naga**.³³⁴ The **Terrenuove** cooperative also offers psychological counselling for migrants. In recent years, this service has been used above all by refugees and asylum seekers.³³⁵

In Rome, **MSF** (together with the NGOs *Medici Contro la Tortura* and ASGI) opened a rehabilitation centre in April 2016 for survivors of torture and abuse.³³⁶

The **Ferite Invisibili** project is run by Caritas Rome for victims of torture and people who have been traumatized. It was set up in 2005 to counter the lack of specialists for treating trauma in Italy. By November 2014 it had treated 254 patients and held 3,630 psychotherapeutic interviews with an average of 14 sessions per patient. The

³²⁹ Interview with Naga, 4 March 2016.

³³⁰ Médecins sans Frontières, *Neglected Trauma – Asylum seekers in Italy: an analysis of mental health distress and access to healthcare*, report from 15 July 2016, p. 12 f.

³³¹ Interview with Marco Mazzetti, *Ferite Invisibili*, 4 March 2016.

³³² Interview with SPRAR, 1 March 2016.

³³³ Interview with Maria Cristina Romano, lawyer and ELENA coordinator, 4 March 2016.

³³⁴ www.naga.it/index.php/centro-har.html, accessed on 13 July 2016.

³³⁵ www.terrenuoveonlus.it/immigrati-e-rifugiati/, accessed on 13 July 2016.

³³⁶ Médecins sans Frontières, *Neglected Trauma – Asylum seekers in Italy: an analysis of mental health distress and access to healthcare*, report from 15 July 2016, p. 18.

project has three psychologists, two psychiatrists and seven intercultural mediators.³³⁷ Patients are referred by the Poliambulatorio of Caritas Rome, by doctors or care personnel employed in reception centres.

SaMiFo (*Salute Migranti Forzati*) is a joint project by the national health service and Centro Astalli. 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 health care system.³³⁸ In 2015, it treated 2,000 people, including 258 in psychiatric and 135 in psychological care.³³⁹ The doctors are supported by translators, cultural mediators and social workers. SaMiFo tries to employ people for mediation permanently, but it cannot always cover all languages. For this reason, treatment is not always possible for all nationalities due to the language barrier.³⁴⁰

These services cannot cover demand. There are two significant reasons for this: On the one hand, out-patient services have limited capacity, and on the other, they can only effectively help people whose housing situation is stable.

8.3 Relationship between housing situation and health

Of the 22,500 places in the SPRAR system, just 180 are reserved for people with mental disorders or disabilities, and only 100 for people requiring specialised and long-term health care. It can take months to find a suitable place.³⁴¹

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.³⁴² This confirms the statement made by SaMiFo during the last fact-finding visit of 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.³⁴³ 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.

³³⁷ www.caritasroma.it/wp-content/uploads/2014/11/20141105-Scheda-FERITE-INVISIBILI.pdf, accessed on 13 June 2016.

³³⁸ Centro Astalli / SaMiFo, information by e-mail, 7 August 2016.

³³⁹ Centro Astalli, 2016 annual report, p. 35-36.

³⁴⁰ Interview with Centro Astalli / SaMiFo, 2 March 2016.

³⁴¹ Interview with SPRAR, 1 March 2016.

³⁴² Interview with Centro Astalli / SaMiFo, 2 March 2016.

³⁴³ Interview with Centro Astalli / SaMiFo, 30 May 2013.

Furthermore, this situation can lead to so-called *post-migratory living difficulties*. This means that people become retraumatised after their treatment is completed. Retraumatization can have many different causes. As ending treatment also coincides with having to leave accommodation, the risk is even higher.³⁴⁴ According to Cittadini del Mondo, mental health problems are often aggravated in squats like Selam Palace.³⁴⁵

The housing situation also has a decisive influence on the health of other groups of people, not just the mentally ill: A homeless person can at best hope for an operation. After that, however, they generally have no right to accommodation and will end up on the street again or in emergency accommodation. Under these circumstances, it would appear questionable whether real convalescence is possible. The OSAR 2013 report mentioned an Eritrean refugee in Bologna with a tumour, who was homeless right up until the day of her operation. Although she was very weak from the disease and had haemorrhaged, she had to leave the emergency accommodation early every morning and had no place to stay during the day. The delegation met the woman again in Bologna. After having the operation, she was allowed to stay in the hospital until her condition had stabilized. After that, she was given a place in an accommodation for marginalised people together with alcoholics and people with mental health problems. Today, she lives in a small apartment with two other women and still suffers from the aftereffects of the operation.³⁴⁶

There are only a few suitable accommodation places for people with mental health problems. SPRAR has space for a few people with mental impairments, but not for people who require in-patient care, as it does not have its own clinics. Other projects have to be found for these people, and it can take months to find one due to the limited number of places (see chapter 8.2).³⁴⁷

People with mental health problems are sometimes excluded from state-run reception centres if they are considered unfit for communal living.³⁴⁸

People with mental disorders can even be excluded from squats if they are seen as an undue burden (see chapter 5.3.4).

On account of the limited number of specialised accommodation places and the large number of people with mental health problems, it must be assumed that many of them end up on the street, as they may not be tolerated in normal centres or squats.

8.4 Conclusion

Access to emergency treatment is possible, however, access to other health care services is made more difficult by administrative hurdles, language problems and insufficient information. Health care must be considered in conjunction with the housing situation. There are far too few suitable accommodation places for people with health problems, and too few adequate treatment options and reception places for the mentally ill in particular. Many people who rely on medical support therefore live on the

³⁴⁴ Interview with Marco Mazzetti, Ferite Invisibile, 4 March 2016.

³⁴⁵ Interview with Cittadini del Mondo, 1 March 2016.

³⁴⁶ Eritrean refugee, interview in Bologna, 27 February 2016.

³⁴⁷ Interview with SPRAR, 1 March 2016.

³⁴⁸ Interview with Naga, 4 March 2016.

street or spend the night in emergency accommodation. Suitable treatment and healing is impossible under these circumstances.

9 Situation for vulnerable people

In accordance with Decree 142/2015, the specific situation for vulnerable people must be taken into account when discussing reception conditions.

OSAR is of the opinion that vulnerable people should generally only be returned to Italy under the Dublin Regulation or the readmission agreement if this is in their interest. Certainly, nobody should be returned without specific guarantees of adequate accommodation and treatment beyond their asylum process.

Italian law does not define a procedure for identifying vulnerable people. There is no effective identification mechanism in place either, and the different players are not coordinated in any way. If there are no obvious signs of vulnerability, the identification of victims of violence seems to be random. If a person is identified as being a victim of torture, rape or another form of serious violence, Decree 142/2015 provides for access to adequate medical and psychological treatment. However, a detailed investigation into this subject would go beyond the scope of this report.

This section of the report simply aims to show the significance of accommodation problems for specific categories of asylum seekers and beneficiaries of protection, who are obviously vulnerable.

9.1 Families and children, single mothers/fathers

9.1.1 Reception conditions for families and single parents

In SPRAR projects, efforts are made to find a place where families can live together. If no place can be found for the whole family, the mother and children are taken in first, and the husband has to live on the streets.³⁴⁹ This approach can also be observed in other centres.³⁵⁰ Families and single parents can sometimes stay in accommodation centres for longer than single people, but at some point they are turned away and left to their own devices. It is almost impossible for single parents to achieve financial independence as they have to look after their children. As the delegation found on its visit to the Selam Palace squat in Rome, numerous families and single mothers with children and infants still live there, despite the legal mandate to protect children. The living conditions violate the best interests of the child and are therefore incompatible with the obligations of the UN Convention on the Rights of the Child.

In its *Tarakhel*³⁵¹ ruling, the ECtHR determined that deporting an Afghan refugee family of eight to Italy under the Dublin Regulation would violate the prohibition of inhuman

³⁴⁹ Interview with Anita Carriero, MEDU, 29 February 2016.

³⁵⁰ A pregnant woman, who was returned from Switzerland to Italy together with the child's father, was taken in by the centre although there was no bed available. The man was not allowed to stay

³⁵¹ ECtHR judgment from 4 November 2014, *Tarakhel v. Switzerland*, No. 29217/12.

and degrading treatment according to article 3 of the ECHR, if Switzerland does not obtain an individual assurance beforehand from the Italian authorities that child-sensitive accommodation is available, access to education is guaranteed and the family unit is preserved. In this respect, accommodating the family in separate centres constitutes a violation of the ECHR and the EU Charter of Fundamental Rights.

In its landmark decision of 12 March 2015,³⁵² the Swiss Federal Administrative Court (BVGer) ruled that such 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. However, the Court³⁵³ does 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 individual. More details can be found in chapter 5.3.1.

The information received by the delegation on the specific procedure applied in practice in the case of transfers of families varied greatly and was not coherent.

In view of this unclear situation and the recurring violations of the principle of family unity, countries that return families or other vulnerable people to Italy must obtain further, more individual clarifications regarding the situation in individual cases. In the opinion of OSAR, referring to the list sent out by the Ministry of the Interior does not constitute a sufficient guarantee as defined by the *Tarakhel* ruling in view of the situation observed. According to our findings, a violation of Art. 3 ECHR in the course of transferring families cannot be ruled out.

In individual cases, the Swiss State Secretary for Migration SEM and the Swiss Federal Administrative Court³⁵⁴ 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. From the perspective of OSAR, this is too restrictive an interpretation of the legal situation. The emphasis must be on the woman’s need for protection and not the specific situation in a particular case. If the focus is put on protection, pregnant women should also be seen as vulnerable.

9.1.2 Family separations

In the SPRAR system, mothers and children are often housed in a special centre, but not the fathers.³⁵⁵ This problem can also be observed in other accommodation centres, both those run by the state and by NGOs.³⁵⁶

³⁵² Federal Administrative Court 2015/4, Recital 4.3.

³⁵³ Federal Administrative Court judgment from 27 July 2015, D-4394/2015, Recital 7.2 f.

³⁵⁴ E.g. Federal Administrative Court judgment from 6 April 2016, D-1942/2016 and D-1944/2016; Federal Administrative Court judgment from 18 May 2016, D-2978/2016.

³⁵⁵ Interview with Cittadini del Mondo, 1 March 2016; interview with MEDU, 29 February 2016.

³⁵⁶ For example, the case of a couple transferred to Italy from Switzerland under Dublin; after protracted efforts, a place was found in accommodation for the pregnant wife, but the husband remained on the streets. As the couple were not (yet) a family in the opinion of SEM and the Federal Administrative Court, no guarantees were obtained for the transfer as defined by the *Tarakhel* ruling.

In Milan, families no longer seem to be separated systematically in accommodation since the Morcone system was transferred to SPRAR.³⁵⁷ There are now accommodation centres that house families together.³⁵⁸ But family separations still occur. The NGO Naga reports that in these cases, it requires a huge effort and can take months to reunite the families in shared accommodation.³⁵⁹

Not only are some families officially separated in different accommodation centres, but there are also families that live a much greater distance apart. Many beneficiaries of protection have children or partners who live in their country of origin or in another country, who they may have not seen for months or even years. Even if it is legally possible for them to bring their family to Italy, they do not have the means to pay for their travel and provide for their upkeep. As many refugees are homeless, bringing their families to live with them would mean having to live with children in squats or on the streets. This makes it practically impossible for their families to join them and is a cause of great distress. As they are constantly worried, they expend less energy on integrating and getting to know their asylum country and more on agonising about their family and their own feeling of helplessness, because recognised refugees in particular cannot return to their country of origin.³⁶⁰

Cittadini del Mondo reports on the case of a father with protection status in Italy. His wife and three children aged between two and six were given permission to follow him to Italy. After his wife died suddenly, the children stayed with an acquaintance for the time being, but not as a permanent solution. However, the father cannot pay for his children to travel to Italy. CIR, UNHCR, IOM, Sant'Egidio and the Italian Red Cross were contacted, but none of these organisations had the means to help the man to reunite his family in Italy.³⁶¹

9.1.3 School

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 delegation received inconsistent information on whether not having a *residenza* leads to problems in practice. People in state-run first and second stage reception centres have a *residenza*, and children living there have access to schooling.

Cittadini del Mondo reports on problems gaining access to day nurseries and kindergarten in connection with the *residenza fittizia*. To register a child at a day nursery or kindergarten in a different town than the fictitious *residenza*, an exception must be applied for with the social workers of both towns. Without the support of NGOs, these administrative procedures would be almost impossible to manage. This is a considerable barrier to gaining access to day nurseries and kindergarten. According to Cittadini del Mondo, there are fewer problems in gaining access to primary school.

³⁵⁷ Maria Cristina Romano, lawyer and ELENA coordinator, information by e-mail, 15 June 2016.

³⁵⁸ Caritas Ambrosiana Milan, information by e-mail, 17 June 2016.

³⁵⁹ Naga, information by e-mail, 17 June 2016.

³⁶⁰ Eritrean refugee, interview in Bologna, 27 February 2016 (no change to her situation in the three years since the last interview with a delegation from OSAR); resident of Selam Palace in Rome, interview on 3 March 2016.

³⁶¹ Interview with Cittadini del Mondo, 1 March 2016.

Registration for day nurseries or schools must be done online, which is a problem for many families in practice. NGOs like Cittadini del Mondo help families to register their children.³⁶²

9.2 Women

Single women are not classified as being vulnerable in Italy, but pregnant women are.

Women in squats are often exposed to sexual violence. As living on the street is even more dangerous, they often have no choice but to accept the limited protection that living among their own people in a squat offers.

In view of the precarious economic situation and the lack of perspectives, it can be assumed that many women are forced to earn their living with prostitution or to put themselves in a position in which they can be exploited. In addition, trafficking in women is a major problem (see chapter 7.2.).

9.3 People with medical problems

As already mentioned in chapter 4.2.3, organisations on the ground (NGOs at the airports, prefectures etc.) are often insufficiently informed about the needs of returnees with medical problems.

The number of places, especially those for people with mental illness, is not sufficient by far. As a result, they have to wait longer for a place, if they find one at all. Otherwise there is a high risk that they will end up on the streets, as people with mental illness often do not have access to accommodation because they are considered unfit for communal living. This also applies to squats (see chapter 5.3.4). An unstable housing situation also has negative repercussions for their medical treatment and their chances of recovery (see chapter 8.3). One major problem is that refugees, especially in squats, are not informed sufficiently about access to the health system.³⁶³

SPRAR reports on an increase in the number of requests for reception by people who have been victims of trafficking. Trafficking in humans and exploitation are often a phenomenon in transit states. In response to the increase in requests, a few SPRAR projects deal with this topic in greater depth.³⁶⁴

9.4 Single men

Single men are not considered vulnerable. However, all people who find themselves in the situation of being homeless, constantly afraid of attacks and having to cover their basic needs are vulnerable. The ECtHR is also of this opinion, as it noted that

³⁶² Interview with Cittadini del Mondo, 1 March 2016.

³⁶³ Naga, (Ben)venuti! Indagine sul sistema di accoglienza dei richiedenti asilo a Milano e provincia, report from April 2016, p. 29, and Cittadini del Mondo, interview on 1 March 2016.

³⁶⁴ Interview with SPRAR, 1 March 2016.

asylum seekers should generally be considered a vulnerable group on account of their legal status alone.³⁶⁵

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 against the transfer is more or less futile in our experience.³⁶⁶ However, as they are not considered vulnerable, they are given low priority by many accommodation centres. At the same time, they belong to the group most affected by unemployment in Italy (see chapter 7.2).

Single men 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.

Men with families may not have seen their children or wives they have left behind in their home country for years because they do not have the means to bring them to Italy and do not want to subject them to homelessness.³⁶⁷ Women, too, who have had to leave their children behind in their country of origin, talked about this desperate situation, which causes them great suffering.³⁶⁸

9.5 Conclusion

For people classified as vulnerable, special rules apply in some cases or there are special places in accommodation centres, although this number is limited. Vulnerable people are also often allowed to stay for longer in accommodation facilities. On the other hand, as the number of suitable places is very limited, the waiting time for vulnerable people is therefore often longer and they risk winding up living on the streets. This is particularly true for people with mental illness and disabilities. Families are sometimes separated and therefore prefer to live in squats, which is not in the best interests of their children. Women are exposed to sexual violence both on the streets and in squats. There is also no guarantee, even for vulnerable people with protection status, that they will find accommodation after they have been returned to Italy. They, too, risk ending up homeless.

10 Legal Analysis

The main issue is whether reception conditions for asylum seekers and refugees in Italy are compatible with European and international law. The currently pending EU infringement proceedings, which concern virtually all legal measures of the Common

³⁶⁵ ECtHR, *M.S.S. v. Belgium and Greece*, appeal no. 30696/09, judgment of 21 January 2011.

³⁶⁶ E.g. D-2509/2016 from 27 April 2016; E-2251/2016 from 18 April 2016; E-5782/2015 from 23 September 2015.

³⁶⁷ E.g. the case of a man in Selam Palace described in chapter 5.3.4.

³⁶⁸ Interview with an Eritrean refugee in Bologna, 3 June 2013 and 27 February 2016.

European Asylum System,³⁶⁹ are an official indication for a likely breach of Italy's obligations under EU law.

This section will elaborate, in a non-exhaustive manner, on the different legal provisions which may need to be examined in individual cases. As regards EU law, reference will be made to the recast Qualification Directive of 13 December 2011 (QD)³⁷⁰, as well as the recast Reception Conditions Directive (RCD)³⁷¹ and the recast Procedures Directive (PD)³⁷², which have been transposed into Italian law by Decree 142/2015.

10.1 Access to the Asylum Procedure

In Milan, an application for asylum can only be made upon production of a *dichiarazione di ospitalità*. This is a confirmation of a host, that the person is being accommodated with him or her. However, given that asylum seekers only have a right to accommodation once they have claimed asylum, this constitutes an obstacle to access to the asylum procedure that is not provided for in EU law.

Asylum seekers arriving across the Mediterranean Sea 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 access to the asylum procedure. Only rarely are people adequately informed about the consequences of filling in the form.

In the major Italian cities like Rome and Milan the formal registration of an asylum application (*verbalizzazione*) takes several months. 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 (Art. 6 (1) PD). This time limit can be extended to ten working days in case of simultaneous applications of a large number of applicants (Art. 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 (Art. 6(2) PD). In major Italian cities the delay of several months in registering asylum applications departs significantly from the time limits provided for in the PD and thus constitutes a systematic breach of EU law.

³⁶⁹ Overview of pending proceedings against Italy: http://ec.europa.eu/dgs/home-affairs/what-is-new/eu-law-and-monitoring/infringements_by_country_italy_en.htm, accessed on 11 July 2016.

³⁷⁰ 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).

³⁷¹ 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).

³⁷² 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).

10.2 Lack of housing at the beginning of the procedure

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 (Art. 17 RCD). In Italian law Decree 142/2015 also provides that such material reception conditions must be available from the moment of lodging an asylum application. However, in practice there are difficulties with its implementation. Given that the vast majority of people seeking international protection enter Italy from the Mediterranean Sea, the system is directed towards these accommodation centres. People who lodge an asylum application at a Questura inland can expect delays in receiving accommodation. This problem is related to the capacity of accommodation centres and accordingly with the number of arrivals and asylum applications and could thus get exacerbated again during the summer months.

10.3 Lack of sufficient housing for applicants

At the time of the fact-finding visit the first-stage reception centres operate at high levels of capacity. According to the RCD Italy is under an obligation to provide asylum seekers with material reception conditions, which guarantee an adequate standard of living capable of ensuring their subsistence and the protection of their physical and psychological health, particularly in relation to persons who are vulnerable within the meaning of Art. 21 RCD (Art. 17 RCD). This includes housing, food, clothing provided in kind or as financial allowances or in vouchers and a daily expenses allowance (Art. 2(g) RCD). Permissible restrictions or withdrawal of reception conditions are set out in Art. 20 RCD.

The lack of adequate accommodation for vulnerable persons in Italy is conspicuous, particularly for mentally ill persons. According to the currently applicable RCD Member States have to take account of the specific situation of vulnerable persons, such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence in relation to material reception conditions (Art. 21 RCD). Given the glaring and serious lack of appropriate accommodation for vulnerable persons and the general lack of adequate accommodation, 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 persons during their reception.

The ECtHR stressed in its judgment in the case of *M.S.S. v. Belgium and Greece* that asylum seekers are particularly vulnerable by virtue of their legal situation. If they have to live in 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, this can amount to a violation of Art. 3 ECHR.³⁷³

³⁷³ ECtHR, *M.S.S. v. Belgium and Greece*, App. No. 30696/09, judgment of 21 January 2011, paras. 249 et seq., paras. 263-264.

10.4 Lack of support for beneficiaries of protection

Beneficiaries of protection have the same rights of access to housing and social assistance as nationals. But there is hardly any government support and the Italian social security system relies heavily on family support. Applicants for social housing have to wait for several years, the waiting lists are very long. But unlike nationals, beneficiaries of protection cannot normally rely on a family or social network for support. According to the QD beneficiaries of international protection have a right of access to housing under equivalent conditions as other third-country nationals (Art. 32 (1) QD). Member States further 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 (Art. 32 (2) QD). The Refugee Convention (RC)³⁷⁴ also provides in relation to housing that refugees must be treated no less favourably than other third-country nationals in the same circumstances (Art. 21 RC). As regards social assistance the RC provides for the same treatment of refugees as is accorded to nationals (Art. 23 RC). The same standard is guaranteed pursuant to the QD to recognised refugees and beneficiaries of subsidiary protection (Art. 29 (1) QD). Refugees in Italy are de facto worse placed than nationals in relation to access to housing and financial support, since they lack a family network which could support them. The issue therefore is whether treatment equal to that accorded to nationals pursuant to the RC and the QD is implemented in practice. 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). Italy would have to take positive support measures, as stipulated in Art. 32 (2) QD and called for by the Council of Europe Commissioner for Human Rights and UNHCR.³⁷⁵

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 persons with special needs, and it expressly refers to minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence (Art. 20 (3) QD). In addition, paragraph 16 of the preamble to the QD refers to the EU Charter of Fundamental Rights (CFR)³⁷⁶ and particularly to the full respect for human dignity (Art. 1 CFR). By failing to adequately support vulnerable beneficiaries of international protection, Italy fails to properly comply with the requirements of the QD. The desperate situation of numerous beneficiaries of international protection, who qualify as particularly vulnerable and permanently live on the streets or in squats, is not compatible with full respect for human dignity and thus violates the CFR. This equally applies to all other beneficiaries of protection, who have to live in such conditions.

³⁷⁴ Convention relating to the Status of Refugees of 28 July 1951.

³⁷⁵ Report by Nils Muižnieks, 18 September 2012, para. 166; UNHCR Recommendations Italy, July 2013, p. 21.

³⁷⁶ Charter of Fundamental Rights of the European Union of 18 December 2000, 2000/C 364/01.

Under the QD the positive duties in relation to beneficiaries of international protection are less clear than 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 worse condition than asylum seekers under the RCD. In addition, there are serious indications that Italy fails to properly comply with its duties owed to beneficiaries of international protection. It is therefore necessary to examine on a case-by-case basis whether the situation of beneficiaries of international protection, who prior to their departure from Italy lived in desperate conditions on the streets, without any prospect of the situation improving, amounts to a violation of Art. 3 ECHR. Many such beneficiaries are in a situation comparable to that of the asylum seeker in the case of *M.S.S.*, where the ECtHR found a violation of Art. 3 ECHR. In addition to the desperate living conditions on the streets, single women and single mothers are frequently exposed to sexual violence.

Italy's measures for the integration of beneficiaries of international protection do not adequately support such beneficiaries in order to achieve a situation where they are able to support themselves in Italian society. Much of the existing support comes from independent NGOs. The QD provides for access to integration programmes, which Member States consider to be appropriate so as to take into account the specific needs of beneficiaries of international protection (Art. 34 QD). Member States are thus under a positive obligation to create integration programmes. Italy would have to seriously develop its integration measures further in order to comply with this requirement.

10.5 Health care

In principle, health care is available to asylum seekers and beneficiaries of international protection in Italy. Emergency care seems generally available. However, there is a lack of specialised support for traumatised persons. In addition, adequate treatment of mental illnesses in particular is often impossible due to the precarious living conditions. According to the RCD Member States have to ensure that asylum applicants receive the necessary healthcare which includes, at least, emergency care and essential treatment of illness (Art. 17/19 RCD). The QD provides that recognised refugees and beneficiaries of subsidiary protection have access to health care under the same eligibility conditions as nationals, including the treatment of mental disorders (Art. 30 (1) and (2)). Particularly in relation to the treatment of mentally ill persons Italy does not comply with the requirements of the RCD and the QD.

In Italy, health care is also not accessible due to a lack of information on the rights of the relevant persons and on the administrative procedure for obtaining an Italian health card as well as lack of financial resources for the insurance excess. 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 (Art. 5 (1) RCD). The QD stipulates that as soon as possible after international protection status has been granted, beneficiaries are to be provided with access to information, in a language that they understand or are reasonably supposed to understand, on the rights and obligations relating to that status (Art. 22 QD). The fact that many persons are not provided with the necessary information regarding access to health care demonstrates that the requirements of the RCD and the QD are systematically not complied with.

A further clear breach of the QD constitutes the practice that persons have to pay the insurance excess (*ticket*) for medical treatment two or six months after claiming asylum. According to Art. 17 (4) RCD Member States may only require applicants to cover the cost of medical treatment, if the applicants have sufficient resources.

10.6 Children

There is lack of adequate accommodation for families and children in Italy. The larger CARAs provide inadequate accommodation for asylum-seeking children. The situation in the CAS is very varied and not transparent. They often operate for a short period of time only and do not provide children with the continuity they need.

Children with an international protection status are accommodated for a limited period of time at best. Numerous families and single parents with minor children therefore live in squats or church emergency shelters.

According to the UN Convention on the Rights of the Child (CRC) the best interests of the child have to be a primary consideration in all actions concerning children (Art. 3 (1) CRC). Inaction or failure to take action can also constitute such «action», especially where social welfare authorities fail to take action to protect children from neglect or abuse.³⁷⁷ 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.³⁷⁸ 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 RC in relation to refugee children.³⁷⁹ The QD refers to the CRC and stresses that the best interests 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 (Art. 6 (1) Dublin III Regulation).

Pursuant to the prohibition of discrimination under Art. 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.³⁸⁰

Art. 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.³⁸¹ The same risks and protective factors that underlie the life, survival, growth and development of the child need to be considered for the realisation

³⁷⁷ 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 (art. 3, para. 1), 29. Mai 2013, para. 18: www.refworld.org/docid/51a84b5e4.html.

³⁷⁸ Ibid., paras. 37, 39.

³⁷⁹ Ibid., para. 75.

³⁸⁰ Ibid., para. 41.

³⁸¹ Ibid., para. 42.

of the child's right to health pursuant to Art. 24 CRC. In particular, these factors include the socioeconomic status and domicile of the child.³⁸² Art. 24 CRC imposes a strong duty of action on States Parties to ensure that a primary health care system is available and accessible to all children, with special attention to under-served areas and populations.³⁸³ Adequate nutrition and growth monitoring in early childhood are particularly important measures for the implementation of the right to health.³⁸⁴

Pursuant to Art. 28 CRC children have the right to access to education, particularly free access to primary education and continuing education. This right is also contained in Art. 26 of the Universal Declaration of Human Rights. According to the RC (Art. 22 RC) refugees are entitled to the same treatment as nationals with respect to elementary education. In relation to education other than elementary education refugees should be accorded treatment as favourable as possible, and in any event not less favourable than that accorded to aliens generally in the same circumstances.

Closely related to these rights is the right to social security pursuant to Art. 26 CRC. According to Art. 26 CRC States Parties recognise the right to benefit from social security, including social insurance, and take the necessary measures to achieve the full realisation of this right in accordance with their national law. Pursuant to Art. 27 CRC States Parties also recognise the right of every child to a standard of living adequate 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 Art. 31 CRC. Without these measures children can suffer irreversible physical and psychological damage. The right in Art. 31 CRC has to 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.³⁸⁵ They are generally entitled to receive appropriate protection and humanitarian assistance in the enjoyment of their rights (Art. 22 CRC).

Art. 37 (a) CRC prohibits that children are subjected to torture or other cruel, inhuman or degrading treatment or punishment. According to Art. 19 CRC States Parties 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.³⁸⁶ According to Art. 39 CRC the States Parties take all appropriate measures to promote physical and psychological recovery and social re-integration of a child victim of any form of neglect, exploitation, or abuse, torture or

³⁸² 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 (art. 24), 17. April 2013, paras. 16-17: www2.ohchr.org/english/bodies/crc/docs/GC/CRC-C-GC-15_en.doc.

³⁸³ Ibid., para. 28.

³⁸⁴ Ibid., para. 45.

³⁸⁵ 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 (art. 31), 17. April 2013, paras. 13, 16, 23 und 26: www2.ohchr.org/english/bodies/crc/docs/GC/CRC-C-GC-17_en.doc.

³⁸⁶ 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.

any other form of cruel, inhuman or degrading treatment or punishment. Such recovery and reintegration has to take place in an environment which fosters the health, self-respect and dignity of the child.

In Italy, the living conditions of children in squats and emergency shelters constitute a risk to their physical and psychological safety, health and development. Italy is in breach of the right to have the best interests of the child taken into account as a primary consideration by leaving children in these situations. Further, Italy is in breach of its positive duties arising under 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 Families

10.7.1 Separation of families in Italy

The problem of systematic family separations in Milan appears to have improved with the transfer from the Morcone system to SPRAR.

Nevertheless there are cases where only the woman and children, but not the man, can be accommodated.

Art. 8 ECHR provides for the right to respect for family life. This can only be interfered with, where such interference is in accordance with the law and 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 Art. 12 RCD the family life of applicants must be protected as far as possible and families should be lodged together. In its judgment in *Tarakhel*³⁸⁷ the ECtHR found the separation of families in the asylum system to constitute a violation of Art. 3 ECHR.

Concerning beneficiaries of international protection the QD provides that Member States must ensure that family unity can be maintained (Art. 23 (1) QD). A large number of people who are granted international protection in Italy and have to leave their place of accommodation, become temporarily homeless. This also affects families. Women and children sometimes find accommodation with charities. Men and fathers barely have any prospect of being accommodated with their wives and children. Families also face a *de facto* separation because the situation in squats is so precarious that men often try to accommodate their families elsewhere.

In order to comply with the judgment in *Tarakhel*, which requires individual guarantees that families are accommodated together, the Italian Ministry of the Interior has issued a list of SPRAR places for families, who are being returned according to the Dublin III Regulation.³⁸⁸ Its implementation is, however, non-transparent or it appears at least

³⁸⁷ CJEU judgment of 4 November 2014, *Tarakhel v. Switzerland*, No. 29217/12.

³⁸⁸ Ministero dell'Interno, Unità Dublino, Circolare alle Unità Dublino, Oggetto: Dublin Regulation Nr. 604/2013, Garanzie per casi di vulnerabilità: nuclei familiari con minori, Roma, 15 febbraio 2016.

questionable whether families who have been returned actually have access to these reserved places. The reduction of the number of accommodation places from 161 to 85 places in the current list renders this at least doubtful.

10.7.2 Difficulties with family reunification

In addition to family separation in Italy, beneficiaries of international protection in Italy face *de facto* separation from their family members in their countries of origin, because they lack the necessary financial means and live in precarious circumstances so that they are unable to apply for family reunification. While the RC does not provide for a right of family reunification, the Executive Committee has stressed that these should be facilitated with special measures so that economic and housing difficulties do not unduly delay the granting of permission for the entry of family members.³⁸⁹ As already mentioned, the QD provides that Member States shall ensure that family unity of beneficiaries of international protection can be maintained. In addition the Family Reunification Directive³⁹⁰ provides for the right to family reunification of recognized refugees without the need to meet requirements in relation to income (Arts. 9-12 of the Directive).

In Italy family reunification is factually impossible, because beneficiaries of international protection do not have sufficient financial means to bring their family members to Italy, even if family reunification were granted and would be legally possible. This goes against the object and purpose of the RC and Italy's binding obligations under the Family Reunification Directive.

In addition, family reunification may also result in a violation of the family member's rights given the living conditions in Italy.

10.8 Duty of enquiry

The Dublin III Regulation³⁹¹ provides for a Member States' duty 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 will also be strengthened: as a general rule, asylum seekers shall be informed in a personal interview about the Dublin-system and be provided with an opportunity to make representations on the relevant facts (Art. 5 Dublin III Regulation). The ECtHR and the Court of Justice of the European Union (CJEU) have 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 on 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

³⁸⁹ ExCom Conclusions No. 24 (XXXII), 1981, para. 9: www.unhcr.org/41b041534.html.

³⁹⁰ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

³⁹¹ 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).

their legislation on asylum in practice.³⁹² 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 amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment.³⁹³ These principles have been implemented in Art. 3 (2) of the Dublin III Regulation.

Regarding access to asylum procedures the situation in Italy cannot be compared to the situation in Greece. However, based on numerous reports and court judgments particularly from German courts there are still grounds for believing that there are systemic deficiencies in the reception conditions of asylum seekers and beneficiaries of international protection in Italy.³⁹⁴ Many European courts base their judgments on the assumption that at least in practice the Italian asylum system displays systemic deficiencies concerning accommodation, which would lead to a violation of Art. 3 ECHR and Art. 4 CFR.³⁹⁵ Numbers further courts have stopped Dublin returns to Italy in individual cases,³⁹⁶ or require, in addition to the circular of the Ministry of the Interior, individual guarantees according to the *Tarakhel* judgment.³⁹⁷

In cases of beneficiaries of international protection courts also stop removals, but this does not fall within the scope of the Dublin III Regulation. Based on the findings of SFH/OSAR's fact-finding visit the likelihood for beneficiaries of protection of finding accommodation is significantly smaller than for asylum seekers.

Given the high number of reports and information available, it is hardly legally tenable that Member States 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 a duty of enquiry in relation to what will happen to the person concerned upon removal to Italy on a case-by-case basis. 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. At least in relation to families the ECtHR has held that this case-by-case duty of enquiry also applies to Italy. The Swiss asylum authorities and other Member States fail to sufficiently comply with their duty of enquiry regarding the situation in individual cases. They fail to adequately verify the factual situation in the country of return. Asylum refusal decisions frequently rely on standard phrases and general observations regarding the legal obligation to comply

³⁹² ECtHR, *M.S.S. v. Belgium and Greece*, App. No. 30696/09, judgment of 21 January 2011, paras. 352, 359.

³⁹³ CJEU, joined cases C-411/10 and C-493/10, *N.S. v Secretary of State for the Home Department and M.E. et al. v Refugee Applications Commissioner*, judgment of 21 December 2011, para. 94.

³⁹⁴ See for instance Administrative Court of Darmstadt, Ref. No. 3 K 392/14.DA.A, judgment of 7 January 2016; Administrative Court of Minden, Ref. No. 10 L 314_16.A, judgment of 29 March 2016; Administrative Court of Bayreuth, Ref. No. B 2 K 15.30276; judgment of 9 September 2016; Tribunal Administratif de Nantes, Nr. 1510637, judgment of 28 December 2015.

³⁹⁵ See for instance Administrative Court Darmstadt, Ref. No. 3 K 392/14.DA.A, judgment of 7 January 2016; Administrative Court of Minden, Ref. No. 10 K 376/15, judgment of 15 February 2016; Belgium - Council for Alien Law Litigation, Ref. No. 144 188 of 27 April 2015 and Ref. No. 144 400 of 28 April 2015.

³⁹⁶ Administrative Court of Hannover, Ref. No. 4 A 8072.13, judgment of 23 March 2016; Administrative Court of Minden, Ref. No. 7 K 2642.14.A, judgment of 17 August 2015; Administrative Court of Sigmaringen, Ref. No. A 5 K 1995.15, judgment of 13 August 2015.

³⁹⁷ Rechtbank Den Haag, Ref. No. NL 16.1221, judgment of 18 July 2016.

with their obligations 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*³⁹⁸ and *Karim*³⁹⁹. 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*⁴⁰⁰ and now postulates a comprehensive duty of enquiry both legally and factually. In relation 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 Art. 3 (2) Dublin III Regulation.

10.9 Enforcing rights in Italy

Swiss asylum authorities frequently rely on the 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 transpose a Directive properly and on time, they may under certain conditions be liable for state compensation for any resulting damage (*Francovich* judgment).⁴⁰¹ 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 and it is thus rarer that the EU Commission pursues 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, Italian administrative law proceedings are of an excessive duration and Italy has been criticised for this numerous times by the ECtHR and the Committee of Ministers.⁴⁰² For persons who live in precarious conditions all of these constitute insurmountable obstacles in trying to access their entitlements under the RCD and the QD.

A further obstacle consists in financial considerations: Asylum seekers applications for legal aid have been regularly refused and been considered inadmissible for the past three years now, because applicants could not supply a certificate from their embassies about their income in their countries of origin.⁴⁰³

³⁹⁸ CJEU judgment of 7 June 2016, *Ghezelbash*, C-63/15.

³⁹⁹ CJEU judgment of 7 June 2016, *Karim*, C-155/15.

⁴⁰⁰ Judgment of the CJEU of 10 December 2013, *Abdullahi*, C-394/12.

⁴⁰¹ 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.

⁴⁰² Council of Europe, Committee of Ministers, Cases concerning the excessive length of judicial proceedings in Italy and dysfunctions of the «Pinto» remedy, Status of the execution of the general measures, Memorandum prepared by the Department for the Execution of the judgments and decisions of the European Court of Human Rights, CM/Inf/DH(2013)21, 6. Mai 2013, para. 66: [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH\(2013\)21&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383#P249_32182](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH(2013)21&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383#P249_32182).

⁴⁰³ Centro Operativo per il Diritto all'Asilo (2015). Diritto di asilo. Regole ed eccezioni nella prassi della Pubblica Amministrazione: Il monitoraggio di Coda sul territorio di Roma, Oktober 2015, p. 24.

10.10 Conclusion

There are deficiencies in relation to the housing of applicants and beneficiaries of protection in Italy, which are based on systematic breaches of the rights of applicants under the RCD and the QD. 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 regarding health care and in relation to the consideration of the special needs of particularly vulnerable people. In addition, the rights of the child and the right to family unity according to the ECHR and EU law are insufficiently complied with. The lack of support for applicants and beneficiaries of protection may also lead to a violation of Art. 3 ECHR. Where decision-making authorities and courts do not assume a situation of systemic deficiencies in the entire Italian housing system already, they have to at least examine on a case-by-case basis whether any rights could be breached in the individual case. In this regard, authorities of a sending state are under a duty of enquiry. Member States cannot invoke an individual's ability to enforce his or her 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 our findings from our fact-finding visit 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, such as women and families with children.
2. In cases where guarantees from the Italian authorities are required in accordance with the ECtHR judgment *Tarakhel v. Switzerland*, these must be sufficiently individual and specific. The list provided by the Ministry of the Interior is insufficient in the opinion of OSAR. As the guarantees should be viewed as a legal condition for the legitimacy of the transfer and not as a modality for transfer, the affected person must be given the opportunity to express their opinion before the decision is made.

3. In view of the very limited number of places for people with mental illness, an individual guarantee must be obtained before transferring a person with mental health problems to Italy that this person will be given adequate accommodation and treatment including the use of a translator. As the guarantee should be viewed as a legal condition for the legitimacy of the transfer and not as a modality for transfer, the affected person must be given the opportunity to express their opinion before the decision is made.
4. 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 exercise the sovereignty clause and deal with applications substantively. 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 also be considered.
5. 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.⁴⁰⁴
6. 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)traumatized, among others.
7. 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, if possible translated into English at the very least. 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.

12 Conclusion

The Italian accommodation system still has serious deficiencies. Although the number of places in accommodation has increased significantly, the number of people requiring accommodation has also grown considerably, so that the capacity is still insufficient.

The majority of places are in so-called CAS centres. These are usually opened and closed down again at short notice. In addition, the operators often have no experience

⁴⁰⁴ Art. 31 and Art. 32 Dublin III Regulation.

in the area of asylum or care (e.g. hotels), so that the quality varies. This throws doubt on the suitability and sustainability of the system.

In addition, there is a strong imbalance between first-stage reception centres and the second-stage reception system, which has a significantly lower capacity (80 percent versus 20 percent). There are insufficient places in particular for people with protection status. However, the integration support offered particularly in the second-stage reception system is essential to enable people to gain independence.

As soon as one level of the reception system has reached full capacity, this puts additional pressure on the other centres, creating a knock-on effect. Currently, the SPRAR centres are at full capacity. This means that many people have to stay longer in first-stage reception centres, which are designed for short-term stays and do not offer any integration programmes or similar. If a person receives the final decision on their asylum application while in a first-stage reception centre, they must leave it immediately. At most, they have the chance of staying in a SPRAR centre for six months, if a place is available at all. If a person has their application accepted while they are in a SPRAR centre, they have the possibility of staying for a further six months. As the Italian accommodation system has considerably fewer places in second-stage reception centres than in first-stage ones, this results in a bottleneck and the system is unable to meet requirements, especially at times when the number of arrivals is high.

People with protection status are worst affected by the failings of the accommodation situation: They are not eligible for any further support and have to provide for themselves. Only those with temporary accommodation in a centre receive food from the state. Others rely on welfare organisations, which distribute food in the cities. Due to the high level of unemployment in Italy, the chances of finding regular work are very small.

After exhausting the official asylum reception system, other housing solutions are usually short-term and often consist of emergency places for one night that are open to all people in need. They cannot cover demand by far. This means that after their asylum procedure has been concluded, people sent back to Italy are highly likely to end up living an undignified life, homeless and without any perspective. Their day-to-day life is centred on satisfying their most basic needs: queuing at NGOs or churches for food vouchers, queuing for a sandwich, looking for a place to sleep at night and a place to wash. In the major cities they have to travel long distances and either dodge transport fares or walk for hours, often with small children in tow. Under these circumstances, integration into Italian society is all but impossible. Vulnerable people such as children or single parents with children and other people with special needs are particularly affected, as their ability to integrate into society is even more limited. But also young men, who fall within the group with the highest levels of unemployment, find it almost impossible to get work and support themselves.

Regarding the individual guarantees required in the ECtHR judgment *Tarakhel v. Switzerland*, the circular letter listing places in SPRAR centres cannot be seen as a sufficient guarantee. Countries that return families to Italy need to make further investigations into this. It is largely unclear which places are specifically reserved for returnees and transferees, and whether families are actually given one of these places. The interfaces do not seem to work smoothly in practice when it comes to other categories

of people either. In view of the basic deficiencies at various levels of the Italian accommodation system, in-depth clarification at the very least is essential in each individual case.