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Asylum Information Database

Country Report: Italy

2021

Update

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Acknowledgements & Methodology

The report was written by Caterina Bove and Maria Cristina Romano of the Association for Legal Studies on Immigration (ASGI), and edited by ECRE.

This report draws on practice by ASGI legal representatives across the different regions of Italy, as well as available statistical information and reports, case law and other publicly available sources.

The information in this report is up-to-date as of 31 December 2021, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI) and 4 non-EU countries (Serbia, Switzerland, Turkey, United Kingdom) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.

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Epim
European Programme
for Integration
and Migration

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Glossary & List of Abbreviations

Decree Law	Regulatory act which provisionally enters into force but requires the enactment of a legislative act in order to have definitive force. This process is described as "implementation by law" (*conversione in legge*), and it is possible for the Decree Law to undergo amendments in the process of enactment of the law.
Foglio Notizie	Form containing the personal details of the person and the possibility of indicating, by ticking the relevant box, the reasons for his/her arrival in Italy, choosing between the existence of family ties, the need for work, the intention to seek asylum or "other". It is not always translated in all its parts and it is likely to determine the legal status of the person concerned.
Fotosegnalamento	Taking of photographs and fingerprinting upon identification and registration of the asylum application
Nulla osta	Certification of the absence of impediments to contracting a marriage
Questore	Chief of the Provincial Police Office
Questura	Provincial Police Office
Verbalizzazione	Lodging of the asylum application through an official form entitled "C3"
ANCI	National Association of Italian Municipalities | Associazione Nazionale Comuni Italiani
ASGI	Association for Legal Studies on Immigration | Associazione per gli Studi Giuridici sull'Immigrazione
ASL	Local Health Board | Azienda Sanitaria Locale
CAF	Fiscal Assistance Centre | Centro assistenza fiscale
CARA	Centre for the Reception of Asylum Seekers | Centro di accoglienza per richiedenti asilo
CAS	Emergency Accommodation Centre | Centro di accoglienza straordinaria
CDA	Accommodation Centre for Migrants | Centro di accoglienza
CIE	Identification and Expulsion Centre | Centro di identificazione ed espulsione
CIR	Italian Council for Refugees | Consiglio Italiano per i Rifugiati
NAC	National Asylum Commission | Commissione nazionale per il diritto di asilo
CPSA	First Aid and Reception Centre | Centro di primo soccorso e accoglienza
CSM	High Judicial Council | Consiglio Superiore della Magistratura
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECRI	European Committee against Racism and Intolerance
EDAL	European Database of Asylum Law
EUAA	European Union Agency for Asylum
Fumus boni iuris	Requirement for the adoption of interim and precautionary measures in Italy, correspondent to the apparent validity of the claim
INAIL	National Institute for Insurance against Accidents at Work | Istituto Nazionale Assicurazione Infortuni sul Lavoro
INPS	National Institute of Social Security | Istituto Nazionale di Previdenza Sociale
IOM	International Organisation for Migration
ISEE	Equivalent Economic Situation Indicator | Indicatore della situazione economica equivalente

L	Law | Legge
LD	Legislative Decree | Decreto Legislativo
MEDU	Doctors for Human Rights | Medici per I diritti umani
MRCC	Maritime Rescue Coordination Centre
MSF	Médecins Sans Frontières
PD	Presidential Decree | Decreto del Presidente della Repubblica
Periculum In Mora	requirement for the adoption of interim and precautionary measures in Italy, corresponding to the imminent risk of damage in the event of failure to adopt the requested measure
RDC	Income support |Reddito di Cittadinanza
SIMM	Society of Migration Medicine | Società Italiana di Medicina delle Migrazioni
SOPs	Standard Operating Procedures
SPRAR	System of protection for asylum seekers and refugees | Sistema di protezione per richiedenti asilo e rifugiati
SIPROIMI	System of protection for beneficiaries of international protection and unaccompanied minors I Sistema di protezione per titolari di protezione internazionale e minori stranieri non accompagnati
SAI	System of Accommodation and Integration – Sistema di accoglienza e integrazione
TEAM	European Health Insurance Card | Tessera europea di assicurazione malattia
TUI	Consolidated Act on Immigration | Testo unico sull'immigrazione
VESTANET	Registration database for asylum applications

Statistics

Overview of statistical practice

The Department of Civil Liberties and Immigration of the Ministry of Interior publishes monthly statistical reports on asylum applications and first instance decisions.[1] More detailed statistics are made available by the National Commission for the Right to Asylum (*Commissione nazionale per il diritto di asilo*, CNDA).

Applications and granting of protection status at first instance: year 2021

	Applicants in 2021	**Pending at end 2021**	**Refugee status**	**Subsidiary protection**	**Special protection** [2]	**Rejection**	**Refugee rate**	**Sub. Prot. rate**	**Special protection rate**	**Rejection rate**
Total	56,388	32,800*	8,107	8,761	6,329	29,790**	15%	17%	12%	56%

* 10,381 Dublin cases were also pending at the end of the year
** Include inadmissibility decisions

1 Ministry of Interior, *I numeri dell'asilo*, available in Italian at: https://bit.ly/3kvl29h - please note that they are "not consolidated datas".
2 It is a national form of protection that includes non-refoulement cases - humanitarian grounds protection- cases of family links and integration.

Breakdown by countries of origin of the total numbers

	Examined	Refugee status	Subsidiary protection	Special protection	rejection	Refugee rate	Subsidiary protection rate	Special protection rate	Rejection rate
Pakistan	7,734	414	1519	722	5,079	5%	20%	9%	66%
Nigeria	7,243	116	345	868	4,914	15%	5%	12%	68%
Afghanistan	5,544	2986	2407	11	140	54%	43%	0%	3%
Tunisia	4,730	85	13	271	4,361	2%	0%	6%	92%
Bangladesh	3,931	90	67	428	3,346	2%	2%	11%	85%
Mali	1,785	47	951	457	330	3%	53%	26%	18%
Senegal	1,575	33	82	278	1,182	2%	5%	18%	75%
Morocco	1,428	79	7	163	1,179	6%	0%	11%	83%
Gambia	1,309	40	97	169	1,003	3%	7%	13%	77%
Somalia	1,259	556	640	15	48	44%	51%	1%	4%
El Salvador	1,248	305	340	250	253	24%	27%	20%	28%
Ghana	1,095	35	50	149	861	3%	5%	14%	79%
Ivory Coast	1,056	98	121	115	722	9%	11%	11%	68%
Peru	1,027	151	15	271	590	15%	1%	26%	57%
Ukraine	978	33	214	270	461	3%	22%	28%	47%
Albania	873	65	4	203	601	7%	0%	23%	69%
Venezuela	854	199	543	58	54	23%	64%	7%	6%
Georgia	776	60	4	194	518	8%	1%	25%	67%
Egypt	749	53	6	58	632	7%	1%	8%	84%
Iraq	632	154	350	26	102	24%	55%	4%	16%
Colombia	577	108	75	144	250	19%	134%	25%	43%
Guinea	556	26	35	99	396	5%	6&	18%	71%
Cameroon	388	57	50	54	227	15%	13%	14%	59%
Kosovo	381	15	14	54	298	4%	4%	14%	78%
Eritrea	333	175	58	3	97	53%	17%	1%	29%
Turkey	331	93	42	86	110	28%	13%	26%	33%
Sudan	275	99	57	11	108	36%	21%	4%	39%
Others	4,320	935	655	902	1828	22%	15%	21%	42%

Source: Minister of Interior-National Commission Statistics.

Gender/age breakdown of the total number of applicants: 2021

	Number	Percentage
Total number of applicants	56,388	
Men, incl. Children	46,067	81.7%
Women, incl. Children	10,321	18.3%
Children	8,312	14.74%
Unaccompanied children	3,257	0.57%

Source: Ministry of Interior, Confronto dati anni 2020-2021, available at: https://bit.ly/3s5DQAc.

Comparison between first instance and appeal decision rates: 2021

Statistics on appeals are not available.

Overview of the legal framework

Main legislative acts on asylum procedures, reception conditions, detention and content of international protection

Title (EN)	Original Title (IT)	Abbreviation	Web Link
Legislative Decree no. 286/1998 "Consolidated Act on provisions concerning the Immigration regulations and foreign national conditions norms"	Decreto legislativo 25 luglio 1998, n. 286 "Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero"	TUI	http://bit.ly/1PYQbyL (IT)
Amended by: Decree Law no. 13/2017, implemented by Law no. 46/2017	*Modificato*: Decreto Legge 17 febbraio 2017, n. 13, conversione in Legge di 13 aprile 2017, n. 46	Decree Law 13/2017	https://bit.ly/2ItXe3Y (IT)
Amended by: Decree Law no. 113/2018, implemented by Law no. 132/2018	*Modificato:* Decreto Legge 4 ottobre 2018, n. 113, conversione in Legge di 1 dicembre 2018, n. 132	Decree Law 113/2018	https://bit.ly/2G8Bh7W (IT)
Amended by: Law no. 238 /2021 Provisions to adequate to EU obligation - European Law	Modificato: LEGGE 23 dicembre 2021, n. 238, Disposizioni per l'adempimento degli obblighi derivanti dall'appartenenza dell'Italia all'Unione europea - Legge europea 2019-2020	LAW 238/2021	https://bit.ly/3I7jI5Z (IT)
Legislative Decree no. 251/2007 "Implementation of Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted"	Decreto legislativo 19 novembre 2007, n. 251 "Attuazione della direttiva 2004/83/CE recante norme minime sull'attribuzione, a cittadini di Paesi terzi o apolidi, della qualifica del rifugiato o di persona altrimenti bisognosa di protezione internazionale, nonche' norme minime sul contenuto della protezione riconosciuta"	Qualification Decree	http://bit.ly/1FOscKM (IT)
Amended by: Legislative Decree no. 18/2014	*Modificato:* Decreto Legislativo 21 febbraio 2014, n. 18	LD 18/2014	http://bit.ly/1I0ioRw (IT)
Legislative Decree no. 25/2008 "Implementation of Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status"	Decreto legislativo 28 gennaio 2008, n.25 "Attuazione della direttiva 2005/85/CE recante norme minime per le procedure applicate negli Stati membri ai fini del riconoscimento e della revoca dello status di rifugiato"	Procedure Decree	http://bit.ly/1PYQjOW (IT) https://bit.ly/2XbAeem (IT)
Amended by: Legislative Decree no. 142/2015	*Modificato:* Decreto legislativo n. 142/2015	Reception Decree	http://bit.ly/1Mn6i1M (IT)
Amended by: Decree Law no. 13/2017, implemented by Law no. 46/2017	*Modificato*: Decreto Legge 17 febbraio 2017, n. 13, convertito con modificazioni dalla Legge del 13 aprile 2017, n. 46	Decree Law 13/2017	https://bit.ly/2ItXe3Y (IT)
Amended by: Decree Law no. 113/2018, implemented by Law no. 132/2018	*Modificato:* Decreto Legge 4 ottobre 2018, n. 113, convertito con modificazioni dalla Legge del 1 dicembre 2018, n. 132	Decree Law 113/2018	https://bit.ly/2G8Bh7W (IT)
Amended by Decree Law no. 130/2020,	*Modificato* da Decreto Legge n. 130/2020,		

Implemented by Law no. 173/2020 Amended by: Law no. 238 /2021 Provisions to adequate to EU obligation - European Law	convertito con modificazioni dalla Legge 173/2020 Modificato: LEGGE 23 dicembre 2021, n. 238, Disposizioni per l'adempimento degli obblighi derivanti dall'appartenenza dell'Italia all'Unione europea - Legge europea 2019-2020	Decree Law 130/2020 Law 173/2020 Law 238/2021	 https://bit.ly/3I7jI5Z (IT)
Legislative Decree no. 142/2015 "Implementation of Directive 2013/33/EU on standards for the reception of asylum applicants and the Directive 2013/32/EU on common procedures for the recognition and revocation of the status of international protection." *Amended by:* Legislative Decree 220/2017 *Amended by:* Decree Law no. 113/2018, implemented by Law no. 132/2018 *Amended* by Decree Law no. 130/2020, Implemented by Law no. 173/2020	Decreto legislativo 18 agosto 2015, n 142 "Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello *status* di protezione internazionale." *Modificato:* Decreto legislativo 22 diciembre 2017, n. 220 *Modificato:* Decreto Legge 4 ottobre 2018, n. 113, convertito con modificazioni dalla Legge di 1 dicembre 2018, n. 132 *Modificato* da Decreto Legge n. 130/2020, convertito con modificazioni dalla Legge 173/2020	Reception Decree LD 220/2017 Decree Law 113/2018 Decree Law 130/2020 Law 173/2020	http://bit.ly/1Mn6i1M (IT) http://bit.ly/2CJXJ3s (IT) https://bit.ly/2G8Bh7W (IT)
Legislative Decree no. 150/2011 "Additional provisions to the Code of Civil Procedure concerning the reduction and simplification of cognition civil proceedings, under Article 54 of the law 18 June 2009, n. 69"	Decreto legislativo 1 Settembre 2011, n. 150 "Disposizioni complementari al codice di procedura civile in materia di riduzione e semplificazione dei procedimenti civili di cognizione, ai sensi dell'articolo 54 della legge 18 Giugno 2009, n. 69"	LD 150/2011	http://bit.ly/2jXfdog (IT)
Legislative Decree no. 24/2014 "Prevention and repression of trafficking in persons and protection of the victims", implementing Directive 2011/36/EU"	Decreto legislativo 4 marzo 2014, n. 24 "Prevenzione e repressione della tratta di esseri umani e protezione delle vittime", in attuazione alla direttiva 2011/36/UE, relativa alla prevenzione e alla repressione della tratta di esseri umani e alla protezione delle vittime"	LD 24/2014	http://bit.ly/1Fl2OsN (IT)
Law no. 47/2017 "Provisions on the protection of foreign unaccompanied minors"	Legge di 7 aprile 2017, n. 47 "Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati"	L 47/2017	http://bit.ly/2sYgFd8 (IT)

Note that the Decree Law (*decreto legge*) is a regulatory act which provisionally enters into force but requires the enactment of a legislative act (*legge*) in order to have definitive force. This process is described as "implementation by law" (*conversione in legge*), and it is possible for the Decree Law to undergo amendments in the process

of enactment of the law. In the consolidated version of a Decree Law in the Official Gazette, amendments introduced during the *conversione in legge* process can be seen in bold.

Main implementing decrees, guidelines and regulations on asylum procedures, reception conditions, detention and content of international protection

Title (EN)	Original Title (IT)	Abbreviation	Web Link
Presidential Decree no. 394/1999 "Regulation on norms implementing the consolidated act on provisions concerning the immigration regulations and foreign national conditions norms"	Decreto del Presidente della Repubblica del 31 agosto 1999, n. 394 "Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero"	PD 394/1999	http://bit.ly/1M33qIX (IT)
Amended by: Presidential Decree no. 334/2004 "on immigration"	*Aggiornato con le modifiche apportate dal:* Decreto del Presidente della Repubblica 18 ottobre 2004, n. 334 "in materia di immigrazione"	PD 334/2004	http://bit.ly/1KxDnsk (IT)
Presidential Decree no. 21/2015 on "Regulation on the procedures for the recognition and revocation of international protection"	Decreto del Presidente della Repubblica del 12 gennaio 2015 "Regolamento relativo alle procedure per il riconoscimento e la revoca della protezione internazionale a norma dell'articolo 38, comma 1, del decreto legislativo 28 gennaio 2008, n. 25."	PD 21/2015	http://bit.ly/1QjHx8R (IT)
CNDA Circular no. 6300 of 10 August 2017 on "Notifications of the acts and measures of the Territorial Commissions and of the National Commission for the right to asylum"	Circolare della Commissione Nazionale per il diritto d'asilo n. 6300 del 10 agosto 2017 "Notificazioni degli atti e dei provvedimenti delle commissioni territoriali e della Commissione Nazionale per il diritto d'asilo"	CNDA Circular 6300/2017	http://bit.ly/2FwCDZj (IT)
CNDA Circular no. 6425 of 21 August 2017, Request clarifications art. 26, (5) Legislative Decree no. 25/2008, as amended by law n. 47/2017	Circolare della Commissione nazionale per il diritto d'asilo n. 6425 del 21 agosto 2017, Richiesta chiarimenti art. 26, comma 5, d.lgs. n. 25/2008, come modificato dalla legge n. 47/2017.	CNDA Circular 6425/2017	http://bit.ly/2Fn38Um (IT)
Ministry of Interior Circular no. 1 of 2 January 2019 "Decree Law 113/2018 implemented by Law 132/2018, applicable profiles"	Circolare del Ministero dell'Interno del 2 gennaio 2019, n. 1 "Decreto Legge 113/2018, convertito con modificazioni dalla legge 132/2018, profili applicativi"	Circular 1/2019	https://bit.ly/2GhrIoj (IT)
Ministry of Interior Circular of 14 January 2019 "Decree Law 113/2018 implemented by Law 132/2018, applicable profiles"	Circolare del Ministero dell'Interno del 14 gennaio 2019, "Decreto Legge 113/2018, convertito con modificazioni dalla legge 132/2018, profili applicativi"		https://bit.ly/2P7G5OZ (IT)
Ministry of Interior Decree, 5 August 2019, published on 7 September 2019, Identification of border or transit areas for the implementation of the accelerated procedure for the exam of international protection applications	Decreto del Ministero dell'Interno del 5 Agosto 2019, pubblicato sulla Gazzetta Ufficiale il 7 Settembre 2019, Individuazione delle zone di frontiera o di transito ai fini dell'attuazione della procedura accelerata di esame della richiesta di protezione internazionale.	MOI Decree 5 August 2019	https://bit.ly/3fzKFlY

Ministry of Interior Circular no. 10380 of 18 January 2019 “Decree Law 113/2018 implemented by Law 132/2018, applicable profiles”	Circolare del Ministero dell’Interno del 18 gennaio 2019, n. 10380 “Decreto Legge 113/2018, convertito con modificazioni dalla legge 132/2018, profili applicativi”	Circular 10380/2019	https://bit.ly/2VGH7UE (IT)
Ministry of Foreign Affairs Decree, 4 October 2019, *Identification of Safe Countries of origin, according to Article 2-bis of the Procedure Decree published on 7 October 2019 n.235.*	Ministero Degli Affari Esteri e della Cooperazione Internazionale, *4 Ottobre 2019, Individuazione dei Paesi di origine sicuri, ai sensi dell’articolo 2-bis del decreto legislativo 28 gennaio 2008, n. 25, G.U. 7 ottobre 2019 n. 235.*	Ministry of Foreign Affairs Decree 4 October 2019	https://bit.ly/2yv5PB3
CNDA Circular no. 8864 of 28 October 2019- Safe countries of origin list Article 2 bis LD 25/2008: accelerate procedure Articles 28, 28 bis, 28 ter	Circolare della Commissione Nazionale per il diritto di asilo, Prot. 886 del 28 Ottobre 2019, Lista dei paesi di origine sicuri ex art. 2 bis d.lgs 25/2008; applicazione delle procedure accelerate ex art. 28, 28 bis 28 ter	CNDA Circular, no 8864 of 28 October 2019	https://bit.ly/3dweqlt
CNDA Circular no. 9004 of 31 October 2019, Safe countries of origin - transmission of country information files - accelerated procedure	Circolare della Commissione Nazionale per il diritto di asilo, Prot. 9004 del 31 ottobre 2019 – Lista dei paesi di origine sicuri-trasmissione “Schede Paesi” – procedura accelerata	CNDA Circular, no. 9004 of 31 October 2019	https://bit.ly/3cgmQ0b
Ministry Of Interior Department of Civil Liberties and Immigration, Circular n. 8560 16 October 2019, implementation of the accelerated procedure ruled by Article 28 bis Procedure Decree	Circolare del Ministero dell’Interno, Dipartimento delle Dipartimento Libertà Civili e Immigrazione n. 8560 del 16 ottobre 2019, attuazione delle procedure accelerate ex art. 28 bis d.lgs 28 gennaio 2008, n. 25	MOI Circular 16 October 2019	https://bit.ly/2WbOvtI
MoI Department of Public Security, Central Directorate of Immigration and Border Police, Circular n. 400/C/II Div. 18 October 2019, implementation of the accelerated procedure ruled by Article 28 bis Procedure Decree	Circolare del Ministero dell’Interno, Dipartimento di Pubblica Sicurezza, Direzione Centrale dell’Immigrazione e della Polizia delle Frontiere n. 400/C/II Div. del 18 ottobre 2019, “attuazione delle procedure accelerate ex art. 28 bis d.lgs 28 gennaio 2008, n. 25	MOI Circular 18 October 2019	https://bit.ly/2YK3LQ1
Decree of the Ministry of Interior, 18 November 2019, Modalities for local authorities to access funding from the National Fund for Asylum Policies and Services and guidelines for the functioning of the Protection System for International Protection Holders and for Unaccompanied Foreign Minors (Siproimi)	Decreto del Ministero dell’Interno del 18 Novembre 2019, Modalita' di accesso degli enti locali ai finanziamenti del Fondo nazionale per le politiche ed i servizi dell'asilo e di funzionamento del Sistema di protezione per titolari di protezione internazionale e per i minori stranieri non accompagnati (Siproimi)	MoI Decree 18 November 2019	https://bit.ly/35FVtud

Ministry of Interior, Central Directorate on Immigration and Border Police, no. 20185 of 10 March 2022, “Temporary protection measures in favor of people displaced from Ukraine following the military invasion of the Russian armed forces	Ministero dell’Interno, Direzione Centrale dell’Immigrazione e della Polizia delle Frontiere, n. 20185 del 10 marzo 2022, “Misure di protezione temporanea in favore delle persone sfollate dall’Ucraina a seguito dell’invasione militare delle forrze armate russe.	MoI Circular no. 20185, 10 March 2022	
Head of Civil Protection Department Ordinance, no. 881 of 29 March 2022, Further urgent civil protection provisions to ensure, on the national territory, the reception, rescue and assistance to the population as a result of the events taking place in the territory of Ukraine	Ordinanza del Capo del Dipartimento della Protezione Civile, n. 881 del 29 marzo 2022, Ulteriori disposizioni urgenti di protezione civile per assicurare, sul territorio nazionale, l’accoglienza, il soccorso e l’assistenza alla popolazione in conseguenza degli accadimenti in atto nel territorio dell’Ucraina	Head of Civil Protection Ordinance , no. 881, 10 March 2022	https://bit.ly/3LH2VJ0
Prime Minister Decree of 28 march 2022, Measures of temporary protection for people coming from Ukraine due to the ongoing war events	Decreto del Presidente del Consiglio dei Ministri, Misure di protezione temporanea per le persone provenienti dall'Ucraina in conseguenza degli eventi bellici in corso	DPCM 28 Marzo 2022	https://bit.ly/38Wxyfw

Overview of the main changes since the previous report update

The previous report update was published in **June 2021**.

Asylum procedure

- **Access to the territory**: For what concerns arrivals at the sea border, Italy continues to play a role in indirect push-backs by providing the Libyan authorities with the means and technologies to improve tracing at sea.[3] In 2021 for the first time, a private boat's captain (Asso 28) has been sentenced to prison for returning migrants to Libya.[4] In 2021, 67,477 persons disembarked in Italy,[5] almost doubling the number of arrivals of 2020 (34,154) and an even more relevant increase when compared to 2019 (11,471) and 2018 (23,370), but still considerably lower than 2017 (119,369). The main nationality of people disembarked remained Tunisian, who were 15,671 in total. Over 31,500 came from Libya, more than 20,000 from Tunisia, 13,000 from Turkey and 1,500 from Algeria. At least 32,425 persons, in 2021, were returned to Libya (already over 3 thousand as of March 19, 2022).[6]

- **Access to the procedure**: Problems continued to be signalled in accessing the procedure, both at the borders, due to reported pushback practices and to the use of quarantine ships as *de facto* administrative detention facilities/hotspots, and in main cities, mainly caused by non-uniform practices in different areas of the country and to the long waiting time that lodging an application entails.

- **Readmissions**: After the Civil Court of Rome declared the informal readmissions procedures carried out to Slovenia were illegal these procedure were suspended at the eastern border of Italy, but similar procedures are still applied at Adriatic ports. At the French borders huge numbers of readmissions and pushbacks are still carried on to Italy.

- **Key asylum statistics**: In 2021, 56,388 asylum requests were registered in Italy, compared to 21,200 in 2020. The number of children seeking asylum also increased to 10,053, compared to 4,687 of 2020.[7] The main countries of origin of the applicants were Pakistan, Bangladesh, Tunisia, Afghanistan and Nigeria. 52,987 first instance decisions were issued (compared to 40,800 in 2020). An increase in the recognition of protection statuses was noticed; 44% (compared to 28% in 2020) of these decisions led to a protection status (32% international protection, and 12% special/ protection status).[8]

- **Dublin procedure**: In 2021 the situation of Dublin returnees remained uncertain. In December 2021, an Afghan citizen, evacuated from Afghanistan by the Italian authorities, Dublin returnee from France, was notified of an expulsion order once arrived by flight at Venice airport and immediately moved to a CPR.[9] Many Courts have suspended Dublin transfers pending the CJEU's preliminary ruling raised by several Courts asking to clarify the scope of the sovereignty clause (Article 17(1) of the Dublin Regulation and its application in cases where the non-refoulement principle could be violated and to interpret Articles 4 and 5 of the Dublin regulation clarifying when and whether a

3 Altreconomia, Nuovi affari dell'Italia sulla frontiera per respingere le persone in Libia, 1 February 2022, available in Italian at: https://bit.ly/3F35lzE.

4 Asgi, Condanna di Asso 28, un precedente che può scardinare la prassi dei respingimenti in Libia, 19 october 2021, available in Italian at: https://bit.ly/3vHe5HF. See also Infomigrants, Ship captain sentenced to prison for returning migrants to Libya, 15 October 2021, available at: https://bit.ly/3vK0b7s.

5 MOI Data, 31 December 2021, available at: https://bit.ly/3JggFd5.

6 Altreconomia, Sbarchi, i numeri non tornano. E per il Viminale i naufraghi diventano "persone scortate", 25 March 2022, available in Italian at: https://bit.ly/3NsufwE.

7 MOI Data, 15 January 2022, available at: https://bit.ly/3CHCT5f.

8 Ministry of Interior, Confronto anni 2020-2021, available at: https://bit.ly/3613PRt. Please note that data provided were still provisional.

9 Altreconomia, "La storia di Abdul, evacuato da Kabul e finito nel Cpr di Gradisca d'Isonzo", 19 January 2022, available at: https://bit.ly/3w62Av6.

violation of information obligations could lead to the cancellation of the transfer decided.[10] The CJEU scheduled the hearing for June 8, 2022.

- **Second instance procedure:** The length of judicial procedures due to the accumulated backlog of pending cases and the inadequate destination of resources continues to constitute a problem. The average time for an appeal to be processed reached 3 years in 2021, compared to the 4 months prescribed by law.[11]

- **Response to the situation in Afghanistan**: In August 2021, after the takeover by the Taliban in Afghanistan, as part of the operation called Aquila Omnia, 4,890 Afghan citizens were evacuated from Afghanistan by the Italian military forces. Among them 1,301 women and 1,453 children.[12] The Ministry of Foreign Affairs spread a note according to which Afghans could ask for a visa based on humanitarian reasons. However, in practice, only a few of these visas were authorised and only in cases where there was a sponsor available to guarantee for accommodation in Italy.
  Two Afghan citizens at serious risk in their country obtained a humanitarian visa released according to Article 25 of the EU's Visa Code after an urgent appeal was submitted to the Civil Court of Rome.[13] In October and December 2021, the Government established the activation of 5,000 additional SAI places to meet the need to accommodate Afghan asylum seekers.[14]
  After August 2021, the Ministry of Foreign Affairs spread a note according to which Afghans could obtain family visas by contacting any Italian consular diplomatic representation and allowing them to self-certify the family relationship with their family members in the event of lack of documents to certify it or lacking their legalization.

- **Criminalisation of solidarity**: In 2021, some criminal investigations against NGOs working in favour of asylum seekers were closed. This was the case of the investigation for aiding and abetting illegal immigration against Linea d'Ombra, operating in Trieste, accused of hosting and helping a family of asylum seekers who came from the border with Slovenia to reach Milan,[15] and the one started against the activists of Rete Solidale, NGO operating in Pordenone, together with 9 asylum seekers, accused to have occupied a private parking to help about 70 asylum seekers in need of accommodation.[16] Both were closed in November 2021.
  The same happened, in January 2022, for Mar Jonio's tugboat accused of aiding and abetting illegal immigration for taking refugees on board from the Etienne oil tanker and for having accepted a money donation for it,[17]and for the NGO Baobab accused of abetting irregular immigration for the help provided to 9 asylum seekers in buying train tickets to reach Ventimiglia, charges that were considered unfounded by the preliminary hearing judge of the Criminal Court of Rome in a ruling issued at the start of May 2022.[18] At the same time however, a criminal proceeding against 4 Eritreans accused of having helped other Eritreans to reach Ventimiglia was still pending.[19]

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10 Court of Justice of European Union, joined cases C-228/21, C-254/21, C-297/21, C-315/21, C-328/21.

11 L. Minnitii, 'L'ufficio per il processo nelle Sezioni distrettuali specializzate di immigrazione e protezione internazionale: una straordinaria occasione di innovazione a supporto della tutela dei diritti fondamentali degli stranieri', 28 October 2021, available at: https://bit.ly/37VFUEi.

12 Il Mattino, Afghanistan, decolla l'ultimo volo italiano da Kabul: conclusa l'evacuazione, rientrano tutti i militari, 27 August 2021, available at: https://bit.ly/3FBATgz.

13 Civil Court of Rome, decision of 21 December 2021, available at: https://bit.ly/3v1Fq6M.

14 3,000 places increased by Article 7 (1) DL 139/2021, converted into L 205/2021, as modified by Article 5 quater (5) DL 14/2022 converted into L 28/2022 and also 2,000 places according to Article 3(4) DL 16/2022, modifyng Article 1 (390) L 234/2021, later transposed in DL 14/2022 as modified by Article 5 quater (6) DL 14/2022 converted into L 28/2022.

15 See Asgi, La solidarietà non è reato, archiviate le accuse per i volontari di Trieste", 26 November 2021, available at: https://bit.ly/36JF7FE.

16 See Meltingpot, Pordenone: non luogo a procedere per le attiviste della Rete solidale e nove richiedenti asilo, 13 November 2021, available at: https://bit.ly/3LiCidL.

17 Il Fatto quotidiano, Migranti, archiviata dal gip l'indagine sulla Mare Jonio che salvò 30 migranti, 28 January 2022, available at: https://bit.ly/3t9NxyI.

18 Ansa, Migranti: assolto il presidente di Baobab, 3 May 2022, available at: https://bit.ly/39HDjy4. See also Roma today, Baobab, il presidente rischia fino a 18 anni per favoreggiamento dell'immigrazione clandestina, 19 April 2022, available at: https://bit.ly/3kp6qZ9.

19 Redattore sociale, Hanno aiutato i connazionali in Italia, quattro eritrei a processo: "Reato di solidarietà", 10 Marzo 2021, available at: https://bit.ly/3xQAdlx.

Reception conditions

- **Extraordinary reception centres**: Despite the 2020 reform the accommodation system in Italy remains mainly based on extraordinary centres. By the end of 2021, 7 out of 10 asylum seekers were accommodated in CAS facilities.[20]

Detention of asylum seekers

- **Hotspots**: By the end of 2021, four hotspots were operating in: **Apulia** (Taranto) and **Sicily** (Lampedusa, Pozzallo, and Messina). In 2021, ASGI reported many criticalities at the "new border" of Pantelleria, where landed migrants are also channelled in hotspot-like procedures.[21] Concern has been expressed in a 2021 on the lack of gender related measures in the hotspots, specifically regarding Lampedusa hotspot.[22]
  The Administrative Court of Sicily accepted the appeal presented by ASGI and allowed a delegation of the association to access the Lampedusa hotspot in March 2022.[23]

Content of international protection

- **Family reunification procedures:** The Court of Cassation, [24] deciding on the family reunification requested by a refugee for her mother, under 65 years of age, who had another son in her country of origin, stated that the presence of the other son was not decisive in excluding the right to family reunification as the latter could not provide for the financial support of the mother depending on the assistance of the refugee who requested the family reunification.[25]

Response to the situation in Ukraine as of 5 May 2022

From 11 March 2022, Questure have been entitled to release receipts for those coming from Ukraine who request temporary protection. These receipts, free of charge, immediately indicate the tax code, give access to the national health service and allow to work.[26] The permit to stay will indicate the wording "Prot. Temporanea Emerg. Ucraina" and it will be valid for one year.[27]
According to the Prime Ministerial Decree signed on 28 March 2022,[28] temporary protection can be recognized to people who were resident in Ukraine before 24 February and who escaped from Ukraine from 24 February and who:
- Are Ukrainians;
- Are Ukrainians' family members, that means partner, husband or spouse, under age and unmarried children, including children of the spouse. Parents and adult sons can also be entitled to temporary protection in case they totally or partially were depending on their Ukrainians relatives' assistance;
- Are refugees or stateless persons and held a permit to stay in Ukraine, or are their family members;
- Are third country nationals who were permanently resident in Ukraine.

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20 Openpolis, Actionaid, available at: https://bit.ly/3OtmuXI.
21 ASGI, La frontiera di Pantelleria: una sospensione del diritto. Report del sopralluogo giuridico di ASGI, June 2021, available in Italian at: https://bit.ly/3tcSwyD.
22 ASGI – InLimine, "A gender perspective on the Lampedusa Hotspot: the systematic and culpable violation of women's rights", 3 January 2022, available at: https://bit.ly/3Ia6gOJ.
23 Asgi, Hotspot di Lampedusa: dal Tar Sicilia ulteriore conferma del principio di accessibilità della società civile ai luoghi di trattenimento, 22 September 2021, available at: https://bit.ly/3OQF6kI.
24 Court of Cassation, decision no. 20127 of 14 July 2021.
25 Meltingpot, Status di rifugiato e ricongiungimento familiare – La sola presenza di figli nel Paese di origine non esclude l'ingresso del genitore infrasessantacinquenne, available at: https://bit.ly/3xMAplA.
26 Ordenance of the Head of Civil Protection department no. 872 of 4 March 2022, available in Italian at: https://bit.ly/3k7njY2.
27 MoI - state police Department, Circular no. 20815 of 10 March 2022 and Article 2 of the Prime Ministeriale Decree of 29 March 2022. According to the MOI circular the permit to stay cannot exceed the date of March 4th 2023.
28 Article 1 of the Prime Ministerial Decree of 28 March 2022, published on 15 April 2022, available at: https://bit.ly/38Wxyfw.

In case holders of temporary protection apply for international protection, their request will be suspended and examined only after the expiring date of their temporary protection permit to stay.
The Prime Ministerial Decree also states that beneficiaries of international protection cannot ask for temporary protection and for the related benefits.[29]

Regarding access to reception for people fleeing from the conflict in Ukraine, the Government planned two main forms of accommodation measures: on the one hand, it planned to increase places in the reception system (first governmental, CAS and SAI facilities); on the other hand, alternative forms of widespread reception and economic support are foreseen.

DL 16 of 28 February 2022,[30] then transposed into DL 14/2022 converted with modification by L 28/2022, established that people fleeing from Ukraine can access the reception system within the limit of available places and resources,[31] even in case the asylum request has not been submitted or in case it has not been submitted yet.
It also established the ad hoc expansion of 3,000 SAI places, the possibility for people escaped from Ukrainian's war to access the SAI places activated for Afghans,[32] and the financing of around 5,000 additional places in CAS.[33]
The possibility to use structures already set up for COVID-19 fiduciary isolation is also foreseen,[34] and, for further reception needs, especially for people in transit, the possibility, for the Presidents of the Regions, to outline the need to prepare further housing solutions to the prefectures.[35]

DL 21 of 21 March 2022, at Article 31 (1) (a), established to define further forms of widespread reception to be implemented in agreement with the Municipalities, and through third sector bodies, volunteer service centres, organizations and associations providing substantial homogeneity of services and costs with the reception system facilities (Cas and first governmental facilities**),** for a maximum of 15,000 units. On 11 April 2022, the MOI Civil Protection Department published the first notice to collect proposals in implementing such accommodation projects.

DL 21/2022 also defines additional forms of support and assistance to persons entitled to temporary protection who have found autonomous accommodation, for a maximum duration of 90 days, and up to 60,000 units.

People applying for temporary protection and not accessing the public reception system can receive an economic contribution of 300.00 €, more 150.00 € per child up to three months from the date of the temporary protection receipt.[36] On 30 April, the online platform through which temporary protection applicants will be able to request such contribution was opened.[37]
However, a Civil Protection Note issued on 9 May 2022, specified that the economic contribution can be asked only up to 30 September 2022.[38]

In terms of access to the labour market, Decree Law 21/2022 provided for a derogation from the discipline of the recognition of professional health qualifications, stating that public or private health structures can

29 Ibid. Article 3.
30 DL 16/2022, Article 3, then repealed and transfused in the DL 14/2022, Article 5 quater as modified by the conversion Law n. 28 of 5 April 2022, without prejudice to all effects, acts and measures adopted in the meantime on the base of DL 16/2022.
31 See also Article 5 of the Prime Ministerial Decree, 28 March 2022, published on 15 April 2022, available at: https://bit.ly/38Wxyfw.
32 Article 5 quater DL 14/2022 converted with modifications into L 28/2022.
33 MOI Circular, 2 March 2022 available at: https://bit.ly/3OiV7zt.
34 Ordinance of the Head of the Civil Protection no. 872 of 4 March 2022, Article 3 (2), available at: https://bit.ly/3k7njY2.
35 Ibid. Article 3(4)
36 Ordinance issued by the Head of the Department of Civil Protection on 29 March 2022, no. 881 of 29 March 2022, available at: https://bit.ly/3LH2VJ0. According to the Article 4 of the ordinance, in the event of finding a job, financial support and hospitality can still be guaranteed for 60 days.
37 Department of Civil Protection, communication available at: https://bit.ly/3vtsLLy.
38 Department of Civil Protection, Note no. 30457 of 9 May 2022.

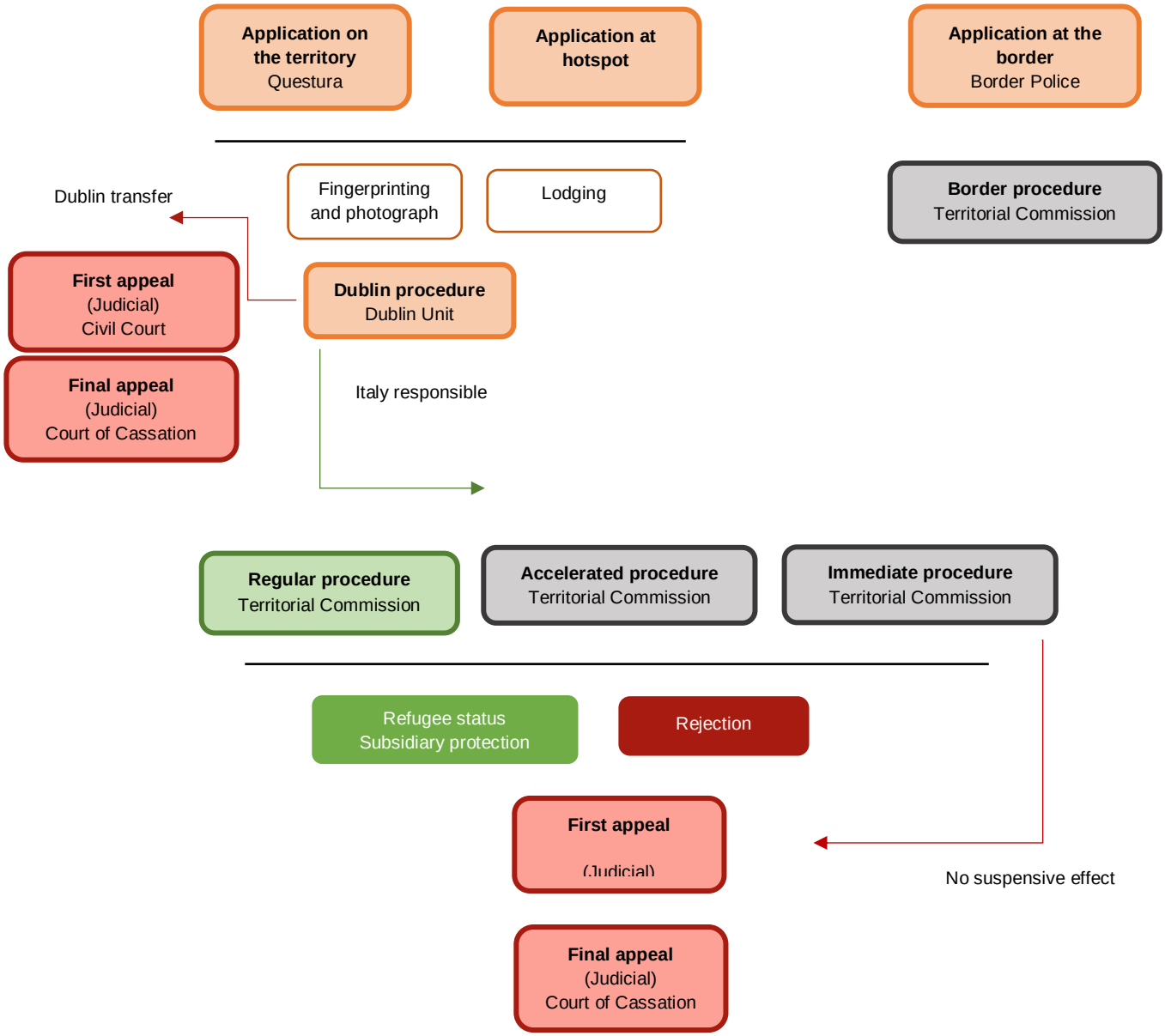
hire with fixed-term contracts Ukrainian doctors, nurses and OSS resident in Ukraine before 24 February 2022 and in possession of the European Qualification passport for refugees.[39]

[39] Article 34 DL 21 of 21 March 2022.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

❖ Regular procedure:	☒ Yes	☐ No
▪ Prioritised examination:[40]	☒ Yes	☐ No
▪ Fast-track processing:[41]	☐ Yes	☒ No
❖ Dublin procedure:	☒ Yes	☐ No
❖ Admissibility procedure:	☐ Yes	☒ No
❖ Border procedure:	☒ Yes	☐ No
❖ Accelerated procedure:[42]	☒ Yes	☐ No
❖ Other:		

With the 2018 reform, the border procedure was established for applicants making an asylum application directly at the border or in transit areas after having been apprehended for having evaded or attempting to evade border controls. The border procedure also applies to asylum seekers who come from a designated Safe Country of Origin. In these cases, the entire procedure can be carried out directly at the border or in the transit area.[43] The border procedure has been applied since the issuance of the Ministry of Foreign Affairs Decree of 5 August 2019, published on 7 September 2019, which identifies the border and transit areas covered by the accelerated procedure.

3. List of authorities that intervene in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (IT)
Application ❖ At the border ❖ On the territory	Border Police Immigration Office, Police	Polizia di Frontiera Ufficio Immigrazione, Questura
Dublin	Dublin Unit, Ministry of Interior	Unità Dublino, Ministero dell'Interno
Refugee status determination	Territorial Commissions for the Recognition of International Protection	Commissioni Territoriali per il Riconoscimento della Protezione Internazionale
Appeal	Civil Court	Tribunale Civile
Onward appeal	Court of Cassation	Corte di Cassazione
Subsequent application	Territorial Commissions for the Recognition of International Protection	Commissioni Territoriali per il Riconoscimento della Protezione Internazionale

4. Determining authority

Name in English	Number of Commissions	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority?
Territorial Commissions for International Protection	20 + 21 sub commissions	Ministry of Interior	☒ Yes ☐ No

40 For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.

41 Accelerating the processing of specific caseloads as part of the regular procedure.

42 Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

43 Article 28-bis(1-ter) Procedure Decree, as amended by Article 9(1) Decree Law 113/2018.

The competent authorities to examine asylum applications and to take first instance decisions are the Territorial Commissions for the Recognition of International Protection (*Commissioni Territoriali per il Riconoscimento della Protezione Internazionale*), which are administrative bodies specialised in the field of asylum, under the Ministry of Interior. The Territorial Commissions are established under the responsibility of Prefectures.[44] LD 220/2017, entering into force on 31 January 2018, reformed the functioning and composition of the Territorial Commissions.

4.1. Composition of Territorial Commissions

The law foresees the creation of 20 Territorial Commissions[45] and up to 30 sub-Commissions across the national territory, in order to boost and improve the management of the increasing number of applications for international protection.[46] As of December 2021, there were 20 Territorial Commissions and 21 sub-Commissions across Italy.[47]

As amended by LD 220/2017, each Territorial Commission is composed at least by 6 members, in compliance with gender balance. These include:[48]

- 1 President, with prefectural experience, appointed by the Ministry of Interior;
- 1 expert in international protection and human rights, designated by UNHCR;
- 4 or more highly qualified administrative officials of the Ministry of Interior, appointed by periodic public tenders.[49]

The Territorial Commissions may be supplemented, upon request of the President of the National Commission for the Right to Asylum (CNDA), by an official of the Ministry of Foreign Affairs when, in relation to particular asylum seekers, it is necessary to acquire specific assessments of competence regarding the situation in the country of origin.[50]

Before the appointment of the members of the Territorial Commissions, the absence of conflict of interests must be evaluated.[51] For the President and the UNHCR representative, one or more substitutes are appointed. The assignment is valid for 3 years, renewable.[52]

Following the 2017 reform, interviews are conducted by officials of the Ministry of Interior and no longer by UNHCR. The decision-making sessions of the Commission consist of panel discussions composed by the President, the UNHCR-appointed expert and two of the administrative officers, including the one conducting the interview.[53] Under the Procedure Decree, the decision on the merits of the asylum claim must be taken at least by a simple majority of the Territorial Commission, namely 3 members; in the case of a tie, the President's vote prevails.[54]

The CNDA has adopted a Code of Conduct for the members of the Territorial Commissions, the interpreters and the personnel supporting them.[55] The CNDA not only coordinates and gives guidance to the Territorial Commissions in carrying out their tasks, but is also responsible for the revocation and cessation of international protection.[56]

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44 Article 4(1) Procedure Decree, as amended by LD 220/2017.
45 Article 4(2) Procedure Decree.
46 Article 4(2-bis) Procedure Decree.
47 Ministero dell'Interno, Dipartimento per le liberta civili e l'immigrazione, Commissione Nazionale per il diritto di asilo, available in Italian at: https://bit.ly/3iajZuc.
48 Article 4(3) Procedure Decree, as amended by LD 220/2017.
49 Article 4(1-bis) Procedure Decree, inserted by LD 220/2017, citing Article 13 Decree Law 13/2017, followed by the appointment of 250 persons through public tender.
50 Article 4(3) Procedure Decree, as amended by LD 220/2017.
51 *Ibid*.
52 *Ibid*.
53 *Ibid*.
54 Article 4(4) Procedure Decree.
55 Article 5(1-ter) Procedure Decree.
56 Articles 13 and 14 PD 21/2015.

These bodies should be independent in taking individual decisions on asylum applications but, due to their belonging to the Department of Civil Liberties and Immigration of the Ministry of Interior, in various cases, they received instructions from the Ministry of Interior. Some examples are the instructions given for the grounds of inadmissibility, manifestly unfoundedness, border procedure.[57]

4.2. Training and quality assurance

The law requires the CNDA to provide training and refresher courses to its members and Territorial Commissions' staff. Training is supposed to ensure that those who will consider and decide on asylum claims will take into account asylum seeker's personal and general circumstances, including the applicant's culture of origin or vulnerability. Since 2014, the CNDA has organised training courses based on the EASO modules, in particular on "Inclusion", "Country of Origin Information" and "Interview Techniques". These training courses provide both an online study session and a two-day advanced analysis conducted at central level in Rome. In addition to these permanent trainings, courses on specific topics are also organised at the local level. By law, the National Commission should also provide training to interpreters to ensure appropriate communication between the applicant and the official who conducts the substantive interview.[58] However, in practice interpreters do not receive any specialised training. Some training courses on asylum issues are organised on *ad hoc* basis, but not regularly.

5. Short overview of the asylum procedure

Throughout 2021 the support offered by the European Asylum Support Office (EASO, currently EUAA)[59] to the Italian Asylum Authorities continued at different stages of the procedure.

Following the 2021 agreed support plan,[60] EASO deployed 233 different experts in Italy throughout the year, mostly temporary agency workers (179). The majority of these experts were research officers (64), registration support officers (32), reception and information system officers (19), project officers (17), and quality assurance officers (12), followed by other support staff (e.g. project assistants, Dublin staff, operational staff, registration staff etc.).

As of 13 December 2021, there were still 155 EASO experts present in Italy, mostly research officers (43), reception and information system officers (18), and registration support officers (8).[61]

EASO experts in Italy in 2021 operated in the following areas: quality and standardisation of access to asylum procedures, including in emergency situations and ad hoc disembarkation events; support the quality and standardisation of Dublin procedure and asylum determination procedures; support the management of judicial backlog; support the quality management and monitoring of the Italian reception system; support the coordination mechanisms amongst Italian asylum authorities and the efficiency and standardisation of procedures through the development and management of information systems.[62]

Application

According to Italian law, there is no formal timeframe for making an asylum application. The intention to make an asylum application may be expressed orally by the applicant in his or her language with the assistance of a linguistic-cultural mediator.[63] However, asylum seekers should make their application as

57 Circulars from the Minister of Interior: circular of 30.10.2020 on interpretation of LD no. 130 of 2020 available at https://bit.ly/3MPpyMQ; and Circular of 08.01.21 available at https://bit.ly/3q1Oozk .
58 Article 15 Procedure Decree.
59 It should be noted that Regulation 2021/2023 entered into force on 19 January 2022, transforming EASO into the EU Agency for Asylum (EUAA).
60 EASO, Operating Plan, Italy 2021, available at: https://bit.ly/3i5vvY8.
61 Information provided by EUAA, 28 February 2022.
62 See: https://bit.ly/3ti8ckh.
63 Article 3(1) PD 21/2015.

soon as possible. Immigration legislation prescribes, as a general rule, a deadline of 8 days from arrival in Italy for migrants to present themselves to the authorities.[64]

The asylum application can be made either at the border police office or within the territory at the provincial Immigration Office (*Ufficio immigrazione*) of the Police (*Questura*), where fingerprinting and photographing (*fotosegnalamento*) are carried out. In case the asylum application is made at the border, the Border Police invites asylum seekers to present themselves at the Questura for formal registration. Police authorities cannot examine the merits of the asylum application. The law establishes that the lodging of the application should occur within 3 days from the manifestation of the will to apply – 6 days if the willingness is manifested at border – the time limit may be postponed up to 10 days in case of huge numbers.[65] In practice, however, these deadlines are rarely respected, and especially in big metropolitan areas such as Milan, Rome, and Naples, asylum seekers manage to lodge their applications only after some weeks or even a couple of months.

During the registration, the Questura asks the asylum seeker questions related to the Dublin Regulation and contacts the Dublin Unit of the Ministry of Interior to verify whether Italy is the Member State responsible for the examination of the asylum application. In the past years, in the region of Friuli-Venezia Giulia, the Questura did not proceed to the lodging of the application if the Dublin Regulation was applicable. It was an isolated praxis that after being contested by lawyers and NGO was stopped. When there are doubts on the competence, under Dublin Regulation, the case is transmitted to the Dublin Unit and the person receives a permit that indicates “Dublin” or “richiesta asilo”. On the renewal of the permit, if the Dublin unit concludes for the Italian responsibility the person will get the request of asylum permit. If the Dublin Unit outcome is negative, the person will be notified the Dublin Unit negative decision.
After the lodging (*verbalizzazione*) of the application, if no issues regarding the application of the Dublin Regulation arise, or once they are solved, the Questura sends the formal registration form and the documents concerning the asylum application to the Territorial Commissions or sub-Commissions for International Protection located throughout the national territory, the only authorities competent for the substantive asylum interview.[66] The asylum seeker is then notified of the interview date in front of the Territorial Commission by the Questura.

Regular procedure

According to the Procedure Decree,[67] a member of the Territorial Commission should interview the applicant within 30 days; after having received the application and the Commission should decide on its result in the 3 following working days.
The decision shall be taken following a panel discussion between all members of the Commission. Should the Territorial Commission be unable to take a decision in the time limit, or in case it finds itself in need of new elements, the examination procedure should be concluded within six months of the lodging of the application.

However, the Territorial Commission may extend the time limit for a period not exceeding a further nine months, where:
(a) complex issues of fact and/or law are involved;
(b) a large number of asylum applications are made simultaneously;
(c) the delay can clearly be attributed to the failure of the applicant to comply with his or her obligations of cooperation.
By way of exception, in duly justified circumstances, the Territorial Commission may further exceed this time limit by three months where necessary in order to ensure an adequate and complete examination of the application for international protection.[68] In the light of the different possibilities of extension, the asylum procedure may last for a maximum period of 18 months.

64 Article 3(2) PD 21/2015.
65 Art. 26 Procedure Decree.
66 Article 4 Procedure Decree, as amended by LD 220/2017.
67 Article 27 Procedure Decree.
68 Article 27 Procedure Decree.

According to ASGI's experience, due to the large number of simultaneous applications, the time limits are generally not respected in practice, and the asylum seeker is generally not informed about the authorities exceeding the deadlines.

Prioritised and accelerated procedures

The Procedure Decree provides for an accelerated procedure and a prioritised procedure. The President of the Territorial Commission identifies the cases under the prioritised or accelerated procedure.[69]

Border procedure

With the 2018 reform, confirmed by the 2020 reform, the border procedure was established for applicants making an asylum application directly at the border or in transit areas, after having been apprehended for having evaded or attempting to evade border controls. In this case, the entire procedure can be carried out directly at the border or in the transit area.[70]

Border and transit areas for the accelerated examination of asylum applications were identified by ministerial decree of 5 August 2019,[71] and include areas in the provinces of Trieste and Gorizia (Balkan border); the provinces of Crotone, Cosenza, Matera, Lecce, Brindisi (southern coastal area); two areas in Sicily, one including the Provinces of Caltanissetta, Ragusa, Siracusa, Catania, Messina , the other including Trapani and Agrigento Provinces; and the Metropolitan city area of Cagliari (South Sardinia). The decree also instituted sections of the territorial commissions in charge to operate in these areas.

The list of safe countries of origin has been adopted by decree of the Minister of Foreign Affairs on 4 October 2019, in agreement with the Ministry of Interior and the Ministry of Justice. It includes: Albania, Algeria, Bosnia and Herzegovina, Cape Verde, Ghana, Kosovo, North Macedonia, Morocco, Montenegro, Senegal, Serbia, Tunisia and Ukraine.

Only through the Decree published on 11 March 2022, the application to Ukraine has been suspended until 31 December 2022[72].

Appeal

Asylum seekers can appeal a negative decision issued by the Territorial Commission within 30 days before the competent Civil Court. Following Decree Law 13/2017, there are specialised court sections competent for examining asylum appeals.

In case of a negative decision on the merits, the applicant is recognized the right to stay on the national territory pending the appeal.

Applicants placed in detention facilities and applicants whose application is examined under the accelerated procedure, on the basis of Article 28-bis of the Procedure Decree, have only 15 days to lodge an appeal,[73] and they can be recognized the right to stay pending the appeal only upon request to the court.

After the entry into force of Decree Law 13/2017, the decision of the civil court (first appeal) can only be challenged in law before the Court of Cassation (final appeal) within 30 days. Before the reform, the

69 Article 28(1) Procedure Decree.
70 Article 28-bis(2) (b)) Procedure Decree, as amended by Decree Law 130/2020 and L 173/2020
71 Available at: https://bit.ly/3CJxWcm.
72 Interministerial Decree of 9 March 2022, published on GU n. 59 of 11.3.2022, Article 1, available at: https://bit.ly/3w3ViHW.
73 Article 19(3) LD 150/2011.

decision of the civil court could also be appealed in fact and law in front of the Court of Appeal, within 30 days of the notification of the decision.

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No

2. Is there a border monitoring system in place? ☐ Yes ☒ No

In 2021, according to MOI data, 67,040 people disembarked in Italy.
Over 31,500 came from Libya, more than 20,000 from Tunisia and 13,000 from Turkey. The number of people refouled to Libya in the same year was 32,425.[74]

On 21 December 2021, the Court of Rome ordered the Italian state to release entry visas pursuant to art. 25 Visa Code EU Regulation 810/2009 to two young Afghans, deemed to be at risk in their country of origin.[75] The case originated from a visa application presented on their behalf by an Italian Asgi lawyer, based on their belonging to risk categories (journalists, activists, etc.). The first decision was motivated by the immediate risk for the applicant and the necessity to issue a visa to consent them to reach the Italian territory without further risks. On 28 February 2022, the same Court annulled the order, stating that the applicants should have accepted the proposal, made by the Ministry of Foreign Affairs, to renounce the individual visas application and access the humanitarian corridors that would have been launched, on an indefinite date, for Italy.
Following the first decision of the Court, however, the visas had been released.

On 18 January 2021, the Civil Court of Rome accepted the urgent appeal lodged, with the support of ASGI and Border Violence Monitoring Network, by a Pakistani man, asylum seeker, who was informally readmitted in July 2020 by the border police of Trieste to Slovenia according to the Readmission Agreement signed by the Italian and Slovenian Government in 1996. From Slovenia, within 48 hours, the man reported to have been then readmitted to Croatia and then pushed back to Bosnia, according to a consolidated mechanism of readmissions by chain. The Court declared the informal readmission procedure implemented on the Italian eastern border on the basis of the mentioned agreement that was never ratified by the Italian Parliament, unlawful.[76]

The Court observed that the readmission procedure was carried out in clear violation of the international, European and internal rules that regulate access to the asylum procedure. The concerned persons were not offered any remedies and their individual situations were not examined. The Court therefore concluded clear infringement of the right of defence and the right to an effective remedy. The Court also observed de facto detention carried out without any order from the judicial authority and It further concluded that the procedure clearly violates the obligation of non-refoulement, which prohibits exposing persons to risks of inhuman and degrading treatment, which, as documented by numerous NGOs, is a systematic practice at the Croatian border.

In direct application of art. 10 paragraph 3 of the Italian Constitution, the Court recognized the applicant's right to enter Italy immediately in order to have access to the procedure for examining his application for international protection.[77]

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74 Altreconomia, Sbarchi, i numeri non tornano. E per il Viminale i naufraghi diventano “persone scortate”, 25 March 2022, available at: https://bit.ly/3NsufwE.

75 Civil Court of Rome, Decision of 25 February 2022, available at: https://bit.ly/3vAGro8.

76 Civil Court of Rome, 18 January 2021, available at: https://bit.ly/33d0VnE.

77 Civil Court of Rome, 18 January 2021, available at: https://bit.ly/33d0VnE.

The applicant was allowed to enter Italy with a visa and to formalise the asylum application. However, immediately after, on 3 May 2021, the Court of Rome accepted the appeal submitted by the Ministry of Interior considering that the personal involvement of the applicant in the readmission procedure was not proved. In this decision the Court did not deny the reconstruction of the first court regarding the illegitimacy of the readmission procedures.[78]

After the mentioned decision of 18 January 2021 of the Civil Court of Rome, readmission procedures at the eastern border have been suspended. However, since July 2021, mixed patrols of Italian and Slovenian police have been started (see internal borders, Slovenia).

According to testimonies collected by the Adriatic ports Network, in 2021, readmission practice continued from Italy to Greece.

Also, on 11 January 2021, the Civil Court of Appeal of Rome confirmed the decision taken on 28 November 2019 by the Court of Rome accepting the appeal lodged with the support of ASGI and Amnesty by 14 Eritrean citizens based in Israel, who were victims of a collective refoulement by Italian authorities to Libya in 2009. The Court recognized their right to access the asylum procedure in Italy and sentenced Italy to compensate the damage they suffered due to the illegal behaviour of the Italian authorities.[79]

The Court recognized the need to expand the scope of international protection to preserve the position of those who were prevented from submitting an application for international protection due to the fact that they could not access the territory of the State as a consequence of an unlawful act committed by the authority of the referring State, inhibiting the entry to the territory in the form of a collective refoulement, in violation of the Constitution and the Charter of Fundamental Rights of the European Union.[80]

1.1. Arrivals by sea

In 2021, 67,477 persons disembarked in Italy,[81] almost doubling the number of arrivals of 2020 (34,154) and an even more relevant increase when compared to 2019 (11,471) and 2018 (23,370), but still considerably lower than 2017 (119,369). In 2021, there were a total of 56,388 asylum applicants.[82]

The number of MSNA also increased to 10,053, compared to 4,687 of 2020.[83]

The main nationality of people disembarked remained Tunisian, who were 15,671 in total. The number of Tunisian nationals registered as asylum seekers was 7,102.

Over 31,500 came from Libya, more than 20,000 from Tunisia, 13,000 from Turkey and 1,500 from Algeria. At least 32,425 persons, in 2021, were returned to Libya (already over 3 thousand as of March 19, 2022).[84]

78 Civil Court of Rome, decision of 3 May 2021, available at: https://bit.ly/3oYocUq.

79 ASGI, *Riconosciuto il diritto di entrare in Italia a chi è stato respinto illegittimamente in Libia*, 3 December 2019, available in Italian at: https://bit.ly/2yJEKtF; Amnesty, *Importantissima sentenza del Tribunale civile di Roma*, 2 December 2019, available in Italian at: https://bit.ly/2yHXdXH.

80 Civil Court of Rome, decision 22917 of 28 November 2019, available in Italian at: https://bit.ly/2LgCMnj; For information in English see also: EDAL, Italy: Recognition of the right to enter as compensation for illegitimate collective expulsions to Libya by the Italian Coast Guard in 2009, 28 November 2019, available at: https://bit.ly/2SR3S8O.

81 MOI Data, 31 December 2021, available at: https://bit.ly/3JggFd5.

82 Moi data, available at: https://bit.ly/3h0JJKv.

83 MOI Data, 15 January 2022, available at: https://bit.ly/3CHCT5f.

84 Altreconomia, Sbarchi, i numeri non tornano. E per il Viminale i naufraghi diventano “persone scortate”, 25 March 2022, available in Italian at: https://bit.ly/3NsufwE.

Italy continues to play a key role in indirect refoulements to Libya, continuing to equip and train the Libyan authorities thus preventing access to protection for thousands of fleeing people;[85] additionally, the way to classify arrivals lacks in transparency. Out of the people arrived in Italy only one fifth is classified as rescued as part of SAR activities coordinated by the Maritime Rescue Coordination Centre (MRCC) of Italian Coast Guard. The Ministry of Interior informed that out of the 21,000 people rescued at sea, 9,000 were rescued by NGOs.
Around 38,887 arrivals were classified as traced during law enforcement operations.[86] In fact, from 2019, the Italian coastguard started to classify most of the search and rescue operations as law enforcement operations, which results in ambiguities regarding their actual number.[87] Since 2020 however, it stopped publishing data on search and rescue operations.[88]

On 31 March 2020, the Sophia Operation, started in 2015, ended definitively and was replaced by the IRINI Operation which changes its main task in implementing the arms embargo against Libya imposed by the UN. A note published by the Chamber of Deputies states that after the Sophia operation, in fact, naval devices useful for the purpose of rescuing people in one of the routes most affected by migratory flows no longer operate.[89] In this regard, the study by the Senate Commission notes that, with the Irini mission, the displacement of the intervention area will bring ships to very decentralised areas with respect to the routes of human traffickers and therefore the "search and rescue component" of the new operation should be strongly reduced compared to Sophia.[90] The report of the Council of Europe Commissioner for human rights, observes that the focus of the EUNAVFOR MED IRINI operations area was the eastern part of the Libyan Search and Rescue Region and the high seas between Greece and Egypt, strongly reducing the possibility of encountering refugees and migrants in distress at sea.[91]

UNHCR data shows that in 2021, 67,477 refugees and migrants arrived in Italy by sea and 1,496 died or disappeared during the route,[92] compared to 34,154 in 2020 and 11,471 in 2019.[93]

In 2021, the highest number of monthly sea arrivals was recorded in August when 10,286 persons reached the Italian coasts.[94]

Regarding the external sea borders with Tunisia, on 9 December 2020 the Italian Ministry of Foreign Affairs signed a technical agreement with the UN Office for Services and Projects (UNOPS) to support the North African country in border control activities and in fighting migrant trafficking.[95] With at least 1,922 Tunisians repatriated in 2020 and 1,872 in 2021, Tunisia remains the main destination for repatriation from Italy (73.5% of the total number of migrants repatriated).[96]

The “closure of ports”

85 See: Altreconomia, Nuovi affari dell’Italia sulla frontiera per respingere le persone in Libia, 1 February 2022, available in Italian at: https://bit.ly/3F35lzE.
86 Altreconomia, Sbarchi, i numeri non tornano. E per il Viminale i naufraghi diventano “persone scortate”, 25 March 2022, available in Italian at: https://bit.ly/3NsufwE.
87 See: Altreconomia, Se i naufraghi nel Mediterraneo diventano “persone intercettate in operazioni di polizia”. Le ricadute sui soccorsi, 8 October 2019, available in Italian at: https://bit.ly/3dwtQ9p.
88 See Altreconomia, “Soccorsi nel Mediterraneo, il report scomparso della guardia costiera italiana”, available in Italian at: https://bit.ly/3tgAI27, 20 July 2020
89 Chamber of Deputies, Emergenza COVID-19: le misure in materia di immigrazione, 11 March 2021, available at: https://bit.ly/2RsUUAA.
90 Senate studies service, “Da Sophia A Irini: La Missione Militare Ue nel Mediterraneo cambia nome, e Priorità, April 2020, available at: https://bit.ly/2Rq68G4.
91 Council of Europe Commissioner for Human Rights, Report: “A distress call for human rights”, March 2021, available at: https://bit.ly/2QX5ikh.
92 UNHCR, Operational Data Portal, available at: https://bit.ly/3t8Msaf.
93 UNHCR, Italy Sea Arrivals Dashboard - December 2020, 29 January 2021, available at: https://bit.ly/3uw3pZN.
94 UNHCR, Operational Data Portal, available at: https://bit.ly/3y74dtj.
95 See Asgi, Sciabaca Oruka, Strengthening the operational capacities of Tunisian authorities in monitoring the maritime borders: 8 million from the Rewarding Fund for Repatriation Policies, 13 April 2021, available at: https://bit.ly/3MF4TKK.
96 See ASGI, Sempre più politiche securitarie: lo studio sui rimpatri in Tunisia, 30 march 2022, available at: https://bit.ly/3yvpnS9.

The Decree Law 130/2020 repealed the law provision introduced by Decree 53/2019 [97] and introduced a new provision to give a legal basis to the Minister of the Interior bans on transit or stop to ships engaged in rescue at sea,[98] thus leaving the risk of penalization of rescues at sea to persist.

The new legal provision no longer bases the mentioned MOI power to Article 19 (2 g) of the Montego Bay Convention (UNCLOS), according to which, a passage of a ship is not considered innocent in case of – in particular- loading or unloading of persons contrary to the immigration or sanitary laws of the coastal state but, it generically refers to the UNCLOS convention asking that action be taken in compliance with it. [99]

Furthermore, the new legal provision has changed the sanction: from administrative it becomes criminal and the fine provided – no longer an administrative penalty – is from 10,000 to 50,000 euros, therefore a reduced sum compared to that foreseen by Decree Law n. 53/2019.[100]

According to Decree Law 130/2020 as amended by L 173/2020 the Minister of the Interior, in agreement with the Minister of Defence and with the Minister of Infrastructure and Transport, prior information to the President of the Council of Ministers, can limit or forbid the transit and the stop of Italian or foreign merchant ships, or governmental ships used as merchant ships, for reasons of public order and public safety, as long as in compliance with the Montego Bay Convention (UNCLOS). The Decree Law provides both the Ministry of the Interior and Ministry of Transport with the competence to stop, limit and the transit of ships. In some cases, they have overlapping competences.[101]

The decree, however, excludes its application in case of rescue operations immediately notified to the coordination centre responsible for rescues at sea and to the flag State and carried out in compliance with the indications of the competent search and rescue authority, issued on the basis of the resulting obligations by International conventions on the law of the sea, by the European Convention on Human Rights and by national international and European laws on the right to asylum, without prejudice to what provided for by the Additional Protocol of the Convention of the United Nations Against Transnational Organised Crime to combat the illicit trafficking of migrants by land, sea and road air (L. 146/2006).[102] This means that the law requires that rescue ships immediately communicate the rescue operation to the coordination centre and to the flag state of the ship and that they conduct the rescue operation according to the instructions received from the search and rescue authority.

The Decree further foresees that the authorities must give indications to the rescue ships that respect the conventions and laws referred to.

As highlighted by jurists, this must imply that, on the one hand, if the indications require not to intervene, these should be respected unless, however, the evolution of the situation demonstrates that, in the absence of other interventions, the risk of injury for people materialises. On the other hand, entrusting people to an unsafe destination cannot be considered compliant with the aforementioned rules, which could be the case when the Libyan authority is indicated as the competent authority.[103]

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97 In detail, Article 1 (1, c and d) DL 130/2020 repealed Articles 11 (1 ter) and 12 (6bis, 6 ter, 6 quater) of the TUI.

98 Article 1 (2) DL 130/2020, converted with amendments by L 173/2020.

99 According to Article 19(2) lett. g) Montego Bay Convention "a passage of a foreign ship shall be considered to be prejudicial to the peace, order or security of the coastal State if in the territorial sea it engages in any of the following activities: (..) g) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State).

100 Decree Law 53/2019 foresaw an administrative penalty between € 150,000 to € 1,000,000.

101 The provision refers to Article 83 of Navigation Code, according to which the Ministry of Transports can limit or ban the transit or stay of merchant ships for reasons of public order, navigation safety and protection of the marine environment, the last one together with the Ministry of the Environment.

102 Article 1 (2) DL 130/2020 converted by L. 173/2020.

103 See Il delitto d'inosservanza della limitazione o del divieto di transito e sosta nel mare territoriale, Alberto di Martino e Laura Ricci, in Immigrazione, Protezione Internazionale e Misure Penali, commento al DL 130/2020.

In 2020, the main measure implemented against NGO ships operating in rescues at sea was that of administrative detention, based on the pretext of technical irregularities.

As recorded by Ispi, in a study published by the journal Corriere della Sera,[104] from spring 2020 the measure was applied to the following ships: Alan Kurdi and Alta Mari in May-June, Sea Watch3 and Ocean Viking in July, Sea Watch4 in September, again Alan Kurdi and then Louise Michel in October.

Between 9 October and 21 December 2020, the government simultaneously blocked seven NGOs ships (Jugend Rettet, Sea Watch3, Sea Watch4, Eleonore, Alan Kurdi, Ocean Viking and Louise Michel).

On December 2020 the Administrative Court for Sicily, Palermo, forwarded a request for a preliminary ruling to the CJEU regarding the applicability of the Directive 2009/16 / EC to ships that mainly carry out SAR activities. It did so following the appeal filed by **Seawatch 4** against the notice of detention for the master, applied in September 2020, following the rescue at sea of 354 people, which took place at the end of August 2020.

After the rescue and the authorization for the transfer of people on the Allegra ship, in Palermo, the Ministry of Health, imposed anchoring in Palermo for a quarantine period of 14 days for the crew and, at the end, the sanitization of the ship. After sanitization, the Port Authority of Palermo, carried out an inspection as “port state control” (PSC) for unspecified overriding factors recognized with respect to the boat. Following that inspection, it imposed the detention on the ship, observing how it did not respect a series of technical requirements and in particular it was not equipped to systematically carry out the rescue of large numbers of people at sea.

The Administrative Court observed that neither in the European, international or in domestic law there are requirements dictated specifically for private ships which can be classified as SAR ships. Therefore, according to the Court, ships carrying out SAR activities should be excluded from the application of international standards (implemented by the Member States and the European Union) on safety in navigation and the protection of the marine environment.

This means that it should not be possible for the authorities of the port state to carry out inspections to impose requirements on merchant ships operating as SAR ships, as the evaluation of these requirements fall under the sole responsibility of the flag State authorities. [105]

Later, on 3 March 2021, having acknowledged the non-application of the accelerated procedure by the CJEU, the Court decided to accept the interim request for suspension advanced by the lawyers of the Seawatch 4. It observed that the Seawatch could not carry out its statutory purposes consisting in saving people at sea, and, since, at the moment, only NGOs carry out this task, the impediment deriving to such activity from a prolonged detention of the ships appears more relevant than the dangers connected to marine pollution raised by the Port Authorities and by the Ministry of Transports.[106]

The Administrative Court decision however was declared as void by the High Administrative Court of Sicily,[107] following the appeal submitted by the Minister of Interior.[108]

The policy to block the rescue ships for administrative reasons continued in 2021. The ship Sea Eye 4 was again stopped in the Port of Palermo in June 2021 following an inspection.
In December 2021, the Geo Barents of Doctors Without Borders (MSF) and Sea-Watch had to wait a long time offshore before being assigned a safe landing place after complicated rescues. In January 2022, the

104 Corriere della Sera, Migranti, Lamorgese ha bloccato più navi Ong di Salvini, 14 March 2021, available at: https://bit.ly/3xFLEKl.
105 Administrative Court of Sicily, decision no. 2974 of 23 December 2020, available at: https://bit.ly/3uldPvN.
106 Administrative Court of Sicily, interim decision no. 145 of 2 March 2021.
107 Consiglio per la giustizia Ammnistrativa della Regione Siciliana is the appeal body exercising, only for Sicily, the same functions as the Council of State.
108 Consiglio per la giustizia Ammnistrativa della Regione Siciliana, Ordinanza 00322/2021, 8 May 2021, available at: https://bit.ly/3ORME6r.

Ocean Viking of SOS Mediterranee was blocked in Trapani after an 11-hour inspection by the Coast Guard for "malfunction of the onboard power supply" and "presence of flammable liquids stored in unsuitable premises of the ship" and then subjected to administrative detention.[109]

For what concerns the Gregoretti case,[110] the former Minister of Interior, Matteo Salvini, faced a criminal trial,[111] but in May 2021 the Court of Catania decided not to indict him for kidnapping.[112] On 17 April 2021, the former Minister of Interior, Salvini, was indicted by the Court of Palermo for the kidnapping of 147 migrants aboard the Open Arms, kept aboard the ship for six days in August 2019. The trial that started on September 15, 2021 is still pending at the moment of writing.[113]

On 10 August 2020, the Court of Rome ordered new investigation in a case in which it had already indicted two officers of the Italian coastguard and of the navy, for the delay and failure of rescue in the shipwreck which occurred on 11 October 2013, and in which over 250, many children, died at sea.[114]

On 9 December 2020, the Court of Agrigento sentenced the crew of the Aristeus ship for delay and failure of the rescue in the shipwreck occurred on 3 October 2013 in Lampedusa waters, when 368 migrants lost their lives. The court sentenced the ship's captain to six years in prison and each crew member to four years.[115]

On the other hand, in March 2021, the Public Prosecutor of Ragusa ordered the search and seizure against the **Mar Jonio**'s tugboat, accused of aiding and abetting illegal immigration for taking refugees on board from the Etienne oil tanker on 11 September 2020 and having later accepted a donation from it.[116] In January 2022, the investigation was archived by the Judge for Preliminary Investigation (GIP) of Agrigento.[117]

***Refoulement* to Libya**

In February 2020, the Memorandum of Understanding between Italy and Libya was renewed,[118] even though a Criminal Court ruled that it was not conform the Italian Constitution and international laws.[119]

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109 Altreconomia, Sbarchi, i numeri non tornano. E per il Viminale i naufraghi diventano “persone scortate”, 25 March 2022, available at: https://bit.ly/3NsufwE.

110 By the end of July 2019, the thenMinister of the Interior forbade the landing of the people rescued by the Gregoretti Italian Coast Guard ship. Only after six days, on 31 July 2019, the 116 people were disembarked and transferred to the Pozzallo hotspot before being redistributed between France, Germany, Portugal, Luxembourg and Ireland. 50 people remained in Italy in charge of the Italian Episcopal Conference (CEI).

111 Adnkronos, Gregoretti, nuova udienza per Salvini a Catania, 5 March 2021, available at: https://bit.ly/3xNLY9W.

112 Ansa, Gregoretti: Gup, non luogo a procedere per Salvini. Prosciolto perché "il fatto non sussiste", 15 May 2021, available at: https://bit.ly/3oZysMh.

113 Il Corriere, Open Arms, Salvini rinviato a giudizio. Decisione del ministro e sbarco su ordine del pm: le differenze con il caso Gregoretti, 17 April 2021, available in Italian at: https://bit.ly/3aZKbVe; Androkonos, Open Arms, rinviata al 4 marzo udienza processo a Salvini, 21 January 2022, available in Italian at: https://bit.ly/3CUigmJ.

114 Ansa, Naufragio bambini, due ufficiali a giudizio, 16 September 2019, available in Italian at: https://bit.ly/3fBEFsM; see also: Alarmphone, Left-to-Die Trial in Rome, 2 December 2019, available at: https://bit.ly/2LeRHyn; ECRE, Italy: Officials of the Italian Coast Guard Prosecuted for Shipwreck in 2013, 20 September 2019, available at: https://bit.ly/3ckBunh.

115 Nuovi Desaparecidos, “Strage di Lampedusa prime condanne ma non basta, occorre indagare sui soccorsi”, 10 December 2020, available at: https://bit.ly/37mZBnz.

116 Fanpage, Inchiesta su Mare Jonio, accusata di aver ricevuto soldi in cambio di un trasbordo di migranti, 1 March 2021, available at: https://bit.ly/3eWWsLh.

117 Il Fatto quotidiano, Migranti, archiviata dal gip l’indagine sulla Mare Jonio che salvò 30 migranti, 28 January 2022, available at: https://bit.ly/3t9NxyI.

118 Avvenire, 12 February 2020, Esclusiva. Memorandum Italia-Libia, la bozza integrale: la partita dei fondi a Tripoli, available in Italian at: https://bit.ly/3bnLOJQ.

119 Criminal Court of Trapani, sentence of 23 May 2019, available in Italian at: https://bit.ly/3dutMHl; According to article 80 of the Italian Constitution, political agreements can be signed only with Parliament's authorization. Furthermore, it is an agreement concluded with a party, the Libyan coastguard, repeatedly referred to as responsible for crimes against humanity. Therefore, the court found that the agreement violates the principle of non-refoulement.

The Memorandum was heavily criticised by numerous associations including ASGI,[120] and the Council of Europe Commissioner for Human Rights.[121]
Recently, many associations subscribed an appeal to reject the Memorandum.[122] According to the agreement,[123] Italy undertakes to continue to financially support, with training courses and equipment, the Libyan coast guard of the Ministry of Defence, for search and rescue activities at sea and in the desert, and for the prevention and fight against irregular immigration.

At least 32,425 people were returned to Libya throughout 2021. Among them, 1,500 were minors. From the start of 2022 to 19 March, over 3,000 people were returned in total.[124]
For the two-year period 2020-2021, the Ministry of Interior had foreseen an additional 1,2 million euros in naval supplies.[125]

On July 2021 the Italian Parliament approved the re-financing and support to the Libyan coast guard.[126]
In the same days, Amnesty International reported the grave abuses connected with pushbacks and detention in Libya in 2021.[127]
Based on the previous agreement, Italy has since 2017 equipped Libya with naval units, supplied and financed the rehabilitation of several patrol boats and ensured the presence in Tripoli of an Italian naval unit (Nave Tremiti, Nave Capri, and then Nave Caprera[128]) to provide to Libya technical assistance and training.[129] Nave Capri and Caprera also coordinated Libyan naval units in the tracking of boats at sea.[130]

As of December 2021, a new mobile "search and rescue" coordination centre (MRCC) was handed over to the Libyans. It was set up to be able to connect to the surface surveillance radar installed at the Abu Sitta naval base in Libyan territory (where Italian Navy assets are also moored). The small centre's purpose is - on paper - to "monitor" the Libyan "search and rescue" (SAR) area that Italy itself contributed to be established in 2017-2018 and recognised before the International Maritime Organization.
The funds for the MRCC come from the "Support to integrated Border and Migration Management in Libya" (Sibmmil) project coordinated by the Italian Ministry of the Interior since 2017 and linked to the Trust Fund for Africa, set up by the European Commission at the end 2015, with the intended objective of "addressing the root causes of instability, forced displacement and irregular migration and to contribute to a better migration management". The Sibmmil project is divided into two phases: the first has a budget of 46.3 million euros, the second of 15 million.[131]

The resulting effects of **Italy's indirect pushbacks to Libya** and the consequences on people suffering inhuman and cruel treatments are now being examined by the European Court of Human Rights in the

120 ASGI; Memorandum Italia-Libia, lettera aperta del Tavolo Asilo alle istituzioni italiane: non rinnovatelo, 30 october 2019, available in Italian at: https://bit.ly/2Wik9Wi.
121 On 31 January 2020, the Council of Europe Commissioner for Human Rights, called on the Italian government to urgently suspend the ongoing cooperation activities with the Libyan Coast Guard which affect the repatriation of people intercepted at sea in Libya where they have suffered serious human rights violations, see: ASGI, Il governo italiano deve sospendere ogni cooperazione con la Guardia Costiera libica, 31 January 2020, available in Italian at: https://bit.ly/2zmpaEy.
122 Available in English at: https://bit.ly/36mt4Og; see also: https://bit.ly/3i8ke9c.
123 A copy of the agreement is published in Italian at: https://bit.ly/3ciy1FS.
124 Altreconomia, Sbarchi, i numeri non tornano. E per il Viminale i naufraghi diventano "persone scortate", 25 March 2022, available at: https://bit.ly/3NsufwE.
125 Altreconomia, L'Italia continua ad equipaggiare la Libia per respingere i migranti, il caso delle motovedette ricondotte a Tripoli, 2 March 2020, available in Italian at: https://bit.ly/2SSmsNU.
126 Internazionale, A. Camilli, 'Aumentano i fondi italiani per la guardia costiera libica', 15 July 2021, available at: https://bit.ly/364KlWQ; see also Wired, 'L'Italia continuerà a finanziare la cosiddetta guardia costiera libica', 16 July 2021, available at: https://bit.ly/3wge7lj.
127 Amnesty International, Libya: 'No one will look for you': Forcibly returned from sea to abusive detention in Libya, 15 July 2021, available at: https://bit.ly/3Jnfetn.
128 Analisi difesa, nave Caprera ha sostituito la Capri nel porto di Tripoli, 4 April 2018, available in Italian at: https://bit.ly/2SP6Hag.
129 ASGI, ASGI chiede l'immediato annullamento del Memorandum con la Libia, 2 February 2020, available in Italian at: https://bit.ly/2zlh1QB.
130 Altreconomia, Il grande inganno della Libia sicura e le tappe della regia italiana dei respingimenti delegati, 18 April 2019, available in Italian at: https://bit.ly/35MIMgW.
131 Altreconomia, Nuovi affari dell'Italia sulla frontiera per respingere le persone in Libia, 1 February 2022, available in Italian at: https://bit.ly/3F35lzE.

case **S.S. and others v. Italy** concerning a rescue operation of the Sea Watch ship hindered in November 2017 by the Libyan coastguard through a patrol boat donated by Italy and with the coordination of the Italian MRCC.[132]

From January 2020 to September 2020, at least 9,000 people were tracked down by the Libyan coastguard and brought back to Libya.[133] According to data collected by IOM present at the landing sites in Libya, by the end of 2020, 12,000 people were intercepted and brought back by the Libyan authorities meaning that, in 2020, more than 42% of the people who attempted to leave Libya, have been brought back.[134]
Confirming what was previously mentioned regarding the number of people returned to Libya, Amnesty International recently reported that "in 2021, the Libyan coastguards, with the support of Italy and the European Union, captured 32,425 refugees and migrants at sea and brought them back to Libya: by far the highest number recorded so far, three times higher than the previous year. 1,553 people died or disappeared at sea in the central Mediterranean in 2021".[135]

Moreover, as highlighted by the Global Legal Action Network (GLAN) on 18 December 2019, through a complaint filed against Italy with the UN Human Rights Committee, Italy appears to play a key role in the **privatised pushbacks policy** which would consist in engaging commercial ships to return refugees and other persons in need of protection to unsafe locations. [136] The complaint concerns the case of an individual refouled to Libya together with 92 migrants after being intercepted in the high seas by a Panamanian merchant vessel, the **Nivin**, in November 2018. The legal submission is based on the Forensic Oceanography report, which shows how the operation was fully coordinated by the MRCC of Rome.[137]

Between June 2018 and June 2019, the Forensic Oceanography recorded a total of 13 privatized pushback attempts in the so-called EU and Italy's system of *refoulement by proxy*. Except for two that failed as a result of migrants' resistance, at least 11 of these 13 privatized pushbacks were successful– with three of these diverted to Tunisia. According to the report the outcome of these operations has been exacerbated by the closed-ports policy in Italy, which prevents ships that carried out rescue operations entering Italy's waters to disembark rescued persons.[138]

In February 2021, five Eritrean citizens, with the support of the ASGI and Amnesty International, initiated a civil action to declare the illegality of the refoulement to Libya carried out on 2 July 2018 by the ship "Asso Ventinove" of the Augusta Offshore during an operation coordinated by the Italian authorities stationed in Libya and with the collaboration of the Libyan Coast Guard.

In June 2021, IOM and UNHCR, confirmed that over 270 migrants and refugees were handed over to the Libyan Coast Guard by the ship "Vos Triton". The two organisations made a joint declaration: "Vos Triton had rescued the group in international waters during their attempt to reach Europe on 14 June. On 15 June, the Libyan Coast Guard returned them to the main port of Tripoli, from where they were taken into detention by the Libyan authorities.

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132 ECtHR, Application No. 21660/18, *S.S. and others v. Italy*, available at: https://bit.ly/3dvkBGt; the Third-party intervention by the Council of Europe Commissioner for Human Rights is available at: https://bit.ly/35OFYjn.

133 Report of Fondazione Migrantes, Il diritto d'asilo, 2020.

134 Form elaborated by IOM for the Ministry of Labour's Monitoring report on unaccompanied minors, December 2020; see also the following report: https://bit.ly/34nMePk, 26.

135 Amnesty International, Cinque anni dal memorandum Italia-Libia: condizioni infernali per migranti e richiedenti asilo, 31 January 2022, available at: https://bit.ly/37Fq8gb.

136 Communication to the United Nations Human Rights Committee in the case of SDG against Italy, available at: https://cutt.ly/cyv9xIT.

137 See also: Repubblica, Migranti, un report accusa l'Italia: "Respingimento illegale dei 93 salvati dal mercantile Nivin e riportati in Libia con la forza", 18 December 2019, available in Italian at: https://cutt.ly/yyv9cb0.

138 Forensic Oceanography Nivin report, affiliated to the Forensic Architecture agency, Goldsmiths, University of London, December 2019, available at: https://cutt.ly/Hyv9voA.

The two organizations reiterate that no one should be returned to Libya after being rescued at sea. Under international maritime law, rescued individuals should be disembarked at a place of safety."[139]

On 14 October 2021, the criminal Court of Naples sentenced a commercial vessel captain, Asso28, to a one-year imprisonment, due to having returned migrants to Libya. On 30 July 2018, the vessel intercepted a rubber dinghy with 101 people on board and, having taken on board a Libyan customs officer, he let him carry out the rescue and return operations to Libya of the migrants.
The captain was acquitted of the charge of "disembarkation and arbitrary abandonment of persons", pursuant to art. 1155 of the navigation code, and of "abandonment of minors" pursuant to art. 591 of the penal code. For the first time, the return to Libya led to the condemnation of a private boat.[140]

Attempt to criminalise Migrants refusal to be pushed back

As reported in 2020 AIDA report, in June 2020 the Criminal Appeal Court of Palermo overturned the decision of the Criminal Court of Trapani that had acquitted two migrants rescued at sea by Vos Thalassa ship in 2018 who had rebelled aboard the ship threatening the captain and the crew once they realized that it was bringing them back to Libya. The judge had recognized they acted in self-defence, and that the act of bringing them back to Libya would have been a crime.[141] Instead, according to the Court of Appeal, the defendants had voluntarily placed themselves in a dangerous condition, having planned an extremely dangerous sea crossing and having then asked for help in order to be recovered from rescue boats. Consequently, according to the Court their violent and threatening conduct - aimed at preventing the crew of the Vos Thalassa from returning them to the Libyan Coast Guard - cannot be considered self-defence.[142]

Through Decision n. 15869/2022,[143] adopted on 16 December 2021, and published on 26 April 2022, the Court of Cassation overturned the decision issued by the Court of Appeal of Palermo, reaffirming the principle that the migrants rescued at sea, asserting their right not to be refouled to Libya, were justified in resisting return procedures, as soon as their reaction to the risk of refoulement was proportionate and there were no prove of collusion with the traffickers.[144]

Pushbacks at Adriatic ports

As monitored by ASGI, No Name Kitchen, Ambasciata dei Diritti di Ancona and Associazione SOS Diritti, refoulements continue to be carried out from Italy to Greece at Adriatic maritime borders, based on the bilateral agreement signed by the Italian and Greek government in 1999, which became operational in 2001, even if it was never ratified by the Italian Parliament.[145] In 2021, readmissions and refoulements were recorded also to Albania and Croatia.[146]

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139 Available at: https://bit.ly/3F96BBj. See also: Analysis of ECRE available at: ECRE, Med: UN Condemnation of Returns to Unsafe Libya by Merchant Ship, Survivors Rescued in Maltese SAR Zone Accepted by Italy, Parliament President Urges EU Lead on Rescues at Sea, 18 June 2021, available at: https://bit.ly/3Jb1bap.

140 Asgi, Condanna di Asso 28, un precedente che può scardinare la prassi dei respingimenti in Libia, 19 october 2021, available in Italian at: https://bit.ly/3vHe5HF. See also Infomigrants, Ship captain sentenced to prison for returning migrants to Libya, 15 October 2021, available at: https://bit.ly/3vK0b7s.

141 Criminal Court of Trapani, cited above. See: Diritto penale contemporaneo, La legittima difesa dei migranti e l'illegittimità dei respingimenti verso la Libia (caso Vos-Thalassa), Luca Masera, 24 June 2019, available in Italian at: https://cutt.ly/7yv9bfe; see also: EDAL, Italy - Tribunal of Trapani - Office of the Judge for Preliminary Investigations (Piero Grillo), available at: https://cutt.ly/Fyv9nHb.

142 Criminal Court of Appeal of Palermo, Decision no. 1525/2020, of 3 June 2020, available at: https://bit.ly/3vIWwFg.

143 Decision available in Italian at: https://bit.ly/3vzvZgz.

144 Espresso, "I migranti hanno il diritto di opporsi alla riconsegna in Libia»: storica sentenza della Cassazione", 17 December 2021, available in Italian at: https://bit.ly/3t9BxNz.

145 Available in Italian and Greek at https://bit.ly/3qHhuVf.

146 See ASGI, Network Porti adriatici: continuano i respingimenti e le riammissioni, April 2021, available at: https://bit.ly/2Rsfoty.

As provided in the readmission agreement with Slovenia, the readmission agreement with Greece excludes the informal transfer between the two countries of illegally staying third-country nationals only for those recognized as refugees by the state requesting readmission.[147]

Access to the asylum procedure and to asylum information is very poor and transfers or re-admissions are being immediately executed to send foreign nationals back to Greece.

In many cases where the person has managed to get in touch with the mentioned network of NGOs operating at the Adriatic ports, he or she has managed to apply for asylum. In the others the push back was carried out to the port of departure. According to the testimonies collected by the Network, if the ferry leaves immediately the person is kept on board. Otherwise, he or she is dropped off, held in a police station inside the port, and then taken back to the ferry.

In 2020, the testimonies recorded by the NGO No Name Kitchen regarding readmissions to Greece from the Italian Adriatic maritime borders were published by the Border Violence Monitoring Network. They were collected in the Black Book of Pushbacks, published by BVMN on December 2020.[148]

No Name Kitchen recorded – *inter alia* - the readmissions to Greece of many Afghans:

- 5 Afghans, out of which 2 unaccompanied minors, from Bari maritime border between October and November 2020;[149]
- 9 Afghans, out of which 1 minor, from Venice maritime border between September and October,[150] and on February 2020;[151]
- 2 Afghans from Brindisi maritime border, on September 2020;
- 4 Afghans, out of which one unaccompanied minor, from Ancona maritime border, on October 2020 and April 2020.[152]

Cases have been reported of readmission to Greece from Bari port also in 2021.[153]

In May, six Turkish nationals, including a woman, were denied the opportunity to apply for protection in Italy, despite having immediately expressed their willingness to seek asylum. Foreign nationals had arrived at the port of Bari in the morning, hidden inside a truck that arrived with a ferry.

Immediately after their tracing, cell phones, documents and some essential medicines were confiscated from the group of foreign citizens, of which a seventh person belonged. They have been prevented from any contact with lawyers, associations and family members; legal information and the assistance of a mediator were not guaranteed; the organisation which, in agreement with the Prefecture, is in charge of the information and reception service at the border crossing had not been contacted.[154]

Through F.O.I.A request sent to public administrations, the mentioned NGOs belonging to the Adriatic network came to know about the following readmissions or pushbacks carried out from the 1 January 2020 to 15 April 2020:

- 311 refoulements at Bari maritime border;
- 53 refoulements at Brindisi maritime border;

147 Readmission agreement between Italy and Greece, Article 6.

148 Border Violence Monitoring Network, Black Book of Pushback, Volume I, December 2020, available in English at: https://bit.ly/3uka61O.

149 The readmissions took place on 7 November, 8 November, 20 November, and 12 October. The first are published on the Black book of pushbacks, the last testimony is available at: https://bit.ly/3eWf0vq

150 Readmissions took place on 9 September 2020, available at: https://bit.ly/3ejQqFs; 24 October 2020; 2 October 2020 regarding one minor who told to have been readmitted with other 6 afghans, available at: https://bit.ly/3nVxlr1

151 See BVMN Black Book of pushbacks, Volume I, testimony of 26 February 2020.

152 Testimony of 10 October 2020, available at: https://bit.ly/3eN3DFO; 3 October 2020, available at BVMN Black Book of pushbacks, Volume I; and 23 April 2020.

153 Domani, 'I diritti negati dei migranti respinti in Grecia dal porto di Bari', 29 June 2021, available in Italian at: https://bit.ly/3igFTw0.

154 ASGI, Prassi applicative di respingimento al porto di Bari, 2 July 2021, available at: https://bit.ly/3lj2DpK; see also Protecting Rights at Borders, *Doors Wide Shut*, July 2021, available at: https://bit.ly/3tgJRLy.

- ❖ 17 refoulements at Venice maritime border;
- ❖ 13 refoulements at Ancona maritime border.

Also, through another F.O.I.A request, they came to know that, from 1 January 2019 to 31 March 2020, from the air and maritime border of Ancona there were 149 readmissions and 56 pushbacks.

Early 2020, the Committee of Ministers of the Council of Europe rejected the request made by the Italian Government to close the supervision processes initiated following the Sharifi ruling.[155]
The procedure is still pending at the moment of writing, following the observations made by NGOs in February 2022,[156] and the consequent notes of the Italian Government on march 2022.[157]

1.1. Arrivals by air

As reported to the Parliament on 25 November 2020 by the Central Director of the Immigration and Border police, of the MoI, Massimo Bontempi, the number of refoulements carried out from air borders in 2020 was 3,100, a number that the director defines as very high considering that the flow of air traffic has been extremely low. [158]

Different cooperatives are entrusted by public tender or other temporary contracts to provide information services in the main airports, directly by the local Prefectures.

At the Fiumicino airport of Rome, the Prefecture of Rome entrusted the social cooperative Albatros1973 with informing and managing foreign people arriving at the air border who want to seek asylum or who are Dublin returnees in 2020. For 2021, the service was in charge of ITC cooperative.

At the airport of Milan Malpensa, Valdensian Diakonia, charged with implementing services for asylum seekers arriving from the air border in 2020, was replaced by the cooperative Ballafon in early 2021, in charge of the service until December 2021.

In Venice, the cooperative Giuseppe Olivotti was responsible, up to January 2022, under the agreement with the Prefecture of Venice, of arrivals of asylum seekers and Dublin returnees.

1.2. Arrivals at the Slovenian land border

In 2021, the Border Police of Trieste traced 5,181 migrants coming from the border between the province of Trieste and Slovenia,[159] and, as of October 2021, the total number of migrants traced at the Italian-Slovenian border was 8,600.[160] Numbers that highlight the growth in arrivals considering that, as of 20 November 2020, the total number of migrants traced at the Italian-Slovenian border was 4,121.[161]

In 2020, cases of re-admissions to Slovenia from Trieste Udine and Gorizia, **Friuli-Venezia Giulia**, without any formal procedure or decision were massively implemented.[162] The readmissions were carried out based on the Readmission Agreement signed by Italian and Slovenian Government in 1996,[163] never

155 See: Committee of Ministers of the Council of Europe, Communication from an NGO (Associazione per gli Studi Giuridici sull'Immigrazione) (21 January 2020) in the case of SHARIFI AND OTHERS v. Italy and Greece (Application No. 16643/09), available at: https://cutt.ly/Syv9W2y; ASGI, Respingimenti: l'Italia ancora sotto indagine per il caso Sharifi, 8 April 2020, available in Italian at: https://cutt.ly/Tyv9ESC.

156 Available at: https://bit.ly/3KQTUg1.

157 Available at: https://bit.ly/3MMKzHf.

158 See Massimo Bontempi's audition at Parliament, Schengen Committee, 25 November 2020, available at: https://bit.ly/3i46CM7.

159 Triesteprima, "Arresti, denunce, Covid e molto altro: il 2021 della questura in numeri", 8 January 2022, available at: https://bit.ly/3Lifryh.

160 Il Gazzettino.it, Clandestini dai Balcani, il Friuli Venezia Giulia compra 65 fototrappole: «Un muro tecnologico», 21 January 2022, available at: https://bit.ly/3ILHC7v.

161 See Massimo Bontempi's audition at Parliament, Schengen Committee, 25 November 2020.

162 See The New Humanitarian, "Europe's chain of migrant expulsion, from Italy to Bosnia", available at: https://bit.ly/3f3nOje, 17 November 2020.

163 Readmission agreement between the Italian and Slovenian Government, available at: https://bit.ly/3vwPuGF.

ratified by the Italian Parliament, contrary to what Article 80 of Italian Constitution dictates for the ratification of international treaties that are of a political nature.[164]

According to the agreement, the two states are required to readmit without formalities irregular third-country nationals which are delivered by the state in which they are located within 26 hours of crossing the border or which are tracked within 10 km of the common border.[165]

As regards the asylum procedure, the agreement excludes from the application of the readmission procedures only those who have obtained the recognition of refugee or stateless status in the state requesting the transfer.[166]

On 14 January 2020, the region Friuli Venezia Giulia Region announced its intention to purchase camera traps to be placed on the paths near the eastern borders to identify the transit of irregular migrants in real time.[167] In mid-May 2020, the Minister of Interior announced an increase in readmissions to be made to the eastern border, as agreed with Slovenia, and the sending 40 agents to the border.[168]

On 28 May 2020, the Prefect of Trieste then stated that "(..) the readmitted migrant is not deprived of the possibility of applying for asylum, as Slovenia is part of the European context".[169]

On 2 June 2020, replying to ICS- Refugee Office and Caritas, responsible for the accommodation of asylum seekers in Trieste, the Prefect of Trieste added that according to the directives received from the Government, readmissions are implemented to complete the provisions set up in the Dublin Regulation.[170]

On 24 July 2020, the Ministry of the Interior, responding with a written note to the urgent question presented by the Member of Parliament Riccardo Magi, on the situation of the "informal readmissions" of foreign citizens at the Italian-Slovenian land border, confirmed that these readmissions take place without formal provisions and, above all, stated that readmissions against foreign citizens are applied "(..) even if the intention to request international protection is expressed "and that" (..) if the conditions for the readmission request are met (..), the request is not sent to the responsible Questura for the formalisation of the asylum request (…)".[171]

The Italian Minister of the Interior declared, in response to a second parliamentary request on 13 January 2021, that, in 2020, 1,301 people were readmitted to Slovenia.[172] However, replying to a data request access made by the journal Altreconomia, the Ministry of the Interior - Central Directorate of Immigration and Border Police - reported that readmissions to Slovenia in 2020 had been 1,294.

Slovenia, on the other hand, in the data published by the Slovenian State Police[173] reports that in 2020 readmissions from Italy to Slovenia affected 1,116 people.

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164 Italian Consititution, Article 80 indicates : “Le Camere autorizzano con legge la ratifica dei trattati internazionali che sono di natura politica, o prevedono arbitrati o regolamenti giudiziari, o importano variazioni del territorio od oneri alle finanze o modificazioni di leggi.”

165 Article 6 of the Readmission agreement.

166 Article 3 of the Readmission agreement.

167 Il Gazzettino, Migranti. Fototrappole per animali sul Carso per "catturare" i migranti irregolari, 14 January 2020, available in Italian at: https://cutt.ly/8yv9FKt.

168 Triesteprima, Rotta balcanica, Serracchiani: "In arrivo da Roma 40 poliziotti a Trieste", 14 May 2020, available in Italian at: https://bit.ly/2LVpjln; see also. Il Piccolo, Nuovi arrivi dalla rotta balcanica. Roma invia 40 agenti al confine, 15 May 2020, available in Italian at: https://bit.ly/3gpqVBV.

169 Triesteprima, “Migranti rintracciati e rispediti indietro, come la Rotta Balcanica diventa un’Odissea, 28 May 2020, available at: https://bit.ly/3f4xLNa.

170 Il Piccolo, “Le realtà dell’accoglienza contro i rimpatri informali: pratiche inaccettabili che calpestano i diritti”, 2 June 2020.

171 Urgent request 2/00861 presented by Riccardo Magi on 14 July 2020, https://bit.ly/3hilQxY; and the written answer by the MoI, available at: https://bit.ly/3tzWzBO.

172 See intervention in Parliament by the Minister of the Interior, Lamorgese, minute 3:00, available at: https://bit.ly/3tzqLgH.

173 Data available at: https://bit.ly/33vinEo.

On 18 January 2021, the Civil Court of Rome accepted the appeal submitted, with ASGI's support, by a Pakistani man that was readmitted to Slovenia on July 2020 without having access to asylum, and then readmitted and subjected to chain-refoulement to Croatia and Bosnia. (See Access to the territory). On 3 May 2021, the Court of Rome accepted the appeal submitted by the Ministry of Interior, considering that the personal involvement of the applicant in the readmission procedure had not been proven. While dismissing the case, the Court did however confirm the illegitimacy of the readmission procedures that was at the base of the motivation of the first court.[174] A new appeal has been submitted before the Court of Rome, and the case is currently pending.
In the meanwhile, a new appeal for compensation for a man readmitted in 2020 from Italy to Slovenia, and immediately after from Slovenia to Croatia, has been submitted before the same Court.

While families and vulnerable people should have been excluded from the procedure, readmissions were also carried out against those who claimed to be minors at the border, as reported by the network Tavolo Minori Migranti (Minor Migrants).[175] This took place on the basis of two directives on the age assessment sent on 31 August and 21 December 2020 by the Public Prosecutor at the Juvenile Court of Trieste. Contrary to the guarantees enshrined in the Zampa Law (L 47/2017), these Directives generally authorize the police to consider migrants intercepted at the Italy-Slovenia border as adults in case the police itself has no doubts about their adulthood, regardless of their eventual declaration of minor age and the consequent judicial review required by law. These indications assign a discretionary power to the Public Security authority for the attribution of age to migrants and refugees subjected to border controls and in so doing clearly contrasts with the provisions of the L 47/2017, which provides that the age assessment must be carried out through documents or through socio-health examinations, always through a multidisciplinary procedure, as part of a proceeding under the jurisdiction of the Juvenile Court.[176] (See age assessment).

Following the Court of Rome decision of 18 January 2021, from February 2021, readmission procedures were suspended. Consequently, in 2021, only 6 people were readmitted to Slovenia.

However, starting from 31 July 2021, mixed patrols involving Italian and Slovenian police were resumed at the eastern Italian border for a total number of 10 monthly services, out of which 7 carried out in Slovenia (Koper and Nova Gorica) and 3 in Italy (Trieste and Gorizia).[177]

Also, by responding to the immediate answer question presented by the Member of Italian Parliament Riccardo Magi on 12 October 2021, the Government excluded the future application of the readmission procedures to persons applying for asylum. However, the Government ambiguously stated that these procedures " operate in parallel with the Dublin Regulation and govern bilateral forms of collaboration only in cases of readmission of migrants traced immediately and close to the border line ".[178]

Later, the Government on several occasions outlined the imminent resumption of readmission procedures [179]and, in January 2022, the Friuli Venezia Giulia Region announced that it had purchased, on request of

174 Civil Court of Rome, decision of 3 May 2021, available at: https://bit.ly/3KIswAZ.

175 The "Tavolo Minori Migranti" is a un network coordinated by Save the Children, to which belong also AiBi, Amnesty International, Asgi, Caritas Italiana, Centro Astalli, CeSpi, CIR, CNCA, Defence for Children, Emergency, Intersos, Oxfam, Salesiani per il Sociale, SOS Villaggi dei bambini and Terre des Hommes. It's born after the approval of L. 47/2017 aiming at monitoring its full implementation regarding the effective defence of minors.

176 See Ansa, Migranti: 12 associazioni contestano Procura Minori Trieste, 10 February 2021, available at: https://bit.ly/2Q4O1Fz; see also ASGI, "Accertamento dell'età, due direttive della Procura della Repubblica per i minori di Trieste in contrasto con la legge", 10 February 2021, available at: https://bit.ly/3q5u28p.

177 Written response provided to the question made by the member of the Italian Parliament Riccardo Magi, signed by the undersecretary of the Ministry of the Interior, Nicola Molteni, on 13 October 2021, attached to the bulletin of Constitutional Affairs n. 5-06810.

178 Written response published by the undersecretary of the Ministry of the Interior, Nicola Molteni, on 13 October 2021 in the annex to the bulletin of Constitutional Affairs) 5-06810, available on the website of the Chamber at: https://bit.ly/3I9l1l4.

179 Rai news, «"Stop ai cortei, sì alle riammissioni informali", dice il prefetto Vardè», 9 November 2021, available at: https://bit.ly/3w6N9CS.

the Prefecture of Trieste, 65 camera traps, to be allocated to the border police and to be placed on the Italian-Slovenian border to intercept arrivals and act as a "technological wall".[180]

On March 2022, the Governor of the region Friuli Venezia Giulia publicly expressed his solidarity and his intentions to welcome Ukrainian citizens who come to the region from the border, but affirmed the need to block "other" arrivals coming from the Balkan route.[181]

On November 2021, the criminal Court of Bologna archived the investigation for aiding and abetting illegal immigration started against the NGO Linea d'Ombra, accused due to having hosted in Trieste a family of asylum seekers who came from the Italian eastern border with Slovenia and having helped them reach Milan.[182]

1.3. The situation at the French land borders

In 2021, the situation at Italian French internal border remains unchanged: since November 2015 and due to the reintroduction of border controls by France, many migrants attempting to cross the borders with France, Austria and Switzerland have been subject to rejection at the border, often with the use of violence. A detailed account of the situation at the borders in previous years is available in the previous updates of the AIDA Report on Italy, and in the AIDA Report on France.[183]

In 2020, push-backs at the border with France remained systematic. In a joint press release, numerous associations operating on the Italian-French border have reported that in 2020, as well as 2019,[184] many minors, in particular Sudanese and Afghanis, were returned to Italy from Menton.

From 14 December 2020, mixed Italian-French patrols began to operate along the border of Ventimiglia with the task of patrolling the borders according to the provisions of bilateral police cooperation agreements based on the 1997 Chambery agreements,[185] providing for conjunct actions and cooperation between Italian and French police.[186]

As reported by ASGI,[187] people stopped at the border or on the train are taken to the San Luigi station, identified and given a "refusal of entry" (*refus d'entrée*). The rejection procedure is completed with the handing over of the concerned persons to the Italian police authorities who invite them to proceed on foot to the city of Ventimiglia. If the third country nationals are intercepted in border areas as defined by the bilateral readmission agreement, they are simply readmitted without any written measure.

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180 Il Gazzettino.it, 'Clandestini dai Balcani, il Friuli Venezia Giulia compra 65 fototrappole: "Un muro tecnologico"', 21 January 2022, available at: https://bit.ly/3ILHC7v.

181 La Repubblica, "Lega, Fedriga avverte: fermare gli altri migranti", 29 March 2022, available at: https://bit.ly/3M6hTJo.

182 See Asgi, La solidarietà non è reato, archiviate le accuse per i volontari di Trieste", 26 November 2021, available at: https://bit.ly/36JF7FE.

183 AIDA, Country Report Italy, 2017 Update, March 2018, available at: https://bit.ly/2Ga01zb, 22-24.

184 La Cimade, Médecins du Monde, Médecins Sans Frontières, Secours Catholique, Anafé, Help Refugees, Refugee Rights Europe, Refugee Youth Service, Safe Passage). See: L'Humanitè, Mineurs isolés : « Des pratiques contraires à la convention internationale des droits de l'enfant », 12 October 2020, available in French at: https://bit.ly/2Q4OkjH; As reported by Anafè and HRW, in 2019, some UAMs were pushed back to Italy by the French police, regardless of their minor age. See Anafé, *Persona non grata – Conséquences des politiques sécuritaires et migratoires à la frontière franco-italienne,* Rapport d'observations 2017-2018, février 2019 ; Human Rights Watch, « Ça dépend de leur humeur » - Traitement des enfants migrants non accompagnés dans les Hautes-Alpes, 5 septembre 2019.

185 Riviera time, "Una 'squadra mista' italo-francese: parte da Ventimiglia il progetto pilota della Polizia di Frontiera", available at: https://bit.ly/3bd9bbM, 21 December 2020.

186 The text of the Agreement is available at: https://bit.ly/39wdS2v.

187 ASGI, La situazione al confine tra Italia e Francia: effetti della pandemia e tendenze consolidate, 22 February 2021, available in Italian at: https://bit.ly/2RDidb9; see also Medecins Sans Frontieres, DANGEROUS CROSSINGS AT THE NORTHERN BORDERS OF ITALY, Field Visits Report| Dec. 2020, available at: https://bit.ly/3evBBzV **;** MEDU Rapporto sulla situazione umanitaria dei migranti in transito lungo la frontiera nord-ovest tra Italia e Francia, October 2020, available at: https://bit.ly/3y1SzgQ; Refugee Rights Europe, Pushbacks and rights violation at Europe's border, available at https://bit.ly/34BOR00.

Italian media realised some interviews with migrants having been readmitted to Italy or blocked at the border, and with NGOS operators at Ventimiglia. The migrants involved declared having been intercepted and sent back by French police, after all the efforts to reach France. NGOs' operators observed that about 60 people per day attempted to reach France, and only 10 would succeed, as all the others - including UAMs - were pushed back. Volunteers regret of the closure of the red cross Ventimiglia Camp that constituted a support for all the transit people.[188]
Since 2020, due to the pandemic, both transit areas (Ventimiglia and Oulx) suddenly found themselves totally or partially without accommodation facilities, while the flows that had slowed down in the first months of the year returned to earlier levels after spring. In Ventimiglia, despite a drop-in flow, local associations have aided about 250 people a day. On 31 July 2020, the Roja Camp, managed by the Italian Red Cross, was closed,[189] after a previous period of quarantine due to two positive cases of COVID-19, which prevented new entries. Being the only formal place of accommodation for people in transit, its closure led to the proliferation of informal settlements and the occupation of public spaces to face the arrival of winter. Facilities provided by the local Caritas office are only able to guarantee a limited number of places for single parents and children.

The ongoing internal border controls and the absence of accommodation facilities has changed the routes along the border. The number of people coming from the Balkan or Adriatic routes seems to be increasing but they are accompanied only up to a certain point of the route, often in the Savona area at about two hours from the border, and invited to continue on foot following the railways. In this context, on 23 December 2020, two young Kurds lost their lives hit by a train running near Quiliano.[190]

In 2021, readmissions from France continued. According to a FOI request, taking into consideration the three-month period from February to April 2021, 8,958 pushbacks took place; 2,516 at the Bardonecchia-Briancon crossing point, and 6,442 at the Ventimiglia-Mentone crossing point.[191]
In 2021, based on data obtained by Altreconomia, there were a total of 24,589 readmissions from France, the majority of which involved nationals from Tunisia (3,815), followed by Sudan (1,822) and Afghanistan (1,769). The number increased compared to 2019 (16,808) and 2020 (21,654).[192]
As the practice of pushback from France to Italy was systematically implemented, humanitarian conditions registered in the Italian towns nearby remained dramatic. No public response was given since the closure of the Roya centre.[193] Hundreds of people remained stranded in town without access to the most basic rights such as shelter and health care. The humanitarian crisis was faced only by NGO's, while local authorities seemed to criminalise the situation by introducing local rules against homeless people.[194]
By the end of 2021, it was announced the imminent opening of a centre for people in transit,[195] still not opened at the time of writing.

A critical aspect observed throughout 2021 were border controls operated by joint patrol on Italian territory.

The other route to attempt entry into France goes through the Val di Susa, which passes through Bardonecchia and the Frejus pass, on one side, or, on the other, through Oulx and Claviere leading to the Montgenèvre pass. According to MEDU,[196] an organization granting medical assistance to migrants

188 La7, "Ventimiglia, continuano i respingimenti francesi", 26 June 2021, available in Italian at: https://bit.ly/3q7LTeW.
189 Parole sul confine, "Il Campo Roja di Ventimiglia ha definitivamente chiuso", 24 August 2020, available at: https://bit.ly/3uFs7YE.
190 Ansa, Due immigrati travolti da un treno nel savonese, 23 Dicember 2020, available at: https://bit.ly/2QYDOLr.
191 Asgi FOI request, June 2021, available at: https://bit.ly/39vHgpC.
192 Altreconomia, "Al confine di Ventimiglia, dove i controlli rendono i passeur l'ultima speranza dei migranti", 2 February 2022, available in Italian at: https://bit.ly/3KMe5Ma.
193 See ASGI, Medea project, Ventimiglia, un territorio che resiste? October 2021, available at: https://bit.ly/3vYAVdI.
194 Sanremo news, Ventimiglia: firmate stamattina dal Sindaco e subito operative le ordinanze anti degrado e alcol, 21 October 2021, available in Italian at: https://bit.ly/3s3VXXv.
195 Stranieri in Italia, Il progetto. A Ventimiglia un centro di transito per accogliere i migranti, 26 November 2021, available at: https://bit.ly/3vYoS02.
196 MEDU, Ancora critica la situazione dei migranti sulla rotta nord ovest delle Alpi, 4 February 2021, available at: https://bit.ly/33u6GNZ.

at Ouilx, between September and December 2020 over 4,700 people attempted to cross the border.[197] MEDU registered an increase in arrivals in 2021 (around 1,000 per month), in particular since October, involving in most cases Afghans and Iranians.[198]
People pushed back are handed over to the Italian police in Claviere, which takes them to Oulx where they receive legal orientation on Italian legislation and on the reception system. In February 2021, the rooms set up at the Bardonecchia station that constituted the only form of government reception were made inaccessible due to the COVID-19 epidemic.

MEDU has recently reported the death of migrants that tried to cross the border walking through the Alps, underlining the increase in deaths of very young migrants or MSNA. Many NGO signed an appeal consequently the death of migrants at this border.[199]

On 9 May 2021, Moussa Balde, a 22-year-old boy, was attacked in the streets of Ventimiglia by three Italian men. After being shortly hospitalized, Moussa was ordered to be confined at the CPR of Turin waiting to be deported. At the CPR he was placed in solitary confinement and was found dead on 23 May 2021.[200]

The criminal proceeding against the NGO Baobab, accused of aiding illegal immigration for helping 9 asylum seekers to buy train tickets to reach Ventimiglia after the eviction of an informal reception centre in Rome in 2016,[201] was considered unfounded by the Criminal Court of Rome (Judge for the preliminary hearing, GUP) who acquitted the NGO on May 2022.[202]
For similar reasons, a criminal trial is pending against 4 Eritreans accused of having helped other Eritreans reach Ventimiglia.[203]

2. Hotspots

Being part of the European Commission's Agenda on Migration, the “hotspot” approach is generally described as providing “operational solutions for emergency situations”, through a single place to swiftly process asylum applications, enforce return decisions and prosecute smuggling organisations through a platform of cooperation among the European Asylum Support Office (EASO), Frontex, Europol and Eurojust. Even though there is no precise definition of the “hotspot” approach, it is clear that it has become a fundamental feature of the relocation procedures conducted from Italy and Greece until September 2017, in the framework of Council Decisions 2015/1523 and 2015/1601 of 14 and 22 September 2015 respectively. “Hotspots” managed by the competent authority have not required the construction and equipment of new reception facilities, operating instead from already existing ones.

By the end of 2021, four hotspots were operating in: **Apulia** (Taranto) and **Sicily** (Lampedusa, Pozzallo, and Messina). In 2020 and 2021, hotspots were temporarily partially or completely converted to quarantine facilities, with varying capacity and conditions. As of November 2021, Messina’s hotspot appears not operational.

197 Medici per i diritti umani, Frontiera solidale, available in Italian at: https://bit.ly/3Ido7Ey.
198 Altreconomia, “Rotta alpina: il presidio medico di Medu in Val di Susa per assistere i migranti”, 1 December 2021, available in Italian at: https://bit.ly/35S82ap.
199 Medici per i diritti umani, “Si ritorna a morire alla frontiera nord ovest delle Alpi”, 4 February 2022, available in Italian at: https://bit.ly/3KHwp9m. See also ASGI,Medea project, Confine italo-francese: una frontiera dove si continua a morire. Appello alle autorità, 11 february 2022, available at: https://bit.ly/3KzYFdE.
200 See Black book on Pre-Removal Detention Centre (CPR): when EU denies the human, 23 September 2021, available at: https://bit.ly/3vxhQAx.
201 Roma today, Baobab, il presidente rischia fino a 18 anni per favoreggiamento dell'immigrazione clandestina, 19 April 2022, availabe at: https://bit.ly/3kp6qZ9.
202 Ansa, Migranti: assolto il presidente di Baobab, 3 May 2022, available at: https://bit.ly/39HDjy4.
203 Redattore sociale, Hanno aiutato i connazionali in Italia, quattro eritrei a processo: “Reato di solidarietà”, 10 Marzo 2021, available at: https://bit.ly/3xQAdlx.

As of 31 of January 2022, the hotspots hosted 361 people in Sicily and 62 in Apulia.[204] At the same time, quarantine boats continued to be used as de facto hotspots during the year.[205]

The hotspot approach is used beyond hotspots centres. In October 2020, ASGI reported that the first line reception facility of Monastir, in Sardinia, was being used as a de facto detention facility; a further visit in April 2021 confirmed persisting criticalities.[206] In 2021, ASGI reported many criticalities at the "new border" of Pantelleria, where landed migrants are also channelled in hotspot-like procedures (see Place of Detention).[207]

In 2020, 28,884 persons entered the hotspots, compared to 7,757 in 2019 and 13,777 in 2018. People were mainly originating from Tunisia (11,183), Bangladesh (4,468) and Ivory Coast (1,633149)[208]

Upon the total, 4,528 were children, of which 3,537 unaccompanied minors.

The monitoring of hotspots by NGOs was hard in 2020 and 2021 due to the limitations in the access to the structures, connected with the pandemic, that prevent access of external people to the facilities [209]

As highlighted in a recent report by ASGI and other organisations, due to contractual terms such as the express obligation of confidentiality, the organizations active in the hotspots do not render public any information on critical issues that may arise in the implementation of the hotspot approach.[210]

The Consolidated Act on Immigration (TUI), as amended by L 46/2017, provides that foreigners apprehended for irregular crossing of the internal or external border or arrived in Italy after rescue at sea are directed to appropriate "crisis points" and at first reception centres. There, they will be identified, registered and informed about the asylum procedure, the relocation programme and voluntary return.[211] Decree Law 113/2018 has subsequently introduced the possibility of detention of persons whose nationality cannot be determined, for up to 30 days in suitable facilities set up in hotspots for identification reasons (see Grounds for Detention).[212]

The Standard Operating Procedures (SOPs) adopted in February 2016 and applying at hotpots also state that "where necessary, the use of force proportionate to overcoming objection, with full respect for the physical integrity and dignity of the person, is appropriate...".[213] The law also provides that the repeated refusal to undergo fingerprinting constitutes a risk of absconding and legitimises detention in CPR (see Grounds for Detention).[214]

The same law also introduced a Border Procedure automatically applicable in case a person makes the application for international protection directly at the border or in transit areas – both to be identified and indicated by decree of the Ministry of Interior – after being apprehended for evading or attempting to

204 Ministry of Interior, Cruscotto statistico giornaliero, 31 January 2022, available in Italian at: https://bit.ly/3w9aMuH.

205 Borderline Sicilia, "Approccio Hotspot e navi quarantena", 9 December 2021, available in Italian at: https://bit.ly/3tbliiR. It should also be noted that the Government presented a tender in July for 5 ships to be operative until 31.12.2021, see: https://bit.ly/3MLsJFk.

206 ASGI, Un resoconto della visita di ASGI al Centro di accoglienza di Monastir, April 2021, available in Italian at: https://bit.ly/3CKQecX.

207 ASGI, La frontiera di Pantelleria: una sospensione del diritto. Report del sopralluogo giuridico di ASGI, June 2021, available in Italian at: https://bit.ly/3tcSwyD.

208 Guarantor for the rights of detained persons, Annex to the *Relazione al Parlamento 2021*, 15 June 2021, available in Italian at: https://bit.ly/3w94dbu.

209 Borderline Sicilia, *La Sicilia non dimentica – La situazione dei migranti e dei rifugiati alle frontiere esterne dell'Europa*, March 2022, available at: https://bit.ly/3MMMlrT.

210 ASGI et al., *Scenari di frontiera: il caso Lampedusa*, October 2018, available in Italian at: https://bit.ly/2UoWKDu. For an overview of critiques in previous years, see AIDA, Country Report Italy, 2017 Update, March 2018, 24-26.

211 Article 10-ter TUI, inserted by Decree Law 13/2017.

212 Article 6(3-bis) Reception Decree, as amended by Decree Law 113/2018.

213 Ministry of Interior, *Standard Operating Procedures applicable to Italian hotspots*, February 2016, available at: http://bit.ly/2kt9JBX, para B.7.2.c.

214 Article 10-ter(3) TUI, inserted by Decree Law 13/2017.

evade controls. In this case, the entire procedure can be carried out directly at the border or in the transit area.[215]

Revealing the purpose of facilitating the application of an accelerated procedure to the people present in the hotspots, the Moi Decree issued on 5 August 2019 and published on 7 September 2019, identified among the transit and border areas, those ones close to hotspots: Taranto, Messina and Agrigento (Lampedusa hotspot).[216]

Persons arriving at hotspots are classified as asylum seekers or economic migrants depending on a summary assessment, mainly carried out either by using questionnaires (*foglio notizie*) filled in by migrants at disembarkation,[217] or by orally asking questions relating to the reason why they have come to Italy. People are often classified just solely on the basis of their nationality. Migrants coming from countries informally considered as safe e.g. Tunisia are classified as economic migrants, prevented from accessing the asylum procedure (see Registration) and handed removal decisions.[218]

According to the SOPs, all hotspots should guarantee *inter alia* "provision of information in a comprehensible language on current legislation on immigration and asylum", as well as provision of accurate information on the functioning of the asylum procedure. In practice, however, concerns with regard to access to information persisted in 2020 and in 2021.

As of April 2019, as part of the monitoring project in Lampedusa, ASGI found that a different type of "foglio notizie" was released to some foreign citizens.[219] It was detailed to exclude all the reasons that would prevent the expulsion, completed before printing, and delivered to the persons not in the identification phase but immediately after their transfer from the hotspot, at their arrival in Porto Empedocle. In addition, migrants were asked to sign a paper called "scheda informativa",[220] through which they declared they were not interested in seeking international protection. The declaration was only written in Italian language. After signing these documents, they were notified with deferred refoulement orders[221] and transferred to the CPR Trapani-Milo and Caltanissetta-Pian del Lago. As recorded by ASGI some of these persons had already asked asylum or expressed their intention to seek asylum before the transfers and before signing the "scheda informative".[222] Some of them had sent, through ASGI, a certificated e-mail to the Questura of Agrigento, expressing their will to seek asylum.

ASGI monitored the procedure applied to some of these third country nationals, who, only in some cases, obtained the non-validation of their detention orders in CPR. In these cases, the Magistrates considered their request for asylum had not been instrumental in avoiding detention and expulsion orders because it was presented during their stay in the hotspot, therefore before these measures had been applied to them.[223] (See Judicial review of the detention order).

The same situation was monitored in 2020 regarding a second "foglio notizie" submitted to the migrants to be signed by them in order to revoke a previous international protection application will expressed in the first "foglio notizie". Following two appeals to the Court of Cassation made within the ASGI In Limine project, the Court clearly stated that the compilation and signing of the second "foglio notizie" cannot affect the legal status of the foreign citizen as an applicant for international protection, resulting in the revocation or overcoming of the previously submitted application.[224]

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215 Article 28-bis(2) (b) Procedure Decree, as amended by Decree Law 130/2020.
216 Moi Decree 5 August 2019, Article 2
217 See the *foglio notizie* at: http://bit.ly/1LXpUKv.
218 See ASGI, In Limine report Ombre in Frontiera, March 2020. available in Italian at: https://bit.ly/3bYpTJF.
219 See the *foglio notizie* at: https://cutt.ly/Kyv9KMr.
220 See *scheda informativa* at: https://cutt.ly/Wyv9LQt.
221 Article 10 (2) TUI Consolidated Act on Immigration.
222 See ASGI, In Limine, La determinazione della condizione giuridica in hotspot, 29 April 2019, available in Italian at: https://cutt.ly/Iyv9XmV.
223 See ASGI, In Limine, Esiti delle procedure attuate a Lampedusa per la determinazione della condizione giuridica dei cittadini stranieri, 29 mei 2019, available in Italian at: https://cutt.ly/Eyv9ChD.
224 Court of Cassation, no. 18189/2020, available at: https://bit.ly/3tuhZQN; Court of Cassation decision no.18322/2020 available at: https://bit.ly/3vV7d7O.

In 2020 and 2021, hotspots were used as places for quarantine. ASGI has monitored and reported situations of overcrowding and de facto detention beyond the terms set by the quarantine. Problems concerning health risks in the hotspot arises also in newspapers in 2021.[225]
Concerns have been expressed regarding the situation of unaccompanied minors coming from countries were no COVID-19 protocol is in place, who find themselves isolated in the centres without understanding the reason for being held there.[226]

Concern has been expressed in a 2021 document by "InLimine" on the lack of gender related measures in the hotspots, specifically regarding Lampedusa hotspot "*Women who arrive on the island, in some cases alone and/or minors, and in any case already worn out by the experience that determined their expatriation and by the difficult and dangerous journey to Italy, would find themselves forced to sleep for days outside, on foam rubber mattresses placed directly on the ground, in the proximity of men who are strangers to their families, in promiscuous conditions[8]. The condition of strong insecurity is further amplified by the promiscuity and insufficiency of the available bathrooms. According to the testimonies collected during the activities of the In Limine project, there are only two Turkish-style toilets for the hundreds of people who occupy the outside area in case of overcrowding, which do not have a lock and are therefore ineffective in guaranteeing the privacy and safety of the women who use them. Even after the end of the waiting time in the external area, which, as mentioned, can last for days, and once authorised to enter the internal area of the facility, the women would find themselves at the mercy of the group to which the division of beds would be de facto delegated, since there is no formal assignment by the staff of the facility, and having to share rooms and bathrooms (which, even inside, are insufficient to ensure the needs of those actually confined there, and without internal locks) with men who do not belong to their families. In a context characterised by such critical issues, no mechanism of vulnerability identification and subsequent referral, which should be implemented with the support of the International Organisation for Migration (IOM) team as foreseen by the Standard Operating Procedures (SOPs) applicable to Hotspots[9], can be adequate and effective*."[227]

Legal access to the territory

Under the Italian Law, it is not possible to apply for international protection from abroad, nor a specific visa is provided for people in need of protection that need to access the country.

In consideration of specific humanitarian crisis, such as the one existing in Afghanistan in 2021, the Italian Government implemented the so called "humanitarian corridors", subscribing agreements both with international organisations such as UNHCR and IOM and NGOs, in order to consent to allow a certain amount of people in need of protection to legally access to the country.
Such measure is however is not regulated by law, but only by Protocols created between the Minister of Interior, the Ministry of Foreigners affair and selected organizations, to which the Ministry delegates operations and the power to select the applicants that will be admitted.
No official procedure for applicants to follow in order to be selected for the corridors is established, nor is there a procedure to challenge the non-admission to the list.
For what concern Afghanistan, the protocol signed in November 2021,[228] destined to the admission of 1,200 people, was not yet implemented in spring 2022.[229]

225 IlSicilia, "Migranti, esito vertice Procura di Agrigento: rischio sanitario in hotspot", 30 August 2021, available in Italian at: https://bit.ly/360j7pM.
226 MeltingPot, "MSNA: l'accoglienza dopo lo sbarco è sempre più difficile anche a causa del COVID19", available in Italian at: https://bit.ly/3JdM4gc.
227 ASGI – InLimine, "A gender perspective on the Lampedusa Hotspot: the systematic and culpable violation of women's rights", 3 January 2022, available at: https://bit.ly/3Ia6gOJ.
228 Available at: https://bit.ly/3w9VlRa.
229 Afghanistan, quei corridoi umanitari che non partono mai (di L. Borsatti) - HuffPost – available at : https://bit.ly/3P1Utqv.

On 23 April 2021 a similar protocol was signed with the Community of Sant'Egidio, the Waldensian table and the Federation of Evangelical Churches for the arrival of 500 people from Libya. As of March 2022, 99 persons arrived in Italy through this procedure,[230] and 93 more arrived by November 2021.[231]

In 2021 humanitarian corridors to admit 1,000 refugees hosted in Lebanon were renewed.
The ones from Jordan, Niger and Ethiopia will be concluded as of May 2022. According to information collected by Asgi, at the time of writing, of the 600 people admitted to access the corridors, 530 were actually included in the programme and arrived in Italy.

In 2021, in some selected cases of Afghans escaping from their country of origin after August 2021, the Ministry of Foreign Affairs allowed the persons involved to apply for a humanitarian vista to access the territory in application of Article 25 of the Visa Code EU Regulation 810/2009.
That happened in application of the Civil Court of Rome interim measure of December 2021 ordering to release such a visa to two young Afghans (see Access to the territory and push backs)

3. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application?	At the border
❖ If so, what is the time limit for making an application?	8 working days
2. Are specific time limits laid down in law for lodging an application?	☐ Yes ☒ No
❖ If so, what is the time limit for lodging an application?	
3. Are registration and lodging distinct stages in the law or in practice?	☒ Yes ☐ No
4. Is the authority with which the application is lodged also the authority responsible for its examination?	☐ Yes ☒ No
5. Can an application for international protection be lodged at embassies, consulates or other external representations?	☐ Yes ☒ No

The Procedure Decree provides that applications for international protection are made by non-EU citizens on the territory of the State, including at the border and in transit zones, and in the territorial waters.[232]

The Decree also provides for training for police authorities appropriate to their tasks and responsibilities.[233]

3.1. Making and registering the application (*fotosegnalamento*)

Under the Procedure Decree,[234] the asylum claim can be made either at the Border Police upon arrival or at the Immigration Office (*Ufficio Immigrazione*) of the Police (*Questura*), if the applicant is already on the territory. The intention to seek international protection may be expressed orally or in writing by the person concerned in their own language with the help of a cultural mediator.[235]

PD 21/2015 provides that asylum seekers who express their wish to apply for international protection before Border Police authorities are to be requested to approach the competent Questura within 8 working days. Failure to comply with the 8-working-day time limit without justification, results in deeming the persons as illegally staying on the territory.[236] However, there is no provision for a time limit to make an asylum application before the Questura when the applicant is already on the territory.

230 UNHCR, Arrivati in Italia 99 rifugiati e richiedenti asilo evacuati dalla Libia, available at: https://bit.ly/3w3l79M.
231 Ministry of Interior, 93 richiedenti asilo in Italia dalla Libia in attuazione degli accordi sui corridoi umanitari, 25 November 2021, available at: https://bit.ly/38wLop1.
232 Article 1 Procedure Decree, as amended by the Reception Decree.
233 Article 10(1-bis) Procedure Decree, as amended by the Reception Decree.
234 Article 6 Procedure Decree.
235 Article 3(1) PD 21/2015.
236 Article 3(2) PD 21/2015.

The law does not foresee any financial support for taking public transport to the competent Questura. In practice, the NGOs working at the border points provide the train ticket for that journey on the basis of a specific agreement with the competent Prefecture. However, this support is not always guaranteed.

The procedure for the initial registration of the asylum application is the same at the border and at the Questura. The first step is the identification and registration process, which entails fingerprinting and photographing that can be carried out either at the border police or at the Questura. This procedure is called "*fotosegnalamento*".

The Procedure Decree provides that the registration of the application shall be carried out within 3 working days from the expression of the intention to seek protection or within 6 working days in case the applicant has expressed such willingness before Border Police authorities. That time limit is extended to 10 working days in presence of a significant number of asylum applications due to consistent and tight arrivals of asylum seekers.[237]

Upon completion of the *fotosegnalamento*, the person receives an invitation (*invito*) to reappear before the Questura with a view to lodging the asylum application.

3.2. Lodging the application (*verbalizzazione*)

Fotosegnalamento is followed by a second step, consisting in the formal registration of the asylum application, which is carried out exclusively at the Questura within the national territory. EASO has also provided support in this process from 2017 to 2021.

The formal registration of the application (*verbalizzazione or formalizzazione*) is conducted through the "C3" form (*Modello C3*).[238] The form is completed with the basic information regarding the applicant's personal history, the journey to reach Italy and the reasons for fleeing from the country of origin. This form is signed by the asylum seeker and sent to the Territorial Commission, before the interview. Asylum seekers shall receive a copy of the C3 and copies of all other documents submitted to the police authorities.

With the completion of the C3, the formal stage of applying for international protection is concluded. The "*fotosegnalamento*" and the lodging of the international protection application do not always take place at the same time, especially in big cities, due to the high number of asylum application and to the shortage of police staff. In practice, the formal registration might take place weeks after the date the asylum seeker made the asylum application. This delay created and still creates difficulties for asylum seekers who, in the meantime, might not have access to the reception system and the national health system, with the exception of emergency health care.

In 2017, 2018 and 2019 EASO has supported the Questure in the *verbalizzazione* process. According to EASO, by the end of September 2019, 296 different Agency experts were deployed in Italy. After the cut of the EASO staff in the Territorial Commissions in November 2019, the support to the Questure continued on. In 2020 and 2021 EASO staff has been deployed in Tribunals supporting judges in asylum cases.

Throughout the year, EASO carried out 8,154 registrations in Italy. Of these, 68% related to the top 10 citizenships of applicants, mainly from Bangladesh (1,161), Nigeria (891) and Pakistan (700).[239]

The Reception Decree provides for the issuance of a "residence permit for asylum seekers" (*permesso di soggiorno per richiesta asilo*), valid for 6 months, renewable.[240]

237 Article 26(2-bis) Procedure Decree, as amended by the Reception Decree.
238 Verbale delle dichiarazioni degli stranieri che chiedono in Italia il riconoscimento dello status di rifugiato ai sensi della Convenzione di Ginevra, available in Italian at: https://bit.ly/2UWOLx2.
239 Information provided by EUAA, 28 February 2022.
240 Article 4(1) Reception Decree.

3.3. Access to the procedure in practice

Reports of denial of access to the asylum procedure recorded by ASGI continued in 2020 and 2021. Where they prevent access to the procedure, Questure do not issue any document attesting the intention of the persons concerned to seek asylum. This exposes them to risks of arbitrary arrest and deportation.

The quarantine on ships created several problems to access the asylum procedure. As observed inter alia by ASGI, people do not receive any information on the right to asylum on board. After a visit to a quarantine ship,[241] the Guarantor for the rights of detained persons, highlighted the lack of information to migrants on their rights due to the absence of written and multilingual materials available to Red Cross workers and volunteers.[242]

This situation mainly affected migrants belonging to some nationalities who, after being disembarked, received a notification of an expulsion or a deferred refoulement. In particular, this situation was found for the vast majority of Tunisian migrants interviewed within the Inlimine project or legally helped to access the asylum procedure. The same practice was already recorded, in 2019 at the Hotspots. As recorded by ASGI, those Tunisians who tried to express their will to seek asylum on the ships were not considered as asylum seekers and sent, after quarantine, to CPRs after filling "*fogli notizie*" not translated in their language and without the actual assistance of a cultural mediator. This also happened in cases where they contacted a lawyer while on board, who subsequently submitted their asylum request to the competent Questura.

In cases where, once in CPR, people managed to submit an asylum application, this was, with few exceptions, considered instrumental in avoiding repatriation, and therefore not useful at avoiding detention. (see detention).

In 2020, the Court of Cassation reaffirmed the close connection between compliance with information obligations and the effectiveness of the right of access to the asylum procedure, both denied by the value attributed to the so-called "*foglio notizie*" or second "*foglio notizie*", which are often submitted to foreign citizens who arrive at the border without a prior or contextual explanation on the meaning of their signature.[243] (See Information at the border and in detention).

As for the eastern border, as mentioned, the practice of readmissions to Slovenia prevented at least 1,300 people in 2020 to access the asylum procedure.

Also, obstacles to registration took different forms, including the following:

Limited opening hours and online appointments

The differences in local practices constitute a significant problem for what concerns registration, as asylum seekers should obtain information on how to access the specific Questura office they are interested in to introduce their application. In some cases, appointments can be booked by registered post or through a specific website, while in others appointments can be taken only in person at the office of the Questura; in these cases, prospective applicants are frequently forced to queue since the early morning outside the office, since only limited numbers of new applicants are admitted daily.

In 2018, the Questura of Naples introduced an online procedure for registration appointments, but it was only available once a week and allowed around 45 people to apply. In July 2019 the Civil Court of Naples ruling on an urgent appeal submitted by a citizen from El Salvador ordered the Questura to proceed with the registration of the asylum application.[244] In 2020, the Questura cancelled its online system, but did not replace it with an alternative way of seeking asylum. Moreover, since it does not accept requests presented personally by asylum seekers, the only requests registered are those submitted through

241 Visit on Rhapsody, quarantine ship, on 17 September 2020, available at: https://bit.ly/3fahvKu.
242 Guarantor for the rights of detained persons, 28 October 2020, available at: https://bit.ly/3eycJYl.
243 Court of Cassation, decision no. 18189/2020 dd. 25.6.2020.
244 Civil Court of Naples, Order of 29 July 2019, available in Italian at: https://cutt.ly/Hyv9Bkf.

lawyers. Notwithstanding the copious litigation and the favourable Court decisions of the former years,[245] accessing the Questura of Naples to apply for asylum remained difficult in 2021. Access is de facto limited to the people who book an appointment through a certificated mail - which can be done, in general, only by lawyers or NGOs operators. Moreover, the appointment is not given immediately but, depending on the workload, after one or even more months.

In Rome, ASGI documented problematic access to the procedure in 2020, when the Questura limits access to about 20 applicants a day with the result that many asylum seekers wait a long time before they can submit their request as there is no waiting list. On 4 February 2020, the Civil Court of Rome ordered the Questura of Rome to register the asylum application of a third country national who had repeatedly tried, unsuccessfully, to submit the application at the Immigration Office of Rome. The decree reiterates that the Questure must put in place an appropriate system for the exercise of the right to asylum and therefore the impediment deriving from the logistical needs of the public administration, which in practice allows a limited daily number of people who can formalize the asylum application - is not legitimate.[246]

In October 2020, the Court of Appeal of Rome sentenced the Ministry of the Interior to pay compensation for the damage suffered by an asylum seeker to whom the Questura of Rome had, several times, denied access for the formalization of the subsequent asylum application. The Court found that the applicant had tried at least 5 times to access the police station, twice sleeping on the street in front of the immigration office to be among the first, forced to live on the street, not being able to access the reception system, despite suffering from health pathologies. It granted compensation in his favour of 3,000 euros.[247]
The situation did not change radically in 2021, when prospective applicants were still forced to queue from the early morning to express the willingness to apply for asylum, since only a limited number of applicants are admitted each day.

The access to the Questura of Milano for people who wished to apply for Asylum was very difficult; during the year 2021, a new office in charge of receiving people who wished to manifest their willing to apply for asylum was opened, it is dislocated far from the central office of Questura, in the northern periphery of the town. However, in order to be able to introduce their request, people are required to arrive very early in the morning, as a limited number of persons can enter each day.[248]

In Palermo, instead, it is possible to book appointment by certified post and the appointment to formalise the request is given in a couple of weeks.

Many cases have also been reported to ASGI where asylum seekers were not allowed to enter the building of the Questura - especially in bigger cities - and were obliged to wait several hours outside, over a barrier, being exposed to psychological ill-treatment, such as verbal abuse and shouting. On several occasions, courts have found the refusal of Questure to act regarding the lodging of asylum applications unlawful.[249]

In the first months of 2021, the Moi communicated the closure of the CUPA system which allowed, albeit with numerous critical issues, to fix appointments at the Questure also for the registration of the asylum request. The closure was not accompanied by the immediate implementation of a new booking systems with the result that some Questure such as that of Bari Bologna and Cuneo, where the Cupa system was in use, have communicated that, temporarily, bookings will take place in person only on some days of the week, but others have not communicated any alternative way of communicating with the offices.

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245 Civil Court of Naples, Order of 2 May 2019, available in Italian at: https://bit.ly/3w2OOYt.
246 Civil Court of Rome, Order of 4 February 2020.
247 Court of Appeal of Rome, decision of 29 October 2020, procedure no. 7124/2019, available at: https://bit.ly/2Q3wZrg.
248 Asgi, “Richiedenti asilo fantasma a Milano, ASGI e Naga: troppi ostacoli per chi chiede asilo alla Questura”, 10 February 2022, available in Italian at: https://bit.ly/3q6B50l.
249 See e.g. Civil Court of Rome, Order 50192/2018, 18 September 2018, available in Italian at: https://bit.ly/2ZeuMZE; Civil Court of Palermo, Order 9994/2018, 13 September 2018, available in Italian at: https://bit.ly/2UxDNOS. For a discussion, see ASGI, ‘Ancora ostacoli, rimossi con provvedimento ex art. 700 cpc all’esercizio del diritto di asilo’, 14 November 2018, available in Italian at: https://bit.ly/2GdE6Vf.

Even if in 2021, the Questure were generally open, some limitations in the access due to COVID-19 measures continued, which sometimes affected the concrete for prospective applicants to manifest their willingness to apply for international protection.

In July 2021, Waldensian Diakonia published a report with the results of the monitoring carried out in Turin, Milan, Bologna, Parma, Perugia, Imperia, Rome and Naples, which confirms the difficulty in accessing the asylum procedure.[250]

The introduction on 1 February 2022 of the obligation to present a COVID-19 "Green Pass " to access all public offices created additional problems for persons wishing to apply for asylum, as no exemptions are foreseen, nor is COVID-19 testing provided for free.[251]

Residence and requirement of domicile

Article 5(1) of the Reception Decree clarifies that the obligation to inform the police of the domicile or residence is fulfilled by the applicant by means of a declaration, to be made at the moment of the application for international protection and that the address of the reception centres and pre-removal detention centres (CPR) are to be considered the place of residence of asylum applicants who effectively live in these centres.[252] Article 4(4) of the Reception Decree also states that access to reception conditions and the issuance of the residence permit are not subject to additional requirements to those expressly stated by the Decree itself.[253]

With these two provisions,[254] the Decree has made it clear that the unavailability of a domicile shall not be a barrier to access international protection. Nevertheless, in 2021, Questure continued denying access to the procedure in some occasions for lack of proof of domicile e.g. lease contract, declaration of hospitality including the identity document of the host person. This was the case for instance in **Lazio** (Rome), **Campania** (Naples), **Friuli-Venezia Giulia** (Pordenone), **Sicily** (Palermo, Syracuse), **Sardinia** (Cagliari), **Piedmont** (Novara) and **Lombardy** (Milan).

The Questura of Pordenone, **Friuli-Venezia Giulia** denied access to the procedure from December 2017 to February 2018 to asylum seekers who could not prove a domicile in the region. Following ASGI intervention, the Questura allowed four people to seek asylum on 21 February 2018. However, after a few months, it denied again access to persons who could not prove a domicile and only accepted asylum applications from persons sent by the Government (transferred from the ports of disembarkation or, according to agreements between prefectures, transferred from places where the numbers were too high).

An asylum seeker from Pakistan whose brother was already accommodated in Pordenone, **Friuli-Venezia Giulia** was not registered as an asylum seeker because the Questura claimed he should have registered with the Border Police upon arrival. According to the Questura, he could seek asylum in Pordenone only if Pordenone was his place of residence, to be demonstrated with official statements. The Civil Court of Trieste recognised on 22 June 2018 his right to lodge an asylum application in the place where he was staying and his right to be accommodated there.[255] The appeal by the Government against this ruling was dismissed on 3 October 2018.[256] However, again in November 2019 the Questura of Pordenone denied a Pakistani citizen access to the asylum procedure due to the lack of a domicile. In

250 Diaconia Valdese, Monitoraggio Prassi Illegittime - Report sulle prassi riscontrate presso le Questure italiane, July 2021, available at: https://bit.ly/3vZE6Cc.

251 Green pass is a covid pass that can be obtained both through vaccination against Covid (strong green pass) or in the simple version through a Covid screening - since february 2022, the simple green pass is required to access public offices, including Questure.

252 Article 5(1) Reception Decree. According to Article 5(2), the address is also valid for the notification of any kind of communication of any act concerning the asylum procedure (see also Regular Procedure: General).

253 Article 4(4) Reception Decree.

254 Articles 4(4) and 5(1) Reception Decree.

255 Civil Court of Trieste, Order 1929/2018, 22 June 2018, EDAL, available at: https://bit.ly/2GcI4gz.

256 Civil Court of Trieste, Order 1929/2018, 3 October 2018, available in Italian at: https://bit.ly/2P8V6Qs.

June 2020 the Civil Court of Trieste accepted the appeal and ordered the Questura of Pordenone to proceed to the registration of the asylum application.[257]

In December 2020, the Court of Florence accepted an urgent appeal aimed at ascertaining the right to formalize the asylum application, against the refusal opposed by the Questura in **Florence,** without a formal provision, due to lack of documentation certifying the domicile, claimed through a declaration of hospitality.[258]

ASGI recorded such requests throughout 2020 in Questure of **Apulia Region**, as well.

Nationality and presumed merit of applications

ASGI continued to document nationality-based barriers to access the procedure, specifically as regards people from Morocco, Egypt, Tunisia, Albania, Serbia, Colombia, El Salvador, and in some cases Pakistan and Nigeria.

At the Questura of Milan, as denounced by the NGOs ASGI, Naga and Avvocati per Niente in a letter sent to the Ministry of Interior in April 2016, the Police submits a questionnaire to asylum seekers to assess, from the answers compiled, whether they are refugees or economic migrants, basically applying the same procedure as that applied at Hotspots. Those considered economic migrants are denied accessing the asylum procedure and notified of an expulsion order.[259] This practice has persisted in 2019,[260] 2020 and 2021. For persons who spontaneously appear before the Questura of Milan to seek asylum, it cannot be excluded that after the compilation of the "foglio notizie" is not registered as an asylum seeker, or even receive an expulsion order. The practice has been confirmed also from the Questura of Milan, in a letter[261] answering to ASGI and NAGA, who asked for clarifications on the registering of asylum applications.[262] In March 2021, ASGI recorded a case in which an asylum seeker went to the Questura of Milan to ask for asylum, but as he had indicated his willingness to support his family by working in Italy in filling out the "foglio notizie", he was directly directed to the expulsions section without being allowed access to the asylum procedure. In this case, the police even drafted and delivered to the person concerned a written report certifying what happened. In general, according to ASGI information, this practice mainly concerns applicants from countries such as Egypt and Tunisia.

As of August 2021, Questura of Udine, Friuli Venezia Giulia, prevented the formalisation of an asylum application and notified an expulsion to an Iraqi asylum seeker who had declared, in the foglio notizie, stacked without any previous information, that his partner was in Italy. This, even though he had previously applied for asylum in Germany and therefore he should have at least benefited from the Dublin guarantees. An appeal is pending before the Civil Court of Trieste on this matter.

Additionally, even though the Questura is not entitled to know in detail the applicant's personal history, some Questure ask the applicant to provide a written statement concerning his or her personal reasons for fleeing from the country of origin before filling in the C3. If the person concerned is not able to write, it has recorded happening that the interpreter writes for him or her.

Waiting times

The time limits for registration of asylum applications set by the Procedure Decree are generally not respected.

257 Civil Court of Trieste, Procedure no. 5159/2019, decision of 21June 2020

258 Civil Court of Florence, order of 21 December 2020 – procedure no. 11307/2020, available at: https://bit.ly/3uDCVX1

259 For more information and the letter, see: http://bit.ly/2kB5kli.

260 In 2017, ASGI et al.,made the note 'Protezione internazionale: la Questura deve ricevere la richiesta di asilo, non valutarla', 14 June 2017, available in Italian at: http://bit.ly/2HN8J3V.

261 Letter to the Questura available at: https://bit.ly/3N3amMq.

262 ASGI and NAga letter available at: https://bit.ly/3CM5XbG.

Differential treatment has been reported depending on whether asylum seekers were accommodated in a centre or lived alone. In Caserta, **Campania**, according to the reports, asylum seekers not living in a reception centre can wait up to one year for the registration, while those accommodated usually wait just one month. The same difference, albeit less sizable, has been reported for example in Como and Milan, **Lombardy**, Florence, **Tuscany** and Rome, **Lazio**. In **Udine**, after quarantine the asylum seekers are sent to the CAS, after which they wait on average from 2 to 4 months for the formalisation of the asylum application.

Access to the procedure from detention

In practice, the possibility of accessing the asylum procedure inside a pre-removal detention centre (CPR) results limited due to the lack of appropriate legal information and assistance, and to administrative obstacles. In fact, according to the Reception Decree, people are informed about the possibility to seek international protection by the managing body of the centre.[263]

As recorded by ASGI, in 2021, as in 2020, in many cases the detained, not informed of the possibility and the way to ask for asylum, could not express this will even before the Judge of the Peace (Giudice di Pace) at the hearing to validate the detention. Only sometimes, subsequently, they were able to submit the asylum request thanks to their lawyers. This was possible, however, mainly in the CPRs, such as that of Gradisca, where mobiles are not seized.
Regarding the possibility to apply for asylum by applicants serving prison terms, ASGI recorded ample difficulties also in 2019 2020 and 2021.

On 4 April 2020, the Civil Court of Turin accepted the appeal lodged by an asylum seeker detained at the Ivrea District House, ordering the Questura of Turin to register the asylum application. Although the applicant had expressed his will to seek asylum several times, the Questura did not proceed with the application and the detainee received an expulsion order to be executed at the end of the prison sentence.[264]

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

1.	Time limit set in law for the determining authority to make a decision on the asylum application at first instance:[265]	33 days
2.	Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing?	☒ Yes ☐ No
3.	Backlog of pending cases at first instance as of 31 December 2021:	32,800[266]
4.	Average length of the first instance procedure in 2021:	Not available

According to the Procedure Decree, the Territorial Commission interviews the applicant within 30 days after having received the application and decides in the 3 following working days. When the Territorial Commission is unable to take a decision in this time limit and needs to acquire new elements, the examination procedure is concluded within 6 months of the lodging of the application. The Territorial Commission may extend the time limit for a period not exceeding a further 9 months, where:

263 Article 6(4) Reception Decree.
264 Civil Court of Turin, Order 4 April 2020.
265 The personal interview must be conducted within 30 days of the registration of the application and a decision must be taken within 3 working days of the interview.
266 Additionally, 10,381 cases are still waiting for Dublin competence determination.

(a) Complex issues of fact and/or law are involved;
(b) A large number of asylum applications are made simultaneously; or
(c) The delay can clearly be attributed to the failure of the applicant to comply with his or her obligations of cooperation.

By way of exception, the Territorial Commission, in duly justified circumstances, may further exceed this time limit by 3 months where necessary in order to ensure an adequate and complete examination of the application for international protection.[267] In light of the different possibilities of extension, the asylum procedure may last for a maximum period of 18 months.

In practice, however, the time limits for completing the regular procedure are not complied with. The procedure usually takes much longer, considering on one hand that the competent determining authorities receive the asylum application only after the formal registration and the forwarding of the C3 form through the case database, Vestanet. On the other hand, the first instance procedure usually lasts several months, while the delays in issuing a decision vary between Territorial Commissions. In cities such as Rome, **Lazio** the entire procedure is generally longer and takes from 6 up to 12 months.

Statistics on the average duration of the procedure are not available.

In 2021, 56,388 asylum requests were registered in Italy, compared to 21,200 in 2020. The main countries of origin of the applicants were Pakistan, Bangladesh, Tunisia, Afghanistan and Nigeria. 52,987 first instance decisions were issued (compared to 40,800 in 2020). An increase in the recognition of protection statuses was noticed; 44% (compared to 28% in 2020) of these decisions led to a protection status (32% international protection, and 12% special/ protection status).[268]

In 2020, the rejections amounted to 77% of the requests, while in 2021, 56% of applications was rejected. Special protection, as amended by Decree Law 130/2020 (see below) was granted to a significantly larger number of people, 12%, compared to 2% in 2020.

Termination and notification

The Procedure Decree states that when the applicant, before having been interviewed, leaves the reception centre without any justification or absconds from CPR or from hotspots, the Territorial Commission suspends the examination of the application on the basis that the applicant is not reachable (*irreperibile*).[269]

The applicant may request the reopening of the suspended procedure within 12 months from the suspension decision, only once. After this deadline, the Territorial Commission declares the termination of the procedure. In this case, applications made after the declaration of termination of the procedure are considered Subsequent Applications.[270]

Subsequent applications submitted after the termination of the 12-month suspension period are subject to a preliminary admissibility examination.[271] During the preliminary examination, the grounds supporting the admissibility of the application and the reasons of the moving away from the centres are examined.[272] In the recent years, ASGI received several reports of suspension of procedures for people whose accommodation had been revoked.

267 Article 27(2)(3) Procedure Decree.
268 Ministry of Interior, Confronto anni 2020-2021, available at: https://bit.ly/3613PRt. Please note that data provided were still provisional.
269 Article 23-bis Procedure Decree, inserted by Article 25 Reception Decree.
270 Article 2(1)(b-bis) Procedure Decree, inserted by Article 9 Decree Law 113/2018 as amended by L 132/2018.
271 This is a preliminary examination governed by Article 29(1-bis) Procedure Decree, to which Article 23-bis expressly refers.
272 Article 23-bis Procedure Decree, inserted by Article 25(r) Reception Decree.

Decree Law 13/2017 introduced a new procedure to notify interview appointments and decisions taken by the Territorial Commissions.[273]

The Procedure Decree, as amended in 2017, provides for three different procedures depending on whether the recipients of the notification are: (i) accommodated or detained; (ii) in private accommodation; or (iii) not reachable (*irreperibili*):

a. **Accommodated or detained applicants:** Interviews and decisions can be notified by the managers of reception or detention centres, who then transmit the act to the asylum seeker for signature. The notification is considered to be carried out when the manager of the reception centre facility communicates it to the Territorial Commission through a certified email message indicating the date and time of notification. The law specifies that such communication must be immediate.[274]

b. **Applicants in private accommodation:** The notification must be made to the last address communicated to the competent Questura. In this case, notifications are sent by postal service.[275]

c. **Non-reachable applicants:** The interview summons or decision is sent by certified email from the Territorial Commission to the competent Questura, which keeps it at the disposal of the persons concerned for 20 days. After 20 days, the notification is considered to be completed and a copy of the notified deed is made available for the applicant's collection at the Territorial Commission.[276]

Questure often place onerous conditions on the registration of address e.g. by requesting declarations of consent from the owners of the apartments where people are privately staying. Given those conditions, the law risks creating a presumption of legal knowledge of the act to be notified where there is none. The same risk exists for the Dublin returnees who had left Italy before receiving notification of the decision or of the interview appointment.

In practice, the new notification procedure has created different problems, as Territorial Commissions were not promptly informed about accommodation transfers. Often, people moved from one reception centre to another found out about their appointment for the interview when the date scheduled by the Territorial Commission has already passed. In addition, many ASGI lawyers have experienced problems in notifications of privately housed asylum seekers, as notifications have often not been made.

Outcomes of the procedure

Even if the rules applicable are the same, the outcome of decisions may vary depending on the region. The absence of analytical territorial statistics, however, does not allow to provide a more detailed analysis in this respect.

There are eight possible outcomes to the regular procedure, following additions and substantial changes by Decree Law 113/2018 and Decree Law 130/2020. Under the amended Article 32 of the Procedure Decree, the Territorial Commission may decide to:

1. Grant refugee status;

2. Grant subsidiary protection;

273 Article 11(3) Procedure Decree et seq, as amended by Article 6 Decree Law 13/2017 as amended by L 46/2017.
274 Article 11(3) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.
275 Article 11(3-bis) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.
276 Article 11(3-ter) and (3-quater) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.

3. Recommend to the Questura to issue a two-years "special protection" residence permit;

Decree Law 113/2018 had abolished the status of humanitarian protection by repealing the provision of the TUI concerning the issuance of a residence permit on serious grounds, in particular of a humanitarian nature or resulting from constitutional or international obligations of the Italian State.[277]

Decree Law 130/2020 made significant changes to the substance of the special protection and restored the obligations resulting from the constitutional or international obligations of the Italian State.[278]

Special protection permits are now granted to persons who, according to the law, cannot be expelled or refouled.[279] This covers cases where a person risks being persecuted for reasons of race, sex, sexual orientation and gender identity, language, citizenship, religion, political opinions, personal or social conditions, or may risk being sent back to another country where he or she is not protected from persecution.[280] It also covers cases where a person risks to be sent to a country where there are reasonable grounds to believe that he or she risks being subjected to torture or inhuman or degrading treatments or if they recur the constitutional or international obligations referred to in Article 5 (6) TUI. The existence, in that State, of systematic and serious violations of human rights is taken into account. Significantly, the decree 130/2020 specified that refoulement or expulsion of a person is not permitted if there are good reasons to believe that the removal from the national territory involves a violation of the right to respect for his private and family life, unless that it is necessary for national security reasons, public order and safety as well as health protection. For the assessment, it is taken into account the nature and effectiveness of the family ties of the person concerned, his effective social insertion in Italy, the duration of his stay on the national territory as well as the existence of family, cultural or social ties with his or her country of origin.[281] Special protection is not granted when it is possible to transfer the applicant to a country, which could offer equivalent protection (*protezione analoga*) to Italy.[282]

These permits are granted for two years and are renewable and changeable in work permits to stay, with the exception of cases in which such protection is recognized by recurring to the hypotheses of exclusion or denial of international protection.[283] (see Residence Permit).

Decree Law 130/2020 stated that the new provisions on special protection permits also apply to pending cases before the Territorial Commissions, to the Head of Questura and to Specialised sections of Civil Courts.[284]

Decree Law 113/2018 had not regulated the situation of asylum seekers who applied for international protection before its entry into force on 5 October 2018 and who were still waiting for a first instance decision. In February 2019, the Court of Cassation held that Decree Law 113/2018 should have been considered non-retroactive for all asylum procedures already initiated at the time of its entry into force thus stating that they could still be granted with humanitarian protection.[285] The applicability of Legislative Decree 130/2020 to all pending proceedings cancels the retroactivity of humanitarian protection, with the sole exception of the referral judgments

277 Article 5(6) TUI, was amended Decree Law 113/2018 but is has been again amended by Decree Law 130/2020 reintroducing the obligation to consider, before rejecting a permit to stay, constitutional and international obligations of the Italian State.
278 Article 5 (6) as amended by Decree Law 130/2020 and L 173/2020.
279 Article 32(3) Procedure Decree, as amended by Decree Law 130/2020 and L 173/2020.
280 Articles 19(1) as amended by Decree Law 130/2020 and L. 173/2020.
281 Article 19 (1.1) TUI as amended by Decree Law 130/2020 and L 173/2020.
282 Article 32(3) Procedure Decree, as amended by Article 1(2)(a) Decree Law 113/2018.
283 Hypotheses ruled by Articles 10(2), 12 (1) (b) and (c) and 16 of the Qualification Decree.
284 Article 15 (1) DL 130/2020.
285 Court of Cassation, Decision 4890/2019, 23 January 2019, EDAL, available at: https://bit.ly/2X00wQy.

ordered by the Court of Cassation.[286] As the new law on special protection expressly enhances the protection of private and family life and integration in Italy as well as recalls Italy's constitutional and international obligations, the Courts may not apply it as a disadvantage for those who could have been granted with humanitarian protection.

4. Recommend to the Questura to issue a permit to stay for health reasons;

   According to Article 32 (3.1) of the Procedure Decree, as amended by Decree Law 130/2020 and L 173/2020, in case of rejection of the application for international protection, the Territorial Commission recommends to Questura to issue a permit to stay when serious psychophysical conditions or serious pathologies could cause significant damage to the health of the applicant in case of return to the country of origin or provenance.[287] The health conditions have to be ascertained through suitable documentation issued by a public health facility or by a doctor of the National Health Service.

   The duration of health permits is parameterized to the time certified by the health certification, in any case not exceeding one year, and are renewable and convertible into a work permit to stay. They are valid only on the national territory.

5. Inform the Public Prosecutor to the Juvenile Court to start the procedure to issue a permit to stay for assistance to minors.[288]

   In cases where the application for international protection is not accepted, the Territorial Commission evaluates the existence of reasons that allow the Juvenile Court to issue a permit to minor's family members for reasons related to the psychophysical health and development of the minor who is in the Italian territory and informs the public Prosecutor at the competent Juvenile Court.

   This permit is issued on a fixed-term and can be changed into a work permit to stay.[289]

6. Reject the asylum application as unfounded;

7. Reject the application as manifestly unfounded;[290]

   According to the Article 28-ter of the Procedure Decree, an application is deemed to be "manifestly unfounded" where the applicant, not belonging to a vulnerable category[291]:
   a. Has only raised issues unrelated to international protection;
   b. Comes from a Safe Country of Origin;
   c. Has issued clearly inconsistent and contradictory or clearly false declarations, which contradict verified information on the country of origin;
   d. Has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity and/or nationality that could have had a negative impact on the decision, or in bad faith has destroyed or disposed of an identity or travel document that would have helped establish his or her identity or nationality;
   e. Irregularly entered the territory, or irregularly prolonged his or her stay, and without justified reason, did not make an asylum application promptly;

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286 Article 15 (1) DL 1340/2020 expressly excludes judgments regulated by Article 384 (2) of the Civil Procedure Code.

287 Article 32 (3.1) Procedure Decree recalls the requirements referred to in Article 19 TUI (2) (d-bis) which excludes the expulsion or extradition of foreigners who are in such health serious conditions.

288 Article 32 (3.2) Procedure Decree introduced by Decree Law 130/2020 and L 173/2020 and referring to Article 31 (3) TUI.

289 Article 6 (1 bis) TUI introduced by Decree Law 130/2020 and L 173/2020.

290 Article 32(1)(b-bis) Procedure Decree, as amended by Decree Law 113/2018 and L 132/2018.

291 According to Article 28 ter as reformed by Decree Law 130/2020 and L 173/2020 the provision does not apply to people with special needs, referring to Article 17 Reception Decree.

f. Refuses to comply with the obligation of being fingerprinted under the Eurodac Regulation;
g. Is detained in a CPR for reasons of exclusion under Article 1F of the 1951 Convention, public order or security grounds, or there are reasonable grounds to believe that the application is lodged solely to delay or frustrate the execution of a removal order (see Grounds for Detention).[292]

8. Reject the application on the basis that an internal protection alternative is available.[293]

   For the internal protection alternative to apply, it must be established that in a part of the country of origin the applicant has no well-founded fear of being persecuted or is not at real risk of suffering serious harm or has access to protection against persecution or serious harm. In addition, he or she can safely and legally travel to that part of the country, gain admittance and reasonably be expected to settle there.

1.2. Prioritised examination and fast-track processing

Article 28 of the Procedure Decree, severely amended in 2020, provides that the President of the Territorial Commission, after a preliminary exam, identifies the cases to be processed under the prioritised procedure, when:

a. The application is supposed to be well-founded;[294]
b. The applicant is vulnerable, in particular if he or she is an unaccompanied child or a person in need of special procedural guarantees;
c The applicant comes from one of the countries identified by the CNDA that allow the omission of the personal interview when considering that there are sufficient grounds available to grant subsidiary protection. The competent Territorial Commission, before adopting such a decision, informs the applicant of the opportunity, within 3 days from the communication, to request a personal interview. In absence of such request, the Territorial Commission takes the decision.[295]

Following the reform, the law states that the President of the Territorial Commission makes a preliminary exam of the application but, in practice, the decision will still be taken on the basis of the documents already present in the asylum application file.

Practice shows that vulnerable applicants have more chances to benefit from the prioritised procedure, even though this possibility is more effective in case they are assisted by NGOs or they are identified as such at an early stage. With regard to victims of torture and extreme violence, the prioritised procedure is rarely applied, since these asylum seekers are not identified at an early stage by police authorities. In fact, torture survivors are usually only recognised as such in a later phase, thanks to NGOs providing them with legal and social assistance or during the personal interview by the determining authorities.

Regarding unaccompanied children, L 47/2017 has allowed a faster start of the procedure as it allows the manager of the reception centre to represent the child until the appointment of a guardian.[296] That said, according to ASGI's experience, the prioritised procedure has not been widely applied to unaccompanied children.

292 Article 28-ter(g) Procedure Decree, citing Article 6(2)-(3) Reception Decree.
293 Article 32(1)(b-ter) Procedure Decree, inserted by Decree Law 113/2018 and L 132/2018.
294 Before the reform the law stated that it applied to applications likely to be well founded.
295 Article 28(2) C Procedure Decree, as amended by Decree Law 130/2020 and L. 173/2020.
296 Article 6(3) L 47/2017.

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender? ☒ Yes ☐ No
   - ❖ If so, is this applied in practice, for interviews? ☐ Yes ☒ No

The Procedure Decree provides for a personal interview of each applicant, which is not public.[297] During the personal interview the applicant can disclose exhaustively all elements supporting his or her asylum application.[298]

The Decree Law 130/2020, by amending Article 12 (1), provided for the possibility of hearings conducted by audio-visual means.[299] From the information available as of April 2022, none of the Commissions have adopted such procedure.

In practice, asylum seekers are systematically interviewed by the determining authorities. However, Article 12(2) of the Procedure Decree foresees the possibility to omit the personal interview where:

(a) Determining authorities have enough elements to grant refugee status under the 1951 Refugee Convention without hearing the applicant; or

(b) The applicant is recognised as unable or unfit to be interviewed, as certified by a public health unit or by a doctor working with the national health system. In this regard, the law provides that the personal interview can be postponed due to the health conditions of the applicant duly certified by a public health unit or by a doctor working with the national health system or for very serious reasons.[300] The applicant recognised as such is allowed to ask for the postponement of the personal interview through a specific request with the medical certificates.[301]

(c) For applicants coming from those countries identified by the CNDA, when considering that there are sufficient grounds to grant them subsidiary protection.[302] The competent Territorial Commission, before adopting such a decision, informs the applicant that he or she has the opportunity, within 3 days from the communication, to be admitted to the personal interview. In absence of such request, the Territorial Commission takes the decision to omit the interview. This provision is particularly worrying, considering that it derogates from the general rule on the basis of which the personal interview is also aimed to verify first whether the applicant is a refugee, and if not, the conditions to grant subsidiary protection.

According to the amended Article 12(1-bis) of the Procedure Decree, the personal interview of the applicant takes place before the administrative officer assigned to the Territorial Commission, who then submits the case file to the other panel members in order to jointly take the decision (see First Instance Authority). Upon request of the applicant, the President may decide to hold the interview him or herself or before the Commission. In practice, the interview is conducted by the officials appointed by the Ministry of Interior.

297 Article 12(1) Procedure Decree; Article 13(1) Procedure Decree.
298 Article 13(1-bis) Procedure Decree, inserted by the Reception Decree.
299 Article 12 (1) as amended by Decree Law 130/2020 and L 173/2020.
300 Article 12(3) Procedure Decree, as amended by the Reception Decree.
301 Article 5(4) PD 21/2015.
302 Article 12(2-bis) Procedure Decree, read in conjunction with Article 5(1-bis).

1.3.1. Interpretation

In the phases concerning the registration and the examination of the asylum claim, including the personal interview, applicants must receive, where necessary, the services of an interpreter in their language or in a language they understand. Where necessary, the documents produced by the applicant shall be translated.[303]

At border points, however, these services may not always be available, depending on the language spoken by asylum seekers and the interpreters available locally. Given that the disembarkation of asylum seekers does not always take place at the official border crossing points, where interpretation services are generally available, there may therefore be significant difficulties in promptly providing an adequate number of qualified interpreters able to cover different idioms.

In practice, there are not enough interpreters available and qualified in working with asylum seekers during the asylum procedure. However, specific attention is given to interpreters ensuring translation services during the substantive interview by determining authorities. The Consortium of Interpreters and Translators (ITC), which provides this service, has drafted a Code of Conduct for interpreters.

1.3.2. Recording and transcript

The personal interview may be recorded. The recording is admissible as evidence in judicial appeals against the Territorial Commission's decision. Where the recording is transcribed, the signature of the transcript is not required by the applicant.[304] Following Decree Law 13/2017, implemented by L 46/2017, the law states that the interview has to be taped by audio-visual means and transcribed in Italian with the aid of automatic voice recognition systems.[305] The transcript of the interview is read out to the applicant by the interpreter and, following the reading, the necessary corrections are made by the interviewer together with the applicant.

All of the applicant's observations not implemented directly in the text of the transcript are included at the bottom of the document and signed by him or her. The transcript itself is signed only by the interviewer – or the President of the Commission – and by the interpreter.[306] The applicant does not sign the transcript and does not receive any copy of the videotape, but merely a copy of the transcript in Italian. A copy of the videotape and the transcript shall be saved for at least 3 years in an archive of the Ministry of Interior and made available to the court in case of appeal. The applicant can only access the tape during the appeal,[307] meaning that it is not available at the time of drafting the appeal.

The applicant can formulate a reasoned request before the interview not to have the interview recorded. The Commission makes a final decision on this request.[308] This decision cannot be appealed.[309] When the interview cannot be videotaped for technical reasons or due to refusal of the applicant, the interview is transcribed in a report signed by the applicant.[310]

In 2019 and 2020, interviews were still never audio- or video-recorded due to a lack of necessary equipment and technical specifications, for example on how to save the copies and transmit them to the courts.
In the 2021 EASO Asylum Report, there is a mention of a pilot project for video and audio recording of the interview with the prior agreement of the applicants being implemented in Rome. However, after EASO left the Commissions, from the information gathered by practitioners, there were no follow-ups to the project.

303 Article 10(4) Procedure Decree, as amended by the Reception Decree.
304 Article 14(2-bis) Procedure Decree, inserted by the Reception Decree.
305 Article 14(1) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.
306 Article 14(2) Procedure Decree, as amended by Article 6 Decree Law 13/2017.
307 Article 14(5) Procedure Decree, as amended by Article 6 Decree Law 13/2017.
308 Article 14(6-bis) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.
309 Article 14 (6 bis) Procedure Decree.
310 Article 14(7) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.

In the experience of ASGI members, experience, many Commissions received the technical material necessary for recording and transcribing the interview in 2021, but the system was not yet in use at the end of March 2022.
This means that in practice after the interview a transcript is given to the applicant with the opportunity to make further comments and corrections before signing it and receiving the final report. The quality of this report varies depending on the interviewer and the Territorial Commission, which conducts the interview. Complaints on the quality of the transcripts are frequent.

1.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?
   ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☐ Yes ☒ Some grounds ☐ No
2. Average processing time for the appeal body to make a decision: 3 years[311]

1.4.1. Appeal before the Civil Court

The Procedure Decree provides for the possibility for the asylum seeker to appeal before the competent Civil Court (*Tribunale Civile*) against a decision issued by the Territorial Commissions rejecting the application, granting subsidiary protection instead of refugee status or requesting the issuance of a residence permit for special protection instead of granting international protection.[312]

Specialised court sections

Decree Law 13/2017, implemented by L 46/2017, has established specialised sections in the Civil Courts, responsible for immigration, asylum and free movement of EU citizens' cases.[313] Judges to be included in the specialised sections should be appointed on the basis of specific skills acquired through professional experience and training. EASO and UNHCR are entrusted with training of judges, to be held at least annually during the first three years.[314]

Not all of the specialised sections of the Civil Courts deal with the backlog of appeals pending before the entry into force of Decree Law 13/2017.[315]

The competence of the Court is determined on the basis of the location of the competent Territorial Commission, but also on the basis of the place where the applicant is accommodated (governmental reception centres, CAS, SAI and CPR).[316]

Rules for the lodging of appeals

The appeal must be lodged within 30 calendar days from the notification of the first instance decision and must be submitted by a lawyer.[317]

311 Information concering 2020 extracted from tables of the article: L. Minnitii, 'L'ufficio per il processo nelle Sezioni distrettuali specializzate di immigrazione e protezione internazionale: una straordinaria occasione di innovazione a supporto della tutela dei diritti fondamentali degli stranieri', 28 October 2021, available at: https://bit.ly/37VFUEi.
312 Articles 35(1) and 35-bis(1) Procedure Decree.
313 Article 1 Decree Law 13/2017, as amended by L 46/2017.
314 Article 2(1) Decree Law 13/2017, as amended by L 46/2017.
315 *Ibid*, 11.
316 Article 4(3) Decree Law 13/2017, as amended by L 46/2017.
317 Article 35-bis(2) Procedure Decree, as amended by Decree law 130/2020.

However, the time limit for lodging an appeal is 15 days for persons placed in CPR and negative decisions taken under the Accelerated Procedure.[318]

The appeal has automatic suspensive effect, except where:[319]

a. The applicant is detained in CPR or a hotspot;
b. The application is inadmissible;
c. The application is manifestly unfounded;
d. The application is submitted by a person coming from a safe country of origin;
e. The application is submitted after the applicant has been apprehended in an irregular stay on the national territory and for the sole purpose of avoiding an imminent removal;
f. The application is submitted by persons investigated or convicted for some of the crimes that may trigger to the exclusion of international protections pursuant to Article 28 -bis (1) (b) of the procedure decree.

More in general the appeal lacks the suspensive effect when the application is rejected on some of the grounds for applying the Accelerated Procedure with the sole exclusion of appeals against decision taken under the border procedure.

However, in those cases, the applicant can individually request a suspension of the return order from the competent judge. The court must issue a decision within 5 days and notify the parties, who have the possibility to submit observations within 5 days. The court takes a non-appealable decision granting or refusing suspensive effect within 5 days of the submission and/or reply to any observations.[320]
Amending Article 35(bis) (4) of the Procedure Decree, the Decree Law 130/2020 specified that the Court takes the decision in collegial composition.[321]

In practice, asylum seekers who file an appeal, in particular those who are held in CPR and those under the Accelerated Procedure, have to face several obstacles. The time limit of 15 days for lodging an appeal in those cases concretely jeopardises the effectiveness of the right to appeal since it is too short for finding a lawyer or requesting free legal assistance, and for preparing the hearing in an adequate manner. This short time limit for filing an appeal does not take due consideration of other factors that might come into play, such as the linguistic barriers between asylum seekers and lawyers, and the lack of knowledge of the legal system.

Moreover, a Moi Circular of 30 October 2020 ambiguously stated that before the 5 days given to Court to decide on suspension have elapsed, the applicant cannot be repatriated.[322] The wording seems to refer to the possibility that, after these days have elapsed, even without the judge having decided on the suspension request, repatriation can be carried out. In this sense, as registered by ASGI, some illegitimate practises were registered in Rome.

Also, before the 2020 reform, with a Circular of 13 January 2020, the Ministry of Interior considered that after the terms provided for Article 35-bis (4) of the Procedure Decree without the Judge's decision on the suspension having intervened, the measures of removal could legitimately be adopted.

As highlighted by ASGI, these indications appear illegitimate in the light of Article 46 (8) of the Directive 2013/32/EU, which establishes the applicant's right to remain on the national territory, until a judge decision on the suspension request has been taken and in light of Article 41, which provides for specific exceptions to this rule.[323]

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318 *Ibid*.
319 Article 35-bis(3) Procedure Decree, , as amended by Decree Law 130/2020.
320 Article 35-bis (4) Procedure Decree.
321 Article 35 (bis) (4) as amended by Decree >Law 130/2020 and referring to Article 3 (4-bis) Decree Law 13/2017 and L. 46/2017.
322 Moi Circular of 30 October 2020 no. 9075580
323 ASGI, Asilo e procedure accelerate: commento alla circolare del Ministero dell'Interno, 6 March 2020, available in Italian at: https://bit.ly/2zfAv9L.

After the appeal is notified to the Ministry of Interior at the competent Territorial Commission, the Ministry may present submissions (defensive notes) within the next 20 days. The applicant can also present submissions within 20 days.[324] The law also states that the competent Commission must submit within 20 days from the notification of the appeal the video recording and transcript of the personal interview and the entire documentation obtained and used during the examination procedure, including country of origin information relating to the applicant.[325] In 2018, a substantial part of EASO caseworkers deployed to Territorial Commissions have assisted in the drafting of submissions in appeal proceedings. In 2019 Interim Experts from EASO deployed as Caseworkers to the Territorial Commissions could draft the Commission's submissions in the appeal procedure, although they had no competence to represent the Commission before the Court. Their submissions were supposed to focus exclusively on factual issues and evidence assessment and not enter into legal argumentation.[326] The termination of activities of the Interim Experts deployed at the Territorial Commissions expected by the end of 2019 [327] took place one month before, on November 2019.

In application of EU NEXT Generation Project, D.L. 80 of June 2021 - as amended by conversion Law n. 113 of August 2021 - provided for the reinforcement of the Courts Office personnel, with the implementation of the "Judicial Office" (Ufficio del Processo), a support office for judges and Courts administrations to which law clerks shall be deployed for 3 years starting from February 2022. They are also deployed to support the judges assigned to the Specialised sections on migration, with the objective of help reducing second instance backlog. At the moment of writing, these new roles were very recently introduced in the judicial system, which does not allow for an evaluation of the impact they may have on the appeal procedure.

Hearing

According to the appeal procedure following Decree Law 13/2017, implemented by L 46/2017, oral hearings before the court sections are a residual option. The law states that, as a rule, judges shall decide the cases only by consulting the videotaped interview before the Territorial Commission. They shall invite the parties for the hearing only if they consider it essential to listen to the applicant, or they need to clarify some aspects or if they provide technical advice or the intake of evidence.[328] A hearing is also to be provided when the videotaping is not available or the appeal is based on elements not relied on during the administrative procedure of first instance.[329]

Since the adoption of Decree Law 13/2017, ASGI has claimed that the use of video recorded interviews, potentially replacing asylum seekers' hearings by the court, does not comply with the right to an effective remedy provided by Article 46 of the recast Asylum Procedures Directive, as an applicant's statements are often the only elements on which the application is based. Therefore, there is no certainty that judges will watch the videos of the interviews, and in any case, they will not watch them with the assistance of interpreters so as to understand the actual extent of applicants' statements.

Since 2017, given that Territorial Commissions did not proceed by video-recording interviews, most of the courts held oral hearings with asylum seekers, as set out in the law in case the interview is not video-recorded.[330] Although Civil Courts such as those of **Naples and Milan** interpreted the law as leaving discretion to the court to omit a hearing even if the videotape is not available, the Court of Cassation

324 Article 35-bis(7) and (12) Procedure Decree.
325 Article 35-bis(8) Procedure Decree.
326 ECRE, *The role of EASO operations in national asylum systems*, 2019, 23, available at: https://bit.ly/2WHE0NN, p. 23.
327 ECRE, *The role of EASO operations in national asylum systems*, 2019, 20, available at: https://bit.ly/2WHE0NN.
328 Article 35-bis Procedure Decree, introduced by Article 6(10) Decree Law 13/2017 and L 46/2017.
329 Article 6(11) Decree Law 13/2017.
330 CSM, *Monitoraggio sezioni specializzate*, October 2018, 27-28.

clarified in 2018 that in such cases the oral hearing is mandatory and cannot be omitted.[331] The Courts conformed to 2018 Cassation decisions and are currently scheduling hearings.

The Court of Cassation, however, established that it is not mandatory for the judge to interview the applicant, and the hearing can be limited to the comparison of the lawyer.

Since 2020, some Judges - applying Covid emergency rules that made it possible for civil proceedings[332] - substituted the oral hearing with written notes, some other Judges hold the hearing by remote connections.

The provisions allowing for written or remote hearings have been extended until the end of 2022.[333] It is up to the judge in charge of the case to decide how to run the hearing, so different practices are observed even in the same Court. In any case, it is possible for the lawyer to require for the hearing to be held in presence, justifying the reasons for such a request.

Decision

From practitioners experiences, decision-making at second instance is not consistent throughout the territory, and visible discrepancies can be observed regarding outcomes of appeals depending on the Court responsible. The absence of statistics concerning the outcome of second instance cases, however, does not allow to elaborate a detailed analysis regarding the issue.

The Civil Court can either reject the appeal or grant a form of protection to the asylum seeker. Under the law, the decision should be taken within 4 months.[334]

No statistics on the average length of international protection proceedings are available, but one analysis published by Ministry of Justice referred to the period between 1 January 2016 and 30 June 2020 provides some insights on the topic.[335]

In 2019, a total of 60,172 appeals were presented (compared to 48,348 in 2018 and 41,797 in 2017), while in the first half of 2020 the appeals presented were 11,763.

The significant increase in the number of appeals lodged in 2018-2019, together with the reform of 2017.[336] that reserved the competence to specialised sections in College of 3 judges, generated a workload that the Courts, especially those with the highest incidence of registrations (Milan, Rome, Bologna, Napes, Venice and Turin), have not been able to deal with).
Consequently, ASGI lawyers registered an increase in the duration of the judicial procedure, with some Courts that in 2021 have scheduled the hearing even 4 years after the introduction of the case (e.g. Turin) and others leaving the pending cases waiting for a hearing to be scheduled even more than 3 years (eg. Milan).337

331 Court of Cassation, 1st Section, Decision 28424/2018, 27 June 2018, available in Italian at: https://bit.ly/2G6XwuS; Decision 17717/2018, 5 July 2018, available in Italian at: https://bit.ly/2GfMYeb. See also: EDAL, Italy – Supreme Court of Cassation, 27 June 2018, no. 28424, available at: https://bit.ly/36vKlAn.

332 Law Decree 17 March 2020, n. 18, available in Italian at: https://bit.ly/3GkdteG.

333 Extention to the end of 2022 provide by Law decree n. 228 of 30 december 2021 available in Italian at: https://bit.ly/38Ulwna.

334 Article 35-bis(13) Procedure Decree.

335 Ministry of Justice, Analisi procedimenti in materia di protezione internazionale, available in Italian at: https://bit.ly/3CMzIcp.

336 Decree Law 13/2017.

337 The information are confirmed in the publication "L. Minnitii, 'L'ufficio per il processo nelle Sezioni distrettuali specializzate di immigrazione e protezione internazionale: una straordinaria occasione di innovazione a supporto della tutela dei diritti fondamentali degli stranieri', 28 October 2021, available at: https://bit.ly/37VFUEi.

1.4.2. Onward appeal

Decree Law 13/2017, implemented by L 46/2017, abolished the possibility to appeal a negative Civil Court decision before the Court of Appeal (*Corte d'Appello*). This provision applies to appeals lodged after 17 August 2017.

In case of a negative decision of the Court, the asylum seeker can only lodge an appeal before the Court of Cassation for matters of law within 30 days, compared to 60 days granted before the reform.[338]

The onward appeal is not automatically suspensive. Nevertheless, the Court of Justice of the European Union (CJEU) found in its *F.R.* judgment of 27 September 2018 that this provision complies with EU law as the recast Asylum Procedures Directive does not contain any provisions requiring a second level of jurisdiction against negative asylum decisions and therefore does not require any automatic suspensive effect for onward appeals.[339]

The request for suspensive effect is examined by the judge who rejected the appeal at Civil Court level and has to be submitted within 5 days from the notification of the appeal.[340]

The 2017 reform has sparked strong reactions from NGOs,[341] and even from some magistrates. Cancelling the possibility to appeal the Civil Court decisions at Court of Appeal, making the hearing of the applicant a mere residual option, further complicating access to free legal aid, reducing the time for appeal to the Court of Cassation, and entrusting the assessment of the request for suspensive effect of onward appeals to the same Civil Court judge who delivered the negative first appeal ruling, drastically reduces the judicial protection of asylum seekers. The Cassation Section of the Magistrates' National Association (*Associazione Nazionale Magistrati*) also highlighted the unreasonableness of the choice to abolish the second level of appeal, which is still provided for civil disputes of much lower value if compared to international protection cases, bearing in mind that the procedure before the Court of Cassation is essentially a written procedure.

The reform has had a visible impact on the caseload before the Court of Cassation. In the report on the administration of justice in 2020 published in 2021, the President of the Court underlined how the most recent problem in the activity of the Court of Cassation is the enormous increase in the number of petitions concerning international protection matters.

The number of petitions rose from 374 appeals in 2016 to 10,341 in 2019, decreasing again to 935 in 2020[342] and 3,679 in 2021.[343] The low numbers of the last two years may also be connected to the reduction in the number of decisions from Specialised Sections of the Courts during the pandemic.
In 2019, 3,053 asylum proceedings were decided.[344] In 2020, this doubled to 6,614 asylum proceedings, which equals 88.2 % of all proceedings.[345] In 2021, the Court of Cassation delivered 9, 348 decisions, more than half establishing the inadmissibility of the appeal.

338 Article 35-bis(13) Procedure Decree.
339 CJEU, Case C-422/2018 *F.R. v Ministero dell'interno – Commissione Territoriale per il riconoscimento della Protezione Internazionale presso la Prefettura U.T.G. di Milano*, Judgment of 27 September 2018, EDAL, available at: https://bit.ly/2D1oGCE.
340 Article 35-bis(13) Procedure Decree.
341 See ASGI and Magistratura Democratica, 'D.L. 13/2017, sempre più distanza tra giudici e cittadini stranieri', February 2017, available in Italian at: http://bit.ly/2moJoWs; Antigone, 'Il pacchetto Minniti calpesta i diritti', 12 February 2017, available in Italian at: http://bit.ly/2l7pjUo.
342 Court of Cassation, Report on the administration of justice in the year 2020, final remarks, 29 January 2021, available at: https://bit.ly/3tEh7ZT.
343 Court of Cassazione report on administration of justice in year 2021, available at: https://bit.ly/3ycmqG1.
344 Court of Cassation, Report of the Court of Cassation President on the administration of justice in 2019, 31 January 2020, available in Italian at: https://bit.ly/2WW2xjt, 47.
345 Court of Cassation, Report on the administration of justice in the year 2020, final remarks, 29 January 2021, available at: https://bit.ly/3tEh7ZT.

The average duration of the appeal process in 2020 is not available. It is important to note that from 9 March 2020 to 11 May 2020, due to the COVID-19 emergency, the terms of the civil proceedings were suspended.

The Court of Cassation ruling at United Sections, with decision n. 15177 published on 1 June 2021,[346] gave a very formalist interpretation of the provision of Article 35 bis c.13 of LD 25/2008 - as amended in 2017 - concerning the power of attorney for the Cassation procedure in international protection cases.[347] The interpretation given by the Court will affect the admissibility of many pending cases, as it established that when bringing a case to the Court of Cassation, the lawyer has to expressly certify not only the client's signature on the specific power of attorney, but also that the date is posterior to the judgement appealed.

The third Section of Court, however, submitted a question regarding the constitutionality of the interpretation given to the provision by the United Sections to the Constitutional Court.[348]
The Constitutional Court, with Decision n. 13 of 2022, rejected the question and declared that said interpretation was in line with constitutional provisions, ruling that "In the case of the contested provision, however, it cannot be considered that the declaration of inadmissibility of the appeal in the hypothesis of a special power of attorney, the date of which, after the pronouncement of the contested provision, has not been certified by the defender, constitutes an expression of excessive formalism in the application of the procedural rule."[349]

ASGI Lawyers are concerned that the application of this provision as interpreted by the United Sections of the Court of Cassation, also to cases pending well before this formal interpretation came out, will cause the declaration of inadmissibility of many pending appeals, regardless of their well-foundedness.

As regards appeals lodged before the entry into force of L 46/2017, a second appeal on the merits can still be brought before the Court of Appeal. The Court of Cassation has clarified that these second-instance appeals follow the former procedure.[350]

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?
   ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview
     ☐ Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice? ☐ Yes ☒ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☒ Representation in courts
     ☒ Legal advice

1.5.1. Legal assistance at first instance

According to Article 16 of the Procedure Decree, asylum seekers may benefit from legal assistance and representation during the first instance of the regular and prioritised procedure at their own expenses.

In practice, asylum applicants are usually supported before and sometimes also during the personal interview by legal advisors or lawyers financed by NGOs or specialised assisting bodies where they work.

346 Court of Cassation, decision n. 15177 of June 2021, available in Italian at: https://bit.ly/3Jf43TH.
347 Art 35 bis c. 13 in the relevant part reads "The power of attorney for litigation for the proposition of the appeal for cassation must be conferred, under penalty of inadmissibility of the appeal, after the communication of the contested decree; to this end, the defender certifies the release date in his favour of the same power of attorney".
348 The III section Court of Cassation application is available – commented – at: https://bit.ly/3tbN1jt.
349 Constitutional Court, Decision n. 13 of 2022, available in Italian at: https://bit.ly/36nS8Ec.
350 Court of Cassation, Decision 669/2018, 12 January 2018.

Legal assistance provided by NGOs depends mainly on the availability of funds deriving from projects and public or private funding.

A distinction should be made between national public funds and those which are allocated by private foundations and associations. In particular, the main source of funds provided by the State is the National Fund for Asylum Policies and Services, financed by the Ministry of Interior. The Procedure Decree provides that the Ministry of Interior can establish specific agreements with UNHCR or other organisations with experience in assisting asylum seekers, with the aim to provide free information services on the asylum procedure as well on the revocation one and on the possibility to make a judicial appeal. These services are provided in addition to those ensured by the manager of the accommodation centres.[351] However, a difference exists between first accommodation centres (CAS and governmental centres) and SAI system: for the first ones both the old tender specification schemes and the new ones published by MoI on 24 February 2021 only recognise costs for a legal information services and no longer for legal support instead covered in SAI system. (see Forms and Levels of Material Reception Conditions).

National funds are also allocated for providing information and legal counselling at official land, air, sea border points and in the places where migrants arrive by boat.[352] In addition, some funds for financing legal counselling may also be provided from European projects / programmes or private foundations. However, it should be highlighted that these funds are not sufficient.

The lawyer or the legal advisor from specialised NGOs prepares asylum seekers for the personal interview before the determining authority, providing them all necessary information about the procedure to follow, pointing out the main questions that may be asked by the Territorial Commission members and underlining the relevant information concerning their personal account. Moreover, the lawyer or the legal advisor has a key role in gathering the information concerning the personal history of the applicant and the country of origin information, and in drafting a report that, when necessary, is sent to the Territorial Commission, in particular with regard to vulnerable persons such as torture survivors. In this regard, the lawyer or the legal advisor may also inform the determining authorities of the fact that the asylum seeker is unfit or unable to undertake the personal interview so that the Commission may decide to omit or postpone it.

Lawyers may be present during the personal interview but they do not play the same role as in a judicial hearing. The applicant has to respond to the questions and the lawyer may intervene to clarify some aspects of the statements made by the applicant.

Nevertheless, the vast majority of asylum applicants go through the personal interview without the assistance of a lawyer since they cannot afford to pay for legal assistance and specialised NGOs have limited capacity due to lack of funds. Assistance during the administrative steps of the asylum procedure cannot be covered by free legal aid.

1.5.2. Legal assistance in appeals

With regard to the appeal phase, free state-funded legal aid (*patrocinio a spese dello Stato*), is provided by law to asylum seekers who declare an annual taxable income below a certain amount, in 2021 €11,746 and whose case is not deemed manifestly unfounded.[353] Legal aid is therefore subject to a "means" and "merits" test.

Means test

The law specifies that in case of income acquired abroad, the foreigner needs a certification issued by the consular authorities of their country of origin.[354] However, the law prescribes that if the person is

351 Article 10(2-bis) Procedure Decree.
352 Article 11(6) TUI.
353 Article 16(2) Procedure Decree.
354 Article 79(2) PD 115/2002.

unable to obtain this documentation, he or she may alternatively provide a self-declaration of income.[355] Regarding asylum seekers, Article 8 PD 21/2015 clarifies that, in order to be admitted to free legal assistance, the applicant can present a self-declaration instead of the documents prescribed by Article 79 PD 115/2002.

Merits test

In addition, access to free legal assistance is also subject to a merits test by the competent Bar Association which assesses whether the asylum seeker's motivations for appealing are not manifestly unfounded.[356] In the last years no particular impediments were reported in accessing legal aid at this stage.

Moreover, it may occur that the applicant is initially granted free legal aid by a Bar Council but, as prescribed by law, the Court revokes the decision if it considers that the admission requirements assessed by the Bar Association are not fulfilled.[357] The Court of Cassation has ruled that the withdrawal of legal aid may only be ordered after a concrete assessment of the circumstances of the case, fulfilling both criteria of being manifestly unfounded and gross negligence.[358]

L 46/2017 has substantially curtailed access to legal aid, as it reverses the rule applicable to all other proceedings. It establishes that, when fully rejecting the appeal, a judge who wishes to grant legal aid has to indicate the reasons why he or she does not consider the applicant's claims as manifestly unfounded.[359]

The evaluation of the merits in order to grant legal aid at Cassation stage is generally stricter.

A declaration of inadmissibility of the appeal constitutes reason to revoke legal aid. As many Cassation appeals are rejected on inadmissibility grounds, due to the formalism connected with such kind of proceeding, legal aid is often revoked once the case is rejected on these grounds.

Applicants who live in large cities have more chances to be assisted by specialised NGOs or legal advisors compared to those living in remote areas, where it is more difficult to find qualified lawyers specialised in asylum law. As discussed in the section on Regular Procedure: Appeal, in the Italian legal system, the assistance of a lawyer is essential in the appeal phase. Concretely the uncertainty of obtaining free legal aid by the State, as well as the delay in receiving State reimbursement discourages lawyers from taking on the cases. In some cases, lawyers evaluate the individual case on the merits before deciding whether to appeal the case or not.

2. Dublin

2.1. General

Dublin statistics: 2021

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	3,318	53	**Total**	19,936	1,462

Source: Ministry of Interior.

In 2021 19,936 requests were submitted in the incoming procedure, including take charge and take back requests; the figure was quite similar in 2020, when requests were 18,941. With regards to the outgoing procedure, there were 3,318 total requests, almost double than in 2020, when 1,841 requests were sent.

355 Article 94(2) PD 115/2002.
356 Article 126 PD 115/2002.
357 Article 136 PD 115/2002.
358 Court of Cassation, Decision 26661/2017, 10 November 2017.
359 Article 35-bis(17) Procedure Decree.

18 family reunifications transfers to other States under Dublin III Regulation took place, out of which 15 involving minors and 3 regarding adults. In 2020 they were only 7.

The transfers from other States under the Dublin family reunification procedures were 145, out of which 140 regarding minors and 5 adults.

Such data, especially those of incoming requests and transfers, still probably reflect the suspension of transfers and obstacles faced in carrying them out due to the COVID-19 pandemic. Incoming requests were around the half than in 2019, when they were 35,255. Similarly to 2020, incoming transfers were just about a quarter than in 2019 (1,462 compared to 5,979).
Transfers in the outgoing procedure decreased significantly: they were only 53, compared to 431 in 2020, and to 579 in 2019.

2.1.1. Application of the Dublin criteria

The Dublin Unit tends to use circumstantial evidence for the purpose of establishing family unity such as photos, reports issued by the caseworkers, UNHCR's opinion on application of the Dublin Implementing Regulation, and any relevant information and declarations provided by the concerned persons and family members.

In 2021, the Dublin Unit dealt with 355 cases of unaccompanied foreign minors eligible for the Dublin family reunification procedure, based on Articles 8 and 17 (2) of the Regulation. Out of these, 30 were outgoing requests and 325 incoming requests.[360]

The COVID-19 pandemic had a huge impact on family reunification procedures for minors under the Dublin Regulation. Most affected were the aspects related to the assessment of the suitability of family members or adults in taking care of minors (evaluation which also takes place through interviews in presence) and the transfers of minors. In many cases of family reunifications involving minors (7 out of 30 in outgoing and 106 out of 325 in incoming), the procedures found their legal basis in Article 17, (2), of the Dublin Regulation: these were, in many cases, cases initiated by the pursuant to art. 8 for which, following acceptance by Italy or the other Member State, the deadline for the transfer to the country of destination had expired (the six months from the date of acceptance by the receiving State) due to travel restrictions imposed by the emergency situation. In these cases, it was decided to open new procedures, based on discretionary clause contained in Article 17 (2), in order to allow the transfer. [361]

From 2019, UNHCR Italy together with the social cooperative Cidas, run the EFRIS European Family Reunion Innovative Strategies project with the aim of improving the effectiveness of family reunification procedures for unaccompanied foreign minor asylum seekers under the Dublin III Regulation.[362]
The project staff has drawn up and disseminated the Guidelines for operators,[363] containing operating procedures standards and best practices for family reunification of minors under the Dublin III Regulation and Multilingual information leaflets (in Pashto, Tigrinya, Italian, Urdu, Somali, Farsi, English, French, Arabic) aimed at providing unaccompanied minors with information on the right to family unity and on family reunification under the Dublin procedure.[364]

Outgoing procedure

Of the 30 outgoing practices examined by the Dublin Unit in 2021, 16 were started in previous years (12 in 2020, 3 in 2019 and 1 in 2018). The outcome of the procedures saw:

360 Ministry of Labour, Monitoring report on unaccompanied foreign minors, 31 December 2021, available at: https://bit.ly/3EHAlVN
361 Ministry of Labour, Monitoring report on unaccompanied foreign minors, 31 December 2021, available at: https://bit.ly/3EHAlVN
362 Project webpage, available at: https://bit.ly/3kxuY24.
363 Guidelines available at: https://bit.ly/3vwqe34.
364 Multilingual materials accessible and downloadable at: https://bit.ly/3OS7P8I.

• a single minor voluntarily leaving the accommodation facility before the conclusion of the procedure;
• 16 minors accepted by the Member State in which the family member is resident (15 were already transferred by the end of 2021)
• 4 minors definitively rejected (and therefore their asylum application will be examined in Italy);
• 4 minors renounced the reunification before sending the Take charge request to the other Member State,
• 5 minors were still waiting for the outcome of the procedure

14 boys and 16 girls - predominantly between the age of 14 and 17 - were involved in the outgoing procedure. Five turned eighteen during the procedure and 2 were under the age of 14.

The breakdown of outgoing requests of unaccompanied children in 2021 was as follows:

Outgoing procedure of children under the Dublin family reunification, 2021	
Country	Number of requests
Germany	10
United Kingdom	6
Sweden	5
Finland	3
Netherland	2
France	2
Belgium	1
Switzerland	1
Total	**30**

Source: Ministry of Labour

Family reunification was carried out with a parent in 8 cases, siblings in 9 cases, uncles or aunts in 11 cases, cousins in 2 cases.[365]

Incoming procedure

Regarding the incoming procedure, the Dublin Unit dealt with 325 cases, out of which 203 new cases and 122 ongoing cases from the previous years. Of these, in 162 cases Italy accepted the transfers, and 140 transfers were actually carried out; Italy refused the transfer in 82 cases. Another 78 were ongoing by the end of 2021; 3 minors absconded before the end of the procedure.

Family reunification was asked with an uncle or aunt in 186 cases, with a brother or sister in 109 cases, with a parent in 1 4cases and with a cousin in 16 cases.

Minors involved in the incoming procedure were all males except for one female.
171 turned eighteen during the procedures (started between 2017 and 2020), 151 were between 14 and 17 years of age, while 3 were under 14.

Minors were predominantly from Pakistan (151) and Bangladesh (129).
As reported by the Ministry of Labour, they mainly reached Italy through the Balkan route, most of them entering from the EU eastern border, mainly from Greece.

365 Ministry of Labour, Monitoring report on unaccompanied foreign minors, 31 December 2021, available at:. https://bit.ly/3EHAlVN.

2.1.2. The discretionary clauses

The Dublin Unit has not provided data on the application of the discretionary clauses under Article 17 of the Dublin Regulation. However, as mentioned above (2 1 1) in many cases Article 17, (2), of the Dublin Regulation was used in 2021 to proceed with family reunifications for minors when the transfer had not been carried out within the time limits set by the Dublin regulation (6 months from the acceptance)
As of February 2019, the Dublin Unit applied the sovereignty clause, before the time to appeal against the transfer decision to Croatia had expired and after a review request, in favour of an Iraqi family whose daughter had been hit by gunshots fired by the Croatian police.

In some cases in 2018, courts held that the "sovereignty clause" may only be applied as long as a decision on the asylum application has not been issued by any Member State concerning the individual applicant,[366] as in "take back" cases the court is not required to assess risks of *refoulement* upon potential return to the country of origin.[367] The Civil Court of Rome ordered the application of Article 17(1) and annulled the transfer to Norway where the applicant had already received a negative decision on his asylum application. The Court took into account the risk situation for personal safety and respect for fundamental rights in the applicant's country of origin, Afghanistan, in addition to the applicant's young age and the absence of a support network in the country of origin.[368]

In 2019, the Civil Court of Rome confirmed its orientation on the application of the sovereignty clause for Afghan citizens who risked indirect refoulement: by a decision issued on 10 May 2019, the Court annulled the transfer to Germany of an Afghan asylum seeker[369] where the applicant risked to be repatriated to his country of origin because of the negative decision on his asylum application.

In early 2021, the Court overturned the transfer of a Palestinian citizen to Sweden, on the grounds that the return to Palestine, already decided by Sweden, would have represented a risk for the applicant.[370]

The Civil Court of Milan, annulled the transfer to Germany of an Afghan citizen because of the violation of Article 3 (2) of the Dublin Regulation, considering the refoulement risk due to the fact that Germany had already rejected the asylum request of the applicant. The Court, however, excluded the application of Article 17 (1) which would fall within the sole discretion of the State and not of the Court.[371]

The Civil Court of Trieste, which has become competent for a huge number of Dublin appeals (see later procedure) as of March 2019 annulled the transfer of an Afghan asylum seeker to Belgium and applied Article 17(1) because of the risks the applicant would have faced in case of return to Afghanistan.[372]
Later, the same Court changed its orientation rejecting the appeals submitted, in 2020, by Dubliners also in cases involving Afghans or Iraqis who proved the actual risk of indirect refoulement.

On 5 May 2020, the Court of Rome applied Article 17 (1) and annulled the transfer to Romania of an Afghan applicant because of the violation of information obligations pursuant to Articles 4 and 5 of the Dublin Regulation.[373]

In 2021 and early 2022, many Civil Courts - including that of Rome - suspended decisions related to the principle of no refoulement pending the CJEU preliminary rulings on questions raised by some courts regarding Article 17 (1) of the Dublin Regulation.

366 See e.g. Civil Court of Bologna, Decision 1796/2018.
367 See e.g. Civil Court of Milan, Decision 29819/2018; Civil Court of Caltanissetta, Decision 482/2018; Civil Court of Caltanissetta, Decision 1398/2018.
368 Civil Court of Rome, Decision 7899/2018, 5 June 2018, EDAL, available at: https://bit.ly/2DbUCEq.
369 Civil Court of Rome, Decision 15246/2019, 10 May 2019.
370 Civil Court of Rome, Decision of 20 January 2021, number of the procedure 16422/2019.
371 Civil Court of Milan, Decision of 14 October 2020, procedure no. 27034/2020.
372 Civil Court of Trieste, decision 605/2019, 15 March 2019.
373 Civil Court of Rome, Decision 15643/2020, 5 May 2020.

The Civil Courts of Rome and Florence asked the CJEU to clarify if Courts are entitled to order the application of the sovereignty clause in cases where the non-refoulement principle could be violated because the applicant could be repatriated to his or her country of origin, considered unsafe.

In both cases, the applicants are Afghan citizens who appealed against the transfer to, respectively, Germany and Sweden, where their asylum application was already rejected. They claim that the execution of their transfer, would expose them to an irreparable damage because of the consequent repatriation to Afghanistan.[374]

2.2. Procedure

Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications? ☐ Yes ☒ No
2. On average, how long does a transfer take after the responsible Member State has accepted responsibility? Not available

The staff of the Italian Dublin Unit had significantly increased in 2018 and benefitted from the support of EASO personnel, mainly in relation to outgoing requests, family reunification and children. In 2019, EASO interim staff supported the Italian Dublin Unit.[375] In 2020, only 3 EASO experts remained in the Unit while, for 2021, other EASO experts supported the Dublin Unit.

Decree Law 113/2018 envisaged the creation of up to three new territorial peripheral units of the Dublin Unit, to be established by Decree of the Ministry of Interior in identified Prefectures.[376] However, no peripheral units have been implemented in 2020 nor in 2021.

All asylum seekers are photographed and fingerprinted (*fotosegnalamento*) by Questure who systematically store their fingerprints in Eurodac. When there is a Eurodac hit, the police contact the Italian Dublin Unit within the Ministry of Interior. In the general procedure, after the lodging of the asylum application, on the basis of the information gathered and if it is considered that the Dublin Regulation should be applied, the Questura transmits the pertinent documents to the Dublin Unit which examines the criteria set out in the Dublin Regulation to identify the Member State responsible.

Since December 2017, a specific procedure has been implemented in Questure of **Friuli-Venezia Giulia** region, on the basis that most of asylum seekers arriving in this region from Nordic countries or the Balkan route fall under the Dublin Regulation. ASGI has witnessed cases where the Questure fingerprinted persons seeking asylum in the region as persons in "irregular stay" ("Category 3") in the Eurodac database,[377] instead of "applicants for international protection" ("Category 1").[378] The Dublin Unit therefore justified, even in the Court procedure, the implementation of the Dublin transfer prior to the lodging of the application on the basis that no asylum application has been made; it should also be noted that "Category 3" fingerprints are not stored in the Eurodac database.[379]

In 2020, the procedure recorded in 2019 in Friuli Venezia Giulia was overcome by the Covid19 emergency and, at least partially, replaced by the massive implementation of informal readmissions of migrants in Slovenia even in cases of people seeking asylum, as affirmed by the Civil Court of Rome,[380] when the Dublin Regulation should have been applied (see access to the territory).

Asylum seekers are not properly informed about the procedure or given the possibility to highlight any family links or vulnerabilities. While the Civil Court of Rome, as mentioned, confirmed in 2020 its

374 Court of Justice of European Union, joined cases, Case C-254/21 and C-297/21, together with Cases C-228/21, C-328/21 and C-315/21 on information obligations (Articles 4 and 5 of the Dublin Regulation).
375 Information provided by EASO, 13 February 2019.
376 Article 3(3) Procedure Decree, as amended by Article 11 Decree Law 113/2018.
377 Article 17 Eurodac Regulation.
378 Article 9 Eurodac Regulation.
379 Article 17(3) Eurodac Regulation.
380 Civil Court of Rome, decision of 18 January 2021, available in English at: https://bit.ly/3hgKr6b.

orientation on the cancellation of the transfer measures adopted without prior due information,[381] other Civil Courts have not expressed the same orientation. The Civil Court of Trieste constantly affirmed in 2020 that the omission of information does not affect the validity of the provision and the Civil Court of Milan has shown the same orientation in some decisions.[382]

The Court of Cassation then expressed, in 2020, two opposing orientations with respect to the consequences of non-compliance with the information obligation pursuant to Articles 4 and 5 of the Regulation: firstly, with a decision of 27 August 2020, the Court specified that the guarantees of participation and information are of fundamental importance and must be expressed both with the interview with the interested party (Article 5) and with the information (Article 4). According to the Court it is not relevant whether the interested party obtained such information from other subjects or if the interested party has demonstrated how the lack of information has affected his rights of action and defence in Court.[383] Later, with a decision of 27 October 2020, the Court stated that the judge cannot annul the contested transfer by noting formal violations of the Dublin Regulation occurred during the procedure;[384]

To this regard, the Court of Cassation, requested, pursuant to Article 267 of the TFEU, the European Court of Justice to give a preliminary ruling to clarify whether Article 4 of the Dublin Regulation must be interpreted as meaning that the violation of the information obligation can be asserted only on condition that the applicant indicates what information he could have indicated in his favour, decisive for a positive decision in his interest.[385]

2.2.1. Individualised guarantees

The Dublin Unit systematically issues outgoing requests to all countries when potential responsibility criteria are triggered. There are no reports of cases where the Dublin Unit has requested individual guarantees before proceeding with a transfer, even in the case of vulnerable persons.

In some cases, the Dublin Unit was not informed about the vulnerability by Questure. This may be related to the fact that personal interviews provided by Article 5 of the Dublin regulation are not properly conducted or they are not conducted at all.

2.2.2. Transfers

In case another Member State is considered responsible under the Dublin Regulation, the asylum procedure is terminated.[386] The Dublin Unit issues a decision that is transmitted to the applicant through the Questura, mentioning the country where the asylum seeker will be returned and the modalities for appealing against the Dublin decision.[387] Afterwards, the Questura arranges the transfer.

The applicants must then present themselves at the place and date indicated by the Questura.

Where an appeal is lodged against the transfer decision, the six-month time limit for a transfer starts running from the rejection of the request for suspensive effect, otherwise from the court's decision on the appeal itself if the suspension had been requested and was accepted.[388] Since the practical organisation of the transfer is up to the Questura, it is difficult to indicate the average time before a transfer is carried out. The length of the Dublin procedure depends on many factors, including the availability of means of transport, the personal condition of the person, whether or not the police needs to accompany the person

381 See for example, Civil Court of Rome, Decision 15643/2020, 5 May 2020.
382 See for example Civil Court of Milan, Decision of 14 October 2020, procedure no. 27034/2020.
383 Court of Cassation, Decision 17963/2020 of 27 August 2020.
384 Court of Cassation, Decision 23587/20 of 27 October 2020.
385 Court of Cassation, decision no. 8668 of 23 February - 29 March 2021.
386 Article 30(1) Procedure Decree.
387 Presently, even though L 46/2017 has recognised the jurisdiction of the Civil Court of Rome and stated that the appeal has to be lodged within 30 days, many decisions still direct people to appeal before the Administrative Court of Lazio within 60 days.
388 Article 3(3-octies) Procedure Decree, as amended by L 46/2017.

concerned etc. However, as the majority of applicants abscond and do not present themselves for the transfer, the Italian authorities often ask the responsible Member State for an extension of the deadline up to 18 months, as envisaged under Article 29(2) of the Dublin Regulation.

While waiting for the result of their Dublin procedure, asylum seekers are not detained.

The applicant usually waits for months without knowing if the Dublin procedure has started, to which country a request has been addressed and the criteria on which it has been laid down. In the majority of cases, it is only thanks to the help of NGOs providing adequate information that asylum seekers are able to go through the whole Dublin procedure. When necessary, the NGOs contact the authorities to get the required information.

According to the data published by the Ministry of Labour in 2017, the time period between a "take charge" request for unaccompanied children and its acceptance by the destination country was 35 days on average, while it was on average 46 days between the acceptance of the request and the actual transfer of unaccompanied children.[389] According to ASGI's experience, the duration of the procedure is much longer in practice, and the procedure may last over one year. As previously mentioned, in 2021, more than half of the practices required more than a year for definition in the outgoing procedure
In general, in 2020 and 2021 the COVID-19 pandemic situation further affected the length of the procedures.

2.3. Personal interview

Indicators: Dublin: Personal Interview
☐ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure? ☐ Yes ☒ No
   - ❖ If so, are interpreters available in practice, for interviews? ☐ Yes ☐ No

2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

With the exception of the lodging of the asylum application by the competent Questura, personal interviews of asylum seekers are rarely envisaged during the Dublin procedure.

On 8 January 2020, the Civil Court of Rome cancelled a transfer decision to Germany adopted by the Dublin Unit against an Afghan citizen because the written summary of the interview did not allow to verify the compliance with the participation guarantees provided for in Articles 4 and 5 of the Dublin Regulation as it did not indicate the language in which the interview had taken place and it was signed by an unidentified "cultural mediator" whose spoken language was not clarified.[390]

In 2021 and early 2022, many Courts suspended the Dublin transfers pending the CJEU's preliminary rulings raised by some Courts also on the information obligations. The Court of Cassation,[391] the Civil Court of Trieste[392] and the Civil Court of Milan[393] asked the CJEU to clarify if a violation of the information obligations ruled by Articles 4 and 5 of the Dublin Regulation could cause in any case the cancellation of the transfer or such cancellation could be ordered only in case the applicant proves how the fulfilment of the information obligations and consequently his or her participation in the procedure could have changed the procedure.[394] The hearing is scheduled for 8 June 2022.

389 Ministry of Labour, *I minori stranieri non accompagnati in Italia*, 31 December 2017, available in Italian at: http://bit.ly/2FvU6Aj, 14.
390 Civil Court of Rome, decision n. 1855/2020 of 8 January 2020.
391 Case C-228/21.
392 Case C-328/21.
393 Case C-315/21.
394 See also A. Di Pascale, Garanzie informative e partecipative del richiedente protezione internazionale e limiti al sindacato giurisdizionale nella procedura di ripresa in carico di cui al reg. (UE) n. 604/2013. Nota a margine

2.4. Appeal

Indicators: Dublin: Appeal
☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure?
   ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☐ Yes ☒ No

Asylum seekers are informed of the determination of the Dublin Unit concerning their "take charge" / "take back" by another Member State at the end of the procedure when they are notified through the Questura of the transfer decision. Asylum seekers may be informed on the possibility to lodge an appeal against this decision generally by specialised NGOs.

An applicant may appeal the transfer decision before the Civil Court of Rome within 30 days of the notification of the transfer.[395] In case applicants are accommodated in asylum seekers' reception centres when notified about the transfer decision, territorial jurisdiction is determined on the basis of where the centres are located. Therefore, the competence falls within the specialised sections of the territorially competent Civil Courts and not the location of the Dublin Unit. The assistance of a lawyer is necessary for the lodging of an appeal, but the applicant can apply for legal aid.

Competent court

Until the end of 2015, the transfer decisions issued by the Dublin Unit were challenged before the administrative courts. In 2016, however, administrative courts expressed the position that the Dublin procedure should be understood as a phase of the asylum procedure and, consequently, "Dubliner" asylum seekers as holders of an individual right and not a mere legitimate interest. The administrative courts have therefore stated that the judgment should be entrusted to the jurisdiction of ordinary courts, meaning the "natural judge" of individual rights. In this context, the first significant decision was taken on 18 December 2015 by the Council of State,[396] and subsequently by the Administrative Court of Lazio.[397] Reiterating this interpretation, Decree Law 13/2017, implemented by L 46/2017, has designated the specialised section of the Civil Courts as competent to decide on appeals against transfer decisions.[398]

During 2018, the Civil Court of Rome started declaring lack of jurisdiction to decide on appeals lodged by persons accommodated in reception centres throughout the country. According to the Court, in case applicants were accommodated when notified about the transfer decision, territorial jurisdiction should be exclusively determined on the basis of the place of the centres are located, and therefore fall within the specialised sections of the territorially competent Civil Courts and not the location of the Dublin Unit, i.e. Rome.[399] This is echoed by the prospective establishment of local branches of the Dublin Units in specific Prefectures following the 2018 reform.

In 2019, the matter was brought before the Court of Cassation which, initially, interpreted the current legislation establishing the jurisdiction of the Civil Court of Rome.[400] Afterwards however, it expressed an

dei rinvii pregiudiziali alla Corte di giustizia, in Diritto Immigrazione e Cittadinanza, Fascicolo 3/2021 available in Italian at: https://bit.ly/3y5O9IC.

395 Article 3(3-ter) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.
396 Council of State, Decision 5738/2015, 18 December 2015, available at: http://bit.ly/2lbkoyn.
397 Administrative Court of Lazio, Decision 9909/2016, 22 September 2016; Decision 11911/2016, 28 November 2016, available in Italian at: http://bit.ly/2lOS7AX.
398 Article 3(3-bis) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.
399 According to the rule provided in Article 4(3) Decree Law 13/2017, as amended by L 46/2017, this also applies to asylum appeals as it generally refers to "accommodated applicants".
400 Court of Cassation, decisions 18755/2019; 18756/2019 and 18757/2019, issued on 12 July 2019.

opposite orientation recognizing that the territorial jurisdiction depends on the position of the reception centre at the moment of the notification of the transfer decision to the applicants.[401]

In case of appeals brought by people not accommodated at the time they were notified with the transfer decision the jurisdiction is indisputably that of the Civil Court of Rome.

Suspensive effect

Article 3 of the Procedure Decree does not unequivocally provide that the transfer is suspended until the time limit for lodging an appeal expires. It states that the lodging of the appeal automatically suspends the transfer if an application for suspension is in the appeal.[402] According to ASGI, this should be interpreted as meaning that transfers may be carried out only once the time limit for an appeal has elapsed without an appeal being filed or with an appeal not indicating a request for suspension.

To the knowledge of ASGI, in 2021, as in the previous two years, the Questure waited for the 30-day deadline for lodging the appeal to expire before proceeding with the organisation of the transfer.

According to the law, the Court should decide on the application for suspensive effect within 5 days and notify a decision to the parties, who have 5 days to present submissions and 5 days to reply thereto. In this case, the Court must issue a new, final decision, confirming, modifying or revoking its previous decision.[403] In ASGI's experience, the Civil Courts never complied with these timeframes both in 2020 and 2021.

The appeal procedure is mainly written. Within 10 days of the notification of the appeal, the Dublin Unit must file the documentation on which the transfer decision is based and, within the same time limit, may file its own submissions. In the following 10 days, the applicant can in turn make submissions.[404] The court will set a hearing only if it considers it useful for the purposes of the decision.[405]

The decision must be taken within 60 days from the submission of the appeal and can only be appealed before the Court of Cassation within 30 days. The Court of Cassation should decide on the appeal within 2 months from the lodging of the onward appeal.

2.5. Legal assistance

The same law and practices described under the section on Regular Procedure: Legal Assistance apply to the Dublin procedure with regard to legal assistance, including the merits and means tests.

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries? ☐ Yes ☒ No

There is no official policy on systematic suspension of Dublin transfers to other countries.

With a Circular Letter of 25 February 2020, the Italian Dublin Unit informed the Dublin Units that due to the health emergency all Dublin flights were suspended, both incoming and outgoing. After the first six months, transfers have started again, but in many cases, there were complications concerning COVID-19 related health measures and the unavailability of tests before departure.

401 Court of Cassation, decision 31127/2019 of 14 November 2019.
402 Article 3(3-quater) and (3-octies) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.
403 Article 3(3-quater) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.
404 Article 3(3-quinquies) and (3-sexies) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.
405 Article 3(3-septies) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.

As in the previous years, most of the asylum seekers concerned have submitted appeals, leading to transfers being suspended by the courts, while others have become untraceable.

Greece: according to ASGI's experience, no Dublin transfers to Greece were carried out in 2020 and 2021. However, readmissions from Adriatic ports were carried out (see Access to the territory).

Hungary: In late September 2016, the Council of State annulled a transfer to Hungary, defining it as an unsafe country for Dublin returns. The Council of State expressed concerns on the situation in Hungary, considering measures such as the planned construction of an "anti-immigrant wall" expressing the cultural and political climate of aversion to immigration and to the protection of refugees; the option of discontinuing an asylum application if the applicants leave their residence designated for more than 48 hours without permission and the extension of the detention period of asylum seekers.[406]

Bulgaria: In September 2016 the Council of State suspended several transfers to Bulgaria on the basis that the country is unsafe.[407] The Council of State expressed concerns about the asylum system in Bulgaria due to the critical condition of shelters, some of which appear as detention centres, and more generally of the cultural climate of intolerance and discrimination that reigns in public opinion and among the leaders in the government towards refugees.[408] In a ruling of November 2017, the Council of State reaffirmed its position and suspended the transfer of an Afghan asylum seeker to Bulgaria.[409]
The Court of Turin, in September 2020, cancelled the Dublin transfer of an asylum seeker to Bulgaria, having found, through specific COI, that in Bulgaria there are serious systemic deficiencies in asylum procedures such as: the use of force by the police to prevent the entry of applicants into the national territory; restrictions on the freedom of movement of asylum seekers; shortcomings in reception and support services; as well as extremely low rates of recognition of international protection.[410]

With a Decision of 14 July 2021, the Civil Court of Turin confirmed its orientation cancelling the transfer of an Afghan asylum seeker to Bulgaria, considering the serious shortcomings of the country's asylum system. The decision, also referring to the AIDA reports on Bulgaria of 2018, 2019 and 2020, underlines, among other reasons, the low rates of recognition of international protection for certain nationalities in that country.[411]

2.7. The situation of Dublin returnees

Italy received 1,462 incoming transfers in 2021

Reception guarantees and practice

Replying on 3 March 2022 to the ASGI's information request, the Ministry of Interior informed that "Dublin returnees access the accommodation system at the same conditions than the other asylum seekers".[412]

The Ministry of Interior Circular of 14 January 2019 specified that Dublin returnees who had already applied for asylum prior to leaving Italy should be transferred by the competent Prefecture from the airport of arrival to the province where their application was lodged. If no prior asylum application had been lodged, they should be accommodated in the province of the airport of arrival. Family unity should always be maintained.[413]

406 Council of State, Decision 4004/2016, 27 September 2016, available in Italian at: http://bit.ly/2kWlO1d.
407 Council of State, Decisions 3998/2016, 3999/2016, 4000/2016 and 4002/2016, 27 September 2016, available in Italian at: http://bit.ly/2llJzAR.
408 *Ibid*. The Council of State referred in particular to the fifth report on Bulgaria of the European Commission against Racism and Intolerance (ECRI), 16 September 2014.
409 Council of State, Decision 5085/2017, 3 November 2017, available in Italian at: http://bit.ly/2GKtcVA.
410 Civil Court of Turin, decree 29 September 2020, procedure no. 12340/2020, available in Italian at: https://bit.ly/3uzpA1S.
411 Civil Court of Turin, Decision of 14 July 2021.
412 Answer to the FOIA request, sent on 3 March 2022.
413 Ministry of Interior Circular of 14 January 2019, available in Italian at: https://bit.ly/2P7G5OZ.

The circular does not clarify how the prefectures should facilitate the transfer of the asylum seeker. This circumstance may externally expose the Dublin returnee to face, on its own, the obstacles placed in front of some Questure for the access to the asylum procedure, especially in the absence of a domicile. (see registration).

Following the *Tarakhel v. Switzerland* ruling,[414] in practice the guarantees requested were ensured mainly to families and vulnerable cases through a list of dedicated places in the Sprar/Siproimi system (see Types of Accommodation), communicated since June 2015 to other countries' Dublin Units.[415] Following the 2020 reform of the reception system, Dublin returnees as asylum seekers could have again access to second-line reception SPRAR, now renamed SAI.

However, in an answer (March 2021) to the public access request sent by ASGI, the Dublin Unit replied that "in the reception system there are no places reserved for Dubliners returning from other Member States, who are included in the reception system, regulated by legislative decree no. 142/2015".[416]
In practice, Dublin returnees face the same problems as other asylum seekers in Italy in accessing the asylum procedure and housing in SAI.

In December 2021, an Afghan citizen, evacuated from Afghanistan by the Italian authorities at the end of August, who was a Dublin returnee from France where he had applied for asylum, was reached by an expulsion decree and held in the CPR of Gradisca d'Isonzo for over a month without having access to asylum. Transferred by flight to Venice he was asked, at the airport, to fill the *foglio notizie* and, without any examination of his individual situation, was sent to the CPR. After having had access to the asylum procedure, his detention was not validated by the Civil Court of Trieste on 8 January 2022.[417]

As regards the implementation of incoming transfers, only when Italy expressly recognises its responsibility under the Dublin Regulation, national authorities indicate the most convenient airport where Dublin returnees should be returned in order to easily reach the competent Questura, meaning the Questura of the area where the asylum procedure had been started or assigned. In other cases, where Italy becomes responsible by tacit acceptance of incoming requests, persons transferred to Italy from another Member State usually arrive at the main Italian airports such as **Rome Fiumicino Airport** and **Milan Malpensa Airport**. At the airport, the Border Police provides the person returned under the Dublin Regulation with an invitation letter (*verbale di invito*) indicating the competent Questura where he or she has to go.

Currently the measures set up for the prevention of COVID-19 impose a period of quarantine for all people arriving. This is carried out in a structure identified by the Prefecture of Varese, which then, in the absence of other destinations already identified, can become the reception facility. The information desk for asylum seekers in Milan Malpensa since 2021 is no longer operated by the Waldensian Diakonia but by the cooperative Ballafon.

At the Fiumicino airport of Rome, the Prefecture of Rome has entrusted in 2020 the Albatros1973 cooperative for informing and managing foreign people arriving at the air border who want to seek asylum or who are Dublin returnees. Over a third of the people came with flights from Germany. From the information received by ASGI lawyers, since 2021, the service is responsibility of the Cooperativa ITC.

414 In a ruling concerning an Afghan family with 6 children who were initially hosted in a CARA in Bari before travelling to Austria and then Switzerland, the ECtHR found that Switzerland would have breached Article 3 ECHR if it had returned the family to Italy without having obtained individual guarantees by the Italian authorities on the adequacy of the specific conditions in which they would receive the applicants. The Court stated that it is "incumbent on the Swiss authorities to obtain assurances from their Italian counterparts that on their arrival in Italy the applicants will be received in facilities and in conditions adapted to the age of the children, and that the family will be kept together.": ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, Judgment of 4 November 2014, para 120.

415 See e.g. Dublin Unit, Circular: Dublin Regulation Nr. 604/2013. Vulnerable cases. Family in SPRAR projects, 4 July 2018, available at: https://bit.ly/2OwblGT.

416 Official answer from the Dublin Unit in the availability of the writer.

417 Altreconomia, "La storia di Abdul, evacuato da Kabul e finito nel Cpr di Gradisca d'Isonzo", 19 January 2022, available at: https://bit.ly/3w62Av6.

At Venice airport, Marco Polo, the cooperative Giuseppe Olivotti, was responsible, up to January 2022 under the agreement with the Prefecture of Venice, for arrivals of asylum seekers and Dublin returnees. It did not have a stable presence at the airport, but ensured presence on call.

At the airport of Bologna, the cooperative Laimomo is responsible of informing Dublin returnees.

It should be noted that if returnees used to live in asylum seekers' reception centres before leaving Italy, they could encounter problems on their return in submitting a new accommodation request. In fact, due to their first departure and according to the rules provided for the Withdrawal of Reception Conditions, the Prefecture could deny them access to the reception system.[418]

In January 2020, the Swiss Refugee Council published an update about their monitoring of the situation on reception conditions in Italy, also in relation to Dublin returnees, that generally confirms the findings of their previous monitoring.[419] They further reported that in Italy until now there is no standardized, defined procedure in place for taking them (back) into the system.

Re-accessing the asylum procedure

Access to the asylum procedure is equally problematic. Asylum seekers returned under the Dublin Regulation have to approach the Questura to obtain an appointment to lodge their claim. However, the delay for such an appointment reaches several months in most cases.[420] The competent Questura is often located very far from the airport and asylum seekers have only few days to appear there; reported cases refer to persons arriving in Milan, **Lombardy** and invited to appear before the Questura of Catania, **Sicily**. In addition, people are neither accompanied to the competent Questura nor informed of the most suitable means of transport thereto, adding further obstacles to reach the competent Questura within the required time. In some cases, however, people are provided with tickets from the Prefecture desk at **Milan Malpensa Airport**.

Dublin returnees face different situations depending on whether they had applied for asylum in Italy before moving on to another European country, and on whether the decision on their application by the Territorial Commission had already been taken.[421]

- In "take charge" cases where the person had not applied for asylum during his or her initial transit or stay in Italy before moving on to another country,[422] he or she should be allowed to lodge an application under the regular procedure. However, the person could be considered an irregular migrant by the authorities and be notified an expulsion order.

- In "take back" cases where the person had already lodged an asylum application and had not appeared for the personal interview, the Territorial Commission may have suspended the procedure on the basis that the person is unreachable (*irreperibile*).[423] He or she may request a new interview with the Territorial Commission if a final decision has not already been taken after the expiry of 12 months from the suspension of the procedure. If the procedure has been concluded, the new application will be considered a Subsequent Application.

418 According to Articles 13 and 23(1) Reception Decree, the withdrawal of reception conditions can be decided when the asylum seeker leaves the centre without notifying the competent Prefecture. See also ASGI, *Il sistema Dublino e l'Italia, un rapporto in bilico*, March 2015.

419 Swiss Refugee Council, Reception conditions in Italy: Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, January 2020, available at: https://bit.ly/3cSzToZ.

420 Danish Refugee Council and Swiss Refugee Council, *Mutual Trust is still not enough*, December 2018.

421 For more details, see ASGI, *Il sistema Dublino e l'Italia, un rapporto in bilico*, 2015, available in Italian at: https://bit.ly/3lE3GrH, 28.

422 Article 13 Dublin III Regulation.

423 Article 18(1)(c) Dublin III Regulation.

- In "take back" cases where the person's asylum application in Italy has already been rejected by the Territorial Commission,[424] if the applicant has been notified of the decision and lodged no appeal, he or she may be issued an expulsion order and be placed in a CPR. According to the notification procedure (see Regular Procedure: General), the same could happen even in case the applicant had not been directly notified of the decision, since in case the applicant is deemed unreachable (*irreperibile*), the Territorial Commission notifies the decision by sending it to the competent Questura and notification is deemed to be complete within 20 days of the transmission of the decision to the Questura.[425]

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

Article 29 of the Procedure Decree sets out the grounds for inadmissibility. Decree Law 130/2020 has amended Article 29-bis introduced by Decree Law 113/2018 to the Procedure Decree, setting out an additional inadmissibility ground (see ground 4).

The Territorial Commission may declare an asylum application inadmissible where the applicant:

1. Has already been recognised refugee or subsidiary protection status[426] by a state party according to the 1951 Refugee Convention and can still enjoy such projection;[427]
2. Has made a Subsequent Application after a decision has been taken by the Territorial Commission, without presenting new elements concerning his or her personal condition or the situation in his or her country of origin;[428]
3. Has made a Subsequent Application during the execution of an imminent removal order (Article 29-bis).[429]
4. Has made a **subsequent application** after the previous application has been terminated by the Territorial Commission after the expiry of 12 months from suspension on the basis that the applicant was unreachable (*irreperibile*) for unjustified leaving of the reception or detention centres and failure to attend the hearing (art.23 bis Procedure Decree). In this case the President can declare the application inadmissible by evaluating reasons for being unreachable.[430]

The President of the Territorial Commission shall conduct a preliminary assessment of the admissibility of the application, to ascertain whether new relevant elements have emerged to the granting of international protection.[431]

If the applicant has already been recognised as a refugee or subsidiary protection status holder, the law provides that the President of the Territorial Commission shall set the hearing of the applicant.[432]

In case of a first subsequent application made during the execution of an imminent removal order, the Procedure Decree now provides that the application must be immediately sent to the President of the competent Territorial Commission, who must conduct a preliminary assessment of the admissibility of the application, within three days, while assessing the risks of direct and indirect refoulement. The application

424 Article 18(1)(d) Dublin III Regulation.
425 Article 11(3-ter) and (3-quater) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.
426 Art. 29 (1)(a) as amended by Law 23 dicembre 2021, n. 238 (in G.U. 17/01/2022, n.12) includes subsidiary protection holders.
427 Article 29(1)(a) Procedure Decree.
428 Article 29(1)(b) Procedure Decree.
429 Article 29-bis Procedure Decree, inserted by Article 9 Decree Law 113/2018 and L 132/2018, amended by Decree Law 130/2020 and L. 173/2020.
430 Article 23 bis (2) Procedure Decree.
431 Article 29(1-bis) Procedure Decree, inserted by the Reception Decree.
432 Article 29 (1 bis) Procedure Decree.

is declared inadmissible in case no new elements have been added, pursuant to article 29, paragraph 1, letter b).

During 2019, the previous formulation of the disposition had determined, following a Circular from the National Commission, an illegitimate omission of the preliminary examination by the competent Territorial Commission, as Questure automatically declared the inadmissibility of such subsequent applications, inter alia by interpreting the execution phase of a removal order in a broad way. Some rulings of national courts had clarified that this application was contrary to Article 40 of the recast Asylum Procedure Directive.[433]

With the amendments made by Decree Law 130/2020, the law now clarifies that the inadmissibility declaration falls under the responsibility of the Territorial Commission. However, the exclusive role reserved for the President of the Territorial Commission, and not for the Territorial Commission itself, appears inconsistent with the Procedure Decree.[434]

In this regard, the CNDA Circular of 3 November 2020refers the need to transmit documents to the Commission that assesses the inadmissibility. [435] The subsequent MOI circular of 13 November 2020 contains an informative annex for applicants, which specifies that the President carries out a preliminary examination but that the Territorial Commission takes the decision on inadmissibility.[436]

ASGI is of the opinion that, even after the reform, Article 29-bis of the Procedure Decree is still likely to violate the recast Asylum Procedures Directive, as the lodging of a subsequent application for the sole purpose of delaying or frustrating removal is not among the grounds of inadmissibility in Article 33(2) of the Directive. (see subsequent application). The provision still does not clarify which phase is considered the execution of an imminent removal order.[437] Moreover, worryingly, the law now provides that in the event of an application declared inadmissible, the applicant can be detained.[438] (see Detention).

No suspensive effect is recognized to the appeal including a suspensive request in case of a decision that declares inadmissible, for the second time, the asylum application pursuant to article 29, (1) b), or declaring the asylum application inadmissible pursuant to article 29-bis of the Procedure Decree. [439]

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

☐ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure? Depending on ground
   - ❖ If so, are questions limited to nationality, identity, travel route? ☐ Yes ☒ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

The law does not draw a distinction between the interview conducted in the regular procedure and the one applicable in cases of inadmissibility. However, following Decree Law 113/2018, implemented by L

433 Civil Court of Milan, decision of 13 November 2019 ordered the competent Territorial Commission to conduct the preliminary examination of a subsequent application deemed inadmissible automatically by the Questura, disapplying the Article 29bis of the Procedure Decree considered not in accordance with Article 40 of the recast Asylum Procedure Directive.

434 It appears not consistent with the provision of Articles 4 and 29 of the Procedure Decree.

435 CNDA Circular no. 8414 of 3 November 2020.

436 MOI Circular no. 79839 of 13 November 2020.

437 The Court of Cassation will rule on this issue following the order no. 11660/2020.

438 Article 6 (2, a bis) Reception Decree, as amended by Article 3 (3) Decree Law 130/2020 and L. 173/2020. According to Decree Law 130/2020 the provision applies in the limits of available places in CPRs.

439 Article 35 bis (4) Procedure Decree.

132/2018, it is possible for certain Subsequent Applications to be automatically dismissed as inadmissible without an interview.

3.3. Appeal

Indicators: Admissibility Procedure: Appeal
☐ Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision? ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☐ Yes ☐ Some grounds ☒ No

For applications dismissed as inadmissible, the time limit for appealing a negative decision is 30 days, as in the Regular Procedure: Appeal. However, the appeal has no automatic suspensive effect.[440]

3.4. Legal assistance

The rules and criteria for legal assistance are the same as in the Regular Procedure: Legal Assistance.

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☒ Yes ☐ No
2. Where is the border procedure mostly carried out? ☐ Air border ☐ Land border ☒ Sea border
3. Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No
4. Is there a maximum time limit for a first instance decision laid down in the law? ☒ Yes ☐ No
   - ❖ If yes, what is the maximum time limit? 9 days
5. Is the asylum seeker considered to have entered the national territory during the border procedure? ☐ Yes ☒ No

Decree Law 113/2018 amended the Procedure Decree introducing a border procedure, applicable in border areas and transit zones. Decree Law 130/2020 and L 173/2020 - not changing the substance of the procedure - have amended the legal provision.[441] The law still refers to the issuance of a MoI decree, which was issued on August 5, 2019 and published on 7 September 2019, for the definition and implementation of the procedure.[442]

The MoI Decree designated the transit and border areas where the accelerated procedure applies.[443]

The decree does not provide any definition of the border and transit areas as it only establishes that the border or transit areas are identified in those already existing in the following provinces:

- ❖ Trieste and Gorizia in the north-east of the country;
- ❖ Crotone, Cosenza, Matera, Taranto, Lecce and Brindisi in the south;
- ❖ Caltanissetta, Ragusa, Siracusa, Catania, Messina, Trapani and Agrigento in Sicily;
- ❖ Cagliari in Sardinia.[444]

440 Article 35-bis(3) Procedure Decree, as amended by Decree Law 113/2018 and L 132/2018.
441 Article 28-bis (2)(b) Procedure Decree, as amended by Decree Law 130/2020 and L 173/2020
442 MoI Decree, 5 August 2019, published on Gazzetta Ufficiale as of 7 September 2019: https://bit.ly/3e8wXES.
443 Article 28 bis (1) (1-ter) and (1 – quater) of the Procedure Decree.
444 Moi Decree 5 August 2019, Article 2.

Many of these areas correspond to hotspots (Taranto, Messina and Agrigento (Lampedusa hotspot), or places affected by landings, such as Cagliari, or close to CPR (pre-removal detention centres such as in Gorizia and Trieste, Brindisi, Trapani, Caltanissetta.

Out of the five Territorial Commissions foreseen by the amended Procedure Decree to examine asylum applications subject to the border procedure[445] the MoI Decree has created only two new sections of Territorial Commissions: Matera (section of Bari) and Ragusa (section of Syracuse), therefore assigning to the Territorial Commissions already competent for the border or transit areas, the task of examining the related applications - where the conditions exist - with an accelerated procedure.

Under the border procedure, the entire examination of the asylum application can take place directly at the border area or in the transit zone.[446]

The border procedure may be applied where the applicant makes an application directly at the designated border areas or transit zones after being apprehended for evading or attempting to evade controls.

The border procedure under Article 28-bis(2)(b) of the Procedure Decree follows the same rules as the 9-day Accelerated Procedure relating to applications made from CPR or hotspots under Article 28-bis (2):

- (a), for the applicant coming from a safe country of origin, (28-bis (2)
- c), applications manifestly unfounded, (28-bis (2)
- (d) and applications submitted in order to avoid an imminent removal, (28-bis (2) (e).

Upon receipt of the application, the Questura immediately transmits the necessary documentation to the Territorial Commission, which must take steps for the personal interview within 7 days of the receipt of the documentation. The decision must be taken within the following 2 days.[447]

In two circulars issued on 16 October 2019 and 18 October 2019,[448] the MoI gave directives for the application of the border procedure and it attached the specific C3 form to be used to register the asylum application in these cases.

In accordance with the speed imposed by the procedure, the Circulars state that the application for international protection presented at the border and transit areas has to be formalised by the competent Questura at the time of identification connected to the illegal entry. Also, even if the law provides that the President of the Territorial Commission is responsible to identify the cases for accelerated procedures on the basis of the documentation provided,[449] the Circulars establish that, following the formalisation, the Questura informs the competent Territorial Commission about the application of the border procedure and that the latter, via telephone, fixes the hearing date within 7 days.[450] The hearing date is immediately notified to the applicant together with the delivery of the C3.

Circulars expressly excluded the application of the border procedure for attempting to avoid border controls to people rescued at sea following SAR operations and to those who spontaneously turn to the authorities to seek asylum without having been apprehended at the time of landing or immediately afterwards.

Article 28-bis (6) of the Procedure Decree as amended by Decree Law 130/2020 and L. 173/2020 expressly excludes from accelerated procedures, including the border procedure:

- unaccompanied minors and

445 Article 28 bis (4) Procedure Decree.
446 Article 28-bis(2)(2) Procedure Decree, as amended by Decree Law 130/2020.
447 Article 28-bis(2) (b) Procedure Decree as amended by Decree Law 130/2020 and L 173/2020.
448 MoI Circular, 16 October 2019 available at: https://bit.ly/3cYKrTs; MOI Circular, 18 October 2019, available at: https://bit.ly/3cZWXSL.
449 Article 28 (1 bis) Procedure decree.
450 Pursuant to Article 28 bis (1-ter).

- ❖ people with special needs, who should coincide with vulnerable people as identified by Article 17 of the Reception Decree (see Accelerated procedure).

The circulars issued in 2019 authorised the establishment of “mobile units” within the territorial commissions in order to carry out the hearing at the border offices. The Circulars assure the availability of accommodations for asylum seekers subject to the border procedure within the centres existing in the provinces identified as transit or border areas by the MoI decree 5 August 2019.

ASGI already underlined how the manner in which the provision is worded could allow for automatic application of accelerated border procedure to persons seeking asylum at the border as it makes its application solely contingent on the person having tried to evade controls. In this sense the provision does not comply with Article 43 the Asylum Procedures Directive, as the attempt to evade border controls is not included in the acceleration grounds laid down in Article 31(8) of the Directive which could lead to the application of a border procedure.

Also, the requirement of Article 43 of the Directive to allow the applicant to enter the territory if the determining authority has not taken a decision within 4 weeks has not been incorporated in the Procedure Decree even after the amendments made by Decree Law 130/2020. The Territorial Commission maintains the possibility of extending the duration of the procedure – while the applicant would remain at the border or in the transit zone – to a maximum of 18 months to ensure an adequate examination of the application.[451]

Moreover, according to ASGI, the way the Moi Decree has been drafted, adds other critical issues to the legal framework of the border procedure as the new provisions, referring in a complete generic way to the "transit areas or border areas identified in those existing in the provinces" and not to demarcated areas, such as ports or airport areas or other places coinciding with physical borders with extra EU countries, seem to conflict with the rules of the European Union and therefore to be illegitimate.[452]

The law provides for specific information obligation to be carried out before the formalisation of the asylum application under the border procedure. The dedicated C3 merely indicates the application of the border procedure in Italian and the reasons why it is applied, also informing about the exclusion from the accelerated procedure for vulnerable people.

Among the first cases of border procedure’s applications in Trieste, as of December 2019, three Pakistani asylum seekers have been subject to the accelerated procedure simply because they encountered police not far away from the Slovenian border.

According to the time frame set by the law, their hearing before the Territorial Commission took place after only 6 days from their arrival. However, the Commission decided not to recognize them any protection but decided to apply the ordinary procedure. The ordinary procedure was applied founding that the three asylum seekers had not evaded or tried to evade any control. One of them, in particular, was seriously wounded in the foot, he could not run away and he went to meet the police officers hoping they could help him. Furthermore, all of them told that, in their way from Slovenia, they had always walked straight without having to pass any checks and that they had realised they had crossed the border only from the licence plates of the cars. The Territorial Commission of Trieste observed that the behaviour was not compatible with the intention to avoid border controls but nothing was observed about the fact that the border between Slovenia and Italy is purely internal to the European Union and no suspension of the Schengen Agreement was in place when the applicants crossed the internal border.
Thanks to the TC’s decision, the appeal was filed under the ordinary procedure, granting them with automatic suspensive effect. The acceleration of the procedure, however, prevented the applicants from promptly obtaining the useful documentation to prove their origin and their credibility.

451 Article 28-bis(5) Procedure Decree, citing Article 27(3) and (3-bis).
452 ASGI note, Le zone di transito e di frontiera, September 2019, available at: https://bit.ly/3gmYOmX.

After those cases, probably due to the implementation of readmissions to Slovenia at the eastern border, no more border procedures were applied to people coming from the eastern land border. Nevertheless, according to ASGI, border procedure should not apply at internal borders.

As for the maritime border, in 2020, the procedure was applied to some Tunisian citizens rescued at sea.

4.2. Personal interview

The same guarantees are those applied during the Regular Procedure: Personal Interview are applied.

4.3. Appeal

Indicators: Border Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the border procedure?

	☒ Yes	☐ No
❖ If yes, is it	☒ Judicial	☐ Administrative
❖ If yes, is it suspensive	☐ Yes	☐ Some grounds ☒ No

An appeal against a negative decision in the border procedure has to be lodged before the Civil Court within 15 days.[453] However, the appeal does not have automatic suspensive effect.[454]

4.4. Legal assistance

The rules and criteria for legal assistance are the same as in the Regular Procedure: Legal Assistance.

5. Accelerated procedure

5.1. General (scope, grounds for accelerated procedures, time limits)

Article 28-bis of the Procedure Decree, entirely amended by Decree Law 130/2020, implemented by L 173/2020, provides for different accelerated procedures that foresee different time limits following the immediate transmission of the file from the Questura to the Territorial Commission, depending on the applicable ground:

5-day procedure: The Territorial Commission takes a decision within 5 days of the receipt of the file where:[455]

1. The applicant makes a Subsequent Application without presenting new elements.[456]In this case an audition can be omitted.
2. The asylum application is made by a person under investigation for some of the crimes preventing the recognition of international protection pursuant to Article 12 (1, c) and 16 (1, d bis) of the Qualifications Decree,[457] when grounds for detention raise among those provided by Article 6 (2, a, b, c) of the Reception Decree,[458] or by a person convicted - even not definitively - for one of those crimes. In this case the applicant must be heard.

453 Article 35-bis(2) Procedure Decree, as amended by Decree Law 130/2020 and L 173/2020.
454 Article 35-bis(3) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017, as amended by Article 9 Decree Law 113/2018 and L 132/2018.
455 Article 28-bis(1) Procedure Decree, as amended by Decree Law 130/2020
456 The law refers to the subsequent application ruled by Article 29 (1 b) Procedure Decree, meaning the case where the applicant submits identical asylum request after a decision has been taken without adding new elements.
457 This provision resumes the case before ruled by Article 32 (1 bis) of the Procedure Decree, the so-called immediate procedure, now repealed by Decree Law 130/2020 and L 173/2020.
458 If the person is only investigated the law requires that also those grounds for detention arise. The law only recalls those grounds not requesting that the person is in concrete detained.

9-day procedure: The Territorial Commission takes steps to organise the personal interview within 7 days of receipt of the file and decides within the 2 following days where:[459]

3. The asylum application is made by a person detained in a CPR or in a hotspot or first reception centre;[460]
4. The asylum application is made at the border or in transit areas and is subject to the Border Procedure, i.e. following apprehension for evading or attempting to evade border controls;
5. The applicant comes from a Safe Country of Origin;[461]
6. The application is manifestly unfounded.[462] (see Regular Procedure: General);
7. The applicant made an application after being apprehended for irregular stay, with the sole purpose to delay or frustrate the issuance or enforcement of a removal order.

Regarding the "new" accelerated procedure for persons investigated or convicted for some crimes which may trigger to the exclusion of international protection, some issues of consistency raise as already underlined regarding the old Article 32 (1 -bis) of the Procedure Decree, now repealed: the procedure reserves a lesser treatment to persons not yet sentenced, contrary to the principle of innocence set out in Article 27 of the Italian Constitution. Furthermore, after the extension already made with the Decree Law 113/2018 and confirmed by the Decree Law 130/2020, the group of crimes that can lead to the exclusion of international protection also includes minor offences that do not seem to be a danger to public order and state security. In this sense the provision also seems incompatible with the recast Asylum Procedures Directive, Article 31(8) according to which an accelerated procedure can be applied to people considered dangerous for the public order according to the domestic law.

Regarding the accelerate border procedure, as mentioned (see Border procedure) the requirement of Article 43 of the Directive to allow the applicant to enter the territory if the determining authority has not taken a decision within 4 weeks has not been incorporated in the Procedure Decree even after the amendments made by Decree Law 130/2020.

Also, the manner in which the provision is worded could allow for the automatic application of the accelerated border procedure to persons seeking asylum at the border as it makes its application solely contingent on the person having tried to evade controls. In this sense the provision does not comply with Article 43 the Asylum Procedures Directive, as the attempt to evade border controls is not included in the acceleration grounds laid down in Article 31(8) of the Directive which could lead to the application of a border procedure.

According to Article 28-bis(5) of the Procedure Decree, the Territorial Commission may exceed the above-mentioned time limits where necessary to ensure an adequate and complete examination of the asylum application, subject to a maximum time limit of 18 months.[463] Where the application is made by the applicant detained in CPR or a hotspot or first reception centre, or by a person committed or investigated for crimes allowing the 5 days procedure, the maximum duration of the procedure cannot exceed 6 months.[464]

According to Article 28-bis (6) of the Procedure Decree, the accelerated procedure does not apply to unaccompanied minors and to people with special needs: in this regard, the rule refers to Article 17 of the Reception Decree which, while distinguishing people with special needs in the context of vulnerable people, does not provide an exact definition of this category. It therefore seems reasonable to extend the exclusion from the accelerated procedure to the entire category of vulnerable people.

459 Article 28 bis (2) as amended by Decree Law 130/2020 and L 173/2020.
460 In this case, when the person is under investigation or conviction for the offenses referred to in Article 28 bis (1) Procedure Decree, this 5-day procedure applies.
461 In this case the law, as amended by Decree Law 130/2020, does no longer provide that the procedure can be done at the border or in transit areas.
462 Pursuant to Article 28 ter Procedure Decree.
463 Article 28-bis(5) Procedure Decree, citing Article 27(3)-(3-bis).
464 *Ibid*.

The law does not clarify whether the procedure can be declared accelerated even if the time limits set out in the law have not been respected.

5.2. Personal interview

The same guarantees are those applied during the Regular Procedure: Personal Interview are applied.

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
   ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☐ Yes ☒ Some grounds ☐ No

The time limits for appealing a negative decision depend on the type of accelerated procedure applied by the Territorial Commission:

Time limits for appeals in accelerated procedures: Article 35-bis(2) Procedure Decree[465]		
Ground for accelerated procedure	Legal basis	Days
Safe country of origin	Article 28-bis(2)	15
Subsequent application without new elements	Article 28-bis(1) and 29 (1,b)	15
Border procedure	Article 28-bis(2) (b)	15
Manifestly unfounded application	Articles 28-bis(2)(d) and 28-ter	15
Application after apprehension for irregular entry with the sole purpose of frustrating issuance or execution of removal order	Article 28-bis(2)(e)	15
Applicant detained in a CPR, hotspot or first reception centre	Article 28-bis(2) (a)	15
Applicant investigated or convicted for some of the crimes preventing the recognition of international protection	Article 28-bis (1)	15

The time limits for appealing a negative decision under Article 35-bis(2) and corresponding provisions of the Procedure Decree raise issues of consistency following the 2018 and 2020 reform.

The Court of Cassation, with Decision no. 18518 of 30 June 2021,[466] ruled that the time limit of 15 days to appeal is applicable only in case the accelerated procedure was actually applied. The Court clarified that the subsistence of the legal grounds to apply the accelerated procedure is not – by itself – sufficient to apply the 15 days' time limit if the accelerated procedure was not applied in practice, and a decision on the merits was issued after an ordinary procedure.

The automatic suspensive effect of the appeal depends on the ground for applying the accelerated procedure.[467] The appeal in the accelerated procedure generally has no automatic suspensive effect, except for applications subject to the Border Procedure.

5.4. Legal assistance

The same rules apply as under the regular procedure.

465 Article 35 bis Procedure Decree as amended by Decree Law 130/2020 and L 173/2020.
466 Sentenza Cassazione Civile n. 18518, 30 June 2021, available in Italian at: https://bit.ly/3P0hmuy.
467 Article 35-bis(3) Procedure Decree, as amended by Decree Law 130/2020 and L 173/2020.

6. The immediate procedure

The immediate procedure introduced by Decree Law 113/2018 has been repealed by Decree Law 130/2020 and incorporated, with some changes, in the 5 days accelerated procedure, now ruled by Article 28-bis (1) b) applicable where the applicant:[468]

- Is subject to investigation for crimes which may trigger exclusion from international protection, and the Grounds for Detention in a CPR apply;[469]
- Has been convicted, including by a non-definitive judgement, of crimes which may trigger exclusion from international protection.

Under the immediate procedure, the Questura promptly notifies the Territorial Commission, which "immediately" proceeds to an interview with the asylum seeker and takes a decision accepting or rejecting the application. The law does not longer provide for the possibility for the Territorial Commission to suspend the decision. [470]

In case of rejection, the law does no longer provide that the applicant has an obligation to leave the national territory, but in case of appeal the suspensive effect is not automatic and it has to be requested.[471] The law does not recognise suspensive effect to the appeal even if it includes a suspensive request. Moreover, according to the amended Procedure Decree (Article 35 bis (4) in case of appeal even if the suspensive request is accepted by Court the law does not include this case among the cases where a permit to stay can be issued to the applicant (See Article 35 bis (4) according to which this happens only in cases regulated by Article 35 bis (3) letters b) c) and d) and not d bis).

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☐ Yes ☐ For certain categories ☒ No
   - If for certain categories, specify which:

2. Does the law provide for an identification mechanism for unaccompanied children? ☐ Yes ☒ No

The Procedure Decree describes the following groups as vulnerable: minors, unaccompanied minors, pregnant women, single parents with minor children, victims of trafficking, disabled, elderly people, persons affected by serious illness or mental disorders; persons for whom has been proved they have experienced torture, rape or other serious forms of psychological, physical or sexual violence; victims of genital mutilation.[472]

1.1. Screening of vulnerability

468 Article 28-bis (1) (b) of the Procedure Decree, as amended by Decree Law 130/2020 and L 173/2020.

469 The crimes are those cited by Articles 12(1)(c) and 16 (1)(d-bis) Qualification Decree, which include some serious crimes such as devastation, looting, massacre, civil war, maffia related crimes, murder, extortion, robbery, kidnapping even for the purpose of extortion, terrorism, selling or smuggling weapons, drug dealing, slavery, child prostitution, child pornography, trafficking in human beings, purchase and sale of slaves, sexual violence. Decree Law 113/2018 has also included other crimes excluding the recognition of international protection which are: violence or threat to a public official; serious personal injury; female genital mutilation; serious personal injury to a public official during sporting events; theft if the person wears weapons or narcotics, without using them; home theft. The grounds for detention referred to are those in Article 6(2)(a), (b) and (c) Reception Decree.

470 Before the Decree Law 130/2020 this possibility was provided by Article 32(1-bis) Procedure Decree, now repealed.

471 Article 35 bis (3)(d-bis) and (4) of the Procedure Decree as amended by Decree Law 130/2020 and L 173/2020.

472 Article 2(1)(h-bis) Procedure Decree.

There is no procedure defined in law for the identification of vulnerable persons. However, the Ministry of Health published guidelines for assistance, rehabilitation and treatment of psychological disorders of beneficiaries of international protection victims of torture, rape or other serious forms of psychological, physical or sexual violence. The guidelines highlight the importance of multidisciplinary teams and synergies between local health services and all actors coming into contact with asylum seekers (see Content of Protection: Health Care).

The identification of victims of torture or extreme violence may occur at any stage of the asylum procedure by lawyers, competent authorities, professional staff working in reception centres and specialised NGOs.

The Territorial Commission, on the basis of elements provided by the applicant, may also request a medical examination aimed at ascertaining the effects of persecution or serious harm suffered by the applicants, to be carried out in accordance with the aforementioned guidelines.[473]

Children

The protection of asylum-seeking children has been strengthened with the adoption of LD 18/2014 and L 47/2017. Article 3(5)(e) LD 18/2014 provides the obligation to take into account the level of maturity and the personal development of the child while evaluating his or her credibility, while Article 19(2-bis) expressly recalls and prioritises the principle of the best interests of the child.

Any action necessary to identify the family members of the unaccompanied minor seeking asylum is promptly put in place to ensure the right to family reunification. The Ministry of Interior shall enter into agreements with international organisations, intergovernmental organisations and humanitarian associations, on the basis of the available resources of the National Fund for asylum policies and services, to implement programs directed to find the family members. The researches and the programs directed to find such family members are conducted in the superior interest of the minor and with the duty to ensure the absolute privacy and, therefore, to guarantee the security of the applicant and of his or her relatives.[474]

A member of the Territorial Commission, specifically skilled for that purpose, interviews the minor in the presence of the parents or the legal guardian and the supporting personnel providing specific assistance to the minor. For justified reasons, the Territorial Commission may proceed to interview the minor again in the presence of the supporting personnel, even without the presence of the parent or the legal guardian, if considered necessary in relation of the personal situation of the minor concerned, the degree of maturity and development, in the light of the minor's best interests.[475]

Survivors of torture

During the personal interview, if the members of the Territorial Commissions suspect that the asylum seeker may be a torture survivor, they may refer him or her to specialised services and suspend the interview.

Since April 2016, MSF started a project in Rome, **Lazio** in collaboration with ASGI and opened a centre specialising in the rehabilitation of victims of torture.[476] The project is intended to protect but also to assist in the identification of victims of torture who, without proper legal support, are unlikely to be treated as vulnerable people.

The Reception Decree provides that persons for whom has been proved they have experienced torture, rape or other serious forms of violence shall have access to appropriate medical and psychological

473 Article 8(3-bis) Qualification Decree.
474 Article 19(7) Reception Decree.
475 Article 13(3) Procedure Decree.
476 See Redattore Sociale, 'Migranti, apre a Roma il centro di riabilitazione per le vittime di tortura', 4 April 2016, available in Italian at: http://bit.ly/1ShpCGG.

assistance and care on the basis of Guidelines that will be issued by the Ministry of Health, as mentioned above. To this end, health personnel shall receive appropriate training and must ensure privacy.[477]

Victims of trafficking

Where during the examination procedure, well-founded reasons arise to believe the applicant has been a victim of trafficking, the Territorial Commissions may suspend the procedure and inform the Questura, the Prosecutor's office or NGOs providing assistance to victims of human trafficking thereof.[478] LD 24/2014, adopted in March 2014 for the transposition of the Anti-Trafficking Directive, foresees that a referral mechanism should be put in place in order to coordinate the two protection mechanisms established for victims of trafficking, namely the protection systems for asylum seekers and beneficiaries of international protection, coordinated at a central level, and the protection system for victims of trafficking established at a territorial level.[479]

Giving effect to the legal provision, in 2017 the CNDA and UNHCR published detailed guidelines for the Local Commissions on the identification of victims of trafficking among applicants for international protection and the referral mechanism.[480]

In January 2021, UNHCR Italy issued its Guidelines addressed at Territorial Commissions for the recognition of international protection, [481] aimed at contributing to the correct identification of victims of trafficking in human beings in the context of the procedures for assessing asylum applications, and at ensuring they are given them assistance and protection.[482]

The Reception Decree clarifies that trafficked asylum seekers shall be channelled into a special programme of social assistance and integration.[483] Recognised victims of trafficking can also be accommodated in second-line SIPROIMI reception facilities but only after they have been recognised international protected (see Special Reception Needs).

1.2. Age assessment of unaccompanied children

The Procedure Decree includes a specific provision concerning the identification of unaccompanied children. It foresees that in case of doubt on the age of the asylum seeker, unaccompanied children can be subjected to an age assessment through non-invasive examinations.[484] The age assessment can be triggered by the competent authorities at any stage of the asylum procedure. However, before subjecting a young person to a medical examination, it is mandatory to seek the consent of the concerned unaccompanied child or of his or her legal guardian.[485] The refusal by the applicant to undertake the age assessment has no negative consequences on the examination of the asylum application.

On 6 January 2017, Decree 234/2016 adopted on 10 November 2016 entered into force. The Decree lays down a procedure for determining the age of unaccompanied children victims of trafficking, in implementation of Article 4 LD 24/2014.

L 47/2017 has laid down rules on age assessment which apply to all unaccompanied children.[486] The Law provides that within 120 days of its entry into force, a decree of the President of the Council of Ministers should be adopted regulating the interview with the minor aiming at providing further details on his family

477 Article 17(8) Reception Decree.
478 Article 32(3-bis) Procedure Decree.
479 Article 13 L 228/2003; Article 18 TUI.
480 CNDA and UNHCR, *L'identificazione delle vittime di trata tra i richiedenti protezione internazionale e procedure di referral*, September 2017, available in Italian at: http://bit.ly/2FttAeK.
481 UNHCR Guidelines "L'identificazione delle vittime di tratta tra i richiedenti protezione internazionale e procedure di referral" available at https://bit.ly/3KwhQoD
482 EC, EMN Bulletin, May 2021, available at: https://bit.ly/3s2wrBY, 16.
483 Article 17(2) Reception Decree in conjunction with Article 18(3-bis) LD 286/1998 and LD 24/2014.
484 Article 19(2) Procedure Decree.
485 *Ibid.*
486 Article 19-bis Reception Decree, inserted by Article 5 L 47/2017.

and personal history and bringing out any other useful element relevant to his/her protection.[487] However, to date, such a decree has not yet been adopted.
As reported by the Guarantor for the rights of detained persons in his last report to Parliament, four years after the entry into force of L. 47/2017, the procedure established for the age assessment of unaccompanied foreign minors still requires interventions for its full and timely application.[488]

Identification documents and methods of assessing age

The law states that, in the absence of identification documents,[489] and in case of doubts about the person's age, the Public Prosecutor's office at the Juvenile Court may order a social / medical examination.[490] This provision may put an end to the critical practice of Questure which directly sent children to hospital facilities without any order by judicial authorities, even when children had valid documents.[491]

The person is informed in a language he or she can understand taking into account his or her degree of literacy and maturity, with the assistance of a cultural mediator, of the fact that an age assessment will be conducted through a social / medical examination. The guardian is also informed of the process.

The examination is conducted under a multidisciplinary approach by appropriately trained professionals, using the least invasive methods possible and respecting the integrity of the person.[492]

Pending the outcome of the procedure, the applicant benefits from the provisions on reception of unaccompanied children.[493] The benefit of the doubt shall be granted if doubts persist following the examination.[494]

The law also states that the final decision on the age assessment, taken by the Juvenile Court, is notified to the child and to the guardian or the person exercising guardianship and must indicate the margin of error.[495]

Currently, however, according to ASGI's experience, L 47/2017 is not applied uniformly on the national territory. In some areas, the multidisciplinary teams required by law have been established- Consequently, age assessment is still conducted through wrist X-ray, with results not indicating the margin of error.[496]
In 2020, a national protocol on multidisciplinary age assessment was signed by the Conference State region,[497] providing for uniform criteria and inviting to the conclusion of local protocols.
In some areas, starting from 2020, the recommended local protocols were also signed; as an example, this was the case in Milan,[498] Messina,[499] and Ancona.[500]

The age assessment is often required even in presence of identity documents and even when there is no reasonable doubt about the minor age. However, the law does not provide the timing for the decision and, pending the results, the minor is often treated and accommodated as an adult, therefore also in situations

487 Article 5 L 47/2017.
488 Guarantor for the rights of detained persons, Report to Parliament, June 2021, available at: https://bit.ly/35UHwx5, 229.
489 Article 19-bis(3) Reception Decree.
490 Article 19-bis(4) Reception Decree.
491 Elena Rozzi, 'L'Italia, un modello per la protezione dei minori stranieri non accompagnati a livello europeo?, in Il diritto d'asilo', Fondazione Migrantes, February 2018.
492 Article 19-bis(5) Reception Decree.
493 Article 19-bis(6) Reception Decree.
494 Article 19-bis(8) Reception Decree.
495 Article 19-bis(7) Reception Decree.
496 The different praxis not always in conformity with law have been reported by UNHCR in a report of 2020 available in Italian at: https://bit.ly/3MQDMwk.
497 Available in Italian at: https://bit.ly/384KZtJ.
498 Milan Protocol available in Italian at: https://bit.ly/3LYxqLr.
499 Available in Italian at: https://bit.ly/3OVDUfP.
500 Available in Italian at: https://bit.ly/37YepKj.

of promiscuity with adults. Furthermore, the child is often not informed and involved actively in the procedures and he or she is not aware of the reasons for the examinations.
On the other hand, a certainly positive element consists in the decrease of cases in which age assessment is requested by authorities not entitled to carry out such proceedings.

As reported by ASGI, age assessment procedures were not carried out on board the quarantine ships. The Questura of Palermo stated that for "obvious reasons" this could not happen on ships.[501]

The Juvenile Court of Palermo in response to the request for information on the number of minors transiting on the quarantine vessels and the number of corresponding guardians appointed for unaccompanied minors, declared that up to the date of 8 October 2020, such minors were not communicated to the judicial authority "if not at the end of the quarantine" period. As reported by the Court, a MOI circular dated 21 October would have excluded boarding of unaccompanied minors on quarantine ships.[502]

As mentioned, and reported by several organizations belonging to the network Tavolo Minori Migranti,[503] two directives diffused in **Friuli Venezia Giulia** region on 31 August and 21 December 2020 by the Public Prosecutor at the Juvenile Court of Trieste authorized - contrary to the guarantees enshrined in the Zampa Law (L 47/2017) - the security forces and the border authorities to consider migrants intercepted at the Italy-Slovenia border as adults in case the authorities themselves have no doubts about their adulthood, regardless of their eventual declaration of minor age and the consequent judicial review required by law. This gives a discretionary power to the authorities for the attribution of age to migrants and refugees subjected to border controls, which clearly contrasts with the provisions of the L 47/2017.[504] Through the implementation of this practice the informal readmission procedure to Slovenia was also applied to migrants declaring themselves as minors.

The Guarantor for the rights of detained persons who visited the border premises of the border police of Trieste and Gorizia in December 2020, reported that there were critical issues relating to the procedure for the age assessment of minors, which almost never respects the L. 47/2017 on unaccompanied foreign minors.[505]

According to testimonies collected by ASGI, even if readmission procedures were stopped from February 2021, "de visu" age assessment practices were still carried out as of July 2021 to identify – rectius to decide who could be identified as - minors at the eastern border.

As of September 2021, both in Friuli Venezia Giulia and in Apulia region, ASGI reported on various cases of minors who were asked to prove being underage with legalised birth certificates.

The application of this practice also had effects on the reception of many minors. As reported by Asgi, three foreign citizens who declared themselves minors were placed in the CARA of Gradisca from October 2020 to January 2021, together with adults, after being identified by the Police as adults, without starting any age assessment procedure. In the identification reports, where it is expressly mentioned the minor age declared by the migrants, the Police, referring to the aforementioned directives, assign a conventional

501 ASGI, Report: Il "modello emergenziale" delle navi quarantena: gli approfondimenti, le analisi, i dati e le principali criticità, April 2021, Available in Italian at: https://bit.ly/3f3HMKA.

502 Information collected by ASGI within the Inlimine project, available at: https://bit.ly/3c66k4W.

503 The "Tavolo Minori Migranti" is a un network coordinated by Save the Children, to which belong also AiBi, Amnesty International, Asgi, Caritas Italiana, Centro Astalli, CeSpi, CIR, CNCA, Defence for Children, Emergency, Intersos, Oxfam, Salesiani per il Sociale, SOS Villaggi dei bambini and Terre des Hommes. It's born after the approval of L. 47/2017 aiming at monitoring its full implementation regarding the effective defence of minors.

504 See Ansa, Migranti: 12 associazioni contestano Procura Minori Trieste, 10 February 2021, available at https://bit.ly/3uBXbIw; see also ASGI, "Accertamento dell'età, due direttive della Procura della Repubblica per i minori di Trieste in contrasto con la legge", available at: https://bit.ly/3hha0nL, 10 February 2021.

505 Guarantor for the rights of detained persons, report of 18 December 2020, available in Italian at: https://bit.ly/3tCXNwr.

date of birth on the basis of which the same is of an adult. In mid-January 2021, after a legal intervention with the support of ASGI, the three minors were transferred to facilities for unaccompanied minors.

During a visit to the First Aid and Reception Centre (*Centro di primo soccorso et di accoglienza*, CPSA) of Roma Capitale, a first reception centre for children in Rome, **Lazio**, carried out in December 2017, the Children's Ombudsman found that, after a first interview, the children were subjected to age assessment through medical examination in all cases where they had no identification document certifying their age, and then submitted to the photo-dactyloscopy surveys at the offices of the Scientific Police.[506]

In their final report of the programme jointly implemented, UNHCR and the Children's Ombudsman recommended to the authorities involved to proceed with the age assessment only when there is a well-founded doubt about the minor age, based on an individual and objective evaluation.[507]

In its report published in March 2019, the Children's Ombudsman pointed out that, according to the interviewed judges, the frequency of procedures for age assessment is still very low.[508]

Challenging age assessment

According to L 47/2017, the age assessment decision can be appealed, and any administrative or criminal procedure is suspended until the decision on the appeal.[509] Before this law, in the absence of a specific provision, children were often prevented from challenging the outcome of age assessments.

The ECtHR communicated a case against Italy on 14 February 2017 concerning alleged violations of Articles 3 and 8 ECHR, stemming from the absence of procedural guarantees in the age assessment procedure.[510]

In 2020, in at least 4 cases, the Juvenile Court of Trieste ordered to activate the procedure for the age assessment of the persons involved. The Court decided this on an appeal lodged by minors who had not been considered as such, who were placed in adult facilities and who were not moved away from there even if the bodies managing their accommodation in adult CAS asked for their urgent transfer The Court recognized the illegitimacy of the practice and sent the procedural documents to the local Juvenile Prosecutor's Office.

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?
   ☒ Yes ☐ For certain categories ☐ No
   - ❖ If for certain categories, specify which: Art. 17 of reception decree (142/2015) has a list of "vulnerable people" such as minors, unaccompanied minors, the disabled, the elderly, pregnant women, single parents with minor children, victims of trafficking in human beings, persons suffering from serious illnesses or mental disorders, persons found to have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence or violence related to sexual orientation or gender identity, victims of genital mutilation".

2.1. Adequate support during the interview

The Procedure Decree foresees the possibility for asylum seekers in a vulnerable condition to be assisted by supporting personnel during the personal interview even though the legal provision does not specify

506 Children's Ombudsman and UNHCR, *Minori stranieri non accompagnati: una valutazione partecipata dei bisogni - Relazione sulle visite nei centri*, May 2018, available in Italiian at: http://bit.ly/2TExUPE, 19.
507 UNHCR and the Children's Ombudsman, report, May 2019.
508 Children's Ombudman, *I movimenti dei minori stranieri non accompagnati alle frontiere settentrionali*, 29 March 2019, available in italian at: https://bit.ly/2v2oNt6, 29.
509 Article 19-bis(10) Reception Decree.
510 ECtHR, *Darboe and Camara v. Italy*, Application No 5797/17, Communicated 14 February 2017.

which kind of personnel.[511] During the personal interview, the applicant may be accompanied by social workers, medical doctors and/or psychologists.

According to Reception Decree, unaccompanied children can be assisted, in every state and degree of the procedure, by the presence of suitable persons indicated by the child, as well as groups, foundations, associations or NGOs with proven experience in the field of assistance to foreign minors and registered in the register referred to in Article 42 TUI, with the prior consent of the child, accredited by the relevant judicial or administrative authority.[512]

Where it emerges that asylum-seekers have been victims of slavery or trafficking in human beings, the Territorial Commission transmits the documents to police for the appropriate evaluations.[513]

2.2. Prioritisation and exemption from special procedures

Vulnerable persons are admitted to the prioritised procedure.[514] The Territorial Commission must schedule the applicant's interview "in the first available seat" when that applicant is deemed as vulnerable.[515] In practice, when the police have elements to believe that they are dealing with vulnerable cases, they inform the Territorial Commissions which fix the personal interview as soon as possible, prioritising their case over the other asylum seekers under the regular procedure. Moreover, this procedure is applied also in case the Territorial Commissions receive medico-legal reports from specialised NGOs, reception centres and Health centres.

Children can directly make an asylum application through their parents.[516]

Following the 2020 reform, the Procedure Decree exempts unaccompanied children and/or persons in need of special procedural guarantees from the accelerated procedure.[517]

Before the reform, in 2019, the MoI circulars issued on 16 October 2019[518] and on 18 October 2019[519], excluded from the application of the border procedure for attempting to avoid border controls, people rescued at sea following SAR operations, unaccompanied minors and vulnerable persons.

3. Use of medical reports

Indicators: Use of Medical Reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm? ☐ Yes ☐ In some cases ☒ No

2. Are medical reports taken into account when assessing the credibility of the applicant's statements? ☒ Yes ☐ No

The law contains no specific provision on the use of medical reports in support of the applicant's statements regarding past persecutions or serious harm. Nevertheless, the Qualification Decree states that the assessment of an application for international protection is to be carried out taking into account all the relevant documentation presented by the applicant, including information on whether the applicant has been or may be subject to persecution or serious harm.[520]

Moreover, a medico-legal report may attest the applicant's inability or unfitness to attend a personal interview. According to the Procedure Decree, the Territorial Commissions may omit the personal

511 Article 13(2) Procedure Decree.
512 Article 18(2-bis) Reception Decree.
513 Article 32(3-bis) Procedure Decree.
514 Article 28(2) (b) Procedure Decree.
515 Article 7(2) PD 21/2015.
516 Article 6(2) Procedure Decree.
517 Article 28 bis (6) Procedure Decree, as amended by Decree Law 130/2020 and L 173/2020.
518 MoI Circular, 16 October 2019 available in Italian at: https://bit.ly/3gltWmv.
519 MOI Circular, 18 October 2019, available in Italian at: https://bit.ly/3gjrlcU.
520 Article 3 Qualification Decree.

interview when the applicant is unable or unfit to face the interview as certified by a public health unit or a doctor working with the National Health System.[521] The applicant can also ask for the postponement of the personal interview providing the Territorial Commission with pertinent medical documentation.[522]

The Qualification Decree allows the Territorial Commission to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, religious, child-related or gender issues. Where the Territorial Commission deems it relevant for the assessment of the application, it may, subject to the applicant's consent, arrange for a medical examination of the applicant concerning signs that might indicate past persecution or serious harm according to the Guidelines issued by the Ministry of Health by decree on 3 April 2017 to implement Article 27(1-bis) of the Qualification Decree (see Content of Protection: Health Care).[523] When no medical examination is provided by the Territorial Commission, the applicants may, on their own initiative and at their own cost, arrange for such a medical examination and submit the results to the Territorial Commission for the examination of their applications.[524]

In practice, medico-legal reports are generally submitted to the Territorial Commissions by specialised NGOs, legal representatives and personnel working in the reception centres before, or sometimes during or after, the substantive interview at first instance. They may also be submitted to judicial authorities during the appeal stage.

The degree of consistency between the clinical evidence and the account of torture is assessed in accordance with the Guidelines of the Istanbul Protocol and recent specialised research.

The medical reports are provided to asylum seekers for free. NGOs may guarantee the support and medical assistance through *ad hoc* projects.

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?
   ☒ Yes ☐ No

The system of guardianship is not specific to the asylum procedure. A guardian is appointed when children do not have legal capacity and no parents or other relatives or persons who could exercise parental authority are present in the territory.[525] The guardian is responsible for the protection and the well-being of the child.

The Reception Decree, as amended by L 47/2017, provides that affective and psychological assistance is guaranteed to children in every state of the procedure, through the presence of suitable persons indicated by the child and authorised by the relevant authorities.[526] It also guarantees that the unaccompanied child has the right to participate, through a legal representative, in all judicial and administrative proceedings concerning him or her and to be heard on the merits of his or her case. To this end, the law also guarantees the presence of a cultural mediator.[527]

The individuals working with children shall be properly skilled or shall in any case receive a specific training. They also have the duty to respect the privacy rights in relation to the personal information and data of the minors.[528]

521 Article 12(2) Procedure Decree.
522 Article 5(4) PD 21/2015.
523 Article 27(1-bis) Qualification Decree.
524 Article 8(3-bis) Procedure Decree.
525 Article 343 et seq. Civil Code.
526 Article 18(2-bis) Reception Decree, inserted by L 47/2017.
527 Article 18(2-ter) Reception Decree, inserted by L 47/2017.
528 Article 18(5) Reception Decree.

The Reception Decree provides that the unaccompanied child can make an asylum application in person or through his or her legal guardian on the basis of the evaluation of the situation of the child concerned.[529]

4.1. Timing of appointment

The Reception Decree, as amended by LD 220/2017, which entered into force on 31 January 2018, provides that the public security authority must give immediate notice of the presence of an unaccompanied child to the Public Prosecutor at the Juvenile Court and to the Juvenile Court (*Tribunale per i minorenni*) for the appointment of a guardian.[530] The Juvenile Court is the sole competent authority following the 2017 reform.

An appeal against the appointment of the guardian is submitted to the Juvenile Court in collegial function. The judge issuing the decision of appointment cannot take part in the examination of the appeal.

Where a guardian has not yet been appointed, the manager of the reception centre is allowed to support the child for the lodging of the asylum application at the Questura.[531] As clarified by the CNDA, however, the guardian remains responsible for representing the child in the next steps of the procedure.[532]

4.2. Duties and qualifications of the guardian

According to the Procedure Decree, the guardian has the responsibility to assist the unaccompanied child during the entire asylum procedure, and even afterwards, in case the child receives a negative decision on the claim.[533] For this reason, the guardian escorts the child to the police, where he or she is fingerprinted if he or she is over 14, and assists the child in filling the form and lodge the asylum claim. The guardian also has a relevant role during the personal interview before the Territorial Commission, who cannot start the interview without his or her presence.[534] The law provides that a member of the Territorial Commission, specifically trained for that purpose, interviews the child in the presence of his or her parents or the guardian and the supporting personnel providing specific assistance to the child. For justified reasons, the Territorial Commission may proceed to interview again the child, even without the presence of the parent or the legal guardian, at the presence of supporting personnel, if considered necessary in relation of the personal situation of the children, his or her degree of maturity and development, and in line with his or her best interests.[535]

The guardian must be authorised by the Juvenile Court to make an appeal against a negative decision. The law does not foresee any specific provision concerning the possibility for unaccompanied children to lodge an appeal themselves, even though in theory the same provisions foreseen for all asylum seekers are also applicable to them.

Each guardian can be appointed for one child or for a maximum of three children.

To overcome existing deficiencies and lack of professionalism among guardians, L 47/2017 has established the concept of voluntary guardians. A register of such guardians has to be kept in every Juvenile Court.[536]

The Regional Children's Ombudsman is responsible for selecting and training guardians. The National Children's Ombudsman has established specific guidelines on the basis of which calls for selection of guardians have already been issued in each region.[537] Training courses have started in most of the cities.

529 Article 6(3) Procedure Decree.
530 Article 19(5) Reception Decree, as amended by LD 220/2017.
531 Article 26(5) Procedure Decree, as amended by L 47/2017.
532 CNDA Circular No 6425 of 21 August 2017, available in Italian at: http://bit.ly/2Fn38Um.
533 Article 19(1) Procedure Decree.
534 Article 13(3) Procedure Decree.
535 *Ibid*.
536 Article 11 L 47/2017.
537 Children's Ombudsman, *Guidelines for the selection, training and registration in the lists of voluntary guardians pursuant to Article 11 L 47/2017*, available in Italian at: http://bit.ly/2Dgl4tS.

The law assigns the responsibility to monitor the state of implementation of the guardianship provisions to the Children's Ombudsman (Italian Independent Authority for children and adolescents - Agia).[538] The Regional Children's Ombudsman and the one of the autonomous provinces of Trento and Bolzano have to cooperate regularly with the Children's Ombudsman, to whom they have to submit a report on their activities every two months. A monitoring project financed with the AMIF fund and managed by the Ministry of the Interior was launched to implement the provision.

In March 2021 the Children's Ombudsman published five monitoring reports, dated November 2020 on the voluntary guardianship system for unaccompanied minors in Italy.[539] As emerges from the fifth monitoring report on quantitative aspects, the total number of voluntary guardians as of 30 June 2019 was 2,960. Of these, 3 out of 4 were women, 63.1% were over 45 and most them (78.2%) were employed, while retirees represented the 10.8% of the total.

As of 30 June 2019, out of 1,679 unaccompanied minors present, 1,324 minors were found to have a guardian.[540] Regarding the number of minors per guardian, the reports do not show precise data, since not all Juvenile Courts provided the data, but it seems that on average many guardians have the protection of 2 or 3 minors, while in some regions the ratio is much higher even reaching 23 minors for 1 single guardian in Friuli Venezia Giulia.[541]

In 2020, 8,939 minors were traced on Italian territory. Of these, 4,461, (49.9%) arrived following disembarkation. The regions most affected by the arrivals of minors were Sicily (41.8%), for arrivals by sea, Friuli Venezia Giulia (24.1%) and Lombardy (7.7%); the last two for the arrivals by land and by the Balkan route. [542]
In 2020, 753 unaccompanied minors made an asylum application.

In 2021 16,575 unaccompanied minors were traced on the Italian territory. 10,048 UAMs (60,6%) arrived by boat. Most represented nationalities were Bangladesh, Egypt, Tunisia, Afghanistan and Albania. The Region with most arrivals was Sicily (48%) followed by Friuli Venezia Giulia (12%), Calabria (9,6%) and Lombardia (7%).[543]
In 2021 3,373 unaccompanied minors applied for international protection.

538 Article 11 L. 47/2017 as amended by Article 2 (3) LD 220/2017.

539 Of the 5 reports, 4 represent a qualitative survey on: unaccompanied foreign minors without a matched voluntary guardian; unaccompanied foreign minors with guardians; voluntary guardians; intercultural relations. The qualitative monitoring, started in November 2019 and concluded in February 2020, involved five pilot regions: Friuli Venezia Giulia, Liguria, Tuscany, Abruzzo and Sicily. The last is a quantitative survey updated to 30 June 2019, carried out with the participation of the juvenile courts and the regional and autonomous provinces guarantors. All reports are available in Italian at: https://bit.ly/3a4nmCq.

540 Children's Ombudsman 5th Monitoring report, 2021, available at: https://bit.ly/3uCp6bu.

541 See Children's Ombudsman 3rd monitoring report on voluntary guardians, table 14, available at: https://bit.ly/3vYhXCt.

542 Ministry of Labour, *I minori stranieri non accompagnati*, 31 December 2020, available in Italian at: https://bit.ly/3hhmWdj.

543 Ministry of Labour and Social Politics, available in Italian at: https://bit.ly/3Fi1Pl5; Summary available in English at: https://bit.ly/39pfRWb.

Unaccompanied asylum-seeking children: 2021	
Nationality	Number
Tunisia	937
Bangladesh	698
Gambia	301
Ivory Coast	243
Somalia	225
Guinea	193
Pakistan	156
Egypt	156
Afghanistan	135
Eritrea	114
Mali	103
Others	383
Total	**3,373**

Source: Ministry of Labour.[544]

As of 31 December 2021, 5,273 unaccompanied children absconded after having accessed reception. Of those, 1,179 were Tunisians, 773 Afghans, 473 Egyptians and 430 Bangladeshi. Most of them were male and over 16 years old.[545]

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No
2. Is a removal order suspended during the examination of a first subsequent application?
   - ❖ At first instance ☒ Yes ☐ No
   - ❖ At the appeal stage ☐ Yes ☒ No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
   - ❖ At first instance ☐ Yes ☒ No
   - ❖ At the appeal stage ☐ Yes ☒ No

Article 31 of the Procedure Decree allows the applicant to make further submissions and present new documentation at any stage of the asylum procedure. These elements are taken into consideration by the Territorial Commission in the initial procedure.

Decree Law 113/2018, implemented by L 132/2018, has introduced a definition of "subsequent application" (*domanda reiterata*).[546] An asylum application is considered a subsequent application where it is made after:

- A final decision has been taken on the previous application;
- The previous application has been explicitly withdrawn;[547]
- The previous application has been terminated or rejected after the expiry of 12 months from suspension on the basis that the applicant was unreachable (*irreperibile*).[548]

544 Data estracted from: https://bit.ly/38RJOOg and https://bit.ly/3Fi1Pl5.
545 Ministry of Labour, *I minori stranieri non accompagnati*, 31 December 2021, available in Italian at: https://bit.ly/3Fi1Pl5.
546 Article 2(1)(b-bis) Procedure Decree, introduced by Article 9 Decree Law 113/2018 and L 132/2018.
547 Article 23 Procedure Decree.
548 Article 23-bis(2) Procedure Decree.

In case of subsequent applications, asylum seekers benefit from the same legal guarantees provided for asylum seekers in general and can be accommodated in reception centres, if places are available.

However, pursuant to the new Article 6 (2 a bis) of the Reception Decree, in case of subsequent applications made during the execution of an imminent removal order, the applicant can be detained.[549]

Subsequent applications have to be lodged before the Questura, which starts a new formal registration that will be forwarded to the competent Territorial Commission.

1. Preliminary admissibility assessment

As stated in Accelerated Procedure, upon the transmission without delay of the application by the Questura, the Territorial Commission has 5 days to decide on the subsequent application made without adding new elements to the personal story or to the situation of the country of origin pursuant to Article 29 (1 b) of the Procedure Decree .[550]

The President of the Territorial Commission makes a preliminary assessment in order to evaluate whether new elements concerning the personal condition of the asylum seeker or the situation in his or her country of origin have been added to the asylum application.[551] Where no new elements are identified, the application is dismissed as inadmissible (see Admissibility Procedure).

The procedure differentiates depending on the case:

- In cases of applicants already recognised as refugees in other Countries the law provides that the President of the Territorial Commission sets the hearing of the applicant.[552]

- In case of a **subsequent application** made after the previous application has been terminated because the applicant was unreachable (*irreperibile*), the President can declare the application inadmissible by evaluating reasons for being unreachable.[553]

- In case of a first subsequent application made during the execution of an imminent removal order, but after the amendments made by Decree Law 130/2020, the law provides that the application must be immediately sent to the President of the competent territorial Commission, who must conduct a preliminary assessment of the admissibility of the application, within three days, while assessing the risks of direct and indirect refoulement.

- During 2019, the previous formulation of the disposition had determined, following a Circular from the National Commission, an illegitimate omission of the preliminary examination by the competent Territorial Commission, as Questure automatically declared the inadmissibility of such subsequent applications, inter alia by interpreting the execution phase of a removal order in a broad way. Some rulings of national courts had clarified that this application was contrary to Article 40 of the recast Asylum Procedure Directive. [554]

549 Article 6 (2, a bis) Reception Decree, as amended by Article 3 (3) Decree Law 130/2020 and L. 173/2020. According to Decree Law 130/2020 the provision applies in the limits of available places in CPRs

550 Article 28-bis(1-bis) Procedure Decree.

551 Article 29(1)(b) Procedure Decree.

552 Article 29 (1 bis) Procedure Decree. This includes MS and other countries as the law mentions refugees recognised by countries part of the Geneva Convention, in case the refugees can still enjoy the protection.

553 Article 23 bis (2) Procedure Decree.

554 Civil Court of Milan, decision of 13 November 2019 ordered the competent Territorial Commission to conduct the preliminary examination of a subsequent application deemed inadmissible automatically by the Questura, disapplying the Article 29bis of the Procedure Decree considered not in accordance with Article 40 of the recast Asylum Procedure Directive.

As stated by decree Law 130/2020, in this case, if the application is declared inadmissible, the applicant can be detained.[555] (see Detention).

The law still does not clarify how the term "execution phase of a removal procedure" should be interpreted. If this provision is not strictly applied to cases in which the removal is actually being performed, it is likely to be applied to all cases of subsequent applications as currently defined by law.

More in general, in case the subsequent application is declared inadmissible, reception conditions can be revoked.[556]

2. Right to remain and suspensive effect

The Procedure Decree, as amended by Decree Law 130/2020, provides that the right to remain on the territory until a decision is taken by the Territorial Commission is not guaranteed where the applicant:

a. Made a first subsequent application for the sole purpose of delaying or preventing the execution of an imminent removal decision;[557]
b. Wishes to make a further subsequent application following a final decision declaring the first subsequent application inadmissible, unfounded or manifestly unfounded.[558]

The law does not foresee a specific procedure to appeal against a decision on inadmissibility for subsequent applications. The Procedure Decree as amended by Decree Law 130/2020 provides, however, that suspensive effect is not granted for appeals against the inadmissibility of a second subsequent application and for appeals against the inadmissibility of a subsequent application submitted in order to avoid an imminent removal, pursuant to Article 29 bis of the Procedure Decree. [559] However, the appellant can request a suspension of the decision of inadmissibility, based on serious and well-founded reasons, to the competent court.

For the rest of the appeal procedure, the same provisions as for the appeal in the regular procedure apply (see Regular Procedure: Appeal).

F. The safe country concepts

Indicators: Safe Country Concepts

1. Does national legislation allow for the use of "safe country of origin" concept?	☒ Yes ☐ No
❖ Is there a national list of safe countries of origin?	☒ Yes ☐ No
❖ Is the safe country of origin concept used in practice?	☒ Yes ☐ No
2. Does national legislation allow for the use of "safe third country" concept?	☐ Yes ☒ No
❖ Is the safe third country concept used in practice?	☐ Yes ☒ No
3. Does national legislation allow for the use of "first country of asylum" concept?	☒ Yes ☐ No

555 Article 6 (2, a bis) Reception Decree, as amended by Article 3 (3) Decree Law 130/2020 and L. 173/2020 and Article 29 bis Procedure Decree. According to Decree Law 130/2020 the provision applies in the limits of available places in CPRs.
556 Article 23(1) Reception Decree.
557 Article 7(2)(d) Procedure Decree.
558 Article 7(2)(e) Procedure Decree, as amended by Article 9 Decree Law 113/2018 and L 132/2018.
559 Article 35-bis(5) Procedure Decree, as amended by Decree Law 130/2020. Prior to the 2020 reform, the Procedure Decree stated that suspensive effect was not granted for appeals against the inadmissibility of a first subsequent application.

1. Safe country of origin

The "safe country of origin" concept has been introduced in Italian legislation by Decree Law 113/2018, implemented by L 132/2018.[560]

1.1. Definition and list of safe countries of origin

According to the law, a third country can be considered a safe country of origin if, on the basis of its legal system, the application of the law within a democratic system and the general political situation, it can be shown that, generally and constantly, there are no acts of persecution as defined in the Qualification Decree, nor torture or other forms of inhuman or degrading punishment or treatment, nor danger due to indiscriminate violence in situations of internal or international armed conflict.[561]

The assessment aimed at ascertaining whether or not a country can be considered a safe country of origin shall take into account the protection offered against persecution and ill-treatment through:[562]

d. The relevant laws and regulations of the country and the manner in which they are applied;
e. Respect for the rights and freedoms established in the ECHR, in particular the non-derogable rights of the Convention, in the International Covenant on Civil and Political Rights, and in the United Nations Convention against Torture;
f. Compliance with the principles set out in Article 33 of the 1951 Refugee Convention; and
g. The existence of a system of effective remedies against violations of these rights and freedoms.

The assessment shall be based on information provided by the CNDA, as well as on other sources of information, including in particular those provided by other Member States of the European Union, EASO, UNHCR, the Council of Europe and other competent international organisations.[563]

A list of safe countries of origin is adopted by decree of the Ministry of Foreign Affairs, in agreement with the Ministry of Interior and the Ministry of Justice. The list must be periodically updated and notified to the European Commission.[564]

The list, adopted by decree of 4 October 2019 and entered into force on 22 October 2019,[565] includes the following countries: Albania, Algeria, Bosnia and Herzegovina, Cape Verde, Ghana, Kosovo, North Macedonia, Morocco, Montenegro, Senegal, Serbia, Tunisia and Ukraine.

The list has not been modified, but following the invasion on Ukraine on 24 February 2022, a Decree was adopted on 9 March 2022 and published on 11 March 2022, suspending the application of the decree on safe country of origin to Ukraine until 31 December 2022.[566]

Even if the law provides that the designation of a safe country of origin can be done with the exception of parts of the territory or of categories of persons,[567] the decree merely refers to States without making any distinction and exception.

Indeed, information collected by the Ministry of Foreign Affairs, assisted by the CNDA COI Unit, had indicated, for many countries,[568] categories of persons or parts of the country for which the presumption of safety cannot apply.[569]

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560 Article 2-bis Procedure Decree, inserted by Article 7 Decree Law 113/2018 and L 132/2018.
561 Article 2-bis(2) Procedure Decree.
562 Article 2-bis(3) Procedure Decree.
563 Article 2-bis(4) Procedure Decree.
564 Article 2-bis(1) Procedure Decree.
565 Ministry of Foreign Affairs Decree, 4 October 2019, Identification of Safe Countries of origin, according to Article 2-bis of the Procedure Decree published on 7 October 2019 n. 235.
566 Available at: https://bit.ly/3v2cexZ.
567 Article 2 bis (2) Procedure Decree.
568 This is the case of Algeria, Ghana, Morocco, Senegal, Ukraine and Tunisia.
569 The information sheets drawn up for each country were then sent to all the Territorial Commissions as an attachment to the CNDA circular no. 9004 of 31 October 2019, available in Italian at: https://bit.ly/2TBVjiF.

The existence of parts of the territory or categories for which the country cannot be considered safe should have led to the non-inclusion of these countries in the list.[570]

In any case, as highlighted by ASGI,[571] the decree appears illegitimate in several respects, as it does not offer any indication of the reasons and criteria followed for the inclusion of each country in the list. Moreover, the country files elaborated by the CNDA and by the Ministry of Foreign Affairs reveal that the choice of countries has not been based on a plurality of sources and, in some cases, the inclusion of only partially safe countries without the distinctions indicated by the CNDA is in contradiction with the results of the same investigation.

ASGI's challenge of the decree at the TAR did not obtain positive results, and the negative decision has been recently upheld by the Council of State in its decision n. 118 of 2022.[572]
More specifically, the Council of State, did not consider ASGI could introduce such a case representing the interest of the asylum seekers coming from the countries included in the Safe countries list. The Council of State reasoned that ASGI can act in representation of the interest of all third country nationals. In a such a case, however, the interest of persons coming from countries not included in the list may contrast with the interest of asylum seekers coming from "safe" countries. For this reason, ASGI could only represent one of the two groups. The Council of State also stated that the Decree is in conformity with EU law.

1.2. Procedural consequences

An applicant can be considered coming from a safe country of origin only if he or she is a citizen of that country or a stateless person who previously habitually resided in that country and he or she has not invoked serious grounds to believe that the country is not safe due to his or her particular situation.[573]

The Questura shall inform the applicant that if he or she comes from a designated country of safe origin, his or her application may be rejected.[574]

An application made by an applicant coming from a safe country of origin is channelled into an Accelerated Procedure, whereby the Territorial Commission takes a decision within 9 days.[575]

An application submitted by applicants coming from a safe country of origin can be rejected as manifestly unfounded,[576] whether under the regular procedure or the accelerated procedure. In this case the decision rejecting the application is based on the fact that the person concerned has not shown that there are serious reasons to believe that the designated safe country of origin is not safe in relation to his or her particular situation.[577]

Following the entry into force of the safe countries of origin list, the CNDA issued two circulars, on 28 October 2019 and 31 October 2019, giving directives to the Territorial Commissions on the application of the new provisions. In particular the CNDA assumed that the inclusion of a country of origin in the safe countries list introduces an absolute presumption of safety, which can be overcome only with a contrary proof presented by the asylum seeker. CNDA also underlined that, in the event of rejection, the applications should always be regarded as manifestly unfounded applications.

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570 In this sense, Civil Court of Florence, interim decision of 22 January 2020, available at: https://bit.ly/2TA3hZD; see also Questione Giustizia, I primi nodi della disciplina sui Paesi di origine sicuri vengono al pettine, Cesare Pitea, 7 February 2020, https://bit.ly/2zgXZeG; see also EDAL, Italy: The region of Casamance, Senegal, excluded by the presumption of "safe third countries", 22 january 2020, available at: https://bit.ly/2yx3Qfu.

571 ASGI, Nota di commento del Decreto del Ministro degli affari esteri e della cooperazione internazionale 4 ottobre 2019 sull'elenco dei Paesi di origine sicuri, 27 November 2019, available in Italian at: https://bit.ly/3edVetq.

572 Council of State, Decision n. 118 of 2022, available at: https://bit.ly/3MLTeui.

573 Article 2-bis(5) Procedure Decree.

574 Article 10(1) Procedure Decree, as amended by Article 7 Decree Law 113/2018 and L 132/2018.

575 Article 28-bis (2) (c) as amended by Decree Law 130/2020.

576 Article 28-ter(1)(b) Procedure Decree, inserted Article 7 Decree Law 113/2018 and L 132/2018.

577 Article 9(2-bis) Procedure Decree, inserted by Article 7 Decree Law 113/2018 and L 132/2018.

However, an overall exam of the rules of the Procedure Decree shows that the manifestly unfounded decision is only one of the possible outcomes of the examination of the asylum application when the applicant comes from a country designated as safe.[578]

In practice, according to ASGI's experience, Territorial Commissions did not reject as manifestly unfounded all asylum applications in case of safe country of origin in 2021.

On 22 January 2020, the Civil Court of Florence deemed the exclusion of the automatic suspensive effect to an appeal lodged by an asylum seeker from Senegal as illegitimate as the applicant belongs to a category, that of LGBTI, whose treatment in Senegal, should have resulted in the exclusion of Senegal from the list of safe countries or should have determined at least the provision, within the decree, of a specific exception for this social group to the rules dictated for asylum applications submitted by safe countries nationals. Consequently, according to the Court, the Territorial Commission should not have refused the asylum application as manifestly unfounded only because of the safe country of origin of the applicant.[579] However, since the amendments made by Decree law 130/2020 the lack of automatic suspensive effect is connected to all applications made under the accelerate procedure, with the sole exclusion of applications made under the border procedure.[580]

As a general rule, the concept of safe country of origin is applicable only to asylum application introduced after the publication of the Safe Country of Origin list. The concept has been confirmed by the Court of Cassation in Judgement no. 25311/2020.

The Court of Cassation, with judgement 19252/2020, stated that the circumstance of coming from a country included in the list of safe countries does not preclude the applicant from being able to assert the origin from a specific area of the country itself, affected by phenomena of violence and generalised insecurity which, even if territorially circumscribed, may be relevant for the purposes of granting international or humanitarian protection, nor does it exclude the duty of the judge, in the presence of such an allegation, to proceed with a concrete ascertainment of the danger of said area and of the relevance of the aforementioned phenomena.[581]
The list of safe countries of origin has not been modified in recent years, in contrast with the profound changes registered in some countries such as Ukraine, which brought the recognition rates up to 50% in 2021. As stated above, the application of the concept of "safe country" for Ukraine has only been suspended until the end on 2022.

2. First country of asylum

The Procedure Decree provides for the "first country of asylum" concept as a ground for inadmissibility (see Admissibility Procedure). The Territorial Commission declares an asylum application inadmissible where the applicant has already been recognised as a refugee or subsidiary protection status holder[582] by a state party to the 1951 Refugee Convention and can still enjoy such projection.[583] The "first country of asylum" concept has not been used in practice.

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578 Article 32 (1 b bis) read together with Article 2 bis (5) Procedure Decree must be interpreted as meaning that the asylum request is manifestly unfounded only when the applicant has not invoked serious grounds to believe that the country is not safe due to his or her particular situation. Moreover, Article 35 bis of the Procedure Decree links the halving of the time limits for appeal and the absence of automatic suspensive effect to applications that are manifestly unfounded and not, in general, to applications from asylum seekers from countries designated as safe. See Questione Giustizia, Le nuove procedure accelerate, lo svilimento del diritto d'asilo, 3 November 2019, available in Italian at: https://bit.ly/2XqA8Rs.

579 Civil Court of Florence, interim decision of 22 January 2020, cited above; see also: https://bit.ly/3bWqjA4.

580 Article 35 -bis (3) Procedure Decree.

581 Court of Cassation, judgment 19252/2020, mentioned in Court of Cassation decision ceiling of 2020, available at: https://bit.ly/3eDGDdS.

582 Art.29 of Procedure Decree as amended by Law 238/2021 in order to fulfilment of the obligations deriving from Italy's membership to the European Union, extended to subsidiary protection holders the inadmissibility.

583 Article 29(1)(a) Procedure Decree.

G. Information for asylum seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

   ❖ Is tailored information provided to unaccompanied children? ☐ Yes ☒ No

According to Article 10 of the Procedure Decree,[584] when a person makes an asylum application, the Questura shall inform the applicant about the asylum procedure and his or her rights and obligations, and of time limits and any means (i.e. relevant documentation) at his or her disposal to support the application. In this regard, police authorities should hand over an information leaflet. The amended Procedure Decree adds that the Questura informs the applicant that if he or she comes from a Safe Country of Origin, his or her application may be rejected.[585]

According to the amended Procedure Decree, the Territorial Commission promptly informs the applicant of the decision to apply the accelerated procedure or the prioritised procedure.[586]

Regarding information on accommodation rights, the Reception Decree provides that Questure shall provide information related to reception conditions for asylum seekers and hand over information leaflets accordingly.[587] The brochures distributed also contain the contact details of UNHCR and refugee-assisting NGOs. However, the practice of distribution of these brochures by police authorities is quite rare. Moreover, although Italian legislation does not explicitly state that the information must also be provided orally, this happens in practice at the discretion of Questure but not in a systematic manner. Therefore, adequate information is not constantly and regularly ensured, mainly due to the insufficient number of police staff dealing with the number of asylum applications, as well as to the shortage of professional interpreters and linguistic mediators. According to the Reception Decree such information on reception rights is also provided at the accommodation centres within a maximum of 15 days from the making of the asylum application.[588]

PD 21/2015 provides that unaccompanied children shall receive information on the specific procedural guarantees specifically provided for them by law.[589] However, during visits to reception centres for unaccompanied children carried out in 2017, the Children's Ombudsman found a general lack of information to children which caused distress, disorientation and distrust, and significantly increased the risk of children absconding from centres.[590]

The visits to emergency, first and second-line reception centres for unaccompanied children carried out during 2017 and 2018 by the Children's Ombudsman together with UNHCR confirmed the same need to receive more information especially on the asylum procedure.[591]

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584 Article 10(1) Procedure Decree.
585 *Ibid*, as amended by Article 7 Decree Law 113/2018 and L 132/2018.
586 Article 28 (1) Procedure Decree as amended by DL 130/2020.
587 Article 3 Reception Decree.
588 Article 3 (3) Reception Decree.
589 Article 3(3) PD 21/2015.
590 Children's Ombudsman and UNHCR, *Minori stranieri non accompagnati: una valutazione partecipata dei bisogni - Relazione sulle visite nei centri*, May 2018, available in Italian at: http://bit.ly/2TExUPE.
591 Children's Ombudsman and UNHCR, L'ascolto e la partecipazione dei minori stranieri non accompagnati in Italia*, Rapporto finale attività di partecipazione 2017-2018,* May 2019, available in Italian at: https://bit.ly/2A5VxaB.

1.1. Information on the Dublin Regulation

Asylum seekers are not properly informed of the different steps or given the possibility to highlight family links or vulnerabilities in the Dublin Procedure, particularly in the context of the specific procedure applied in **Friuli-Venezia Giulia**.

In 2020, the Civil Court of Rome confirmed its orientation by cancelling Dublin transfer measures not preceded by adequate information. Other courts, such as that of Trieste, considered compliance with articles 4 and 5 of the regulation to be relevant only when the applicant had demonstrated in court how the lack of correct information had affected the outcome of the procedure.

The Court of Cassation requested, pursuant to Article 267 of the TFEU, the European Court of Justice to give a preliminary ruling to clarify whether Article 4 of the Dublin Regulation must be interpreted as meaning that the violation of the information obligation can be asserted only on condition that the applicant indicates what information he could have indicated in his favour, decisive for a positive decision in his interest.[592]

The Children's Ombudsman verified after her visits to reception centres for unaccompanied children that the children had not received the information leaflet provided for in the Dublin Implementing Regulation. This was reported to be the case in the following centres: first reception centre in Mincio-Rome, **Lazio**, CAS Como, **Lombardy**, first reception centre in San Michele di Ganzaria, Catania, **Sicily**, and the "House of bricks" community centre in Fermo-Ancona, **Marche**.[593]

1.2. Information at the border and in detention

According to the law, persons who express the intention to seek international protection at border areas and in transit zones shall be provided with information on the asylum procedure, in the framework of the information and reception services set by Article 11(6) TUI.[594]

Article 11(6) TUI states that, at the border, "those who intend to lodge an asylum application or foreigners who intend to stay in Italy for over three months" have the right to be informed about the provisions on immigration and asylum law by specific services at the borders run by NGOs. These services, located at official border-crossing points, include social counselling, interpretation, assistance with accommodation, contact with local authorities and services, production and distribution of information on specific asylum issues.

According to Article 10ter TUI, the third country national tracked down during the irregular crossing at an internal or external border or arrived in Italy following rescue operations must receive information on the right to asylum, on the relocation program in other EU Member States and on the possibility of voluntary repatriation.

Furthermore, as stated by Decree Law 130/2020, in case the conditions for detention are met, the foreign citizen is promptly informed on the rights and on the powers deriving from the validation procedure of the detention decree in a language he or she knows, or, if not possible, in French, English or Spanish.[595]

In spite of the relevance of the assistance provided, it is worth highlighting that, since 2008, this kind of service has been assigned on the basis of calls for proposals. The main criterion applied to assign these services to NGOs is the price of the service, with a consequent impact on the quality and effectiveness of the assistance provided due to the reduction of resources invested, in contrast with the legislative provisions which aim to provide at least immediate assistance to potential asylum seekers. UNHCR and IOM continues to monitor the access of foreigners to the relevant procedures and the initial reception of

592 Court of Cassation, decision no. 8668 of 23 February - 29 March 2021.
593 Children's Ombudsman and UNHCR, *Minori stranieri non accompagnati: una valutazione partecipata dei bisogni - Relazione sulle visite nei centri*, May 2018, 15.
594 Article 10-bis(1) Procedure Decree, inserted by the Reception Decree.
595 Article 10 ter (3) as amended by DL 130/2020.

asylum seekers and migrants in the framework of their mandates. The activities are funded under the Asylum, Migration and Integration Fund (AMIF).

The Reception Decree provides that foreigners detained in CPR shall be provided by the manager of the facility with relevant information on the possibility of applying for international protection. Asylum seekers detained in such facilities are provided with the relevant information set out by Article 10(1) of the Procedure Decree, by means of an informative leaflet.[596]

The Reception Decree also provides that asylum seekers detained in CPR or in hotspots are informed on the rules in force in the centre as well as on their rights and obligations in the first language they indicate.[597] If it is not possible, information is provided in a language they are reasonably supposed to know meaning, as ruled by Procedure Decree, English, French, Spanish or Arabic, according to the preference they give.[598]

In 2020, the Court of Cassation and some Civil Courts reaffirmed the close connection between the compliance with information obligations and the effectiveness of the right of access to the asylum procedure, both denied by the value attributed to the so-called “foglio notizie” or “secondo foglio notizie” often submitted to foreign citizens who arrive at the border without a prior or contextual explanation on the meaning of their signature.

The Court of Trieste, on several occasions in 2020, was able to observe how the “foglio notizie” could not fulfil the information obligation required by law. For example in a case where the validation of detention was examined, the Court found, the information "(..) was drafted in an approximate way, it did not contain an express indication or information on the possibility to request asylum; it was complex to read even for a person with a level of knowledge higher than that presumed for a migrant; (...)the indication "came to Italy for" was not translated and therefore the answers (translated) could be misunderstood. The Court found that it is therefore likely that the migrant did not understand the possibility of applying for international protection."[599] In this case, however, the detention was validated as the Court found that the asylum application was presented only in order to avoid repatriation.

In other rulings, the Civil Court of Trieste held that there was no evidence that the detainee, on the occasion of crossing the border, had been enabled to consciously manifest his will to apply for asylum, as required by Article 10 ter, (1), TUI and that therefore there were no reasons to consider the request as a pretext (i.e. submitted for the sole purpose of delaying or preventing expulsion) even if not presented before the Giudice di Pace because even before that hearing it was not proven that the information obligation had been fulfilled.[600]

Moreover, in 2020, the practice of submitting a second information sheet (second “foglio notizie”) to the foreigner arriving at the border continued.

As already represented in the AIDA report 2019, it is a systematic practice not to inform persons of specific nationalities of the appropriate information on the right to asylum. In fact, a second “foglio notizie”, is sometimes used in cases where in the first “foglio notizie” the applicant had expressed his or her will to ask asylum. The second “foglio notizie” is an extremely detailed document that contains information on all non-expulsion cases. By signing this document, the person declares that he/she is not interested in seeking international protection, even in the event that he/she has already expressed his/her will to seek asylum. Following the signature of these documents, deferred rejection and detention orders are notified.

The Court of Cassation clearly stated that the compilation and signing of the second “foglio notizie” cannot affect the legal status of the foreign citizen as an asylum seeker resulting in the revocation or overcoming

596 Article 6(4) Reception Decree.
597 Article 7 (4) Reception Decree.
598 Article 10 (4) Procedure Decree, to which Article 7 (4) reception decree expressly refers to.
599 Civil Court of Trieste, decision of 15 September 2020.
600 Civil Court of Trieste, decision 3882/2020 of 2 December 2020, procedure no. 3733/2020.

of the previously submitted asylum application. The Court of Cassation[601] declared the validation of the detention issued by the Justice of the Peace of Trapani and by the Civil Court of Palermo, of asylum seekers of Tunisian nationality on the basis of the second "foglio notizie", illegitimate.

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

2. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

3. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

4. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

The Procedure Decree expressly requires the competent authorities to guarantee asylum seekers the possibility to contact UNHCR and NGOs during all phases of the asylum procedure.[602] For more detailed information on access to CPR, see the section on Access to Detention Facilities.

However, due to insufficient funds or due to the fact that NGOs are located mainly in big cities, not all asylum seekers have access thereto. Under the latest tender specifications scheme (*capitolato d'appalto*) adopted on 20 November 2018, funding for legal support activities in hotspots, first reception centres, CAS and CPR has been replaced by "legal information service" of a maximum 3 hours for 50 people per week (see Forms and Levels of Material Reception Conditions).

As for the Hotspots, the SOPs ensure that access to international and non-governmental organisations is guaranteed subject to authorisation of the Ministry of Interior and on the basis of specific agreements, for the provision of specific services[603]. The SOPs also foresee that authorised humanitarian organisations will provide support to the Italian authorities in the timely identification of vulnerable persons who have special needs, and they will also carry out information activities according to their respective mandates. Currently in the hotspots, UNHCR monitors activities, performs the information service and, as provided in the SOPs, is responsible for receiving applications for asylum together with Frontex, EASO and IOM. Save the Children is also present in hotspots.

However, since asylum seekers can be detained for identification purposes in the hotspots, access to the guarantees provided by Article 7 of the Reception Decree in relation to detention centres should also apply (see access to detention facilities). According to Article 7, the access to NGOs with consolidated experience in protecting asylum seekers is allowed; it can be limited for security reasons, public order, or for reasons connected to the correct management of the centres but not completely impeded.[604]

This considered, by December 2019, ASGI tried to obtain access to the hotspot of Lampedusa but it was formally denied. The Prefecture of Agrigento alleged the lack of specific agreements with the Ministry of Interior, as requested by the SOPs. As regards to the access guarantees provided by the Reception Decree for detention centres, the Prefecture has considered that it allows limiting the access of NGOs just for the administrative management of the centre and that the presence of EASO, UNHCR and IOM, as well as the access of the Guarantor for the rights of detained people are sufficient to protect migrants.

ASGI lodged an appeal before the Administrative Court of Sicily obtaining, in September 2020,[605] a first interim decision by the Court which ordered the Prefecture to review the request. With a new provision,

601 Court of Cassation, decision no. 18189/2020 of 1 September 2020, available at: https://bit.ly/3tygEsd and no. 18322/2020 of 8 September 2020.
602 Article 10(3) Procedure Decree.
603 SOPS, paragraph B.2.
604 Article 7 (3) Reception Decree.
605 Administrative Court of Sicily, interim decision no. 943 of 24 September 2020.

however, the Prefecture again denied access to the hotspot for reasons that do not differ much from the previous ones, but adding however reasons due to the epidemic situation of COVID-19. ASGI lodged a new appeal and, with the decision n. 2473 of 24 August 2021, the Administrative Court of Palermo definitively accepted ASGI's appeal against the Prefecture of Agrigento's refusal to grant access to the Lampedusa hotspot. The Court specified that Article 7 LD 142/2015 aims at allowing access to facilities where the asylum seeker can be detained, including the centres referred to in Article 10 ter of the TUI, i.e. the hotspot and that "limit the right of access only to international organizations, or to those with which the Ministry has entered into specific agreements, would integrate an unjustified circumvention of the principle of transparency of the administrative action carried out within the places of detention of migrants".[606]

Access of UNHCR and other refugee-assisting organisations to border points is provided. For security and public order grounds or, in any case, for any reasons connected to the administrative management, the access can be limited on condition that is not completely denied.[607]

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☐ Yes ☒ No
   - ❖ If yes, specify which: N/A

2. Are applications from specific nationalities considered manifestly unfounded? ☒ Yes ☐ No
   - ❖ If yes, specify which: countries included in the safe countries of origin list

According to Article 12(2-bis) of the Procedure Decree, the CNDA may designate countries for the nationals of which the personal interview can be omitted, on the basis that subsidiary protection can be granted (see Regular Procedure: Personal Interview). Currently, the CNDA has not yet designated such countries.

Statistics on decisions in asylum applications in 2021 show a recognition rate of about 97% for Afghans, 95% for Somalis, 87% for Venezuelans, 79% for Iraqis, 70% for Eritreans, 57% for Sudanese nationals, 56% for Malians and 51% for people coming from El Salvador.[608]

The issue, on 4 October 2019, of the Safe Country of Origin decree, has directly affected the treatment and prerogatives of asylum seekers whose nationalities are indicated by the decree, also because of the CNDA directive to consider all rejections as manifestly unfounded applications.

Tunisia is among the top ten main countries of origin of applicants for international protection in 2021 (over 7000 applicants, representing 13% of applications lodged, with a 594% increase compared to 2020) and is the country with the highest denial rate (92% of the 4730 applications lodged by Tunisians examined in 2021 were rejected). Applications by Moroccans are also on the rise (1175 applications lodged in 2021, with a 139% increase compared to 2020) and with a high denial rate (83% of the 1428 applications examined in 2021 were rejected).[609]

In practice, as already highlighted in the section regarding Registration, some nationalities face more difficulties in accessing the asylum procedure, both at hotspots, at Questure and, in the context of the COVID-19 pandemic, aboard quarantine vessels. ASGI has reported in 2021 as in previous years, that people from Tunisia were notified expulsion orders despite having expressly requested international

606 See ASGI: "Hotspot di Lampedusa: dal Tar Sicilia ulteriore conferma del principio di accessibilità della società civile ai luoghi di trattenimento", 6 September 2021, available in Italian at: https://bit.ly/3Ic5L6P.
607 Article 10-bis(2) Procedure Decree.
608 Ministry of Interior, *I numeri dell'asilo*, available in Italian at: https://bit.ly/3kvl29h.
609 CNDA, Statistics 2021 and 2021-2020 comparison, available at: https://bit.ly/3w63JCU and https://bit.ly/3613PRt.

protection with the practice of the “double information paper”.[610] Serious criticalities in access to the procedure, due to lack of information provision and legal assistance as well as de facto detention, were reported by ASGI with specific regard to Tunisians arriving in the island of Pantelleria, where landed migrants are channelled in hotspot-like procedures (see in Detention).[611]

610 ASGI reports that with the practice of the “double information paper” implemented in Lampedusa’s hotspot, police authorities have foreign nationals – and especially those coming from Tunisia – sign a second information paper in which they formally “renounce” international protection declaring that there are no impediments to their repatriation, even if the they had previously expressed their will to request international protection. Rights on the skids. The experiment of quarantine ships and main points of criticism, ASGI, March 2021, available at: https://bit.ly/3tWEK25.

611 ASGI, La frontiera di Pantelleria: una sospensione del diritto. Report del sopralluogo giuridico di ASGI, June 2021, available in Italian at: https://bit.ly/3tcSwyD.

Short overview of the Italian reception system

Decree Law 130/2020 converted into Law 173/2020 has significantly changed – at least on paper - two fundamental aspects of the reception system for asylum seekers:

- Access to the (second) reception system and
- The type and level of services provided in first and second accommodation facilities.

The accommodation system (former SPRAR, then Siproimi) is now called S.A.I.: System of accommodation and integration.

The aforementioned changes partially restore the reception model that had been outlined by the Legislative Decree no. 142 of 2015 (Reception decree), a system intended as a single system for asylum seekers and beneficiaries of international protection albeit divided into different phases:

- a first aid and identification phase implemented in the crisis points present at the main disembarkation places;[612]
- a first "assistance" phase aimed at first assisting the applicant in starting the asylum procedure, implemented in first governmental centres;[613]
- a "proper" reception phase, operated in small centres, not far from the city centre or in any case well connected to it, implemented in the SAI system.

In case of unavailability of places due to a large influx of arrivals, first reception may be implemented in "temporary" structures" (*strutture temporanee*), also known as Emergency Reception Centres (*Centri di accoglienza straordinaria*, CAS), established by Prefectures, subject to an assessment of the applicant's health conditions and potential special needs.[614] When reception is provided in CAS, it is limited to the time strictly necessary for the transfer of the applicant in the second reception centres.[615]

Under the validity of the Legislative decree 142/2015, the effective access to second reception facilities for asylum seekers was often illusory. The extraordinary centres, CAS, whose activation was - and is - ordered by the Prefectures in case of lack of places in the ordinary system, represented - and represents - over the 66% of the facilities where asylum seekers were and are accommodated. Only a small number of asylum seekers were able to access the second reception system whose projects were - and are - voluntarily joined by the municipalities and whose places from 2011 onwards have always been seriously insufficient to cover the reception needs.

Access to the system

The Decree Law 113/2018, implemented by L 132/2018, had brought a drastic change to the design of the Italian reception system, with consequences still affecting the accommodation system even if the law, in 2020, has again reformed it.

In particular, the tender specifications schemes for the reception services in governmental centres and CAS had drastically lowered the costs of the first reception phase, eliminated the services and provided for a negligible number of operators compared to the number of accommodated (1 operator for 50 asylum seekers). Due to this tender specification schemes it de facto favoured the creation of large centres managed by multinationals or for-profit organisations and many of the small non-profit organisations and cooperatives were excluded from the accommodation panorama, thereby cancelling the positive effects on the territory in terms of employment and income.

As highlighted by ActionAid and Openpolis in their last report on the accommodation system in Italy, between 2018 and 2020 the number of centres throughout the country decreased by 25.1%, and the

612 Article 8 (2) Reception Decree, as amended by Decree Law 130/2020.
613 Ibid.
614 Article 11(1) Reception Decree, as amended by Decree Law 130/2020.
615 Article 11(3) Reception Decree, as amended by Decree Law 130/2020.

places available fell by 40.2%. The centres that underwent closure were mainly the small size ones (up to 20 people), which lost almost 22,000 places compared to the 20,000 places lost by larger structures (from 51 to 300 guests), the 14,000 by the medium ones and only 7,133 for centres with more than 300 people. Furthermore, in the same time frame, large CAS facilities have seen an increase in their capacity.

The report highlights how these developments prove that, despite the decrease in arrivals, there have been no developments in the ordinary structure of the reception system and a further push towards large concentrations.[616]

The Decree Law 130/2020 brought the reception system back to be conceived as a single system for asylum seekers and beneficiaries of international and special protection, even if organised in different phases. As in the past, however, the strong limit posed by the voluntary adhesion of the municipalities to the S.A.I. reception system remains, and is the root cause of the scarce availability of places in these projects. The limit of indeterminacy regarding the actual passage from first reception centres to S.A.I. centres remains and there is still significant vagueness about the times in which this can happen. The law, as amended by Decree Law 130/2020, ensures the access to these centres only "within the limits of the available places",[617] following the completion of unspecified obligations necessary to identify asylum seekers and to start the asylum procedure,[618] and limiting the stay in CAS activated at times indicated as "strictly necessary".[619] Even in providing a "priority" access to the second reception facilities for vulnerable people, the law does not place any condition for this to actually take place.[620]

Even after the reform, the S.A.I system is conceived and indicated as primarily intended for beneficiaries of international protection and unaccompanied migrant children. All the others access only in case of additional places available.[621]

Thus, almost a year after its coming into force, the reform still did not show positive results in practice.

Services provided

The other important aspect affected by Decree Law 130/2020 is the type of services that asylum seekers can benefit from. In theory, the following services should be provided: social and psychological assistance, cultural mediation, Italian language courses, legal information service and information on territorial services.[622] They are all services that the 2018 tender specification schemes had cancelled.

In 2021, many asylum seekers were still unable to access the S.A.I., while the level of services guaranteed to the most of asylum seekers accommodated remained very low, as the tender specification schemes adopted on 24 February 2021 for first governmental centres and CAS essentially reflect that adopted by the Government in 2018.[623]

On paper, the same level of services is provided for asylum seekers who access to the SAI before the recognition of an international or special protection: here asylum seekers benefit from "first level" services

616 See Actionaid and Openpolis, Centri d'Italia, report 2021, L'emergenza che non c'è, January 2022, available in italian at: https://bit.ly/35TtTOF.

617 Article 8 (3) Reception Decree, as amended by DL 130/2020 and Article 9 (4 bis) regarding the passage from governmental centres to SAI.

618 Article 9 (4 bis) Reception Decree as amended by DL 130/2020.

619 Article 11 (3) Reception Decree as amended by DL 130/2020.

620 Article 9 (4 bis) regarding the passage from governmental centres to SAI and Article 11 (3) Reception Decree regarding the passage from CAS to SAI.

621 Article 1 sexies (1) DL 516/1989 according to which in the SAI system, dedicated to beneficiaries of international protection and unaccompanied minors, municipalities can also accommodate asylum seekers and holders of specified permits to stay.

622 Article 10 (1) Reception decree, as amended by DL 130/2020.

623 According to Article 12 Reception Decree.

which do not include support for integration, job research, job orientation and professional training, limited to beneficiaries of international and special protection.[624]

However, in practice, due to the low level of services provided for the first accommodation facilities, there is a significant difference between those - about a 30% - who stay in SAI and those who are accommodated in CAS or first reception facilities.

The services provided for in CAS, that were zeroed with the previous specifications and regulatory framework, are now provided for and included in the accountable costs, but the increase in costs for these services and - above all - the hourly amounts of the respective operators are so low that the forecast appears to be only a formula without content. The specification actually seems to reveal how low the interest in having these services actually implemented in CAS and governmental facilities is.

Moreover, in 2021, many asylum seekers accommodated in CAS were subjected to a withdrawal of reception measures, with requests for very large reimbursements on the basis of presumed sufficient economic resources, and many beneficiaries of international protection were notified of the termination of reception conditions in CAS after receiving the residence permit, without a previous check for available places in SAI being carried out.

Unaccompanied children who, on paper, should have immediate access to SAI, still spend most of their accommodation in first governmental centres or temporary structures.

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The reception system for asylum seekers is therefore now articulated as follows:

1. First aid and identification operations that continue to take place in the centres set up in the principal places of disembarkation.[625] First Aid and Reception Centres (CPSA),[626] created in 2006 for the purposes of first aid and identification before persons are transferred to other centres, and now formally operating as Hotspots.[627]

2. First assistance and reception, to be implemented in existing collective governmental centres or in centres to be established by specific Ministerial Decrees[628] This includes the centres previously known as governmental centres for accommodation of asylum seekers (CARA) and accommodation centres (CDA). The law states that first assistance can also take place in temporary centres (CAS).[629]

3. Proper reception, to be carried out in SAI system, with an access provided as soon as possible and a prioritized access for vulnerable people.

SAI projects can also accommodate: victims of trafficking; domestic violence and particular exploitation; persons issued a residence permit for medical treatment, or natural calamity in the country of origin, or for acts of particular civic value,[630] holders of special protection, holders of special cases protection (former humanitarian protection),[631] and former unaccompanied minors, who obtained a prosecution of assistance.[632] Holders of special protection, in case of application of the international protection exclusion clauses, are instead excluded.

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624 Article 1 sexies (2 bis) DL 416/1989, introduced by DL 130/2020.

625 Article 8(2) Reception Decree, as amended by DL 130/2020, which now directly recalls Article 10- ter TUI

626 L 563/1995.

627 Article 10-ter TUI, inserted by Article 17 Decree Law 13/2017 and L 46/2017.

628 Article 8 (2) Reception Decree, as amended by DL 130/2020, and Article 9 Reception Decree.

629 Article 8 (2) as amended by DL 130/2020.

630 Article 1 sexies (1) DL 416/1989, as amended by DL 130/2020, citing Articles 18, 18-bis, 19(2)(d-bis), 20, 22(12-quater) and 42-bis TUI. The statuses in Articles 20 and 42-bis had been inserted by Decree Law 113/2018.

631 Ibid, mentioning Articles 1 (9) DL 113/2018 (special cases); Article 19, (1, 1.1) TUI, amended by DL 130/2020.

632 Article 1 sexies (1 bis) DL 416/1989, introduced by DL 130/2020. In some CAS, according to the law unaccompanied minors becoming adults can benefit of a further assistance (accommodation and help) up to 21 years. It is called “prosieguo amministrativo”.

As mentioned, however, the current reception system for asylum seekers is currently affected by the changes laid down by legislative decree 113/2018 and by the contextual tender specifications schemes, changes which have led to reception in large centres and rendered reception in small-scale facilities and apartments economically unsustainable.

As underlined by ActionAid and Openpolis in their report published in January 2022, in three years, from 2018 to 2020 the number of people accommodated in Italy decreased by 42%, but 7 out of 10 are still placed in extraordinary centres. [633]

The 2018 security decree marked a net change in the reception approach, preferring a system based on big CAS centres, attracting profit companies. The very low numbers of operators granted by the funds in proportion to the number of guests led to the loss of many jobs,[634] and the services' cut made reception a mere management of food and accommodation, also reducing the positive effects on the host territories, in terms of income and socio-employment integration.[635]

Moreover, as mentioned the tender specification schemes published on 24 February 2021, brought no significant change to the first accommodation context that emerged after the 2018 reform.

Additionally, the distinction made by Decree Law 130/2020 between service levels dedicated to asylum seekers and the ones dedicated to beneficiaries of protection replicates the erroneous logic to reserve resources for the integration for those who will benefit from international protection, contrary to a logic of generalised protection and ultimately considerably slowing down the process of regaining self-sufficiency for asylum seekers.

Accommodation measure for Afghans

To meet the reception needs of asylum seekers from Afghanistan the DL no. 139 of 8 October 2021, has provided for the activation of a further 3,000 places in SAI636 and Article 1 (390) L 234/2021 has provided additional **2,000 places.**

These were reserved seats which were then extended to those who fled Ukraine by Article 5 quarter (5) and (6) DL 14/2022 converted into L 28/2022.

Accommodation for people escaping from the Ukrainian conflict

After the outbreak of the conflict in Ukraine and the decision to implement the 2001/55/EC Directive, the Government has issued some decrees, detailed by the civil protection ordinances, but all - at the time of writing - still only programmatic on the reception side.

The planned interventions are mainly of two types: on the one hand, it is planned to increase the reception system, (first governmental, CAS and SAI facilities), on the other hand alternative forms of widespread reception and economic support are foreseen. (See section on Differential treatment in reception)

Moreover, for further reception needs, it is foreseen the possibility to use, taking into account the evolution of the pandemic from Covid 19, the structures already set up for fiduciary isolation and, for further needs not covered by the other measures prepared, the possibility, for the presidents of the Regions, appointed

633 See Actionaid and Openpolis, Centri d'Italia, report 2021, L'emergenza che non c'è, January 2022, available in italian at: https://bit.ly/35TtTOF.

634 Avvenire, Decreto Sicurezza. Accoglienza migranti in crisi, 15mila operatori rischiano il lavoro, 6 May 2019, available in Italian at: https://bit.ly/3edXbWM.

635 Valori, Accoglienza migranti: i quattro fallimenti del decreto Sicurezza, 31 July 2019, available in Italian at: https://bit.ly/3c0VIBs.

636 Article 7 (1) DL 139/2021, converted into L 205/2021 and later modified by Article 5 quarter (5) DL 14/2022 converted into L 28/2022.

delegated commissioners, to represent to the Prefectures the need to prepare further housing solutions, especially for people in transit.[637]

COVID-19: Quarantine ships

Due to the COVID-19 emergency measures have been taken that affect access to reception.

The circulars of the Ministry of the Interior of 18 March[638] and 1 April 2020[639] provided that migrants would be subjected to quarantine for a period of 14 days upon arrival - after a health screening was carried out by the competent health authorities, and that only at the end of that period, in cases not positive to the virus, migrants could be transferred to other accommodation facilities.

The decree of the Head of the Civil Protection Department of 12 April 2020, [640] assigned the assistance on accommodation and health surveillance of these migrants to the responsibility of the Ministry of the Interior (Department of Civil Liberties and Immigration), through the operational help of the Italian Red Cross.[641] The same decree of 12 April also stated that the Civil Liberties and Immigration Department may use private ferries to isolate migrants rescued at sea for the period of quarantine or fiduciary isolation in cases where Italy cannot be considered a "safe harbour" (pursuant to the decree of 7 April)[642] or arrived on the national territory following autonomous landings. The operators of the Italian Red Cross carry out health surveillance on board.

Following a visit on a quarantine ship,[643] the Guarantor for the rights of detained persons highlighted two critical aspects: the effectiveness of the information on the rights due to the absence of written and multilingual materials available to Red Cross workers and volunteers, and the difficulty in dealing with people to immediately recognize vulnerabilities.[644] These issues were confirmed by the interviews conducted - between the second half of May and the beginning of November 2020 - from the In Limine project, to 82 persons who, after their arrival in Italy, spent quarantine aboard one of the ships.[645]

In 2021, the quarantine period was reduced to 10 days but, in reality, and as in 2020, it took a much longer time for migrants on the ships, since as a rule the quarantine restarted every time a new group of migrants arrived.

In January 2022, as happened in previous months, the stay on board the ships was extended, since all migrants on board were requested to be in possession of a Covid health pass before being. Contesting the situation, the Red Cross threatened to abandon ships.[646]

In March 2022, several NGOs - including ASGI - signed an appeal to the Ministry of Interior asking to end the use of quarantine ships.[647]
The appeal underlined, among other arguments, that the measure appeared discriminatory considering that on 22 February 2022 the Ministry of Health, by Ordinance,[648] provided for a period of five days of

637 Ordinance of the Head of the Civil Protection no. 872 of 4 March 2022, Article 3 (2), and Article 3(4) available at: https://bit.ly/3k7njY2. See also MoI Circular, no. 0015709 of 8 march 2022, available at: https://bit.ly/3s2XBs2.
638 MoI Circular 18 March 2020, available at: https://bit.ly/3tHdIJQ.
639 Moi Circular, 1 April 2020, available at: https://bit.ly/2RJ28AM.
640 Decree of the head of the Civil Protection Department, 12 April 2020, available at: https://bit.ly/33Bfkuf.
641 On 8 May 2020, the MoI signed an agreement with the Red Cross for the management of the emergency on board quarantine vessels, agreement available at: https://bit.ly/2QdjnKc.
642 According to Inter Ministerial Decree of 7 April 2020, it should be applied to people rescued by foreign ships outside the Italian SAR zone, Decree available at: http://www.immigrazione.biz/legge.php?id=1005.
643 Visit on Rhapsody, quarantine ship, on 17 September 2020, available at: https://bit.ly/3hlDCAj.
644 Guarantor for the rights of detained persons, 28 October 2020, available at: https://bit.ly/3bk72eG.
645 See In Limine, Report “Rights on the skids. The experiment of quarantine ships and main points of criticism”, 7 May 2021, available at: https://bit.ly/2R8ap1j.
646 Avvenire, “Navi quarantena. La Croce rossa minaccia di scendere: “Illecito trattenimento”, 12 January 2022, available at: https://bit.ly/3JAcckG.
647 Asgi, Per un’accoglienza delle persone migranti sicura e dignitosa. Appello contro le navi quarantena, 3 March 2022, available at: https://bit.ly/3MEVin6
648 Ordinance of the Ministry of Health, 22 February 2022, available at: https://bit.ly/39wnfPN.

quarantine in case of entry into the national territory of persons from foreign countries, Italian or foreign citizens, only in the absence of specific documentation.

Financing, coordination and monitoring

The overall activities concerning the first reception and the definition of the legal status of the asylum seeker are conducted under the programming and criteria established by both national and regional Working Groups (*Tavolo di coordinamento nazionale e tavoli regionali*).[649] The Department of Civil Liberties and Immigration of the Ministry of Interior, including through the Prefectures, conducts control and monitoring activities in the reception facilities. To this end, the Prefectures may make use of the municipality's social services.[650]

Research carried out by Openpolis showed that reception funds belong to the "mission no 27" of expenditure, dedicated to "immigration, reception and guarantee of rights".[651]
This mission is divided into three programs, each assigned to a different ministry. The program including funds for reception is the no. 2, attributed to the Ministry of the Interior and entitled "Migratory flows, interventions for the development of social cohesion, guarantee of rights, relations with religious denominations". The program is allocated 1.9 billion, which represents almost two thirds of the entire mission (60.7%). Out of these, around 95% (or 1.8 billion) is used for activities related to asylum seekers, but the items of expenditure are very different and not all are related to reception.

In 2020, 845.83 million were spent for CAS and first reception services, 412.82 million € for Siproimi / SAI and 118.72 million € for unaccompanied minors' accommodation, overall decreasing values from 2019 when 1,277.69 million € were spent for Cas and first accommodation, € 385.25 million for Siproimi and € 201.54 for unaccompanied minors. Compared to 2018, when the total spending was € 2.77 billion, the amount of expenses was reduced in half. The expenditure, which saw considerable savings on Cas and first reception centres from 2018, did not however result in any increased investment in SAI / Siproimi centres.
The expenditure forecast for 2021 is a total of 1.75 billion, out of which 1.068,59 million for Cas and first accommodation facilities but the actual expenditure is not known at the time of writing.

Funding for the reception system expansion due to the Ukrainian and Afghan crisis

For the activation of3,000 additional SAI places, first programmed for asylum seekers from Afghanistan and later also for people fleeing from Ukraine, DL no. 139 of 8 October 2021 established an increase in the funds allocated to the National Fund for Asylum,[652] of 11,335,320 euros for 2021 and of 44,971,650 euros for each year in 2022 and 2023,[653] taken from the MOI resources relating, for the respective years, to the activation, rental and management of detention and reception centres for migrants.

Then, to face the need to accommodate Afghan nationals evacuated after the Taliban's takeover of the country – and later similar needs for people fleeing from the Ukrainian conflict[654] - and allow for the opening of 2,000 additional SAI places, the budget Law of 30 December 2021 no 234[655] provided for an increase in the endowment of the National Fund for Asylum of 29,981,100 euros for each of the years 2022, 2023 and 2024.[656]

649 Article 9(1) Reception Decree.
650 Article 20(1) Reception Decree.
651 Openpolis, Il ministero dell'interno e il bilancio dell'accoglienza, July 2021, available at: https://bit.ly/3vP8gYP.
652 Article 1 septies of Legislative Decree 416/1989 converted into Law 39/1990.
653 Article 7 DL 139/2021, as amended by Article 5 quarter DL 14/2022 converted with modification into L 28/2022
654 Article 5 quater (6) extended the provision also to people fleeing from Ukraine.
655 Article 1 (390) L 234/2021 as amended by Article 5 quater (6) DL 14/2022 converted with modification into L 28/2022.
656 Article 1 septies of Legislative Decree 416/1989 converted into Law 39/1990.

To cover the costs for the creation of 3,000 new S.A.I. places, to be granted to people escaped from Ukraine, the L 28/2022 provides for the use of a portion of the National Fund for asylum[657], and precisely: 37,702,260 € for the year 2022 and 44,971,650 € for each of the years 2023 and 2024.[658]

To cover the 54,162,000 euros needed for activating new CAS and first governmental reception facilities it is provided to reduce the Fund for economic policy interventions.[659]

Article 31 (4) LD 21 of 21 March 2022 provides that, until December, 31, 2022, MOI resources allocated to the activation, rental and management of the reception centres are increased by an additional 7,533,750 euros, also to be allocated to the activation of new first reception centres and CAS facilities.660

The law also provides not to apply, for the year 2022, the provision according to which savings achieved in accommodation of migrants have to be allocated to the international cooperation fund and to the repatriation fund,[661] and authorizes changes among the funds assigned to the single budget chapters under the MOI program "Migratory flows, interventions for the development of social cohesion, guarantee of rights, relations with religious confessions".[662]

Funding for alternative forms of assistance for Ukrainian asking for temporary protection

To face the assistance measures within the total limit of 348 million euros for the year 2022, LD 21 of 21 March 2022, at Article 31 provides the possibility to draw additional resources from the National Fund for emergencies,663 that is consequently increased.

In order to cover these costs, LD21/2022 provides an increase of 40 million for 2022 and of 80 million for 2023 the fund of the Ministry of Economy and Finance fed with share of tax and contribution revenues and aimed at equalizing tax measures.[664]

LD 21/2022 foresees that the expenses, including those for reception of people fleeing from Ukraine, will be covered for 2022 by the higher revenues deriving from the contributions paid by the subjects who exercise, in Italy, for the subsequent sale, the activity of production of electricity, methane gas or extraction of natural gas, and of the subjects who carry out the production activity, distribution and trade of petroleum products.[665]

657 Article 1-septies LD no. 416/1989.
658 Article 5 quater (3) DL 14/2022 as modified by the conversion L 28/2022.
659 Article 5 quater (9) DL 14/2022 as modified by the conversion L 28/2022.
660 Article 31 (4) LD 21/2022.
661 Article 5 quater (8) dl 14/2022 as modified by the conversion L 28/2022 which states not to apply the second sentence of Article 1(767) L 145/2018.
662 Article 5 quater (8) dl 14/2022 as modified by L 28/2022 which refers to the budget of the Moi program belonging to the “Mission 27” "Immigration, reception and guarantee of rights ", to be adopted pursuant to article 33, paragraph 4, of the law 31 December 2009, n. 196. The Mission 27 expending has been reported by the Senate in the publication Una analisi per missioni, programmi e azioni: la pubblica amministrazione, l'ordine pubblico el'immigrazione available at: https://bit.ly/3uYeQwG. More in general, regarding funds addressed to the reception system, see also Openpolis at: https://bit.ly/3vP8gYP.
663 Article 31 (4) LD 21/2022, which refers to the fund ruled by Article 44 LD 1/ 2018.
664 Article 38 LD 21/2022 which refers to the fund ruled by Article 1 quarter DL 137/ 2020 converted into L 176/2020.
665 Article 38 (2) and Article 37 LD 21/2022.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?
   - ❖ Regular procedure ☒ Yes ☐ Reduced material conditions ☐ No
   - ❖ Dublin procedure ☒ Yes ☐ Reduced material conditions ☐ No
   - ❖ Border procedure ☒ Yes ☐ Reduced material conditions ☐ No
   - ❖ Accelerated procedure ☒ Yes ☐ Reduced material conditions ☐ No
   - ❖ First appeal ☒ Yes ☐ Reduced material conditions ☐ No
   - ❖ Onward appeal ☐ Yes ☒ Reduced material conditions ☐ No
   - ❖ Subsequent application ☐ Yes ☒ Reduced material conditions ☐ No
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

The Reception Decree sets out the reception standards for third-country nationals making an application for international protection on the territory, including at the borders and in the transit zones or in Italian territorial waters.[666]

It provides that reception conditions apply from the moment destitute applicants have manifested their willingness to make an application for international protection,[667] without conditioning the access to the reception measures upon additional requirements.[668] Destitution is evaluated by the Prefecture on the basis of the annual social income (*assegno sociale annuo*).[669]

In practice, the assessment of financial resources is not carried out by the Prefectures, which to date have considered the self-declarations made by the asylum seekers as valid. However, during the accommodation period, Prefectures could change their decision in the event, for example, that the person accommodated has a job, even temporary. In 2021 as in 2020 this had led in many cases to the withdrawal of the reception conditions (see below).

1.1. Reception and obstacles to access the procedure

According to the practice recorded in recent years and continuing in 2021, even though by law asylum seekers are entitled to material reception conditions immediately after claiming asylum and undergoing initial registration (*fotosegnalamento*), they may access accommodation centres only after their claim has been lodged (*verbalizzazione*). This implies that, since the *verbalizzazione* can take place even months after the presentation of the asylum application, asylum seekers can face obstacles in finding alternative temporary accommodation solutions. Due to this issue, some asylum seekers lacking economic resources are obliged to either resort to friends or to emergency facilities, or to sleeping rough.[670]

In 2021, the access and the time of access to reception facilities were still influenced by the health measures taken to prevent COVID-19. These measures were different throughout the national territory. In some border areas, such as Trieste and Udine, effective access to reception is preceded by a 14-day

666 Article 1(1) Reception Decree.
667 Article 1(2) Reception Decree.
668 Article 4(4) Reception Decree.
669 Article 14(1) and (3) Reception Decree. For the year 2019 the amount corresponded to €5,953.87 and for 2020 to € 5,977.79
670 For more information, see MSF, *Fuori campo*, February 2018, available in Italian at: http://bit.ly/2Gagwa2; *Fuori campo*, March 2016, available in Italian at: http://bit.ly/2letTQd, 11; ANCI *et al.*, *Rapporto sulla protezione internazionale in Italia*, 2014, available in Italian at: http://bit.ly/15k6twe, 124.

quarantine (in some cases reduced to 10 days)[671] in public facilities, set up by the Prefectures, where people accommodated are already considered asylum seekers, benefitting from some services, albeit limited by the health measures.

Due to the pandemic, both transit areas (Ventimiglia and Oulx) suddenly found themselves - totally or partially - without accommodation facilities, while the flows that had slowed down in the first months of the year returned to earlier levels after spring. In Ventimiglia, despite a drop-in flow, local associations have provided assistance to around 250 people per day.

On 31 July 2020 the Roja Camp, managed by the Italian Red Cross, was closed.[672] Being the only formal place of accommodation for people in transit, its closure has led to the proliferation of informal settlements and the occupation of public spaces to deal with winter nights. The facilities provided by the local Caritas were able to guarantee only a limited number of places for single parent and children.[673]

As reported by Refugees Rights Europe and Progetto 20K, after the closure of Roja Camp "no alternative solution has been put in place and people have once again started to gather in informal settlements around the city". [674]

By the end of 2021, it was announced the imminent opening in Ventimiglia of a centre for people in transit,[675] still not opened at the time of writing.

As for the Oulx area, in February 2021, rooms set up at the Bardonecchia station, which constituted the only form of government reception, were made inaccessible due to the COVID-19 epidemic. Two structures therefore remained accessible: the first located in Oulx in front of the station and managed by the "Fraternity Massi - Talità Kum" in agreement with the Municipality of Oulx; and the second which consists of a former cantonal house managed by a group of activists (Chez JesOulx). The latter hosted most of the migrants.[676]

In general, in case of disembarkation, people are moved to ships or to territorial facilities for the quarantine. Sometimes they are first placed in hotspots and then on the ships. After the quarantine in southern Italy, people are distributed along facilities throughout Italy. At their arrival in the facilities they could be subject to another COVID-19 test before being allowed to enter the facility. This happens, for example, upon arrival in Turin: asylum seekers are subject to COVID-19 tests and quarantined until the result is reached.

People arriving from land borders or from autonomous disembarkations have to present themselves to border police or to Questure to access the asylum procedure and reception measures. In this case, sometimes access to reception facilities is subject to negative results of a COVID-19 test or health triage. Other times, to a period of quarantine in dedicated facilities, but this depended on the availability of such facilities. Only in some cases, such as the one mentioned in Trieste, access to reception facilities is immediate and the facility is specifically dedicated to asylum seekers.[677]

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671 Moi Circular 1 April 2020, Ministry of Health Circular 12 October 2020; Also, according to Article 8 of the Decree of the Prime Minister issued on 18 January 2021, the fiduciary isolation is provided for 14 days for people coming from some countries. Available at: https://bit.ly/3y5ppha.

672 Parole sul confine, "Il Campo Roja di Ventimiglia ha definitivamente chiuso", 24 August 2020, available at: https://bit.ly/3y5pnWA.

673 See ASGI, Medea project, 21 February 2021, available at: https://bit.ly/3y0oJtr.

674 Refugees Rights Europe and Progetto 20K the Exacerbation of a crisis, impact of the Covid19 on people on the move at the Italian- French border, July 2021, available at: https://bit.ly/3OR2Ip6, 12.

675 Stranieri in Italia, Il progetto. A Ventimiglia un centro di transito per accogliere i migranti, 26 November 2021, available at: https://bit.ly/3vYoS02.

676 See ASGI, , Medea project, La situazione al confine tra Italia e Francia: effetti della pandemia e tendenze consolidate, 21 February 2021, available at: https://bit.ly/3obV1gd.

677 See Report Migrantes 2020, Elena Rozzi, "L'accoglienza ai tempi del coronavirus", available in italian at: https://bit.ly/3fgTgut.

On September 2020, in Udine, about thirty asylum seekers, arriving from the Balkan route, were forced to quarantine on board of a bus, where they slept and ate, without toilets to wash themselves and under the constant control of the police who prevented them from leaving the bus. They stayed there for more than a week. As pointed out by Action Aid, ASGI, INTERSOS and other organizations in Udine, those conditions were detrimental to human dignity and did not respect the minimum reception standards. It amounts to inhuman and degrading treatment prohibited by article 3 of the European Convention on Human Rights.

In some cases, mainly in hotspots or on ships, the quarantine lasted well beyond 14 days due to the entry of other people disembarked, which restarted the quarantine days, resulting in a de facto detention. This happened also in 2021.

A survey conducted by the National Institute for Health Migration and Poverty from 11 May 2020 to 12 June 2020, on 73.7% of reception facilities (5,038 out of 6,837), highlighted how, worryingly, the isolation of persons who tested positive had occurred inside the facility in a quarter of the cases and that, out of these, only 54% were isolated in a single room with exclusive services.[678]

A monitoring conducted by the associations part of the Tavolo Asilo and Tavolo Immigrazione e Salute, (National Asylum Table, Immigration and Health Table) published in June and updated in February 2021 highlighted the critical absence of institutional indications, which had led the facilities to organize their own solutions that had produced effective protection of the guests, but also had significantly **reduced the reception capacity**.[679] (see Reception conditions). In the February update, it is reported that in one case in ten the access to accommodation stopped, partly (3%) due to the lack of procedures ensuring the safety of the guests and operators; but also - in 7% of cases – to the absence of requests for the access of potential guests from the relative Institutions (SPRAR / SAI / Prefecture / Municipality / free number Anti-trafficking).

1.2. Reception at second instance

With regard to appellants, the Reception Decree provides that accommodation is ensured until a decision is taken by the Territorial Commission and, in case of rejection of the asylum application, until the expiration of the timeframe to lodge an appeal before the Civil Court. When the appeal has automatic suspensive effect, accommodation is guaranteed to the appellant until the first instance decision taken by the Court.

However, when appeals have no automatic suspensive effect, the applicant remains in the same accommodation centre until a decision on the suspensive request is taken by the competent judge. If this request is positive, the applicant remains in the accommodation centre where he or she already lives.[680] Where the appeal is made by an applicant detained in a CPR requesting the suspensive effect of the order, in case it is accepted by the judge, the person remains in the CPR or, if the detention grounds are no longer valid, he or she is transferred to governmental reception centres.[681]

As regards reception during onward appeals, following Decree Law 13/2017, implemented by L 46/2017, the withdrawal of accommodation to asylum seekers whose claims have been rejected at first appeal has become very common. Usually the applicant does not quickly obtain suspensive effect, which has also become extremely difficult to get (see Regular Procedure: Appeal).

678 Covid-19 national survey on the reception facilities for migrants", National Institute for Health Migration and Poverty, available in Italian at: https://bit.ly/3y8tGQH, 9 August 2020.

679 Tavolo Asilo Nazionale, Tavolo Immigrazione e Salute, "Dossier Covid-19, procedure, condizioni di sicurezza, criticità nei sistemi di accoglienza in Italia", available in Italian at : https://bit.ly/3vREOj8, June 2020; update, 25 February 2021, available at: https://bit.ly/3tGtLI6, 25 February 2021.

680 Article 14(4) Reception Decree.

681 Article 14(5) Reception Decree.

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions	
1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2021 (in original currency and in €):	€75[682]

According to the law, the scope of material reception conditions and services offered to asylum seekers shall be defined by decree of the Ministry of Interior so as to guarantee uniform levels of reception across the territory, taking into account the peculiarities of each type of reception centre.[683] The Reception Decree provides for a monitoring system in reception centres by the Prefecture, through the social services of municipalities.[684]

The latest decree approving the tender specifications schemes (*capitolato d'appalto*) was adopted on 24 February 2021.[685]

Under the tender specification schemes issued following Decree Law 113/2018, the daily amount per person allocated to the centres' management was reduced from €35 to €21, *de facto* forcing contractors to opt for large centres, reducing the number of operators and the activities offered in the centres.
As expected, government policies on the design of the reception system opened a market for large companies[686].

According to the new tender specification schemes, adopted after the extension of the first reception services implemented by Decree Law 130/2020, the average costs to be placed on the basis of the contract increased (for non-collective structures up to 50 places) from €21 of the old specifications to €28 of the current one. A cost that does not appear sufficient to favour small facilities, even taking into account that there are additional services (Italian language courses, legal orientation, psychological support, albeit to a minimal extent). For collective structures the costs are higher (33 for collective structures up to 50 places) and this confirms once again little or no interest in favouring the reception in small structures scattered throughout the territory on the model of the SAI system which avoids ghettoization and favours integration.

The new tender specification schemes guarantee basic needs such as personal hygiene, pocket money, and €5 for phone cards and, compared to the Capitolato published in 2018, it also covers: Italian language courses; orientation to local services; psychological support. As the 2018 one, it confirmed the replacement of legal support with a "legal information service". Contrary to the 2017 specifications it does not cover professional training, leisure activities and job orientation, activities not covered for asylum seekers neither in SAI system.

As it can be seen from the table below, for reception facilities up to 50 guests the following services are foreseen: 10 hours a day of a daytime operator and 8 of night-time operator which is still equivalent to the previous specification schemes, 1 operator every 50 guests; six hours per week for psychological support (7 minutes per person per week); 4 hours per week for orientation to local services and legal information (4.5 minutes per person per week); 4 hours of Italian language courses per week; 10 hours per week of linguistic mediation (even reduced from the 12 of the 2018 specification schemes and corresponding to 12 minutes per week per person).

682 See attachment B, point 10, to the tender specification scheme, valid for first accommodation centers and CAS, available at: https://bit.ly/3bkUEuM
683 Article 12(1) Reception Decree.
684 Article 20(1) Reception Decree.
685 Ministry of Interior Decree published on 24 February 2021, available in Italian at: https://bit.ly/3tGSWtO.
686 Valori, *Migranti gli sciacalli della finanza brindano a Salvini*, January 2019, available in Italian at: https://bit.ly/2TE4TmV.

	Up to 50 places	51 to 100 places	101 to 300 places	301 to 600 places	601 to 900 places
Daytime worker	1 worker 10 hours a day	2 workers 18 h a day	2 workers up to 150 and 3 workers from 151 for 12 hours a day;	3 workers up to 300 and 1 more each 125 more places, 12 hours a day	5 workers up to 600 + 1 each more 100, 12 h a day
Night time worker	1 worker 8 hours a day	1 worker 12 h a day	1 worker up to 150 + 1 from 151 for 12 h a day	2 workers up to 300+ 1 each 150, for 12 h a day	3 workers up to 600 + 1 each 250, 12 h a day
Director	18 h a week	24 h a week	30 h a week	36 h a week	36 h a week
Nurse		16 h a week	6 h a day	12 h a day	16 h a day
Doctor	Available 4 a day for 7 days	12 h a week	24 h a week	36 h a week	42 h a week
Psychologist	6 h a week	12 h a week	24 h a week	36 h a week	42 h a week
Linguistic mediation	10 h a week	12 h a week	24 h a week	36 h a week	42 h a week
Italian language	4 h a week	12 h a week	24 h a week	48 h a week	72 h a week
Legal information	4 h a week	7 h a week	9 h a week	17 h a week	22h a week

Source: attachment A (table) to the tender specification schemes, MoI.[687]

The services that disappeared from the 2018 specifications, are now again foreseen but in such a minimal form that they do not meet the real needs, and can therefore be considered useless. No specific services for vulnerable people are provided, thus leaving the protection of these persons to purely voluntary contributions.

In 2019 many calls went without proposals due to the limited funding and services offered in the tender. Therefore, many Prefectures had to renegotiate the tenders in order not to leave the reception centres uncovered.[688] With the express purpose of dealing with deserted calls and homogenizing the responses of Prefectures in their territories, as of 4 February 2020, the new MoI issued a Circular allowing Prefectures to minimally vary the auction bases.[689]

The suggested flexibility of the tender specifications schemes, limited to an increase around € 3 per day, did not affect in any way the type, quality and quantity of services to be guaranteed as it only allowed to adjust the daily amount to the different costs of the accommodation facilities leased along the national territory and to foresee an increase on surveillance services, in line with the preference for big centres, aimed at control rather than integration of the asylum seekers.[690]

Moreover, the circular allowed Prefectures to admit, in selecting the managing companies, to derogate from the minimum professionalism requirements indicated in the tender specification scheme, including, for example, the minimum three-year experience in accommodation services.

687 MoI website, Attachment A available at: https://bit.ly/3tCYghX.

688 According to the report published by Openpolis and Actionaid on October 2019, from the entry into force of the new tender specifications schemes (10 December 2018) to the beginning of August 2019, out of the 428 procurement contracts banned by 89 Prefectures, more than half were extensions of ongoing contracts or procedures aimed at solving specific situations, usually to find temporary solutions pending the put in place of the new system. See the first part of the report available at: https://bit.ly/3bRPbZO.

689 MoI Circular, 4 February 2020, available at: https://bit.ly/36rb6WQ.

690 Redattore Sociale, Accoglienza migranti, più fondi ma sui servizi non si cambia. "Solo maquillage", 6 February 2020, available in Italian at: https://bit.ly/2zrLJYL.

As documented by ActionAid and Openpolis, the tender specification schemes resulted in 2019 in the disappearance of many small centres (CAS); also because small associations and cooperatives refused to take part in a reception system based on the mere control of migrants.[691] In Rome and Milan the accommodation scene saw the prevalence of big social cooperatives (Medihospes in Rome and Versoporobo in Milan) and the appearance of profit-making organizations without any social purpose such as Ospita Srl, Engel Italia Srl, Nova Facility and Ors Italia srl. [692]

The appeals filed by small and specialized social cooperatives and non-profit organizations against the call for tenders were rejected by the Administrative Tribunal of Lazio.

In relation to financial allowances i.e. pocket money for personal needs, each asylum seeker hosted in first reception centres receives €2.50 per day. Although the level pocket money in CAS is agreed with the competent Prefecture, according to the Decree of 24 February 2021, the amount received by applicants hosted in CAS should be €2.50 per day for single adults and up to €7.50 for families.

The Reception Decree does not provide any financial allowance for asylum applicants who are not in accommodation.

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?
   ☐ Yes ☒ No
2. Does the legislation provide for the possibility to withdraw material reception conditions?
   ☒ Yes ☐ No

According to Article 23(1) of the Reception Decree, the Prefect of the region where the asylum seeker's accommodation centre is placed may decide, on an individual basis and with a motivated decision, to revoke material reception conditions on the following grounds:[693]

(a) The asylum seeker did not present him or herself at the assigned centre or left the centre without notifying the competent Prefecture;
(b) The asylum seeker did not present him or herself before the determining authorities for the personal interview even though he or she was notified thereof;
(c) The asylum seeker has previously lodged an asylum application in Italy;
(d) The authorities decide that the asylum seeker possesses sufficient financial resources; or
(e) The asylum seeker has committed a serious violation or continuous violation of the accommodation centre's internal rules or the asylum seekers conduct was considered seriously violent.

The law does not provide for any assessment of destitution risks when withdrawing reception. However, while assessing the withdrawal of reception conditions, the Prefect must take into account the specific conditions of vulnerability of the applicant.[694]

Asylum seekers may lodge an appeal before the Regional Administrative Court (*Tribunale amministrativo regionale*) against the decision of the Prefect to withdraw material reception conditions.[695] To this end, they can benefit from free legal aid.

691 Actionaid, Openpolis, La sicurezza dell'esclusione, Second part, December 2019, available in Italian at: https://bit.ly/3d0z65i.

692 Openpolis and Actionaid report that in Rome 83.5% reception places are located in large centres. Medihospes manages 63% of all reception places. In Milan, 64% of reception places are provided in large centres. See: https://bit.ly/2ysJIeg; for a complete picture of the accommodation system in Milan see NAGA, Senza Scampo, December 2019, available at: https://bit.ly/2M5Inxr; see also Internazionale, Il decreto Salvini ha favorito il "business dell'accoglienza", 17 February 2020, available at: https://bit.ly/3ep41sD.

693 See also Article 13 Reception Decree.

694 Article 23(2) Reception Decree.

695 Article 23(5) Reception Decree.

Available figures seem to corroborate an overly broad use of withdrawal provisions. According to an investigation carried out by Altreconomia since 2017 and updated in 2019, on the basis of data from 60 Prefectures out of 106, between 2016 and 2019, at least 100,000 asylum seekers and beneficiaries of international protection lost the right to accommodation in reception centres. No data for 2020 and 2021 are available.

Departure from the centre

According to the Reception Decree, when asylum seekers fail to present themselves to the assigned centre or leave the centre without informing the authorities, the centre managers must immediately inform the competent Prefecture.[696] In case the asylum seeker spontaneously presents him or herself before the police authorities or at the accommodation centre, the Prefect could decide to readmit the asylum seeker to the centre if the reasons provided are due to *force majeure*, unforeseen circumstances or serious personal reasons as the ground to be readmitted to the centre.[697]

Certain Prefectures have interpreted this ground particularly strictly:

Veneto: in the case of a woman seeking asylum, victim of trafficking, who had left the centre because of the criminal organization that had forced her into prostitution, and which she had later reported to police, the prefecture of Padua had not recognized force majeure and had remained silent on the request for reinstatement of the reception measures. The Administrative Regional Court of Veneto, with a decision of 11 November 2020, accepted the appeal, ordering the Prefecture to adopt a decision and, pending the decision, to arrange a provisional reception for the lady.[698]

Campania: On 16 June 2017, the Prefecture of Naples adopted a new regulation to be applied in CAS. The regulation provides for the "withdrawal of reception measures" in case of unauthorised departure from the centre even for a single day, also understood as the mere return after the curfew, set at 22:00, and at 21:00 in spring and summer. ASGI has challenged the regulation before the Council of State claiming a violation of the law, as the Prefecture has effectively introduced a ground for withdrawal of reception conditions not provided in the law but the Council of State rejected the appeal believing that the regulation did not automatically lead to the withdrawal of the reception measures, as the recipients were allowed to represent their reasons to the administration.[699]

Tuscany: As of 14 May 2019, the Council of State (Consiglio di Stato) confirmed the decision of the Administrative Court of Tuscany against a Prefecture of Tuscany and accepted the appeal lodged by an asylum seeker whose reception conditions had been withdrawn due to the absence of one night from the reception centre. The Council of State noted that this behaviour should be considered a departure from the centre and not abandonment and that as such it can only cause the withdrawal of the reception conditions if duly justified as a serious violation of the house rules.[700]

Lombardy: As reported by NAGA,[701] during 2019 the Prefecture of Milan has started a greater control of the night registers, exerting pressure on the CAS centres' management so that individual absences had to be communicated immediately. As a result, the centres no longer have any chance to manage the guests' absence, in the light of their personal situation. As of 19 February 2020, the Administrative Court of Lombardy cancelled the withdrawal decision adopted by the Prefecture of Milan on 6 November 2019, observing that the absence from the facility for one night does not mean an abandonment of the centre and that in any case the measure violates Article 20 of the Reception Directive because it is not proportionate and it does not ensure respect for human dignity.[702]

696 Article 23(3) Reception Decree.
697 Article 23(3) Reception Decree.
698 TAR Veneto, decision of 11 November 2020, case n. 851/2020, available at: https://bit.ly/3y5uxli.
699 Council of State, decision 06454/2019 of 26 September 2019.
700 Consiglio di Stato, decision 1322/2019, 14 May 2019, available in Italian at: https://bit.ly/2TwonIk.
701 NAGA, Senza Scampo, December 2019, available in Italian at: https://cutt.ly/byOB3Wr.
702 Administrative Court of Lombardy, decision 329/2020, 19 February 2020.

2.1. Violation of house rules and violent behaviour

In case of violation of the house rules of the centre or of violent behaviour, the manager of the reception facility shall send to the Prefecture a report on the facts that can give rise to the potential withdrawal of reception conditions within 3 days from their occurrence.[703] The duty to involve the asylum seeker in the procedure and to allow him or her to make submissions prior to the issuance of a decision was highlighted in a recent ruling of the Administrative Court of **Campania**, which annulled a decision taken solely on the basis of declarations made by the manager of a reception facility in Naples.[704]

The law does not clarify what is meant by "serious violations" of the centre's house rules and, in ASGI's experience, this has allowed Prefectures to misuse the provision revoking reception measures on ill-founded grounds. According to ASGI, such misuse of the provision amounts to a violation of the Article 20 of the recast Reception Conditions Directive according to which the withdrawal of reception conditions should be an exceptional measure. It also infringes Article 20 of the Directive since it does not include measures through which the reception measures may be reduced without being completely withdrawn.

Prefectures have interpreted conditions strictly or have considered certain forms of conduct to be "serious" without evaluating them in the context in which they occurred:

On 15 October 2019, the Council of State confirmed the decision of the Prefecture of Savona which had considered the absence of an asylum seeker from the centre for one night a serious violation of the house rules.[705] Similarly, in **Friuli Venezia Giulia**, by the end of January 2020, the Prefecture of Pordenone notified the withdrawal of the reception conditions to an asylum seeker from Peru because of his absence from the centre for one night. The man had formalized his asylum application only one month before, therefore he was not even admitted to work to sustain himself. On 15 May 2020 the Administrative Court of Friuli Venezia Giulia ordered the Prefecture to make a new exam of the withdrawal decision before 30 of June 2020, taking into account the Article 20 of the recast Reception Conditions Directive.[706] However the Prefecture confirmed with a new order the withdrawal of the accommodation, not taking into account Article 20 of the EU Reception Directive and the CJEU decision in the Habqin-case (C-233/18). Following a new appeal, in December 2020, the Administrative Court of Friuli Venezia Giulia cancelled the withdrawal. Significantly, the Court assessed the applicant's interest in the decision, who in the meantime had chosen to abandon the reception facility, because a confirmation of the withdrawal would have prevented him in the future, if his personal conditions had changed, to access that reception system or to Siproimi (now SAI).[707] The court considered his interest still valid because the withdrawal of reception conditions prevents new access to accommodation in case the asylum seeker needs it again.

On 26 September 2018, the Administrative Court of **Tuscany** asked the CJEU to rule on the compatibility of Article 23 of the Reception Decree with Article 20(4) of the recast Reception Conditions Directive, to ascertain whether violations of general rules of the domestic legal system, not specifically laid down in the house rules of the reception centres, can constitute serious violations of the house rules for the purpose of withdrawing reception conditions.[708]

On 15 April 2020 the same court decided to disapply Article 23 (let. e) of the Reception decree considered contrary to Article 20 of the recast Reception Conditions Directive[709] (see further par. 3.3.). The same Court with other subsequent pronunciations confirmed the decision. [710]

Through its Decision of 19 February 2021, the Administrative Court of Brescia cancelled the withdrawal of the reception measures decided by the Prefecture of Brescia against an asylum seeker who had been

703 Article 23(4) Reception Decree.
704 Administrative Court of Campania, Decision 5476/2018, 12 September 2018, available in Italian at: https://bit.ly/2VJU2VL.
705 Council of State, 15 October 2019, decision 7018/2019, available at: https://cutt.ly/xyOB75i.
706 Administrative Court of Friuli Venezia Giulia. Interim measure n. 42/2020, 15 May 2020.
707 Administrative Court of Friuli Venezia Giulia, 451/2020, 22 December 2020.
708 Administrative Court of Tuscany, 1481/2018, 12 November 2018, EDAL, available at: https://bit.ly/2VKeHsL.
709 Administrative Court of Tuscany, decision no 00437/2020 of 15 April 2020.
710 Administrative Court of Tuscany, decision no 1060, 22 September 2020; decision no. 1263, 22 October 2020.

denounced for having proposed to a police officer in civilian clothes the purchase of narcotics. The Court the Court found the decision contrary to Article 20 of the Reception Directive as interpreted by the Court of Justice, Haqbin judgment C-233/18.[711]

On 30 December 2020, the **Council of State** raised a preliminary question to the CJEU asking if Article 20, paragraphs 4 and 5, of the Reception Directive, precludes national legislation that provides for the revocation of the reception measures against the applicant who does not fall within the category of "vulnerable persons", in the event that the applicant is believed to be the perpetrator of particularly violent behaviour, carried out outside the reception centre, which resulted in the use of physical violence against public officials and / or persons in charge of public service, causing injuries to the victims.[712]

In 2021 Asgi did not receive information regarding the occurrence of similar new cases.

2.2. Possession of sufficient resources

Another worrying practice relates to withdrawal of reception conditions for reasons connected to the possession of sufficient resources (see Criteria and Restrictions to Access Reception Conditions).

Prefectures use the annual social income level to evaluate the sufficiency of the applicant's financial resources to justify the withdrawal of reception conditions. According to the Reception Decree, if it is established that the applicant is not destitute, the applicant is required to reimburse the costs incurred for the measures from which he or she has unduly benefitted.[713]

In several cases in 2020 and 2019, as in 2018, however, Prefectures have withdrawn reception conditions based on a decision that does not comply with the law or the spirit of the recast Reception Conditions Directive.[714]

On 18 November 2020, the Administrative Court of Friuli Venezia Giulia cancelled the provision through which the Prefecture of Pordenone had requested a refund of over 9,000 € from an asylum seeker accommodated in Pordenone reception system and who, in 2019, had worked and received income for an amount higher than the social allowance. Contradictorily, the Prefecture of Pordenone had confirmed the stay in reception because the beneficiary was unemployed, but had revoked the accommodation measures ex post for the previous year, asking for a refund for the reception received for an amount even higher than the working income. The Court, invoking art. 20 (3) of the Reception Directive, specified that the applicant "has concealed financial resources", "and that in any case the amount of the reimbursement requested must be proportionate and such as to allow a decent standard of living to the asylum seeker".[715]

In 2020 the Prefecture of Pordenone request such high reimbursements from many asylum seekers, but not all of them were able to submit an appeal before the competent Court. Similarly, in 2020, as recorded by ASGI, the Prefecture of Bergamo asked for high reimbursements assuming exceeding income limits even in cases where the limit was not actually reached. In one case, the amount requested was 12,000 euros.

In other cases, Prefectures have taken a withdrawal decision solely based on a presumption of existence of resources. In 2018, this was the case in Matera, **Basilicata** where the Prefecture revoked reception conditions of asylum seekers who had been employed. On 3 January 2019, ASGI sent a letter to the

711 Administrative Court of Brescia, decision no. 00167/2021, 17 February 2021, published on 19 February 2021.
712 Council of State, order no. 8540/2020, of 30 December 2020
713 Article 23(6) Reception Decree.
714 See as an example: Administrative Court of Friuli Venezia Giulia, decision No. 122/2019 of 13 March 2019.
715 Administrative Court of Friuli Venezia Giulia, decision no. 396/2020, 11 November 2020, published 18 November 2020, available in Italian at: https://bit.ly/3eCnA3w.

Prefecture of Matera requesting a review of the decisions and asking it to ascertain the effective sufficiency of resources for the asylum seeker involved in the procedures.[716]

In 2019 the Administrative Court of Basilicata accepted the appeals lodged by 7 young asylum seekers, lodged in CAS facilities of Matera whose reception conditions were revoked due to the fact that "they had carried out work activities". The decisions did not take into account the gains, nor the stability of the revenues, nor the vulnerability of the people involved. The applicants had worked as labourers in the countryside of the Metaponto, but only occasionally and for very low wages.[717]

On 15 April 2020 the Administrative Court of **Tuscany** cancelled the withdrawal of the reception conditions decided against a Pakistani asylum seeker by the Prefecture of Florence based on the availability of economic resources and on the violation of the house rules for the failure to communicate the beginning of a work activity.

The Court confirms that the assessment of the availability of resources must be made on an annual basis, and not on the income received monthly. Also, recalling the CJEU decision on the case C-233/18, the Court decides to disapply letter e) of Article 23 of the Reception decree considered contrary to the recast Reception Conditions Directive.[718]

In 2021 and early 2022, the revocations adopted for this reason were several hundred.

On March 2021, the administrative Court for **Lombardy** cancelled the withdrawal of reception measures applied from the Prefecture of Milan to an asylum seeker who, the previous year, had earned 3,844 euros and, in 2021, 1,836 euros. The Court stated that, according to Article 14 (3) of Legislative Decree 142/2015, incomes must be higher than the social allowance and must be ascertained as actually achieved, not just presumed.[719]

In the region **Emilia Romagna**, according to the media, 349 revocations were adopted in 2021 by the Prefecture of Reggio Emilia, out of which 115 based on the assessment of the availability of sufficient resources.[720] In Bologna, as of February 2022, the measure reached about 20 asylum seekers who were then asked for large reimbursements even if their incomes slightly exceeded the social allowance. The requests, published by the Migrants Coordination of Bologna,[721] require asylum seekers several thousand euros corresponding to the entire sums paid per day per capita to the reception body.[722]

On 28 February 2022, the Administrative Court of Bologna accepted the appeal submitted by an asylum seeker who had been asked to reimburse 15,000 euros for the reception measures received. According to the Court, as the resources had not been hidden, the revocation was incompatible with art. 20 (3) of the Reception Directive. Furthermore, the requested reimbursement amount did not appear proportional nor congruous.[723]

In Tuscany, in early 2022, various cases in which the Prefectures asked significant reimbursements to people in reception centres who had found a job were reported. In the same period in Campania, the Prefecture asked to people who were employed but did not exceed the limit to overcome indigence to give back the sum corresponding to the pocket money received.

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716 Meltingpot, 'Revoca dell'accoglienza per presunta "sufficienza di mezzi economici" nei confronti di richiedenti asilo e titolari di Protezione. Le associazioni scrivono al Prefetto di Matera', 8 January 2019, available in Italian at: https://bit.ly/2IfRY4G.

717 Lasciatecientrare, 6 June 2019, available in Italian at: https://cutt.ly/WyOB60J.

718 Administrative Court of Tuscany, decision no 00437/2020 of 15 April 2020.

719 Administrative Court for Lombardy, decision of 25 March 2021, no. 779.

720 Reggio Sera, Migranti, nel 2021 ci sono state 349 revoche dell'accoglienza, 10 December 2021, available at: https://bit.ly/3wlkObL.

721 An example of these letters is available at: Coordinamento Migranti Bologna, https://bit.ly/3KSZhvx.

722 Meltingpot, Bologna – Presidio contro i rimborsi astronomici chiesti ai richiedenti asilo, 16 February 2022, available at: https://bit.ly/3MRxSfj.

723 Administrative Court for the Emilia Romagna Region, decision no. 223 of 23 February, published on 28 February 2022.

Where detention grounds apply to asylum seekers placed in reception centres, the Prefect orders the withdrawal of the reception conditions and refers the case to the Questura for the adoption of the relevant measures.[724]

3.3. Civil Registration

Decree Law 113/2018 repealed the rules governing civil registration (*iscrizione anagrafica*) of asylum seekers,[725] and stated that the residence permit issued to them were not valid titles for registration at the registry office.[726]

On 31 July 2020 the Constitutional Court declared the denial of civil registration for asylum seekers introduced by the legislative Decree 113/2018, contrary to the principle of equality enshrined in the Article 3 of the Italian Constitution.[727] Subsequently, Decree Law 130/2020, amended by L 173/2020, re-introduced Article 5bis of the Reception Decree, expressly allowing asylum seekers to obtain civil registration.[728]

In 2021, after the reform, not all municipalities agreed to retroactively recognize the civil registration to asylum seekers who had requested it during the validity of the DL 113/2018. On this matter, an appeal is pending before the Civil Court of Trieste at the time of writing.

According to the law, the applicant for international protection, in possession of a residence permit for asylum request[729] or of the receipt certifying the request[730] is registered in the registry of the resident population.[731] For applicants accommodated in first reception centres, the person in charge of the centres must notify the municipality of the changes in co-habitation within twenty days from the date on which the facts occurred. Furthermore, the law states that the communication of the withdrawal of the reception measures or of the unjustified removal of the asylum seeker from the first reception centres and from the SAI centres, constitutes a reason for immediate cancellation of the residence. [732]

As observed by some studies - even if limited to the exceptional cases of revocation of reception and unjustified removal - the provision still appears discriminatory with respect to asylum seekers because it excludes only these categories of people from the application of the rule according to which only being unavailable for 12 months leads to cancellation. The rule can have particularly negative effects because it is difficult for those who are removed from the reception system to immediately find other stable accommodation.[733]

After registration, asylum seekers get an identity card valid for three years.[734]

4. Freedom of movement

Indicators: Freedom of Movement		
1. Is there a mechanism for the dispersal of applicants across the territory of the country?	☐ Yes	☒ No
2. Does the law provide for restrictions on freedom of movement?	☒ Yes	☐ No

724 Article 23(7) Reception Decree.
725 Article 5-bis Reception Decree was repealed by Article 13 Decree Law 113/2018 and L 132/2018.
726 Article 4(1-bis) Reception Decree, inserted by Article 13 Decree Law 113/2018 and L 132/2018.
727 Decision no. 186/2020 of 31 July 2020, available at: https://bit.ly/2SCXDbl.
728 Article 5 bis Reception Decree.
729 Article 4 (1) Reception Decree.
730 Article 4 (3) Reception Decree.
731 Article 5 bis (1) Reception Decree, re-introduced, with amendments, by Decree Law 130/2020 and L 173/2020.
732 Article 5 bis (3) Reception Decree.
733 See L'Iscrizione anagrafica dei richiedenti asilo e dei protetti internazionali, Paolo Morozzo della Rocca, in Immigrazione, protezione internazionale e misure penali, Pacini Giuridica, 2021.
734 Article 5 bis (4) introduced by Decree Law 130/2020.

Italian legislation does not foresee a general limitation on the freedom of movement of asylum seekers. Nevertheless, the law specifies that the competent Prefect may limit the freedom of movement of asylum seekers, delimiting a specific place of residence or a geographic area where asylum seekers may circulate freely.[735] In practice, this provision has never been applied so far.

However, asylum seekers arrived from abroad and placed in quarantine facilities (in hotspots, first governmental centres, ships or other ad hoc facilities) are completely limited in their freedom of movement, especially when they are placed on ships.

4.1. Dispersal of asylum seekers

Asylum seekers can be placed in centres all over the territory, depending on the availability of places and based on criteria providing about 2.5 accommodated asylum seekers per thousand inhabitants in each region. The placement in a reception centre is not done through a formal decision and is therefore not appealable by the applicant.

At the end of 2021, the total number of asylum seekers and beneficiaries of international protection accommodated was 78,001 (including those in SAI) and their distribution across the regions was as follows:

Distribution of migrants accommodated in Italy per region: 15 December 2021		
Region	Number of migrants	Percentage
Lombardy	9.948	12.6%
Emilia-Romagna	7,851	10%
Piedmont	7,205	9%
Lazio	6,813	8.6%
Sicily	6,417	8.1%
Campania	5,298	6.7%
Tuscany	5,090	6.4%
Apulia	4,520	5.7%
Veneto	4,232	5.3%
Calabria	4,214	5.3%
Liguria	3,306	4.2%
Friuli-Venezia Giulia	2,897	3.6%
Marche	2,512	3.2%
Abruzzo	1,798	2.2%
Basilicata	1,526	1.9%
Umbria	1,524	1.9%
Trentino Alto Adige	1,107	1.4%
Molise	1,062	1.3%
Sardinia	1,041	1.3%
Valle d'Aosta	60	0.07%

Source: Ministry of Interior, Cruscotto Statistico Giornaliero, available at: https://bit.ly/3vzqjD7.

Transfers between reception centres

After their initial allocation, asylum seekers may be moved from one centre to another, passing from: (1) CPSA / hotspots; to (2) governmental first reception centres, to (3) CAS or to (4) SAI system.

[735] Article 5(4) Reception Decree.

Asylum seekers are often moved from one CAS to another, in order to try to balance the asylum seekers' presence in the centres across the regions and provinces. Prefectures decide these transfers, while the consideration for people's choice to move varies from place to place. Transfers cannot be appealed.

4.2. Restrictions in accommodation in reception centres

The Reception Decree also clarifies that asylum applicants are free to exit from first reception centres during the daytime but they have the duty to re-enter during the night time. The applicant can ask the Prefecture for a temporary permit to leave the centre at different hours for relevant personal reasons or for those related to the asylum procedure.[736] The law does not provide such a limitation for people accommodated in CAS, but rules concerning the entry to /exit from the centre are laid down in the reception agreement signed between the body running the structure and the asylum seeker at the beginning of the accommodation period.

Applicants' freedom of movement can be affected by the fact that it is not possible to leave the reception centre temporarily e.g. to visit relatives, without prior authorisation. Authorisation is usually granted with permission to leave for some days. In case a person leaves the centre without permission and does not return to the structure within a brief period of time (usually agreed with the management body), that person cannot be readmitted to the same structure and material reception conditions can be withdrawn (see Reduction or Withdrawal of Material Reception Conditions).

On 16 June 2017, the Prefecture of Naples adopted a new regulation to be applied in CAS. The regulation establishes a curfew at 22:00, or 21:00 in spring and summer. The regulation also foresees Withdrawal of Material Reception Conditions if the curfew is not observed. The regulation has been challenged by ASGI before the Council of State but the latter rejected the appeal considering that the regulation cannot imply an automatic withdrawal of the reception conditions since the administration is required to evaluate case-by-case the reasons of the absence.

However, in these situations the existence itself of measures regulating the access to the structure and the potential lack of legal advice prevent recipients from challenging revocations.

In 2020, the preventive isolation and quarantine measures, were sometimes extended beyond the days provided for in the circulars of the Government and of the Ministry of Health due to chain infections and contacts with new entrants who were not adequately screened in advance. As mentioned, in some cases the applicants who tested positive for COVID-19 were taken - even in the middle of the night - to the ships moored on the Sicilian coast to spend the quarantine there without prior information.

In some cases, all the guests were placed in quarantine in overcrowded centres, which led to a dizzying increase in infections in a short time. This was the case of Caserma Serena, Treviso, where in August 2020, there were 244 infected people out of 300 guests. In other cases, the mayors decreed a specific entry and exit ban for centres hosting asylum seekers due to infections affecting some of the guests. This was the case of the Caserma Cavarzerani, in Udine, where a measure of this type was taken at least on 21 July 2020 and 25 February 2021 and lasted for a few weeks.[737]

736 Article 10(2) Reception Decree.
737 See: La Gazzetta de Mezzogiorno, 6 March 2021, available at: https://bit.ly/3uIAhPJ.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres: Not available[738]
2. Total number of places in the reception centres: 78,001[739]

3. Type of accommodation most frequently used in a regular procedure:
   ☒ Reception centre ☐ Hotel or hostel ☒ Emergency shelter ☐ Private housing ☐ Other

4. Type of accommodation most frequently used in an accelerated procedure:
   ☐ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☒ CPR

There are no available comprehensive statistics on the capacity and occupancy of the entire reception system, given the different types of accommodation facilities existing in Italy. The following sections contain information and figures on: CPSA / hotspots; governmental reception centres; and CAS.

At the end of 2021, the number of asylum seekers and beneficiaries of international protection in the reception system was 78,001, which represents a decrease compared to 2020, when 79,938 asylum seekers were present and to 2019, when the accommodation system hosted 91,424 individuals. Out of the total number, at the end of 2021, 52,185 were in first reception facilities (CAS and first governmental centres) and 25,715 in SAI (former Siproimi).[740]
However, the decrease in the number of persons accommodated and in arrivals of asylum seekers did not lead to an increased tendency to place them in ordinary structures: at the end of 2021, 7 out of 10 asylum seekers were still accommodated in extraordinary centres.[741]

Occupancy of the reception system: 31 December 2021			
Hotspots	CAS and first governmental centres	S.A.I.	Total
101	52,185	25,715	78,001

Source: Ministry of Interior

As reported by Open Polis and Action Aid in January 2022, as of 31 December 2020, the total number of accommodation facilities was 9,138 divided as follows: 4,556 CAS facilities, 4,570 Sipiromi/SAI facilities and 12 first reception centres (including hotspots).[742]
The total number of CAS facilities decreased from 2020 when, according to the data obtained by Altreconomia, the number of CAS facilities at 31 July 2020 was 5,565 and also decreased with about 500 units from the 6,004 existing in October 2019. The number of accommodated persons, however, did not drop significantly: at the end of 2021, asylum seekers accommodated in CAS and first reception centres were 52,185, compared to 54,343 at the end of 2020 and to 66,958 at the end of 2019. This confirms that, in 2020 and in 2021 the trend to close small CAS continued, as a consequence of the 2018 Decrees and tender specification schemes, as well as the effect, in 2021, of the new tender specification schemes.

738 This data is not available. However, according to the report published by Openpolis and Actionaid, as of 31 December 2020 the number of facilities was 9,138 (4,556 CAS, 4,570 Sipromi/SAI and 12 first reception centers), L'emergenza che non c'è, p. 12, available in Italian at: https://bit.ly/35TtTOF.
739 This is the number of persons accommodated in CPSA, hotspots governmental reception centres CAS and Sai/Siproimi at 31 December 2021, Source MoI Cruscotto Statistico giornaliero.
740 Source: MoI Cruscotto statistico giornaliero, available at: https://bit.ly/2RGWqzn; See also: Openpolis, "Come funziona l'accoglienza dei migranti in Italia", 29 January 2021, available at: https://bit.ly/3hltQyo
741 Report ActionAid and Openpolis, ibid, 10.
742 Open Police, Action Aid, L'emergenza che non c'è, available in Italian at: https://bit.ly/35TtTOF, 12.

1.1. First aid and identification: CPSA / Hotspots

The Reception Decree states that the first aid and identification operations take place in the centres set up in the principal places of disembarkation.[743] These are First Aid and Reception Centres (CPSA),[744] created in 2006 for the purposes of first aid and identification before persons are transferred to other centres, and now formally operating as Hotspots.[745] According to the SOPs, persons should stay in these centres "as short as possible", but in practice they are accommodated for days or weeks. In 2020 and in 2021, due to the COVID-19 emergency, hotpots have been used for quarantine and isolation measures.

By the end of 2021, four hotspots were operating in **Apulia** (Taranto) and **Sicily** (Lampedusa, Pozzallo, and Messina), while the Trapani hotspot, already in 2020. was converted into a CPR. A total of 101 persons were accommodated in hotspots at the end of the year, half in Sicily and half in Apulia.[746]

1.2. Governmental first reception centres

The Reception Decree provides that the governmental first reception centres are managed by public local entities, consortia of municipalities and other public or private bodies specialised in the assistance of asylum applicants through public tender.[747]

At the time of writing, first reception centres are established in the following regions in Italy:

First reception centres by region	
First reception centre	Region
Gorizia (CARA)	Friuli-Venezia Giulia
Udine (Caserma Cavarzerani)	Friuli-Venezia Giulia
Foggia (Borgo Mezzanone)	Apulia
Bari (CARA Palese)	Apulia
Brindisi	Apulia
Crotone (Sant' Anna)	Calabria
Caltanissetta	Sicily
Messina	Sicily
Treviso (ex Caserma Serena)	Veneto

Source: MoI, available at: https://bit.ly/3y7vo52.

In early 2019, some centres were closed by the Government. This is the case of Castelnuovo di Porto, Rome, **Lazio**,[748] whose closure, albeit long awaited, has sparked serious criticism for the way in which it happened, and Cona, Venice, **Veneto**.[749]

The first governmental centre of Mineo (Catania), Sicily, was definitively closed as of 10 July 2019.
As for the other centres, the way in which it was closed, the scarce or no consideration of vulnerable situations and the transfer of the guests to equally low-threshold centres, mainly in the Cara of Isola Capo

743 Article 8(2) Reception Decree, as amended by DL 130/2020, which now directly recalls Article 10- ter TUI
744 L 563/1995.
745 Article 10-ter TUI, inserted by Article 17 Decree Law 13/2017 and L 46/2017.
746 MOI, Cruscotto Statistico Giornaliero, 31 December 2021, available in Italian at: https://bit.ly/3ibFmLN.
747 Article 9(2) Reception Decree.
748 Redattore Sociale, 'Non difendiamo i grandi centri ma così è inumano', 23 January 2019, available in Italian at: https://bit.ly/2T4Dzt2; 'Cara Castelnuovo parlamentare blocca un pullman con i migranti', 23 January 2019, available in Italian at: https://bit.ly/2W0tn6P.
749 Venezia Today, 'Chiuso centro di accoglienza Conetta', 20 December 2018, available in Italian at: https://bit.ly/2O4ouXH.

Rizzuto, Crotone, have raised bitter criticisms also among organizations such as Doctors for Human Rights (Medu), who have called for the centre's closure for years. [750]

The Hub centre located in Bologna, Mattei, is now classified as CAS. Others governmental centres working as first accommodation facilities but not classified as first governmental centres by MoI are the one of Fernetti, in Trieste, called Casa Malala, and the one in Pordenone, Caserma Monti, both in Friuli Venezia Giulia. [751]

In **Foggia**, even if the centre of Borgo mezzanine is still indicated by MoI as a governmental first reception centre, according to information collected by ASGI in 2020, it has no longer hosted asylum seekers. People living there have been left there without services. The conditions of the modules have been reported as worse than the ones of makeshift camps. As of 25 March 2021, a part of it has been converted in COVID-19 isolation centre.[752]

Villa Sikania, a first accommodation centre **in Agrigento**, Sicily, was closed in 2019 but, in April 2020, due to the COVID-19 emergency, 70 people disembarked in Lampedusa were placed there in fiduciary isolation.[753] Since then, the centre has become one of the centres for the fiduciary isolation of migrants disembarked in Lampedusa. Cases of prolonged isolation even beyond 30 days have been reported.[754] On 3 September 2020, an Eritrean man, aged 20, died in an attempt to escape from that structure as he was hit on the street and died.

As for **Treviso**, during 2020, Caserma Serena was sadly at the centre of the news: at the outbreak of the pandemic it was hosting over 300 people who were not moved or distributed in larger spaces. After an operator's positive COVID-19 test result, all guests were quarantined. This, right at the end of May, was shortly after the end of the lock down which lasted from March to May 2020. The quarantine communication news generated strong protests from some guests. After two months, in August 2020, perhaps due to a quarantine carried out in the same structure with such high numbers of guests, the infections increased from 2 to 244. Of these, 11 were social workers.[755]

When, in mid-August, 5 of the guests were moved to an apartment near the city centre, neighbours started to protest.[756] On 19 August 2020, 4 of the asylum seekers were arrested for the riots in June with allegations of devastation, looting and kidnapping.[757] The 4 were taken to prison and placed in solitary confinement. On November 2020, the youngest of them, not bearing this condition, took his own life. [758]

In **Trieste**, the Administrative Court of Friuli Venezia Giulia overturned the result of the tender for the first reception centre located on the border with Fernetti which was won by Ors society. The Court ascertained that Ors was in fact inactive at the time of participation in the call while the second, Versoprobo, had had an excessive score. The Court therefore attributed the call to ICS - Refugee Office which had continued to manage the structure by extension.[759] The centre is now managed by Caritas.

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750 Repubblica, Cara di Mineo, ecco perchè non c'è da festeggiare, 10 July 2019, available in Italian at: https://cutt.ly/HyONuy1.

751 See MoI, available at: https://bit.ly/3y4dbFm.

752 See Apulia Region press release, 25 March 2021, available at: https://bit.ly/3uH02A2.

753 See Agrigento notizie available at: https://cutt.ly/KyONyEK.

754 See Osservatorio diritti, Villa Sikania: migranti "detenuti" da un mese nel centro di accoglienza, 7 September 2020, available in Italian at: https://bit.ly/3hjfdvt

755 See Oggi Treviso, Coronavirus, Caserma Serena, 244 contagiati, available at : https://bit.ly/2RO6bvO.

756 See Treviso Oggi, available at: https://bit.ly/3bmNNAT.

757 See La Voce di Venezia, available at: https://bit.ly/3tHVdoT.

758 See Meltingpot: "Ex Caserma Serena, Treviso: «Per Chaka, perché la sua morte non sia stata vana, perché la libertà è tutto!»", available at: https://bit.ly/33J45jf.

759 See Il Piccolo, Il Tar restituisce all'ICS l'appalto per Casa Malala, 20 December 2020, available at: https://bit.ly/2R7OBD5.

1.3. Temporary facilities: CAS

In case of temporary unavailability of places in the first reception centres, the Reception Decree provides the use of Emergency Reception Centres (*centri di accoglienza straordinaria*, CAS). The CAS system, originally designed as a temporary measure to prepare for transfer to second-line reception, expanded in recent years to the point of being entrenched in the ordinary system. The Reception Decree adopted in August 2015 missed the opportunity to actually change the system and simply renamed these centres from emergency centres to "temporary facilities" (*strutture temporanee*).

The CAS are identified and activated by the Prefectures, in cooperation with the Ministry of Interior. Following Decree Law 113/2018, CAS facilities can be activated only after obtaining the opinion of the local authority on whose territory the structures will be set up.[760] Activation is reserved for emergency cases of substantial arrivals but applies in practice to all situations in which, as it is currently the case, capacity in ordinary centres are not sufficient to meet the reception demand.

Following the reform of the accommodation system made by Decree Law 130/2020, the CAS are specifically designed only for the first accommodation phase for the time "strictly necessary" until the transfer of asylum seekers to the SAI system.[761] The services guaranteed are the same as in the first reception centres (see Forms and Levels of Material Reception Conditions).[762]

Decree Law 130/2020, implemented by L 173/2020, refrained from defining time limits for transfer to the proper accommodation system implemented in SAI, thus further endorsing a temporary and precarious approach to reception for asylum seekers. In 2018, the law stated that within one year of the entry into force of the 2018 reform, the Minister of Interior should have monitored the progress of migratory flows with a view to the gradual closure of the CAS centres.[763]

There are over 5,500 CAS established across Italy.[764] As underlined (see Forms and Levels of Material Reception Conditions), following the 2018 MoI tender specification schemes most of the small CAS were obliged to close, leaving the accommodation scene to large centres managed by profit organizations or big social cooperatives.

The fact that the majority of available places are currently in CAS, illustrates a reception policy based on leaving asylum seekers in emergency accommodation during the entire asylum procedure. The vagueness of the timing of the transfer from CAS remained unchanged with the 2020 reform and the poor offer of the new tender specification schemes published in February 2021, in addition to the maintenance of the SAI system with a purely voluntary adhesion by the Municipalities, suggest that the situation will not change in the course of 2021.

1.4. Second accommodation- SAI system

The second accommodation system remains dedicated mainly to beneficiaries of international protection and unaccompanied minors.[765]

As mentioned, the decision to keep those projects based on a voluntary adhesion by municipalities do not favour the availability of places in this system and it will not favour the immediate access of asylum seekers to the system.

760 Article 11(2) Reception Decree, as amended by Article 12 Decree Law 113/2018 and L 132/2018. Prior to the reform, the law provided that the local authorities should only be notified and issue a non-binding opinion.
761 Article 11 (3) Reception Decree, as amended by Decree Law 130/2020.
762 Articles 10(1) and 11(2) Reception Decree.
763 Article 12-bis Decree Law 113/2018, as amended by L 132/2018.
764 According to data obtained by MoI by Altreconomia, at 31 JUly 2020 the number of CAS was 5,565
765 According to Article 1 sexies DL 416/1989, as amended by DL 130/2020, local authorities responsible of the SAI projects "can" host in such projects also asylum seekers and beneficiaries of special protection or other protection titles.

The system now called SAI (system of accommodation and integration) is mainly made by small facilities and apartments in the city centre or not far away from it or well connected to it by public transports (see Content of protection).

Here asylum seekers can benefit of a **first level services** which include the same services now guaranteed in first accommodation facilities (CAS and governmental centres): in addition to material reception services, health care, social and psychological assistance, linguistic-cultural mediation, Italian language courses, legal orientation and orientation to the territorial services.[766]

The system already existing and the resources not depending by the tender specification schemes make these guarantees of services immediately effective for those who will be able to access this system with no delay. A **second level services** which include job orientation and professional training are reserved to beneficiaries of international protection, UAMs and beneficiaries of other forms of protection.[767] (See Content of protection)

1.5 Private accommodation with families and churches

In addition to the abovementioned reception centres, there is also a network of private accommodation facilities which are not part of the national reception system, provided for example by Catholic or voluntary associations, which support a number of asylum seekers and refugees. Several churches had already accommodated refugees and many others have decided to do so following the Pope's call of 6 September 2015.[768]

It is very difficult to ascertain the number of available places in these forms of reception. The function of these structures is relevant especially in emergency cases or as integration pathways, following or in lieu of accommodation in S.A.I.

Other projects financed by municipalities or AMIF funds and directed at accommodating families and unaccompanied minors started.

In Bologna, for example, the VESTA project, conceived and developed by the Camelot Social Cooperative - is operational. The project, designed mainly for beneficiaries of international and special protection who reach the age of majority provides a contribution towards the costs to the host family.[769]

The OHANA project, financed by AMIF fund, is developing accommodation at families of unaccompanied minors in the cities of Turin, Milan, Pavia, Venice, Verona Padova, Pordenone, Rome, Bari, Catania and Palermo.[770]

Faced with the outbreak of the conflict in Ukraine, and the transfer of unaccompanied minors to Italy by voluntary organizations and associations, the Head of Civil Protection issued an operational plan with ordinance no. 876 of 13 March 2022, later integrated by the Commissioner delegated to the management of minors from Ukraine with prot. 4070 of April 13, 2022. The plan provides that the Ministry of Interior (Departments of civil protection, civil liberties and immigration and public security) are informed of the transfer at least 10 days in advance about the personal details of the minors and the modalities for the reception of minors, and that the territorially competent Prefecture immediately activates coordination with the local institutions concerned, including the school office, the health authority and the Juvenile Court for the orderly access to reception measures.[771]

766 Article 1 sexies (2 bis, a) DL 416/1989, introduced by DL 130/2020.
767 Article 1 sexies (2 bis, b) DL 416/1989.
768 Il Fatto Quotidiano, 'Profughi, l'appello di Papa Francesco: "Ogni parrocchia accolga una famiglia"', 6 September 2015, available in Italian at: http://bit.ly/2GjNplL.
769 Bologna, Camelot presenta Vesta, per ospitare rifugiati in famiglia, available at: https://bit.ly/3y9ALDf.
770 Ohana project, see: https://bit.ly/3jD0v28.
771 Plan for unaccompained minors, Ukraine emergency, Prot. 4070 of 13 April 2022.

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities		
1.	Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?	☐ Yes ☒ No
2.	What is the average length of stay of asylum seekers in the reception centres?	Not available
3.	Are unaccompanied children ever accommodated with adults in practice?	☒ Yes ☐ No

Given the extremely small number of arrivals in 2019, the lack of access to reception is not related to the absence of places but often to the difficulties in the registration of the asylum application or to the difficulties related to the COVID-19 screening. (see Registration).

Reception conditions in the centres were inevitably conditioned by health measures and the COVID-19 pandemic. Regarding the facilities set up for the quarantine, the overcrowding that characterizes many of these centres made it impossible to comply with the isolation measures and did not allow decent accommodation conditions. The most serious case was the one of the Lampedusa hotspots, which with an official capacity of 192 places, hosted on average over a thousand of people in the summer months.[772] On 27 July 2020, 180 people fled from a tensile structure of the Civil Protection set up in Porto Empedocle, without windows and with a maximum capacity of 100 people, which at that time housed 520 migrants: inhumane conditions, in which people risked suffocation, as pointed out by the mayor of the Sicilian city.[773]

In October 2020, some asylum seekers and beneficiaries of international protection, who tested positive to COVID-19, were taken at night from a CAS in Rome, and, without any prior information, were transferred to a quarantine ship moored in the harbours of Palermo, Trapani, and Bari. A measure that NGOs defined unreasonable and harmful,[774] as well as illegal and discriminatory.[775] In other cases, people were placed in quarantine all, together which led to an increase in infections in a short time.

In June 2020, the asylum seekers accommodated at the Mattei CAS centre, in Bologna, denounced the serious overcrowding of the structure and the impossibility of maintaining personal distancing, as a result of living together in rooms with 10-12 people.[776] The Civil Court of Bologna rejected a legal action brought forward to support the need to move asylum seekers to places suitable for containing the pandemic. However, on 15 February 2022, the Court of Cassation upheld the appeal lodged by Asgi, declaring that the appeal presented to protect the right to health of asylum seekers, to be implemented with personal distancing measures to face the pandemic situation and not respected in Cas Mattei, must be examined by the ordinary judge, because there can be no discretionary power before of measures pre-determined by the legislator.[777] The appeal is now pending in front of the Civil Court of Bologna.

In the former Cara of Gradisca d'Isonzo, Gorizia, first governmental centre, as of 23 November 2020 over 112 asylum seekers tested positive. The guests were divided and the people found to be infected, were temporarily housed in a tensile structure, and then in special modules. The Prefect of Gorizia stated in

772 See for example the video on the outcomes of the task force of the Sicily Region in September 2020, Le condizioni dell'hotspot di Lampedusa accertate dalla task force della Regione siciliana, 2 September 2020, available at: https://bit.ly/3blknTH.

773 See the video posted by Corriere.it, Porto Empedocle, fuga di massa dalla tensostruttura della Protezione Civile: il video, available at: https://bit.ly/3eHBe5a, 27 July 2020.

774 See Redattore sociale, about MEDU statements, "Trasferimenti migranti navi quarantena. Medu: "Irragionevoli e dannosi", 13 October 2020, available at: https://bit.ly/3uIPY9N.

775 See ASGI; Illegali e discriminatori i trasferimenti coercitivi sulle "navi quarantena", 9 october 2020, available at: https://bit.ly/3w3G9TQ.

776 See Meltingpot, CAS di Via Mattei, k migranti denunciano il sovraffollamento, available at: https://bit.ly/33zsEPT.

777 See ASGI, "Va tutelato il diritto alla salute dei richiedenti asilo nei CAS. Accolto il ricorso di ASGI in Cassazione", and Court of Cassation, decision of 15 February 2022, no. 4873, available at: https://bit.ly/3L6FMzN.

this regard that a clear separation had been made with the area hosting the hundred negatives, with barriers and increased surveillance.[778]

The National Institute for Health Migration and Poverty conducted a survey[779] from 11 May 2020 to 12 June 2020, on 73.7% of reception facilities (5,038 out of 6,837). It underlined that among the suspected COVID-19 cases emerged in the facilities, 89% had been reported to the national health service, which had prescribed quarantine in 39.6% of cases outside the facility and in 51.4% inside the facility itself. Only 44.1% of suspects quarantined inside the facility were isolated in a single room with private facilities.

There were 239 confirmed cases, almost all in the northern regions. All confirmed cases have been notified to the sanitary service, which has prescribed isolation at the facility for 61 people (25.5%). Out of them, 33 (54.1%) were isolated in a single room with private services, while 14 (23.0%) in a room with other people positive to the virus and 5 (8.2%) in a single room with shared services.

The 5,038 structures participating in the survey recorded a saturation (ratio between the number of guests and the total capacity) of 79%: the saturation was higher among the 169 structures with at least one suspected case (88.1%) and among the 68 facilities with at least one confirmed case (87.7%), while it was lower among the 4,970 facilities with no confirmed case (78.6%).

The survey highlighted an incidence of positive cases similar to the one found in the general population, with a geographical distribution of cases (higher in the north than in the south) that reflected the national data. In addition, it highlighted how, worryingly, the isolation of persons who tested positive had occurred inside the facility in a quarter of the cases and that, out of these, only 54% had been performed in a single room with exclusive services.

A monitoring conducted by the associations part of the Tavolo Asilo and Tavolo Immigrazione e Salute, (National Asylum Table, Immigration and Health Table) published in June and updated in February 2021 highlighted the practices found in some accommodation facilities in the management of COVID-19 cases.

The June 2020 report,[780] based on the data collected from 200 facilities between April and May 2020, highlighted the critical absence of institutional indications, which had led the facilities to organize their own solutions that had produced effective protection of the guests but that had also significantly reduced the reception capacity.

The report updated in February,[781] on the basis of data collected in October 2020 on 179 reception facilities, underlines the continuing uncertainty about national or regional guidelines and the risk that this translates into a vaccine plan that effectively excludes more fragile parts of the population.

With respect to the management of COVID-19 cases, the updated February report distinguishes two hypotheses:

- In the case of COVID-19 positive people who do not need hospitalization, the transfer to structures set up by the health authorities or public institutions remains residual (27% of the answers).
- People who had close contacts with people that tested positive or who have suspicious symptoms: the prevailing practice (62% of the answers) is that the person is swabbed and is isolated within the reception structure.

According to the report, the main criticalities are therefore:

- difficult coordination with health authorities;

778 See Tg 24, available: https://bit.ly/3oc1RCo.

779 Covid-19 national survey on the reception facilities for migrants", National Institute for Health Migration and Poverty, 9 August 2020, available in Italian at: https://bit.ly/2Qb4qrV.

780 Tavolo Asilo Nazionale, Tavolo Immigrazione e Salute, "Dossier Covid-19, procedure, condizioni di sicurezza, criticità nei sistemi di accoglienza in Italia", June 2020, available in Italian at: https://bit.ly/3eDYwcg.

781 Tavolo Asilo Nazionale, Tavolo Immigrazione e Salute, "Dossier Covid-19, update, 25 February 2021, available at: https://bit.ly/3fexwz8.

- ❖ the absence of detailed protocols;
- ❖ the absence of facilities for fiduciary isolation and the difficulty of organising isolation within the reception facilities.

The report also explains that, although guidelines on the management of structures with fragility and social marginalization were issued at the end of July[782], they are not easily adaptable to the concrete cases that lie ahead in the reception facilities.

As stated in Forms and Levels of Material Reception Conditions, the Decree of the Ministry of Interior of 20 November 2018 providing the tender specification schemes (*capitolati*) for first reception, cancelled all integration services as well as funding related to psychological support, which is now guaranteed only in CPR and hotspots. Conversely, former SPRAR projects ensured interpretation and linguistic-cultural mediation services, legal counselling, teaching of the Italian language and access to schools for minors, health assistance, socio-psychological support in particular to vulnerable persons, training and re-training, support at providing employment, counselling on the services available at local level to allow integration locally, information on (assisted) voluntary return programmes, as well as information on recreational, sport and cultural activities.[783]

Subsequently, the indications contained in the circular dated 4 February 2020 issued by the new MoI did not change the situation, allowing to exceed the prices indicated only in consideration of the higher costs of rents and surveillance.

In practice, reception conditions vary considerably not only among different reception centres but also between the same type of facilities. While the services provided are the same, the quality can differ depending on the management bodies running the centres. While the SPRAR system published an annual report on its reception system, no comprehensive and updated reports on reception conditions are available for the entire Italian territory.

It is not possible to determine an overall average of duration of stay. However, asylum seekers remain in reception centres throughout the whole asylum procedure, which may last several months, as well as during the appeal procedure. The Reception Decree does not provide any timeframe on the reception, since this has to be provided since the expression of the intention to make an asylum application and throughout the whole asylum procedure.

The recent adoption of the safe countries list, together with the issue of the border procedures and, more generally, the application of accelerated procedures, will probably have a significant impact on the times and on the right to reception conditions, denying, due to an incorrect use of the institute of manifestly unfounded decisions, the protection to guarantee to asylum seekers even shortly after their arrival. (see accelerated procedure).

2.1. Conditions in first reception centres

Whereas first reception centres are the main form of accommodation following the 2018 reform, the law still states that their aim is to offer accommodation to asylum seekers for the purpose of completion of operations necessary for the determination of their legal status,[784] and of medical tests for the detection of vulnerabilities, to take into account for a subsequent and more focused placement.[785]

First reception centres are collective centres, up until now set up in large facilities, isolated from urban centres and with poor or otherwise difficult contacts with the outside world.

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782 Interim operating procedures for the management of facilities with persons who are highly vulnerable and at high risk of health and social care exclusion during the covid-19 pandemic, available in English at: https://bit.ly/3bot13Q.

783 Article 30 Ministry of Interior Decree 10 August 2016.

784 Article 9(1) Reception Decree.

785 Article 9(4) Reception Decree.

Generally speaking, all governmental centres are very often overcrowded. Accordingly, the quality of the reception services offered is not equivalent to reception facilities of smaller size. In general, concerns have systematically been raised about the high variability in the standards of reception centres in practice, which may manifest itself in: overcrowding and limitations in the space available for assistance, legal advice and social life; physical inadequacy of the facilities and their remoteness from the community; or difficulties in accessing appropriate information.[786] Nevertheless, it must be pointed out that the material conditions also vary from one centre to another depending on the size, the occupancy rate, and the level and quality of the services provided by the body managing each centre.

Managers tend to avoid accommodating together people of the same nationality but belonging to different ethnicities, religion, or political groups in order to prevent of the rise of tensions and violence.

2.2. Conditions in CAS

According to the Reception Decree, services guaranteed in temporary centres (CAS) are the same as those guaranteed in first reception governmental centres.[787]
Following the reform provided by the Decree Law 130/2020 and L 173/2020, the services guaranteed to asylum seekers are the same as guaranteed in the SAI system. This remains largely theoretic. As explained (see: Form and Levels of Material Reception Conditions) the new tender specification schemes published by the MoI on 24 February 2021 do not intervene to concretely change the level of services in CAS and governmental centres, keeping the proportions between operators and people accommodated very low, providing for a negligible number of hours for the services provided and recognizing costs that are totally inadequate to guarantee the effectiveness of the protection.

The chronic emergency state under which the CAS operate has forced the improvisation of interventions and favoured the entry into the reception network of bodies lacking the necessary skills and, in the worst cases, only interested in profits.

The functioning of CAS depends on agreements by the management bodies with the Prefectures and on the professionalism of the bodies involved.

As discussed in Forms and Levels of Material Reception Conditions, the calls for tenders modelled on the Ministry of Interior tender scheme of 20 November 2018 resulted in the disappearance of many virtuous projects,[788] and the new tender specification schemes risks keeping the reception panorama unchanged.

2.3. Conditions in makeshift camps

As discussed in Criteria and Restrictions to Access Reception Conditions, at least 10,000 persons were excluded from the reception system as of February 2018, among whom asylum seekers and beneficiaries of international protection.

Informal settlements with limited or no access to essential services are spread across Italy. A report by MSF published in February 2018 described the situation in some makeshift camps.[789]

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786 This is a recurring concern: Council of Europe Commissioner for Human Rights, *Report by Nils Muiznieks, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 3 to 6 July 2012*, CommDH(2012)26, 18 September 2012, 36.

787 Articles 11(2) and 10(1) Reception Decree.

788 This happened, for example, in Milan, Lombardy, where 11 third sector managers, in many cases small companies with a strong social vocation, decided not to participate in new tenders, See Openpolis and ActionAid, third report, available in Italian at: https://cutt.ly/7yONsIR. In Livorno, Tuscany, in 2019, the vast majority of third sector managers have decided not to participate in the new tenders, therefore all small and many medium-sized centres have closed and the number of available places in reception has drastically decreased. The migrants hosted in centres that have been closed have often been transferred to other locations. Others, not to abandon the integration paths developed over time, have decided to stay in Livorno with high risks of social marginality. See Openpolis and ActionAid, second report, available in Italian at: https://cutt.ly/uyONs8z.

789 MSF, *Fuori campo*, 2 February 2018, 36.

By the end of 2018, some of these camps had been rapidly evacuated. This happened to the Ferrhotel in Bari.[790] In both cases people were warned only two days before the eviction and it is not clear if they have been transferred to proper reception facilities or simply have been evicted.

The makeshift camp of San Ferdinando, **Calabria**, a tent camp where among others migrants, some asylum seekers and agricultural workers were living, was evacuated on 6 March 2019. Asylum seekers have been dispersed or transferred to CAS of other regions. Many of them protested because they would lose their job and salary.[791]

On 30 July 2019 the former Olympic village (MOI), in **Turin**, was evacuated and the over 400 migrants who were living there moved to other accommodations. The eviction plan, the media explained, was accelerated due to the extremely insecure conditions of one of the two buildings. [792]

Since January 2018, the Naga network has been monitoring the informal settlements in **Milan** where they found living, among others, asylum seekers who had no access to the asylum procedure, asylum seekers who were waiting for weeks to register their asylum application and who were therefore prevented from accessing the reception conditions, and also beneficiaries of international protection forced to abandon the Sprar/Siproimi reception due to the expiry of their project.
The report, [793] published in December 2019 offers a description of the types of informal settlements frequently subject, even in 2019, to evictions.
The report published by NAGA on December 16, 2021, highlights how the number of homeless persons increased in Milan; most of them are third country nationals under the age of 35, often migrants benefiting from protection.[794]

In **Foggia**, in the Capitanata area, **Apulia** region, from June to September 2019 the Doctors for Human Rights (MEDU) mobile clinic assisted 225 people (209 men and 16 women) carrying out 292 medical visits and 153 legal orientation interviews operating mainly in five informal settlements: the Ghetto of Rignano Gargano, Borgo Mezzanone, the farmhouses of Poggio Imperiale and Palmori. 60 % of the people were regular asylum seekers or international protected or humanitarian protected. The remaining 40% were in irregular condition. [795]

The fifth Report *Agromafie e Caporalato* published by FLAI- CGIL two labour unions, by the end of 2020, highlights that, in the last decade more and more asylum seekers are crowding informal settlements sought close to the place of work in agriculture sector. To date, the report says, tens of thousands of asylum seekers are living in a promiscuous and degrading manner in these settlements.
Such examples, beyond Borgo Mezzanone, are S. Ferdinando, Cassibile, the Felandina in Metaponto area, Campobello, in Mazara, Castel Volturno (Caserta) and Saluzzo.[796]

The final report "The Bad Season" (La Cattiva Stagione)[797] written by MEDU illustrates the living and working conditions of the labourers and describes the unhealthy settlements, isolated without any minimum basic service and with pervasive exploitation of workers.

790 Il Giornale, 'Bari, sgomberati i locali della Ferrhotel occupati da extracomunitari', 12 October 2018, available in Italian at: https://bit.ly/2HBfOGQ.
791 Internazionale 'A San Ferdinando sgomberata una tendopoli se ne apre un'altra', 6 March 2019, available in Italian at: https://bit.ly/2F2S3EQ.
792 Repubblica, Operazione Moi libero: sgomberate le ultime due palazzine. Salvini: stop a nuove arbitrarie intrusioni, 30 July 2019, available in Italian at: https://cutt.ly/syONdnk.
793 Naga, Senza Scampo, December 2019, available in Italian at: https://cutt.ly/1yONfN4.
794 Naga, Più fuori che dentro, available in Italian at: https://bit.ly/3tgw4Vf.
795 Immediato, Più di 200 migranti curati nei ghetti della provincia di Foggia, quasi la metà era irregolare, 21 October 2019, available in Italian at: https://cutt.ly/wyONgAc.
796 FLAI- CGIL, Quinto report su Agromafie e Caporalato, 2020, available in Italian at: https://bit.ly/3CKEAyS.
797 Medici per i diritti umani, report La Cattiva Stagione, 21 October 2019, available in Italian at: https://cutt.ly/JyONhtH.

In November 2021, the Criminal Court of **Pordenone** acquitted the activists of the NGO Rete Solidale, operating in Pordenone, together with 9 asylum seekers, accused of having occupied a private parking to help around 70 asylum seekers in need of accommodation in 2017.[798]

In **Trieste**, some beneficiaries of international protection and asylum seekers whose receptions conditions were withdrawn, are facing a criminal procedure to have occupied the "Silos area", a private area behind the train station. As emerged from the trial, they slept amidst garbage and animals with cardboard huts. The court of Trieste will rule on the case in June 2022.

In **Ventimiglia**, as reported by Refugees Rights Europe and Progetto 20K,[799] after the closure of the Roja Camp, people started once more to create informal settlements around the city.
The report, published in July 2021, informed that "hundreds of displaced people have been spending cold nights outside during the winter without access to clean water, sanitation, hygiene provisions and heating. Other settlements were created on the beach and in abandoned railway offices close to the former Red Cross camp, referred to as 'red houses." And that "the buildings were forcibly evicted by the police in April 2021. At the time of eviction, there were 50-60 people sleeping inside each building. The police, with the help of private companies, blocked the entrances to the buildings, sealed the water pipes and threw away all of the residents' belongings."
According to the report, "Most of the people in transit were sleeping under the bridge on the riverside, by the distribution parking lot, evoking a crisis similar to the one in 2016. (..) Without an institutionally guaranteed shelter, the organisations working in the area have only been able to provide a limited number of beds and hosting solutions dedicated to vulnerable people such as women, minors and families. The legal shelter provision provided by WeWorld, Caritas and Diakonia Valdese assisted 362 people in April 2021, of whom 29 were women".

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market	
1. Does the law allow for access to the labour market for asylum seekers?	☒ Yes ☐ No
❖ If yes, when do asylum seekers have access the labour market?	2 months
2. Does the law allow access to employment only following a labour market test?	☐ Yes ☒ No
3. Does the law only allow asylum seekers to work in specific sectors?	☐ Yes ☒ No
❖ If yes, specify which sectors	
4. Does the law limit asylum seekers' employment to a maximum working time?	☐ Yes ☒ No
❖ If yes, specify the number of days per year	
5. Are there restrictions to accessing employment in practice?	☒ Yes ☐ No

According to the Reception Decree, an asylum seeker can start to work after 60 days from the moment he or she lodged the asylum application.[800] Even if he or she starts working, the asylum seeker permit cannot be converted into a work or residence permit.[801]

Even though the law makes a generic reference to the right to access to employment without indicating any limitations, and albeit being entitled to register with Provincial Offices for Labour, in practice asylum seekers face difficulties in obtaining a residence permit which allows them to work. This is due to the delay

798 See Meltingpot, Pordenone: non luogo a procedere per le attiviste della Rete solidale e nove richiedenti asilo, 13 November 2021, available at: https://bit.ly/3LiCidL.
799 Refugees Rights Europe and Progetto 20K the Exacerbation of a crisis, impact of the COVID-19 on people on the move at the Italian- French border, July 2021, available at: https://bit.ly/3OR2Ip6, 12.
800 Article 22(1) Reception Decree.
801 Article 22(2) Reception Decree.

in the Registration of their asylum applications, on the basis of which the permit of stay will be consequently issued, or to the delay in the renewal thereof.

Furthermore, employers are not confident to hire asylum seekers who are in possession of only the asylum request receipt or of the request for renewal of the six-month permit because the receipt, although bearing the photograph and legally equated to the residence permit, has no expiry date. They prefer to hire people with original permits.

Moreover, as reported to ASGI, many Provincial Offices for Labour do not allow asylum seekers under the Dublin procedure to enrol on the lists of unemployed persons and some Questure have expressed a negative opinion about the possibility for these people to be employed, before it is confirmed that Italy is responsible for their asylum application. During 2018, some regions where this occurred - such as **Friuli-Venezia Giulia** - changed their position on this issue. However, in 2019, ASGI was told the problem was still present on the national territory. The CJEU decision of 14 January 2021, according to which Article 15 of the Directive 2013/33/EU must be interpreted as precluding national legislation which excludes an applicant for international protection from access to the labour market on the sole ground that a transfer decision has been taken in his or her regard under Dublin Regulation, should overcome the different orientations existing in the national territory.[802]
In early 2022 an additional case was signalled to Asgi in Bolzen, due to the fact that both the employment office and Questura had denied access to work to a Dublin asylum seeker.

In addition, the objective factors affecting the possibility of asylum seekers to find a job are language barriers, the remote location of the accommodation and the lack of specific support founded on their needs.

L.132/2020 has re-introduced the possibility - abolished by Decree Law 113/2018 implemented by L.132/2018 - for asylum seekers to be involved in activities of social utility in favour of local communities.[803]

Regularisation of foreign workers

From June to August 2020 - in order to ensure adequate levels of individual and collective health protection - the Government allowed the regularization of foreign workers who arrived in Italy prior to 8 March 2020, in specific sectors (agricultural work, assistance to people with pathologies or handicap, domestic work).[804] The procedure was opened to asylum seekers allowing the applicants to change their permit into a work permit.

According to the decree (Art. 110-bis), migrants who have previously worked in the agriculture, fishing, care and domestic work sectors could ask to regularise their status through two different procedures:

- In the first track, employers could apply to regularise their foreign and Italian workers without a regular contract by putting in place proper employment contracts. This could thus only be activated by the employer;
- In the second track,[805] third-country nationals who have been in Italian territory without a valid residence permit since October 2019 can apply for a six-month residence permit to look for a job.

In the first case the worker obtained a work permit to stay, in the second case the worker obtained a permit to stay of six months, convertible into a work permit only if, in those six months, he or she found an employment contract in one of the three above mentioned sectors.

Asylum seekers could access both type of procedures. However, the MoI Circulars provided that access to the second procedure was subject to the renunciation of the asylum application.[806] Through the

802 CJEU decision, joined cases C322/19 and C385/19, 14 January 2021.
803 Article 22-bis(3) Reception Decree, as amended by Article 12 Decree Law 113/2018 and L 132/2018 now only refers to beneficiaries of international protection, no longer to asylum seekers.
804 Article 103 DL 34/2020 converted with amendments by L. 77/2020.
805 Article 103 (2) DL 34/2020.
806 Moi Circular of 19 June 2020; Moi Circular of 7 July 2020.

renunciation, to be formalized at the Questura, the asylum seeker could be admitted to the procedure as an irregular foreign citizen present in the national territory and obtain a residence permit for awaiting employment.

The Civil Court of Florence observed that it was necessary to ascertain that the applicant had received correct information on the withdrawal of the application and its consequences, before accepting the renunciation of the asylum application and the closure of the court proceedings. [807]

The Regional Administrative Court of Marche stated that the responsible Questura could not declare the application inadmissible due to the applicant's failure to renounce international protection. [808]

In total, only 230,000 persons applied for such regularization procedure.[809]
Out of the 207,452 applications submitted in the first procedure, as of 2 November 2021, only 27,823 permits to stay were issued by the competent Questura, 13% of the total number of applications. The cases examined at the end of October were 78,897, about 38% of the total and the number of rejections was very high, equal to 11,405, meaning about 5% of the total cases examined. Among the rejected cases there were also cases of asylum seekers induced to renounce to the asylum application to access the regularization procedure.

As for the second procedure, out of 13,000 applications submitted, as of 2 November 2021, 10,000 workers had obtained the permit to stay.[810]
The limited number of applications is due to the strict requirements, the limitation of employment sectors and to the fact that, for the first option, the application for regularization depended on the employer's initiative.

2. Access to education

Indicators: Access to Education	
1. Does the law provide for access to education for asylum-seeking children?	☒ Yes ☐ No
2. Are children able to access education in practice?	☒ Yes ☐ No

Italian legislation provides that all children until the age of 16, both nationals and foreigners, have the right and the obligation to take part in the national education system. Under the Reception Decree, unaccompanied asylum-seeking children and children of asylum seekers exercise these rights and are also admitted to the courses of Italian language.[811] The Reception Decree refers to Article 38 TUI, which states that foreign children present on Italian territory are subject to compulsory education, emphasising that all provisions concerning the right to education and the access to education services apply to foreign children as well.

This principle has been further clarified by Article 45 PD 394/1999, which gives foreign children equal rights to education as for Italian children, even when they are in an irregular situation. Asylum seeking children have access to the same public schools as Italian citizens and are entitled to the same assistance and arrangements in case they have special needs. They are automatically integrated in the obligatory National Educational System. No preparatory classes are foreseen at National level, but since the Italian education system envisages some degree of autonomy in the organisation of the study courses, it is possible that some institutions organise additional courses in order to assist the integration of foreign children.

807 Civil Court of Florence, intermim decision of 25 September 2020, available at: https://bit.ly/3up8TX6.
808 Administrative Regional Court of Marche, interim measure no. 274 of 17 September 2020, available at: https://bit.ly/2Rjft2x.
809 See report from Ero Straniero, based on data provided by the Ministry of Interior, September 2021, available at: https://bit.ly/3v5qjL3, 25.
810 Update from Ero Straniero, 25 November 2021.
811 Article 21(2) Reception Decree.

In practice, the main issues concerning school enrolment lie in: the reluctance of some schools to enrol a high number of foreign students; the refusal from the family members and/or the child to attend classes; and the insufficiency of places available in schools located near the accommodation centres and the consequent difficulty to reach the schools if the centres are placed in remote areas.

In some cases, attempts to make up for the lack of places in Italian language courses by introducing other courses have not delivered positive results. In Udine, **Friuli-Venezia Giulia**, additional literacy courses were introduced in October 2017 for asylum seekers during morning hours, which coincided with middle school classes. This led to protests by parents and the teaching staff.[812]

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation? ☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice? ☒ Yes ☐ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? ☐ Yes ☒ Limited ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care? ☐ Yes ☒ Limited ☐ No

Asylum seekers and beneficiaries of international protection are required to register with the National Health Service.[813] They enjoy equal treatment and full equality of rights and obligations with Italian citizens regarding the mandatory contributory assistance provided by the National Health Service in Italy.

There is no distinction between asylum seekers benefitting from material reception conditions and those who are out of the reception system, since all asylum seekers benefit from the National Health System.

Asylum seekers were given access to the COVID-19 vaccination scheme on equal grounds as Italian citizens.

1. Practical obstacles to access health care

The right to medical assistance is acquired at the moment of the lodging of the asylum application. However, very often the exercise of this fundamental right is hindered and severely delayed, depending upon the attribution of the tax code assigned by Questure when lodging the asylum application. This means that it reflects the delay in lodging the asylum claim, which corresponds to several months in certain regions (see Registration).

Pending enrolment, asylum seekers only have access to medical treatment ensured by Article 35 TUI to irregular migrants: they have access to emergency care and essential treatments and they benefit from preventive medical treatment programmes aimed at safeguarding individual and public health.[814]

Asylum seekers have to register with the national sanitary service in the offices of the Local Health Board (*Azienda sanitaria locale*, ASL) competent for the place they declare to have a domicile.[815] Once registered, they are provided with the European Health Insurance Card (*Tessera europea di*

812 Udine Today, 'Lezioni ai richiedenti asilo a fianco dei ragazzi delle medie: è caos', 29 October 2017, available in Italian at: http://bit.ly/2GncxrV.
813 Article 34 TUI; Article 16 PD 21/2015; Article 21 Reception Decree.
814 Article 21 Reception Decree; Article 16 PD 21/2015.
815 Article 21(1) Reception Decree, citing Article 34(1) TUI; Accordo della Conferenza Stato-Regioni del 20 dicembre 2012 "Indicazioni per la corretta applicazione della normativa per l'assistenza sanitaria alla popolazione straniera da parte delle Regioni e Province Autonome italiane".

assicurazione malattia, TEAM), whose validity is related to the one of the permits of stay. Registration entitles the asylum seeker to the following health services:

- Free choice of a general doctor from the list presented by the ASL and choice of a paediatrician for children (free medical visits, home visits, prescriptions, certification for access to nursery and maternal schools, obligatory primary, media and secondary schools);
- Special medical assistance through a general doctor or paediatrician's request and on presentation of the health card;
- Midwifery and gynaecological visits at the "family planning" (*consultorio familiare*) to which access is direct and does not require doctors' request; and
- Free hospitalisation in public hospitals and some private subsidised structures.

Delays in the issuance of health cards were exacerbated in 2016 due to the attribution of special tax codes to asylum seekers other than the ones attributed to other people, consisting in numerical and not alphanumeric codes.[816] Such obstacles were reported with regard to access to health cards from 2019 until now. These problems persist also with regard to access to other social rights.

The right to medical assistance should not expire in the process of the renewal of the permit of stay,[817] however in practice, asylum seekers with an expired permit of stay have no guarantee of access to non-urgent sanitary treatments for a significant length of time due to the bureaucratic delays in the renewal procedure. This also means that where asylum seekers do not have a domicile to renew their permit of stay, for example because their accommodation right has been revoked, they cannot renew the health card.

Medical assistance is extended to each regularly resident family member under the applicant's care in Italy and is recognised for new-born babies of parents registered with the National Health System.[818]

Regarding the effective enjoyment of health services by asylum seekers and refugees, it is worth noting that there is a general misinformation and a lack of specific training on international protection among medical operators.[819] In addition, medical operators are not specifically trained on the diseases typically affecting asylum seekers and refugees, which may be very different from the diseases affecting Italian population.

One of the most relevant obstacles to access health services is the language barrier. Usually medical operators only speak Italian and there are no cultural mediators or interpreters who could facilitate the mutual understanding between operator and patient.[820] Therefore asylum seekers and refugees often do not address their general doctor and go to the hospital only when their disease gets worse. These problems are worsening due to the adverse conditions of some accommodation centres and of informal settlements (see conditions in makeshift camps).

2. Contribution to health care costs

Asylum seekers benefit from free of charge health services on the basis of a self-declaration of destitution submitted to the competent ASL. The medical ticket exemption is due to the fact that asylum seekers are treated under the same rules as unemployed Italian citizens,[821] but the practice is very different throughout the country.

In all regions, the exemption is valid for the period of time in which applicants are unable to work, corresponding by law to 2 months from the lodging of the asylum application (see Access to the Labour Market). During this period, they are assimilated to unemployed people and granted with the same exemption code.

816 Ministry of Interior Circular of 1 September 2016; Revenue Agency Circular No 8/2016.
817 Article 42 PD 394/1999.
818 Article 22 Qualification Decree.
819 See M Benvenuti, *La protezione internazionale degli stranieri in Italia*, Jovene Editore, Napoli 2011, 263.
820 *Ibid*.
821 Ministry of Health Circular No 5 of 24 March 2000.

For the next period, in some regions asylum seekers are no longer exempted from the sanitary ticket because they are considered inactive and not unemployed. In other regions such as **Piedmont** and **Lombardy**, the exemption is extended until asylum seekers do not actually find a job. In order to maintain the ticket exemption, asylum seekers need to register in the registry of the job centres (*centri per l'impiego*) attesting their unemployment.

3. Specialised treatment for vulnerable groups

Asylum seekers suffering from mental health problems, including torture survivors, are entitled to the same right to access to health treatment as provided for nationals by Italian legislation. In practice, they may benefit from specialised services provided by the National Health System and by specialised NGOs or private entities.

The Ministry of Interior has clarified that the Guidelines on assistance and rehabilitation of refugees and subsidiary protection beneficiaries, victims of torture or serious violence, issued by Decree on 3 April 2017 to implement Article 27(1-bis) of the Qualification Decree, also apply to asylum seekers (see Content of Protection: Health Care).

In order to ensure the protection of the health of foreign citizens in Italy, ASGI has collaborated with the Italian Society of Migration Medicine (*Società italiana di medicina delle migrazioni*, SIMM) since 2014, monitoring and reporting cases of violation of the constitutional right to health.

Since 2015, ASGI also collaborates with MSF, providing legal support for migrants victims of violence. As of April 2016, the two organisations have started a project in **Rome** opening a centre specialising in the rehabilitation of victims of torture.[822] The project is intended to protect but also to assist in the identification of victims of torture who, without proper legal support, are unlikely to be treated as vulnerable people.[823] Updated information is not available.

A protocol was signed in January 2021 by the Prefecture of Massa Carrara (Tuscany) and functional units of mental health for examining the cases of persons applying for international protection who are psychologically vulnerable, aimed at providing them with adequate care and enhanced protection.'[824]

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
   ☐ Yes ☒ No

Article 17(1) of the Reception Decree establishes that reception is provided taking into account the special needs of the asylum seekers, in particular those of vulnerable persons such as children, unaccompanied children, disabled persons, elderly people, pregnant women, single parents with minor children, persons who have been subjected to torture, rape or other forms of psychological, physical or sexual violence, victims of trafficking and genital mutilation, as well as persons affected by serious illness or mental disorders (see Identification).

There are no legal provisions on how, when and by whom this assessment should be carried out. The Reception Decree provides that asylum applicants undergo a health check since they enter the first reception centres and in temporary reception structures to assess their health condition and special

822 Redattore Sociale, 'Migranti, apre a Roma il centro di riabilitazione per le vittime di tortura', 4 April 2016, available in Italian at: http://bit.ly/1ShpCGG.
823 MSF, *Fuori campo*, February 2018, 39.
824 EC, EMN Bulletin, May 2021, available at: https://bit.ly/3Fioz4r, 5.

reception needs.[825] The Decree provides, in theory, that special services addressed to vulnerable people with special needs shall be ensured in first reception centres.[826]

However, in 2018, the reduction of funding and services provided in first reception centres under the 20 November 2018 tender specifications scheme (*Capitolato*) of the Ministry of Interior and the exclusion of psychologists' services from eligible costs rendered the effective identification and protection of these categories of people even more precarious.

The reform provided to the accommodation system by Decree Law 130/2020 extends the protection afforded to asylum seekers in first reception facilities by extending the type of services to be provided. This largely theoretical as the new tender specifications guarantee them only to a minimum extent, thereby not having any positive impact on the situation that arose after the cancellation of these services following the Decree Law 113/2018.

Decree Law 113/2018, implemented by L 132/2018, repealed the provision that envisaged the activation of special reception services in the SPRAR/SIPROIMI facilities for vulnerable people.[827]

Currently, in case vulnerable people reach to access the SAI system before they are granted of a title of protection they could enjoy some additional services allowed by the Decree 18 November 2019 for disabled persons and persons affected by serious illness or mental disorders.[828]

However, the places intended for the reception of vulnerable people are insufficient: as Linkiesta reconstructs in a December 2020 report, in Italy, there are 734 places specialized in accommodation of vulnerable refugees, compared to the 2,000 who, according to the Ministry of the Interior, have been officially diagnosed with a disease. Only 2.3% of these people with severe mental illness are adequately assisted.[829]

In January 2022, SAI reported that there were only 41 projects addressing people with mental distress and disabilities in SAI projects corresponding to 883 places. The number of regions not provided with a dedicated place has grown from 8 to 9 since 2020, with the inclusion of Friuli Venezia Giulia. The others remain: Abruzzo, Basilicata, Friuli Venezia Giulia, Campania, Liguria, Molise, Sardinia, Trentino Alto Adige, Valle d'Aosta and Veneto.[830]

The law clarifies the need to set up specific spaces within governmental first reception centres where services related to the information, legal counselling, psychological support, and receiving visitors are ensured.[831] Where possible, adult vulnerable people are placed together with other adult family members already present in the reception centres.[832] The manager of reception centres shall inform the Prefecture on the presence of vulnerable applicants for the possible activation of procedural safeguards allowing the presence of supporting personnel during the personal interview.[833]

In Italy, the NGO "Doctors for Human Rights" published a study on post-traumatic stress disorder (PTSD) among refugees and asylum applicants. The study concluded that overcrowding, geographical isolation, prolonged stay, length of legal proceedings, as well as episodes of violence particularly in large reception centres, have detrimental effects on asylum seekers' and refugees' mental health. In a public appeal, 18

825 Articles 9(4) and 11(1) Reception Decree.
826 Article 17(3) Reception Decree.
827 Article 17(4) Reception Decree has been repealed by Article 12 Decree Law 113/2018 and L 132/2018.
828 Article 34 Moi Decree 18 November 2019
829 See Linkiesta, La questione irrisolta dei migranti con disturbi mentali , 23 December 2020, available in Italian at: https://bit.ly/3eGbVR4; see also Migranti Torino, "La salute mentale nei rifugiati prima, durante e dopo la migrazione", 15 January 2021, available at: https://bit.ly/3w4iinb.
830 SAI, Progetti Territoriali, January 2022, available at: https://bit.ly/3k7mVZU.
831 Article 9(3) PD 21/2015.
832 Article 17(5) Reception Decree.
833 Article 17(7) Reception Decree.

civil society organisations – including MEDU, ASGI, Action Aid, Oxfam, and Refugees Welcome Italia – called for a policy that avoids the use of large reception facilities.[834]
With respect to the accommodation for LGBTQI+ people, from 2018, when there were no dedicated public accommodation projects,[835] the situation only slightly improved. Currently, only a few places in dedicated public projects exist, led by Arcigay and Caleidos, in Modena, and by Quore Association (R.A.R.O. project) based in Piedmont region.[836]

Another relevant experience is that of the network Rise the difference in Bologna, which launched a pilot project for the creation and management of a reception facility - included among the 2017-2019 former Sprar- Siproimi - dedicated to LGBT asylum seekers and refugees.[837]

As pointed out by legal practitioners, reception workers and lawyers, although LGBTQI sexual orientation is a factor of persecution and can motivate the recognition of international protection, it is often hidden for a long time by asylum seekers who do not feel safe as they fear being discriminated and attacked by other guests of the centres. [838]

4. Reception of families and children

The Reception Decree specifies that asylum seekers are accommodated in facilities which ensure the protection of family unity comprising of spouses and first-degree relatives.[839] The management body of the reception centres shall respect the family unity principle. Therefore, they cannot separate children from parents who live in the same wing of the facility. In practice, it may happen that a father is accommodated in a wing for single men and his wife and children in the wing for women. In general, dedicated wings are designed for single parents with children. It may also happen that the parents are divided and placed in different centres, and usually the children are accommodated with the mother.

It may happen in first reception centres that families are divided in case the accommodation conditions are deemed not adequate and suitable for children. In these situations, mothers and children are hosted in a facility, and men in another.

On 3 April 2019, the Court of Cassation clarified that minors are considered accompanied only when they can be considered assisted by a present parent. In any case of family members other than parents the Juvenile Court has to activate the guardianship.[840] Following this decision, Juvenile Courts gave indications to authorities not to directly accommodate minors with relatives different other than parents.

Based on NGOs' experience, no specific or standardised mechanisms are put in place to prevent gender-based violence in reception centres. As a general rule, permanent law enforcement personnel are present outside governmental centres with the task of preventing problems and maintaining public order. Generally speaking, the management body of governmental centres divides each family from the others hosted in the centre. Women and men are always separated.

5. Reception of unaccompanied children

The Reception Decree states that the best interests of the child have priority in the application of reception measures, in order to ensure living conditions suitable for a child with regard to protection, well-being and

834 Fra, Migration: Key Fundamental Rights Concerns, Quarterly Bulletin, February 2021, available at: https://bit.ly/37WS13N, 17.
835 Openmigration, Mille baci: rifugiati LGBTI in Italia tra ostacoli e buone pratiche, 26 July 2018, available at: https://bit.ly/3MHVIcz.
836 Link to the RARO project lead by Quore, available at: https://bit.ly/3vwYzPA.
837 Link to the project available at: https://bit.ly/3vFf2Qt.
838 See also: Large movements, Prassi del sistema accoglienza e migranti LGBTQ+, 28 June 2021, available at: https://bit.ly/3OqqBDX.
839 Article 10(1) Reception Decree.
840 Court of Cassation, 3 April 2019, decision 9199/2019

development, including social development, in accordance with Article 3 of the Convention on the Rights of the Child.[841]

In order to evaluate the best interests of the child, the child shall be heard, taking into account his or her age, the extent of his or her maturity and personal development, also for the purpose of understanding his or her past experiences and to assess the risk of being a victim of trafficking, and the possibility of family reunion pursuant to Article 8(2) of the Dublin Regulation as long as it corresponds to the best interests.[842]

At the end of 2021, the total number of unaccompanied children accommodated in Italy was 12,284. 96% were accommodated in reception facilities, while 4 % were accommodated in private housing (with families). The majority of unaccompanied children were accommodated in **Sicily** (19%), followed by **Lombardy** (11%), **Emilia-Romagna** (10.4 %), Lazio (7.7%), Campania (7.3%), Apulia (6.6 %) and Tuscany (6.2%).[843]

In the final report drawn up following the visits carried out jointly between 2017 and 2018, the Children's Ombudsman and UNHCR highlighted how, despite the fact that the number of unaccompanied minors has decreased, a high number of them are accommodated in a limited number of regions, a circumstance that does not facilitate the minors' social paths.[844]

Since 2015, the management of the Fund for the reception of unaccompanied minors has been transferred from the Ministry of Labour to the Ministry of Interior.[845] Through the Fund, the Ministry provides, with his own decree, after hearing the Unified Conference, to cover the costs incurred by local authorities for the reception of unaccompanied foreign minors, within the limits of the resources allocated. According to the 2019 budget law, the Fund for the reception of minors has approximately 150 million euros for 2019 and 170 million for 2020 and 2021.

The interventions in favour of unaccompanied foreign minors are also funded by resources from the European Asylum, Migration and Integration Fund (AMIF) 2014-2020.[846] On 17 December 2020 the Ministry of the Interior - Department for Civil Liberties and Immigration published a decree extending 6 AMIF projects until 31 December 2021.[847] On 22 December 2020, the MoI informed that the AMIF fund had authorised the funding of 21 million euros to MoI to strengthen the implementation by local authorities of projects for the reception of unaccompanied minors in the SIPROIMI (SAI) network. The maximum cost of the projects is € 68,40 per day per person.[848]
As reported by the Ministry of Labour, also in the second half of 2021 the reception of unaccompanied foreign minors was characterized from the health emergency and the application of the anti Sars-Cov-2 regulations.[849]

In application of the anti COVID-19 regulations, the unaccompanied minors, disembarked or just arrived by land borders, were placed in ad hoc structures for quarantine. The procedures for placing unaccompanied minors in quarantine have been provided for by the various regional ordinances and thus resulting, also in 2021, in a not uniform management of the quarantine phase on the national territory; in some areas regions have used hotels, in other cases rooms have been organized within the reception system. As reported by the Ministry of Labour, in cases where hotels were used, the minors, at the end of the quarantine, were transferred to government reception facilities. When the quarantine was carried

841 Article 18(1) Reception Decree.
842 Article 18(2) Reception Decree.
843 Ministry of Labour, Monitoring report on unaccompanied foreign minors, 31 December 2021, available at: https://bit.ly/3EHAlVN.
844 Children's Ombudsman and UNHCR report, May 2019, available in Italian at: https://cutt.ly/SyO8sdV.
845 2015 Stability Law (Law 190/2014, Article 1 (181-182)
846 Chamber of Deputies, Study Service, 19 March 2020, available in Italian at: https://cutt.ly/myO8ddD.
847 MOI, available at: https://bit.ly/3fg5x2e
848 See: https://bit.ly/3oeJzRb.
849 Ministry of Labour, Monitoring report on unaccompanied foreign minors, 31 December 2021, available at: https://bit.ly/3EHAlVN

out in second-level structures, the minors continued their reception in the same facility, after the period of fiduciary isolation.

As evidenced by ASGI many minors had to spend the quarantine on ships, with serious consequences for access to treatment and psychophysical health of minors. At the beginning of October, Abou Diakite, aged 15, died following an emergency hospitalization, which occurred only after several days of isolation on the GNV Allegra ship. Just before, on September 15, Abdallah Said, aged 17, died of tuberculous encephalitis at Catania Hospital, where he had been transferred only after a period of quarantine on the ship GNV Azzurra.

2.1. Dedicated facilities for unaccompanied children

At the end of 2021, there were 1,134 reception facilities hosting unaccompanied children, mainly boys (97%) aged 16 or 17 (84.8%).[850]

Out of the 6,814 accommodated unaccompanied children, 7,953 were in second-line reception facilities (64.7%), which include SIPROIMI-SAI facilities, second-line accommodation facilities funded by AMIF and all second-level structures authorised at regional or municipal level. Another 3,843 (31.3%) were in first reception centres.[851]

SIPROIMI – SAI

According to the law, the accommodation of unaccompanied children shall primarily take place in SAI (former SIPROIMI /SPRAR) facilities.[852] All unaccompanied children, including those seeking asylum, have access to SAI.

Children reaching adulthood in SAI centres can remain there until a final decision on their asylum application.[853] Circulars issued by the Ministry of Interior of 27 December 2018 and 3 January 2019 specified that in case the unaccompanied child is granted international protection, he or she could stay in SIPROIMI for another 6 months. The same Circulars specified that unaccompanied children who obtained an administrative extension of their placement can remain in second-line reception for the entire duration of the extension. The Siproimi Guidelines issued by the Ministry of Interior with decree of 18 November 2019 regulated the matter in the same way.[854] DL 130/2020 finally authorised the access to SAI for unaccompanied minors who became adults obtaining an administrative extension of their placement.[855]

Siproimi Guidelines adopted by MoI Decree of 18 November 2019 provided additional specific activities and services in favour of unaccompanied minors and in particular the activation of services aimed at promoting family foster care; aimed at supporting the paths of autonomy, also by promoting forms of support for housing autonomy in the transition to adulthood; encouraging the connection with the voluntary tutors. It also provides specialized services dedicated to minors with particular fragility.[856]

As of January 2022, 6,644 places were financed for unaccompanied children in 236 SAI/SIPROIMI projects, including 1,506 places in AMIF-funded projects.[857] The number of places dedicated to

850 Ibid, 34
851 *Ibid*, 35.
852 Article 19(2) Reception Decree.
853 Article 12(5-bis) Decree Law 113/2018, as amended by L 132/2018.
854 Article 38 Moi Decree 18 November 2019.
855 DL 130/2020, Article 4 (3) b), amending Article 1 sexies (1 bis) DL 416/1989. In 2020 ASGI had underlined that, although the Ministry of Interior had not clarified it, It was not justified a different treatment of unaccompanied children who obtained an administrative extension of their placement but who, due to the unavailability of places in SIPROIMI, had not been included within this system during the minor age, see ASGI, Emergenza covid-19 e percorsi dei minori non accompagnati dopo i 18 anni, 13 March 2020, available in Italian at: https://cutt.ly/NyO8h6T.
856 MoI Decree, 18 November 2019, Article 35, available in Italian at: https://cutt.ly/hyO8jXD.
857 SAI, *I numeri del SAI*, January 2022, available in Italian at: https://www.retesai.it/i-numeri-dello-sprar/.

unaccompanied children still falls short of current needs, i.e. 6,814 unaccompanied children present in the reception system.[858]

First reception centres and CAS for unaccompanied children

For immediate relief and protection purposes unaccompanied children may be accommodated in governmental first reception facilities. The first reception facilities are funded by AMIF, implemented by the Ministry of Interior in agreement with the local authority on whose territory the structure is located, and managed by the Ministry of Interior also in agreement with the local authorities.[859]

Where implemented, stay in first reception centres cannot exceed 30 days and must last for the strictly necessary time for identification, which must be completed within 10 days. This serves to identify and assess the age of the child and to receive any information on the rights recognised to the child and on the modalities of exercise of such rights, including the right to apply for international protection. Throughout the time in which the child is accommodated in the first reception centre, one or more meetings with an age development psychologist are provided, where necessary, in presence of a cultural mediator, in order to understand the personal condition of the child, the reasons and circumstances of departure from his or her home country and his or her travel, as well as his or her future expectations.[860]

The Ministry of Interior Decree issued on 1 September 2016 has identified the structural requirements and the services ensured in such centres.[861] The Decree states that these centres are located in easily accessible places in order to ensure access to services and social life of the territory and that each structure can accommodate up to a maximum of 30 children.[862]

During 2017 and 2018, the Children's Ombudsman and UNHCR jointly implemented a programme of visits to emergency, first and second-line reception centres for unaccompanied children.[863] The visits have made it possible to ascertain that the permanence of minors in first reception centres is extended well beyond the deadline of 30 days, and continues in most cases up to the actual completion of age, involving the lack of access to second reception projects. In the first accommodation and identification centre of Rome -CPSA - It has been found that the actual average time of stay it is about 10 days, during which children undergoing identification procedures are forbidden from leaving the centres. The visits to some first reception centres found limited conditions possibility of movement by minors. According to the rules in force in these centres, in order to protect the potential victims of trafficking, minors could not own cell phones and exit only in the presence of operators.

As reported by the Children's Ombudsman, the frequent stay in these first reception centres well beyond the prescribed 30 days often creates feelings of despondency and abandonment among children. This can play an important role in absconding from centres.[864]

If even first reception centres are saturated, reception must be temporarily assured by the public authority of the Municipality where the child is located, without prejudice to the possibility of transfer to another municipality in accordance with the best interests of the child.[865] According to Article 19(3-bis) of the Reception Decree, in case of mass arrivals of unaccompanied children and unavailability of the dedicated reception centres, the use of CAS to accommodate children is permitted.[866]

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858 Data as of 31 December 2020, Ministry of Labour report available in Italian at: https://bit.ly/3y9tlND.
859 Article 19(1) Reception Decree.
860 *Ibid*.
861 Ministry of Interior Decree of 1 September 2016 on the establishment of first reception centres dedicated to unaccompanied minors.
862 Article 3 Ministry of Interior Decree of 1 September 2016.
863 Children's Ombudsman and UNHCR, L'ascolto e la partecipazione dei minori stranieri non accompagnati in Italia*, Rapporto finale attività di partecipazione 2017-2018,* May 2019, available in Italian at: https://cutt.ly/LyO8zDa.
864 Children's Ombudman, *I movimenti dei minori stranieri non accompagnati alle frontiere settentrionali*, 29 March 2019, available in Italian at: https://bit.ly/2v2oNt6.
865 Article 19(3) Reception Decree.
866 Article 19(3-bis) Reception Decree, citing Article 11.

Similar to the temporary shelters for adults (see Types of Accommodation), these CAS are implemented by Prefectures. The law states that each structure may have a maximum capacity of 50 places and may ensure the same services as governmental first reception centres dedicated to children.[867] Also in this case, no time limit is actually provided for the staying in these centres; according to the law, accommodation is limited to the time "strictly necessary" until the transfer to adequate structures.[868] In any event, these temporary centres cannot host children under the age of 14. The accommodation of children has to be communicated by the manager of the temporary structure to the municipality where the structure is located, for the coordination with the services of the territory.[869]

At the end of 2021, first reception centres accommodated 3,843 unaccompanied children. These centres include government centres financed by AMIF, CAS activated by the Prefects; first reception facilities authorised by the municipalities or regions; and emergency and provisional centres.

Specifically, as regards AMIF-funded first reception centres, as of 31 December 2021, 6 first reception projects for unaccompanied minors were financed.

Out of these, 5 projects were in Sicily and one in Molise. In total, they offer 275 places for male unaccompanied minors, spread in 13 facilities.

On 25 November 2021 these projects were extended until 31 December 2022 and, following the extension, the financial contribution relating to the 6 active projects was increased.[870]

From 3 August 2016, when AMIF funded facilities were activated, to 31 December 2021, the total number of unaccompanied minors hosted in such structures was 9,696. 5,168 voluntarily left accommodation but approximately 76% of them were subsequently traced in other municipalities in the Italian territory, and were therefore taken over by the competent local authority; 4, 952 have been transferred to second-line reception facilities belonging to the SPRAR/SIPROIMI network or in second-line reception facilities financed with AMIF funds. [871]

At the end of 2021, there were 267 unaccompanied children present in these facilities.[872]

In 2019, the Children's Ombudsman has critically highlighted the lack of sufficient numbers of centres for unaccompanied children in the border areas, resulting in a lack of adequate response to the needs of unaccompanied children in transit at the northern borders.[873]

The reception of unaccompanied children not transferred to the governmental centres or SIPROIMI facilities remains under the responsibility of the city of arrival. The amended Reception Decree states that the interested municipalities should not have any expenses in charge.[874]

The Ministry of Interior has developed guidelines for the accommodation of unaccompanied minors in first reception centres, with practical information on the procedures to be followed for daily work.[875]

867 Article 19 (3–bis) Reception Decree.
868 Article 19(3-bis) Reception Decree, citing Article 19(2)-(3).
869 Article 19(3-bis) Reception Decree.
870 Ministry of Labour, Monitoring report on unaccompanied foreign minors, 31 December 2021, available at: https://bit.ly/3EHAlVN; the decree of increase and the extension of the activities published on 25 November 2021 can be consulted at: https://bit.ly/3kypyUJ.
871 Ibid.
872 Ministry of Labour, Monitoring report *I minori stranieri non accompagnati*, 31 December 2020, 37.
873 Children's Ombudsman, *I movimenti dei minori stranieri non accompagnati alle frontiere settentrionali*, 29 March 2019.
874 Article 19(3) Reception Decree, as amended by Article 12 Decree Law 113/2018 and L 132/2018.
875 MoI Guidelines available in Italian at: https://cutt.ly/2yO8nAN.

2.2. Accommodation with adults and destitution

Unaccompanied children cannot be held or detained in governmental reception centres for adults and CPR.[876] However, throughout 2017 and 2018, both due to the problems related to age assessment (see Identification) and to the unavailability of places in dedicated shelters, there have been reported cases of children accommodated in adults' reception centres.[877] Throughout 2017, more appeals were presented to the ECtHR to protect unaccompanied children placed in adult reception centres in Italy, including Rome, **Lazio**,[878] and Como, **Lombardy**.[879]

In 2020, the Public Prosecutor at the Juvenile Court of Trieste sent the implementation of two directives to authorities in Friuli Venezia Giulia region. They authorized the authorities to no longer carry out the age assessment procedure for those who declare as minors, but are believed to be adults. This had a negative effect on the accommodation of many minors (see age assessment and arrival in the territory, Slovenian border).

As reported by ASGI, three foreign citizens who declared themselves as minors were placed in the CARA of Gradisca from October 2020 to January 2021, in promiscuity with adults, after being identified by the Police as adults, without starting any age assessment procedure. In mid-January 2021, after a legal intervention with the support of ASGI, the three minors were transferred to facilities for unaccompanied minors.

In at least 4 cases were minors were not considered as such and placed in adult facilities, the Juvenile Court of Trieste, recognized the illegitimacy of the practice and sent the procedural documents to the local Juvenile Prosecutor's Office ordering to activate the procedure for the age assessment of the persons involved.

ASGI also recorded cases where minors were detained in CPRs as adults (see Detention).

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

According to the Procedure Decree, upon submission of an asylum application, police authorities have to inform applicants through a written brochure about their rights and obligations and the relevant timeframes applicable during asylum procedures (see Provision of Information on the Procedure).[880] The brochure also includes information on health services and on the reception system, and on the modalities to access these services. In addition, it contains the contact details of UNHCR and other specialised refugee-assisting NGOs. The Reception Decree contains a provision on the right to information, confirming the obligation to hand over the brochure, as stated above, and states that this information is provided in reception centres within 15 days from the presentation of the asylum application. This information is ensured through the assistance of an interpreter.[881]

This provision, unlike Article 5 of the recast Reception Conditions Directive, does not explicitly foresee that information shall be provided orally.

However, in practice the distribution of these leaflets, written in 10 languages,[882] is actually quite rare at the Questure. Although the law does not foresee it, the information is orally provided by police officers but

876 Article 19(4) Reception Decree.
877 Children's Ombudman and UNHCR, L'ascolto e la partecipazione dei minori stranieri non accompagnati in Italia*, Rapporto finale attività di partecipazione 2017-2018,* May 2019, available in Italian at: https://cutt.ly/vyO8mh2.
878 ECtHR, *Bacary v. Italy*, Application No 36986/17, Communicated on 5 July 2017.
879 ECtHR, *M.A. v. Italy*, Application No 70583/17, Communicated on 3 October 2017.
880 Article 10(1) Procedure Decree.
881 Article 3 Reception Decree and Article 10 PD 21/2015.
882 Italian, English, French, Spanish, Arabic, Somali, Kurdish, Amharic, Farsi and Tigrinya.

not in a systematic way mainly due to the shortage of professional interpreters and linguistic mediators. The gaps in providing information is of concern to NGOs as it is considered necessary that asylum seekers receive information orally, taking into consideration their habits, cultural backgrounds and level of education which may constitute obstacles in effectively understanding the contents of the leaflets.

Upon arrival in the reception centres, asylum seekers are informed on the benefits and level of material reception conditions. Depending of the type of centre and the rules adopted by the managers of the reception centres, asylum seekers may benefit from proper information of the asylum procedure, access to the labour market or any other information on their integration rights and opportunities. Generally speaking, leaflets are distributed in the accommodation centres and asylum seekers are informed orally through the assistance of interpreters.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
   ☐ Yes ☒ With limitations ☐ No

According to the Reception Decree, applicants have the opportunity to communicate with UNHCR, NGOs with experience in the field of asylum, religious entities, lawyers and family members.[883] The representatives of the aforementioned bodies are allowed to enter in these centres, except for security reasons and for the protection of the structures and of the asylum seekers.[884] The Prefect establishes rules on modalities and the time scheduled for visits by UNHCR, lawyers, NGOs as well as the asylum seekers' family members and Italian citizens who must be authorised by the competent Prefecture on the basis of a previous request made by the asylum applicant living in the centre. The Prefecture notifies these decisions to the managers of the centres.

Article 15(5) of the Reception Decree, provides that lawyers and legal counsellors indicated by the applicant, UNHCR as well as other entities and NGOs working in the field of asylum and refugee protection, have access to these facilities in order to provide assistance to hosted asylum seekers.

It is worth noting that these centres are open, therefore asylum seekers are free to contact NGOs, lawyers and UNHCR offices outside of the centres.

Concerning Milan, Naga volunteers reported that, in 2019, as in previous years, to access the CAS centres it was necessary to request a clearance from the Prefecture of Milan, which in turn requires authorization of the Ministry of Interior. After months, and after repeated reminders, it was possible to make the visit to the CAS centres requested, but, unlike what happened until 2017, the visits took place not only with the necessary and usual presence of the operators in the centre, but also in the presence of an official of the Prefecture and without the possibility of visiting the structure. [885]

Concerning the governmental first reception centres for unaccompanied children, the law allows entry into the centres for members of the national and European Parliament, as well as to UNHCR, IOM, EASO and to the Children's Ombudsman, to the Mayor or a person delegated by him or her. Access is also allowed to persons who have a motivated interest, because of their institutional engagement within the region or the local authority where the centres is based, to child protection agencies with long experience, to representatives of the media, and to other persons who present a justified request. [886]

In 2020, however, access was strongly limited due to - existing or claimed – health reasons connected to COVID-19 prevention. All requests made by Lasciatecientrare network to enter CAS in 2020 were rejected with summary reasons or even not responded.

883 Article 10(3) Reception Decree.
884 Article 10(4) Reception Decree.
885 Naga, Senza Scampo, December 2019.
886 Article 7 Ministry of Interior Decree of 1 September 2016.

G. Differential treatment of specific nationalities in reception

Once in reception, there are no recorded differences among asylum seekers on the basis of their nationalities. However, problems have been reported as regards the possibility to access the asylum procedure and the reception system for specific nationalities (see Registration).

However, after the takeover by the Taliban in Afghanistan as of August 2021, and the war in Ukraine, the Government has provided specific accommodation measures for Afghans, first of all for those evacuated, and for people escaping from Ukraine.

Accommodation measure for Afghans

To meet the reception needs of asylum seekers from Afghanistan the DL no. 139 of 8 October 2021, has provided for the activation of a further 3,000 places in SAI[887] and Article 1 (390) L 234/2021 has provided additional **2,000 places.**

These were reserved seats which were then extended to those who fled Ukraine by Article 5 quarter (5) and (6) DL 14/2022 converted into L 28/2022.

Accommodation for people escaping from the Ukrainian conflict

Transposing the Directive 2001/55/EC, Italy issued the LD no. 85 of 7 April 2003. According to the Article 4 of LD 85/2003, if the conditions of the directive are met, the President of the Council of Ministers, in agreement with the regions and local authorities, establishes by decree the welfare measures to implement, also through the involvement of the associations and entities of voluntary work, and including those for housing, social and health assistance, access to the educational system for minors on a par with Italian citizens, as well as for access to vocational training or internships.[888]

On 28 February 2022, the Government declared the state of emergency until 31 December 2022 and entrusted the organization and implementation of emergency relief and assistance interventions to the population fleeing from Ukraine to the Head of the Civil Protection Department who regulates these matters with ordinances.[889]

After the outbreak of the conflict and the decision to implement the 2001/55/EC Directive, the Government has issued some decrees, detailed by the civil protection ordinances, but all - at the time of writing - still only programmatic on the reception side.

The planned interventions are mainly of two types: on the one hand, it is planned to increase the reception system, (first governmental, CAS and SAI facilities), on the other hand alternative forms of widespread reception and economic support are foreseen.

Moreover, for further reception needs, it is foreseen the possibility to use, taking into account the evolution of the pandemic from Covid 19, the structures already set up for fiduciary isolation and, for further needs not covered by the other measures prepared, the possibility, for the presidents of the Regions, appointed delegated commissioners, to represent to the Prefectures the need to prepare further housing solutions, especially for people in transit.[890]

887 Article 7 (1) DL 139/2021, converted into L 205/2021 and later modified by Article 5 quarter (5) DL 14/2022 converted into L 28/2022.

888 Legislative Decree no. 85 of 7 April 2003, Article 4 (1 g).

889 Resolution of the State of emergency, 28 February 2022, published on 10 March 2022, available at: https://bit.ly/3uN1bbI.

890 Ordinance of the Head of the Civil Protection no. 872 of 4 March 2022, Article 3 (2), and Article 3(4) available at: https://bit.ly/3k7njY2. See also MoI Circular, no. 0015709 of 8 march 2022, available at: https://bit.ly/3s2XBs2.

Expansion of the reception system

DL 16 of 28 February 2022 established that people fleeing from Ukraine can access the reception system even in case the asylum request has not been submitted or in case it has not been submitted yet. [891]
It also established the *ad hoc* expansion of 3,000 SAI places, the possibility for people fleeing from Ukrainian's war to access SAI places that had been increased for Afghans,[892] and the financing for the management, activation and rental of the reception centres of an additional 54,162,000 euros for the year 2022, corresponding, as specified by a following circular,[893] to about 5,000 CAS places.

Article 5 quarter of DL14/2022 modified by the conversion L 28 of 5 April 2022 - and to which the DL 16/2022 provisions on accommodation were transposed - provides that the latter resources are used as a matter of priority for the reception of vulnerable people[894] coming from Ukraine.
It also provides to transfer the beneficiaries (both Ukrainians and Afghans) from the first reception and CAS facilities to the SAI facilities progressively activated, within the limit of available places.

A MOI communication regarding the start of the procedure for expanding the SAI network to face the Ukrainian emergency,[895] published on 16 March 2022, announced the opening of the procedure to activate 3,530 SAI places,[896] to be allocated with priority to the reception of families, including single parents, with a deadline for the applications made by 19 April.

However, as also affirmed by the Prime Ministerial Decree of 28 March 2022, published on 15 April 2022, accommodation is ensured only within the limit of available places and relevant resources as implemented by Article 31 DL 21/2022. [897]

Alternative forms of accommodation for people escaping from Ukraine and asking temporary protection

DL 21 of 21 March 2022, at Article 31 (1) (a), has established:

- to define further forms of widespread reception, different and additional respects to the governmental first accommodation centres and the temporary centres (CAS) to be implemented in agreement with the Municipalities, and through Third sector bodies, volunteer service centres, organizations and associations registered with the register referred to in article 42 of the TUI and civilly recognized religious bodies, providing substantial homogeneity of services and costs with the reception system facilities (Cas and first governmental facilities**), for a maximum of 15,000 units**;

- to define additional forms of support and assistance to persons entitled to temporary protection who have found autonomous accommodation, for a maximum duration of 90 days, and **up to 60,000 units**.

- to recognize, in proportion to the number of people accommodated in each region and up to a limit of 152 million, a flat-rate contribution for access to the National Health Service to the regions and provinces of Trento and Bolzen, **up to 100,000 units**.

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891 DL 16/2022, Article 3, then repealed and transfused in the DL 14/2022, Article 5 quater as modified by the conversion Law n. 28 of 5 April 2022, without prejudice to all effects, acts and measures adopted in the meantime on the base of DL 16/2022.

892 3,000 places increased by Article 7 (1) DL 139/2021, converted into L 205/2021, as modified by Article 5 quater (5) DL 14/2022 converted into L 28/2022 and also 2,000 places according to Article 3(4) DL 16/2022, modifying Article 1 (390) L 234/2021, later transposed in DL 14/2022 as modified by Article 5 quater (6) DL 14/2022 converted into L 28/2022.

893 MOI Circular, 2 March 2022 available at: https://bit.ly/3OiV7zt.

894 It refers to Article 17 (1) of the Reception Decree, LD 142/2015.

895 MOI communication about the start of the procedure for expanding the SAI network for the Ukrainian emergency, 16 March 2022, available at: https://bit.ly/37lCDxF.

896 The number also includes SAI places first foreseen to be reserved for Afghans.

897 Article 5 of the Prime Ministerial Decree, 28 March 2022, published on 15 April 2022, available at: https://bit.ly/38Wxyfw.

The Ordinance issued by the Head of the Civil Protection Department on 29 March 2022 better detailed these provisions.

Regarding the financing of accommodation projects, it informed about the publication of notices to collect expressions of interest to the reception measures for people fleeing Ukraine.[898]

On April 11, 2022, the MOI Civil Protection Department published the first notice according to which each proposing body had to make at least 300 places available, to a maximum of 3,0000, also in associated form, and had to prove an experience of at least 3 years in accommodation of migrants or social and work integration activity.
The cost per day per capita was set at a maximum of 33 euros.

The notice informed that, within the established limit of 15,000 units, it will be given priority in the choice of the projects to finance to places where there is the greatest request for hospitality by people who have fled from Ukraine and then, in case of exhaustion, to the projects in places gradually closer.[899]
The notice solicited the submission of proposals for accommodation places but determined the time limit to send the proposals would be 22 April 2022.
The strict time limit and the need to offer at least 300 places made it very difficult to submit such proposals.

Regarding economic support to persons entitled to temporary protection who have found autonomous accommodation, the Ordinance of Civil protection of 29 March 2022 stated that they will receive an economic contribution of 300 euros, plus 150 euro per child up to three months from the date of the temporary protection receipt.[900] On 30 April 2022, the online platform through which apply for the contribution was opened.[901]
However, a Civil Protection Note issued on 9 May 2022, specified that the economic contribution can be asked only up to the 30Th of September 2022.[902]

After the outbreak of the conflict in Ukraine, it has been established the ad hoc expansion of 3,000 SAI places for people escaping from the conflict in addition to the possibility for them to access the SAI places first reserved only to Afghans.[903]

No additional places have been foreseen in the SAI or elsewhere for refugees of other nationalities.

898 Ordinance from the Head of the Civil Protection Department no. 881 of 29 March 2022, available at: https://bit.ly/3LH2VJ0.
899 Civil Protection Department, Notice for the acquisition of expressions of interest for the reception activities for people fleeing from the war in Ukraine, 11 April 2022 available at: https://bit.ly/3KKYpJv.
900 Ordinance issued by the Head of the Department of Civil Protection, no. 881 of 29 March 2022, available at: https://bit.ly/3LH2VJ0.
901 Department of Civil Protection, communication available at: https://bit.ly/3vtsLLy.
902 Department of Civil Protection, Note no. 30457 of 9 May 2022.
903 Article 5 quater DL 14/2022 converted with modifications into L 28/2022

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of persons detained in 2021	
❖ CPR	4,489[904]
❖ Hotspots	Not available
2. Number of persons in detention at the end of 2021:	
❖ CPR	Not available [905]
❖ Hotspots	398[906]
3. Number of detention centres:	
❖ CPR	7[907]
❖ Hotspots	3[908]
4. Total capacity of detention centres:	
❖ CPR	765[909]
❖ Hotspots	Not available[910]

The Reception Decree prohibits the detention of asylum seekers for the sole purpose of examining their asylum application.[911] However, the new provisions introduced by Decree Law 113/2018, implemented by L 132/2018, create the risk of automatic violation of this principle since they foresee detention in suitable facilities set up in hotspots, first reception centres or subsequently in pre-removal centres (*Centri di permanenza per il rimpatrio*, CPR) for the purpose of establishing identity or nationality.[912]
The Decree Law 130/2020, converted by L. 173/2020, modified this provision only with respect to the terms of the detention - 30 days, to which 90 days can be added and a further 30 in some cases, compared to the previous 30 days plus 6 months - but it did not change the grounds for the detention (although it did extend grounds for detention of asylum applicants; see below).[913]

Persons applying for asylum in CPR are subject to the Accelerated Procedure.

In 2020, as reported from the Guarantor for the rights of detained persons, 4,387 people - 94% of them men - had been detained in CPRs; roughly 50% (2,232) were actually returned. Tunisia is by far the most represented country of nationality amongst detained migrants, and the country with the highest

904 As of 15 November 2021, National Guarantor of the rights of detained persons, available at: https://bit.ly/3InUDEc.
905 CILD, Buchi Neri, reports data as of July 2021, acquired via FOIA, for only 6 out of 10 active CPR - which were detaining at that moment 343 third-country nationals, see: https://bit.ly/3JgTwY8.
906 Data as of 15 November 2021, Department of Civil Liberties and Immigration, available at: https://bit.ly/3JggFd5.
907 See Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available here: https://bit.ly/35UHwx5. As of end of 2021, 3 CPR (Caltanissetta, Potenza and Trapani) out of 10 were not active.
908 Lampedusa, Messina, Pozzallo, Taranto, as of December 2020. Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available here: https://www.garantenazional . ASGI reports that as of November 2021 Messina's hotspot is no longer active: https://inlimine.asgi.it/categoria/messina/. The Regional Guarantor of the rights of detained persons has reported that Taranto's hotspot has been temporarily converted into a COVID-19 quarantine facility in 2021, see p. 203 of the Yearly Report of the National Guarantor of the rights of detained persons, available at: https://bit.ly/3w9h7Go.
909 Effective capacity as of May 2021. As of the end of 2020, the official capacity was 1425 places in total; effective capacity was less than half, with a total of 635 places and 3 hotspots (Caltanissetta, Potenza and Trapani) out of 10 not active, see Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available here: https://bit.ly/3w94dbu.
910 No official data on capacity of hotspots is available. ASGI has reported that Lampedusa's hotspot has a capacity of 250 places, Pozzallo has a capacity of 230 places, Messina has a capacity of circa 250 places and Taranto has a capacity of 400 places, resulting in circa 1100 total places. Effective capacity of hotspots varied over time, especially in the context of the COVID-19 pandemic, due to temporary conversion of structures to quarantine facilities.
911 Article 6(1) Reception Decree.
912 Article 6(3-bis) Reception Decree, inserted by Article 3 Decree Law 113/2018 and L 132/2018.
913 Article 6 (3-bis) Reception Decree, as amended by DL 130/2020 and L. 173/2020.

return rate (2,623 out of 4,387detained migrants are Tunisians and 1,865 out of 2,232 returned migrants are returned to Tunisia).[914]

As of 30 April 2021, 1,490 people - all males, as no women were present - have been detained in CPRs, out of which 1,097 actually returned. Out of the 1,490 detained migrants, 922 (60%) are Tunisians; out of the 1,097 returned migrants, 618 (56%) are Tunisians.[915]

The number of CPRs has increased from five in 2017 to ten in 2020: **Restinco** in Brindisi, **Bari**, **Caltanissetta**, **Ponte Galeria** in Rome; **Turin**, **Palazzo San Gervasio** in Potenza, **Trapani**, **Gradisca d'Isonzo** in Gorizia, **Macomer**, Nuoro (in Sardinia), Corelli in Milan. As of the end of 2020, the official capacity was 1425 places in total; effective capacity was less than half, with a total of 635 places and 3 hotspots (Caltanissetta, Potenza and Trapani) out of 10 not active.

The number of persons entering the hotspots in 2021 was not available at the time of writing. In 2020, 24,884 persons – including 3,537 unaccompanied minors – entered in hotspots, 19,874 of which, including 2,588 unaccompanied minors, in Lampedusa[916]. High pressure on the hotspot of Lampedusa continued in 2021, with the centre hosting at times more than 1,000 migrants, in spite of its much smaller capacity.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
   - ❖ on the territory: ☒ Yes ☐ No
   - ❖ at the border: ☐ Yes ☒ No
2. Are asylum seekers detained in practice during the Dublin procedure?
   ☐ Frequently ☐ Rarely ☒ Never
3. Are asylum seekers detained during a regular procedure in practice?
   ☐ Frequently ☒ Rarely ☐ Never

According to article 14 TUI, amended by Decree Law 130/2020, the Questore asks the Department of Public Security of the Ministry of the Interior where to send the foreigner. Furthermore, Decree Law 130/2020 has established a priority to be given to the detention of foreigners who are dangerous to public order and security or who have been convicted even with a non-definitive sentence for an offence impeding entry,[917] and that a priority has to be given in any case to citizens of countries with which repatriation agreements exist (for which the length of detention can be increased of 30 days).[918]

In its report to Parliament of March 2020 the Guarantor for the rights of detained persons expressed concern that many people had been detained without legal basis and in fact most had been released on the orders of the judges.[919]

914 Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available at: https://bit.ly/3w94dbu.
915 Ibidem.
916 Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available at: https://bit.ly/3w94dbu.
917 According to Article 4 (3) and 5 (5) TUI.
918 Article 14 (1.1) TUI.
919 National Guarantor of the rights of detained persons, relation to Parliament 2020, available at: https://bit.ly/3KAyKm6 (first part) and https://bit.ly/3LHmyS0 (second part).

As of 15 of November 2021, out of 4,489 people who passed through the CPRs, 702 (15%) were released because the detention was not considered legitimate by the Judge. 2231 (49%) people were repatriated.[920]

In 2020, out of 4,387 people who entered the CPRs, 723 (16%) were released because the detention was not validated and 2,232 (50%) were actually repatriated.[921]

1.1. Asylum detention

Asylum seekers shall not be detained for the sole reason of the examination of their application.[922] An applicant shall be detained in CPR, on the basis of a case by case evaluation. As a result of the amendments made by the Decree Law 130/2020 converted into Law 173/2020 these cases arise when:[923]

(a) He or she falls under the exclusion clauses laid down in Article 1F of the 1951 Convention, following a decision of the CNDA; or under Article 12 (1, b, c) and under Article 16 of the Qualification Decree.[924]

(b) a bis) He or she submits a subsequent asylum application during the execution of a removal order, according to Article 29 bis Procedure Decree.[925]

(c) Is issued an expulsion order on the basis that he or she constitutes a danger to public order or state security,[926] or as suspected of being affiliated to a mafia-related organisation, has conducted or financed terrorist activities, has cooperated in selling or smuggling weapons or habitually conducts any form of criminal activity,[927] including with the intention of committing acts of terrorism;[928]

(d) May represent a danger for public order and security or in case of crimes mentioned by Article 12 (1, c) and 16 (1, d bis) Qualification Decree and regarding some exclusion clauses.[929]

According to the law, to assess such a danger, previous convictions, final or non-final, may be taken into account, including the conviction adopted following the enforcement of the penalty at the request of the party pursuant to Article 444 of the Italian Criminal Procedure Code, in relation to certain serious crimes,[930] to drug crimes, sexual crimes, facilitation of illegal immigration, recruiting of persons for prostitution, exploitation of prostitution and of children to be used in illegal activities.

(e) Presents a risk of absconding.

The assessment of such risk is made on a case by case basis, when the applicant has previously and systematically provided false declarations or documents on his or her personal data in order to avoid the adoption or the enforcement of an expulsion order, or when the applicant has not complied with alternatives to detention such as, stay in an assigned place of residence

920 National Guarantor of the rights of detained persons, November 2021, available at: https://bit.ly/3InUDEc.
921 Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available here: https://bit.ly/3w94dbu.
922 Article 6(1) Reception Decree.
923 Article 6(2) Reception Decree.
924 Decree Law 130/2020 converted by L. 173/2020 has amended Article 6 (2,a) Reception Decree, enlarging the exclusion clauses to be referred to detain asylum seekers.
925 Introduced by Decree Law 130/2020 converted by L 173/2020.
926 Article 13(1) TUI.
927 Article 13(2)(c) TUI.
928 Article 3(1) Decree Law 144/2005, implemented by L 155/2005.
929 Article amended by Decree Law 130/2020 converted by L 173/2020
930 Article 380(1)-(2) Criminal Procedure Code is cited, which refers to individuals who have participated in, among others, the following criminal activities: (a) child prostitution; (b) child pornography; (c) slavery; (d) looting and vandalism; (e) crimes against the community or the state authorities.

determined by the competent authority or reporting at given times to the competent authority.[931] Following Decree Law 13/2017, implemented by L 46/2017, repeated refusal to undergo fingerprinting at hotspots or on the national territory also constitutes a criterion indicating a risk of absconding.[932]

1.2. Pre-removal detention

The Reception Decree also provides that:

(f) Third-country nationals who apply for asylum when they are already held in CPR and are waiting for the enforcement of a return order pursuant to Article 10 TUI or an expulsion order pursuant to Articles 13 and 14 TUI shall remain in detention when, in addition to the above-mentioned reasons, there are reasonable grounds to consider that the application has been submitted with the sole reason of delaying or obstructing the enforcement of the expulsion order.[933]

1.3. Detention for identification purposes

Furthermore, a 2018 amendment to the Reception Decree has added that:

(g) Asylum seekers may be detained in hotspots or first reception centres for the purpose of establishing their identity or nationality. If the determination or verification of identity or nationality is not possible in those premises, they can be transferred to a CPR.[934]

Although the new Article 6(3-bis) of the Reception Decree foresees the possibility of detention for identification purposes in specific places, such places are not identified by law. In a Circular issued on 27 December 2018, the Ministry of Interior specified that it will be the responsibility of the Prefectures in whose territories such structures are found to identify special facilities where this form of detention could be performed. At the time of writing, there is no information on the identification of these premises.

As those dedicated premises have never been identified, detention for identification purposes occurs de facto in hotspots.[935] In **Lampedusa**, ASGI and other civil society organisations have reported that the centre gate is constantly closed and migrants are able to leave the centre only through openings in the fence, regularly adjusted by the administration and then reopened by migrants. More broadly, people taken to Lampedusa are *de facto* detained on the island, considering that they cannot purchase a title of travel and leave without an identity document.[936]

While the law does not clarify the procedure relating to the validation of this form of detention, the Ministry of Interior Circular of 27 December 2018 generically refers to validation by the judicial authority. According to ASGI, the same procedure envisaged for other grounds for detention of asylum seekers should apply to these cases.

In addition, the law does not specify in which cases the need for identification arises, thus linking detention not to the conduct of the applicant but to an objective circumstance such as the lack of identity documents.

According to ASGI, the new detention ground represents a violation of the prohibition on detention of asylum seekers for the sole purpose of examining their application under see Article 8(1) of the recast Reception Conditions Directive. People fleeing their countries often do not have identification documents

931 Article 13(5), (5.2) and (13) and Article 14 TUI. Article 13 TUI, to which Article 6 Reception Decree refers, also includes the obligation to surrender a passport but this should not be applied to asylum seekers because of their particular condition.
932 Article 10-ter(3) TUI, inserted by Decree Law 13/2017 and L 46/2017.
933 Article 6(3) Reception Decree.
934 Article 6(3-bis) Reception Decree, inserted by Article 3 Decree Law 113/2018 and L 132/2018 and amended by DL 130/2020 and L. 173/2020.
935 Guarantor for the rights of detained persons, *Relazione al Parlamento*, 15 June 2018, available in Italian at: http://bit.ly/2TZy9ol, 233.
936 ASGI et al., Hotspot di Lampedusa: sempre più un luogo di confinamento, August 2021, available in Italian at: https://bit.ly/3Js3OVu.

and cannot contact the authorities of the countries of origin as this could be interpreted as re-availing themselves of the protection of that country.

No data on persons identified in hotspots for the full year in 2021 is available at the time of writing. In 2020, out of 4,387 persons detained in CPRs, 565 (12%) were released given that they were not identified in the timeframe foreseen by the law. In the first four months of 2021, out of 1,490 persons detained in CPRs 187 (12%) were released because they were not identified in the timeframe foreseen by the law.[937]

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
   - ☒ Reporting duties
   - ☒ Surrendering documents
   - ☐ Financial guarantee
   - ☒ Residence restrictions
   - ☐ Other
2. Are alternatives to detention used in practice? ☐ Yes ☒ No

Article 6(5) of the Reception Decree makes reference to the alternatives to detention provided in the TUI. To this end, authorities should apply Article 14 TUI to the compatible extent, including the provisions on alternative detention measures provided by Article 14(1-bis).

The TUI provides that a foreign national who has received an expulsion order may request to the Prefect a certain period of time for voluntary departure. In that case the person will not be detained and will not be forcibly removed from the territory. However, in order to benefit from this measure, some strict requirements must be fulfilled:[938]

- ❖ No expulsion order for state security and public order grounds has been issued against the person concerned;
- ❖ There is no risk of absconding; and
- ❖ The request of permit of stay has not been rejected as manifestly unfounded or fraudulent.

In case the Prefect grants a voluntary departure period, then by virtue of Article 13(5.2) of the Consolidated Act on Immigration, the chief of the Questura resorts to one or more alternative measures to detention such as:

(a) The obligation to hand over passport to the police until departure;
(b) The obligation to reside in a specific domicile where the person can be contacted;
(c) The obligation to report to police authorities following police instructions.

The Reception Decree provides that when the detained applicant requests to be returned to his or her country of origin or to the country from which he or she came from, the removal order[939] shall be immediately adopted or executed. The repatriation request corresponds to a withdrawal of the application for international protection.[940]

In case the applicant is the recipient of an expulsion order,[941] the deadline for the voluntary departure set out by Article 13(5) shall be suspended for the time necessary for the examination of his/her asylum application. In this case the applicant has access to reception centres.[942]

NGOs have been advocating for a community-based approach to alternatives to detention. “Classic” alternatives to detention (e.g. regular reporting, surrender of passport and identity documents and home confinement) are indeed deemed to be still coercive and not responsive to individual needs.

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937 Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available here: https://bit.ly/3w94dbu.
938 Articles 13(5.2) and 14-ter TUI.
939 Pursuant to Article 13(4) and (5-bis) TUI.
940 Article 6(9) Reception Decree.
941 The expulsion order to be executed according to the procedures set out in Article 13(5)-(5.2) TUI.
942 Article 6(10) Reception Decree.

It is thus proposed to move towards "community-based" alternatives (e.g. case management), which consist in non-coercive measures, based on the direct involvement of the person concerned. Case management is an individualised process of support and cooperation during the migration process. Together with a case manager, beneficiaries explore all the options available regarding their legal status. Once fully informed, they are empowered to make informed decisions and achieve sustainable long-term solutions. In 2019-2021 NGOs Progetto Diritti and CILD have piloted a project targeting people at medium-high risk of detention.[943]

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
   ☐ Frequently ☒ Rarely ☐ Never
   - ❖ If frequently or rarely, are they only detained in border/transit zones? ☒ Yes ☐ No
2. Are asylum seeking children in families detained in practice?
   ☐ Frequently ☒ Rarely ☐ Never

3.1. Detention of unaccompanied children

The law explicitly provides that unaccompanied children can never be detained.[944] However, there have been cases where unaccompanied children have been placed in CPRs following a wrong age assessment. Minors, both accompanied and unaccompanied, are also de facto detained in hotspots and, in the context of the COVID-19 pandemic, on quarantine vessels.

Hotspots: More than 12,000 minors have entered hotspots in Italy since 2016.[945] A total of 4,528 children entered in hotspots in 2020, including 3,537 unaccompanied and 991 accompanied children.[946]
It has been noted how the practice according to which, quoting the National Guarantor, "the foreign citizen is basically precluded from having correct personal data reported on the entry information sheet [foglio notizie]" in hotspots,[947] may easily lead to unlawful deprivation of liberty in detention facilities, and delayed disclosure/age assessment.
During the first 7 months of the pandemic, unaccompanied minors were also subject to fiduciary isolation or quarantine at hotspots. In the case of Lampedusa hotspot, unaccompanied minors were kept in social isolation conditions, accommodated in situations of promiscuity with adults, within often inadequate and overcrowded spaces and deprived of their personal liberty. In these circumstances, access by unaccompanied minors to dedicated and appropriate health and psychosocial support was significantly compromised.[948]

Quarantine vessels: According to data acquired by ASGI via FOIA, 1124 unaccompanied minors have been kept on quarantine vessels between May and November 2020. On 21 October 2020, the Ministry of the Interior ordered the suspension of transfers of unaccompanied minors to quarantine ships[949]. Despite this, shortcomings regarding identification and age-assessment procedures at the hotspot, coupled with the limited consideration of possible unaccompanied minors' self-declarations as such when they are on-

943 CILD and Progetto Diritti, Alternatives to detention: towards a more effective and humane migration management, 2021, available at: https://bit.ly/3q794WI.
944 Article 19(4) Reception Decree.
945 ASGI, Unaccompanied minors: critical conditions at Italian internal and external borders, June 2021, available at: https://bit.ly/34PNMpg.
946 Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available at: https://bit.ly/3w94dbu.
947 National Guarantor for the rights of detained persons, Rapporto sulle visite effettuate nei CPR (2019 - 2020), available in Italian at: https://bit.ly/3JIlvVw.
948 ASGI, Unaccompanied minors: critical conditions at Italian internal and external borders, June 2021, available at: https://www.asgi.it/wp-content/uploads/2021/07/ASGI_Unaccompanied-Minors_DEF.pdf
949 Reply from the Palermo Juvenile Court to ASGI request submitted based on FOIA, accessible at: https://inlimine.asgi.

board, saw such transfers still take place, being possibly followed by unlawful removal procedures and simultaneous detention in detention centres.[950]

CPR: There is no official consolidated data on the number of persons detained in CPRs that declared to be minors and are recognised as such via the age assessment procedure. It is known that 19 minors have been released from Rome's CPR of Ponte Galeria in 2020.[951] At least 3 cases of minors who have been repatriated from Turin's CPR were reported in 2020; in the same CPR, there were several instances in which unaccompanied minors were subjected to age assessment procedures without the involvement of the Juvenile Court and a vulnerable minor was detained during the age assessment procedure in violation of the *favor minoris* principle. It has also been reported that, as in Lampedusa's hotspot migrants are not able to have their personal data corrected by authorities, many who have been identified as adults in Lampedusa declare themselves to be minors upon arrival in Trapani's Milo CPR. Pending the age assessment, these minors are kept for weeks in the CPR (in a special area that does not fully avoid situations of promiscuity between adults and minors).[952]

Borders: Cases of de facto detention of minors in border areas have also been reported. The Guarantor for the rights of detained persons, who visited the border premises of the border police of Trieste and Gorizia in December 2020, reported critical issues related to the procedure for the age assessment of minors, still in "non-application" of the provisions enshrined in Law 47/2017, in the context of readmissions to Slovenia. Even though this procedure should not involve families and vulnerable people, readmissions were also carried out against those who declared themselves to be minors at the border, as reported by the network Tavolo Minori Migranti. This practice has been legitimised by two directives on the age assessment of minors sent by the Public Prosecutor to the attention of the Juvenile Court of Trieste on 31 August and 21 December 2020. Contrary to the guarantees enshrined in Law 47/2017, these guidelines authorise security forces to carry out an age assessment of persons intercepted at the Italy-Slovenia border with a de visu evaluation: police can consider migrants as adults if there are no apparent doubts about the age of consent of the concerned person, regardless of the declaration of minor age and the consequent judicial review required by law. These directives assign a discretionary power to the Public Security authority in identifying the age of migrants and refugees subjected to border controls, contrary to the provisions of Law 47/2017, which states that age assessment must be carried out taking into account identity documents and, if necessary, following a multidisciplinary procedure as part of a proceeding under the jurisdiction of the Juvenile Court. In 2020, in at least four cases, the Juvenile Court of Trieste ordered the fulfilment of the procedure for the age assessment of the persons involved, following appeals lodged by minors who had been identified as adults with the result of being placed in adult facilities.[953]

ASGI has urged Italian authorities to comply with the ban envisaged by current national legislation and by Article 37 of the CRC ("no child shall be deprived of his/her liberty unlawfully or arbitrarily") concerning the detention of minors and their placement in structures characterised by conditions of promiscuity or forms of de facto detention, such as hotspots; ensure that reports concerning persons who declare themselves to be minors and who are present in CPRs, hotspots, or other facilities, including those prepared for the epidemiological emergency such as quarantine ships, are immediately taken in charge by competent authorities and that transfer to suitable structures is immediately arranged.[954]

3.2. Detention of other vulnerable groups

Detention of children in families in CPR is not prohibited. Children can be detained together with their parents if they request it and if decided by the Juvenile Court. In practice, very few children are detained.

950 ASGI, Ancora minori stranieri non accompagnati a bordo delle "navi quarantena", March 2021, available in Italian at: https://bit.ly/3N7KSh1; Valerio Nicolosi, L'odissea dei minori stranieri non accompagnati nell'accoglienza italiana, Micromega, December 2021, available in Italian at: https://bit.ly/3KO3NeK.

951 Data reported by the National Guarantor of rights of detained persons to CILD, Buchi Neri, available at: https://bit.ly/3JgTwY8.

952 National Guarantor for the rights of detained persons, Rapporto sulle visite effettuate nei CPR (2019 - 2020), available in Italian at: https://bit.ly/3MPri93.

953 ASGI, Unaccompanied minors: critical conditions at Italian internal and external borders, June 2021, available at: https://bit.ly/34PNMpg.

954 Ibidem.

Following the 2017 reform, the law also prohibits the detention of vulnerable persons,[955] although in practice shortcomings regarding identification and age-assessment procedures at the hotspot means that this is not always ensured.[956] According to the law, in the framework of the social and health services guaranteed in CPR, an assessment of vulnerability situations requiring specific assistance should be periodically provided.[957] In CPR, however, legal assistance and psychological support are not systematically provided, although the latter was foreseen in the tender specifications schemes (*capitolato*) published by the Ministry of Interior on 20 November 2018 and on 24 February 2021. To date, no protocol on early identification of and assistance to vulnerable persons, and on the referral system to specialised services and/or reception centres has been adopted. Although standards of services in CPR centres are planned following the national regulation on management of the centres, they are insufficient and inadequate, especially for vulnerable categories of individuals. Moreover, the quality of services may differ from one CPR to another. In this respect, the Reception Decree provides that, where possible, a specific place should be reserved to asylum seekers,[958] and Article 4(e) of the Regulation of 20 October 2014 of the Minister of Interior provides the same for persons with special reception needs.

Issues with protection of persons with special needs in detention have been reported by the Guarantor, who has stressed the need for enhanced referral mechanisms and continuous monitoring of health conditions of detained persons, via stipulation of MoU with local sanitary services[959]. ASGI's monitoring of CPRs has stressed that in these places, vulnerabilities are often ignored and unaddressed: minors, people with disabilities, victims of abuse, asylum seekers, people accused of serious crimes or socially dangerous people are mixed together, which increases the tensions and risks of crises.[960]

From a gender perspective, it must be noted that – also due to the temporary closure in 2021 of the women section of Rome's CPR, which is the only present on the national territory – there has been a sharp decrease in numbers of women detained in CPRs. In 2021, as of November, only 5 women (2 Tunisian, 2 Nigerians, and 1 Romanian) were detained in the CPR, only 1 of which was returned (3 were released following non-validation of the detention order by the judge and 1 as applicant for international protection). Contrastingly, in 2020, 223 women had been detained in the CPR, representing circa 4% of the total detained persons; the most represented nationalities were China (47 women), Nigeria (33), Morocco (14), Tunisia (13), Ukraine and Georgia (12); 31 were returned, 146 were released due to non-validation of the detention by the judge, 26 were released upon reaching maximum term of detention, 9 were released as applicants for international protection. In 2019, 664 women had been detained in the CPR, representing circa 10% of the total detained persons.[961]
The enhanced vulnerability of women in detention and the many criticalities of the women's section of Rome's CPR have been repeatedly noted.[962]

For what concerns hotspots, it can be observed that women are a minority in such centres, representing only 6% of the persons held in hotspots in 2020 (1,641 out of 24,884). The most represented nationalities were Tunisia (359), Ivory Coast (346 women), Guinea (235), Nigeria (99) and Somalia (95). In 2019, 952

955 Article 7(5) Reception Decree, as amended by Article 8 Decree Law 13/2017 and L 46/2017.
956 ASGI, *Unaccompanied minors: critical conditions at Italian internal and external borders*, June 2021, available at: https://bit.ly/34PNMpg.
957 Article 7(5) Reception Decree.
958 Article 6(1) Reception Decree.
959 National Guarantor for the rights of detained persons, Rapporto sulle visite effettuate nei CPR (2019 - 2020), available in Italian at: https://bit.ly/3MPri93.
960 ASGI, The Black book on the Pre-Removal Detention Centre (CPR) of migrants in Turin – Corso Brunelleschi, September 2021, available at: https://bit.ly/3CQZQD5.
961 National Guarantor for the rights of detained persons, Update on immigration detention as of 15 November 2021, available in Italian at: https://bit.ly/3InUDEc; National Guarantor for the rights of detained persons, Relazione al Parlamento, June 2021, available in Italian at: https://bit.ly/35UHwx5; National Guarantor for the rights of detained persons, Relazione al Parlamento, June 2020, available in Italian at: https://bit.ly/3ibI5ov.
962 Il Post, Nessuno aiuta le donne al centro di detenzione di Ponte Galeria, January 2021, available in Italian at: Annalisa Camilli, Chi sono le donne rinchiuse nel centro di espulsione di Roma, Internazionale, February 2019, available at: https://www.internazionale.it/reportage/annalisa-camilli/2019/02/11/cpr-roma-ponte-galeria-cie

women were held in hotspots, representing 12% of hotspot population[963] The enhanced vulnerability of women in hotspots has been repeatedly noted; in 2021, ASGI has documented a critical situation in Lampedusa's hotspot. The report found that overcrowding, the condition of promiscuity also for what concerned shared bathrooms, the prevalent presence of male police personnel, the absence of places to conduct interviews in a protected setting, the lack of access to adequate mediation and information and structured mechanisms of identification and referrals, expose women to a high risk of experiencing (in some cases, further) violence. As highlighted in the report, these situations also risk significantly undermining the determination of women who intend to seek protection, as they could flee from a gender-based violence experience (as they could be controlled by a trafficking network, experience domestic violence, or suffer abuse) or because, due to the aforementioned conditions, they might experience an accidents, abuse or feel unsafe within the facilities.[964]

4. Duration of detention

Indicators: Duration of Detention

1. What is the maximum detention period set in the law (incl. extensions):
   - ❖ Asylum detention — 12 months
   - ❖ Pre-removal detention — 120 days
   - ❖ Detention for the purpose of identification — 150 days
2. In practice, how long in average are asylum seekers detained?
   - ❖ CPR — Not available
   - ❖ Hotspots — 5 days in Lampedusa, 10/14 days in Pozzallo, 16 days in Taranto and 18 days in Messina[965]

4.1. Duration of detention for identification purposes

According to the SOPs applying at hotspots, from the moment of entry, the period of stay in the facility should be as short as possible, in accordance with the national legal framework.

Article 6(3-bis) of the Reception Decree introduced by Decree Law 113/2018 has introduced the possibility to detain asylum seekers in hotspots for the purpose of determining their identity or nationality. After the amendment introduced by Decree law 130/2020 as converted by L. 173/2020, the law states that this should happen in the shortest possible time and for a period not exceeding 30 days and, if identification has not been possible within that time frame, they could be sent to CPR for detention up to 90 days plus an additional 30 days when the migrant belongs to a country with which Italy has signed repatriation agreements.[966]The provision of a detention period up to 30 days and extendable to up to 90 plus 30 days in the CPR seems incompatible with the principle laid down in Article 9 of the recast Reception Conditions Directive according to which an applicant shall be detained only for as short a period as possible. For asylum seekers, this cannot be justified as - given the impossibility of contacting the authorities of the country of origin - it could only coincide with the *fotosegnalamento*, which certainly cannot take more than a few days.[967]

The reform, introduced by L. 132/2018, confirmed by DL 130/2020 and converted by L 173/2020, has given a legal basis to a practice - that of de facto detention in hotspots - already being implemented. However, as underlined by ASGI the detention still takes place in hotspots without any clear legal basis, in the absence of a written act adopted by the competent authority and validated by a judge, in the

963 National Guarantor for the rights of detained persons, Relazione al Parlamento, June 2021, available in Italian at: https://bit.ly/3MUlJ9k. See also: https://bit.ly/35UHwx5; National Guarantor for the rights of detained persons, Relazione al Parlamento, June 2020, available in Italian at: https://bit.ly/3ibI5ov.

964 ASGI, Una prospettiva di genere sull'Hotspot di Lampedusa: la sistematica e colposa violazione dei diritti delle donne, October 2021, available in Italian at: https://bit.ly/3tgdRHf.

965 Data as of 31 December 2020. Annexes to the yearly report of the National Guarantor for the rights of detained perso, June 2021, available at: https://bit.ly/3ti8Zle.

966 Article 6(3-bis) Reception Decree, inserted by Article 3 Decree Law 113/2018 and L 132/2018 and amended by Article 3 (2, b) DL 130/2020 and L 173/2020.

967 See Guido Savio, La nuova disciplina del trattenimento per l'esecuzione dell'espulsione, in Immigrazione, protezione internazionale e misure penali, commento al d.l. 130/2020 convertito in L. 173/2020, 2021.

absence of a maximum detention period, without proper information provided, in a manner inconsistent with the need to protect the individuals against arbitrariness.[968]

The Guarantor, in the parliamentary debate relating to the conversion into law of the D.L. 130/2020, highlighted how "the non-recognition of the possibility of complaints in hotspots" does not satisfy the requirements laid down in the Khlaifia case, creating an unequal treatment between those held in the CPRs, who will have access to a whole series of guarantees and be able to exercise a whole series of rights, including the possibility to present requests and complaints, and whoever is detained in a hotspot, who will not be able to access any of the aforementioned prerogatives. The Guarantor raised several critical issues on the detention of asylum seekers in hotspots for identification purposes: "the lack of taxability of the conditions of application, the lack of regulation of the methods of detention in the premises identified in the hotspots/governmental reception centres, the inadequacy of the hotspots for detention of 30 days, the lack of proportionality of the maximum terms of detention with respect to other institutions that the law provides for similar purposes".[969] The Guarantor had previously defined the condition of applicants detained for identification in as a "limbo of legal protection". As a result of detention being practised in a grey legal area or on a de facto basis, applicants who face prison-like conditions do not even receive the same guarantees and legal provisions as prison detainees.[970]

The fact that these places are currently also being used for quarantine, means that detention may be prolonged indefinitely, if the period of precautionary isolation actually starts again every time new people arrive in the quarantine facility.[971]

As of 2021, appropriate places for detention for identification purposes have not yet been identified. Thus, the situation remained almost unchanged as regards *de facto* detention, which, in the absence of any control of legitimacy by the judicial authority, continued in the hotspots during the identification phase and, in the case of Lampedusa hotspot, even after that phase until the person is finally transferred to another destination depending on his/her legal status.[972]

As already mentioned, no data on persons identified in hotspots is available for 2021. In 2020, out of 4,387 persons detained in CPRs 565 (12%) were released because they were not identified in the timeframe foreseen by the law. In the first four months of 2021, out of 1,490 persons detained in CPRs 187 (12%) were released because they were not identified in the timeframe foreseen by the law.

The hotspot approach is used beyond the actual hotspots centres. In October 2020, ASGI reported that the first line reception facility of Monastir, in Sardinia, was being used as a de facto detention facility.[973] In 2021, ASGI reported many criticalities at the "new border" of Pantelleria, where landed migrants are also channelled in hotspot-like procedures.[974]

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968 ASGI and CILD, communication to the Committee of Ministers of the Council of Europe as part of the supervision procedure on the implementation of the Khlaifia ruling of the ECHR, January 2021, available in English at: https://bit.ly/3bu0haa.

969 Guarantor for the rights of detained persons, Parere sul decreto-legge 21 ottobre 2020, n. 130, available at: https://bit.ly/33IUnO8.

970 The Left, LOCKED UP AND EXCLUDED Informal and illegal detention in Spain, Greece, Italy and Germany, December 2020, available at: https://bit.ly/37q36JY.

971 Guarantor for the rights of detained persons, Report to Parliament, March 2020, available at: https://bit.ly/3okpJnx, para. 22, pp. 105-107.

972 ASGI and CILD, *communication to the Committee of Ministers of the Council of Europe as part of the supervision procedure on the implementation of the Khlaifia ruling of the ECHR* available in English at: https://bit.ly/33FsXZd, January 2021; see also *Il trattenimento dei richiedenti asilo negli hotspot tra previsioni normative e detenzione arbitraria*, 30 September 2019, available in Italian at: https://cutt.ly/4yO8GLX.

973 ASGI, Report sopralluogo giuridico: la Sardegna come luogo di frontiera e di transito, December 2020, available at: https://bit.ly/2SPky3r.

974 ASGI; La frontiera di Pantelleria: una sospensione del diritto Report del sopralluogo giuridico di ASGI, June 2021, available at: https://bit.ly/39ovdKB.

4.2. Duration of asylum and pre-removal detention

The maximum duration of detention of asylum seekers is 12 months.[975] The duration of pre-removal detention has been decreased from 180 to 90 days, plus 30 days in cases of repatriation agreements with the countries of origin.[976] According to ASGI, the difference between the maximum duration of ordinary detention for third-country nationals (6 months) and the maximum duration of detention of asylum seekers (12 months) appears as an unreasonable violation of the principle of equality provided for by Article 3 of the Italian Constitution, resulting in a discriminatory treatment of the latter category. Moreover, it is not clear if the 30-day duration of detention for identification reasons may or may not be counted in these maximum detention periods.

When detention is already taking place at the time of the making of the application, the terms provided by Article 14(5) TUI are suspended and the Questore shall transmit the relevant files to the competent judicial authority to validate the detention for a maximum period of 60 days, in order to allow the completion of procedure related to the examination of the asylum application.[977] In September 2021, the Specialised Section of the Court of Rome issued a decision clarifying that the validation request by the Questura to the Court is to be presented within 48 hours from the moment in which the applicant made (i.e., making stage) his application for international protection.[978]

However, the detention or the extension of the detention shall not last longer than the time necessary for the examination of the asylum application under the Accelerated Procedure,[979] unless additional detention grounds exist pursuant to Article 14 TUI. Any delays in the completion of the administrative procedures required for the examination of the asylum application, if not caused by the applicant, do not constitute a valid ground for the extension of the detention.[980]

According to the Reception Decree, the applicant detained in CPR or for identification reasons in hotspots or first governmental reception centres, who appeals against the rejection decision issued by the Territorial Commission, remains in the detention facility until the adoption of the decision on the suspension of the order by the judge.[981] The detained applicant also remains in detention as long as he or she is authorised to remain on the territory as a consequence of the lodged appeal.[982] The way the law was worded before did not make it clear whether, when the suspensive request was upheld, asylum seekers could leave the CPR, and in practice they did not.
In this respect the Questore shall request the extension of the ongoing detention for additional periods of no longer than 60 days, which can be extended by the judicial authority from time to time, until the above conditions persist. In any case, the maximum detention period cannot last more than 12 months.[983]

In 2020, in some cases Civil Courts have released asylum seekers detained in CPR. The Courts observed that time limits of the accelerated procedure as regulated by art. 28bis of the Procedures Decree were exceeded, without any justification. In two cases asylum seekers had been detained in CPR for more than two months without the audition having been set. [984] The Court of Cassation also stressed the principle according to which an asylum seeker cannot be detained over the times scheduled under the accelerated procedure, unless other reasons for detention arise[985] (see also Judicial Review). In December 2021, the Specialised Section of the Court of Lecce has clarified that the detention of the applicant for international

975 Article 6(8) Reception Decree.
976 Article 14(5) TUI, as amended by Decree Law 130/2020 and L. 173/2020.
977 Article 6(5) Reception Decree.
978 ASGI, Il Tribunale di Roma: i termini per la convalida del trattenimento decorrono dalla manifestazione di volontà di chiedere asilo in CPR, available in Italian at: https://bit.ly/3qa9iwo.
979 Pursuant to Article 28-bis(1) and (3) Procedure Decree.
980 Article 6(6) Reception Decree.
981 Article 35-bis(4) Procedure Decree.
982 Article 6(7) Reception Decree, as amended by Article 8 Decree Law 13/2017 and L 46/2017.
983 Article 6(8) Reception Decree.
984 Civil Court of Turin, decision 5114/2019, 6 August 2019, procedure 19920/2019, available in Italian at: https://cutt.ly/6yO8BKm; Civil Court of Trieste, decision 30/2020, 13 January 2020, available in Italian at: https://cutt.ly/IyO8NjY.
985 Court of Cassation, decision no. 2458/2021 published on 2 February 2021.

protection cannot be extended once its terms – to be calculated from the making of the application – have expired.[986]

The average duration of detention in CPR is not available. As reported above, in 2020, as well as in the first four months of 2021, circa 12% of persons detained in CPRs were released because they were not identified in the timeframe foreseen by the law.

The average length of stay in hotspots in 2020 was of: 5 days in Lampedusa, 10/14 days in Pozzallo, 16 days in Taranto and 18 days in Messina. No data is available for 2021 at the time of writing.[987]

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☐ Yes ☒ No

2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

1.1. Pre-removal detention centres (CPR)

Under the Reception Decree, asylum seekers can be detained in CPRs - previously known as CIEs -, where third-country nationals who have received an expulsion order are generally held.[988] The functioning of CPRs and their essential rules are laid out in the CIE Regulation adopted in 2014.[989] The Regulation is currently under revision and its updated version is expected for 2022. 10 CPRs are present on the Italian territory, as detailed in the list below. As of the end of 2020, 3 CPRs (Caltanissetta, Potenza and Trapani) out of 10 are not active. The official capacity, with all 10 CPRs active, would be of 1,425 places. Effective capacity in 2020 and 2021 has been reduced, due to the temporary closure of some structures and COVID-19 restrictions: as of the end of 2020, with 7 out of 10 CPRs active at reduced capacity, and the total places available were 635.[990]

The latest data available on capacity of CPR and persons detained therein are as follows, updated to November 2021.[991]

Capacity and detentions by CPR		
CPR	Official capacity	Persons detained up to November 2021[992]
Brindisi	48	209
Bari	126	556
Caltanissetta	96	426
Rome	250	446
Turin	210	631

986 ASGI, Trattenimento nel CPR, impossibile prorogare un termine già scaduto, January 2022, available in Italian at: https://bit.ly/3CUIaGL.
987 Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available here: https://bit.ly/3ti8Zle.
988 Article 6(2) Reception Decree.
989 Ministero dell'Interno, Regolamento Unico CIE, 2014, available in Italian at: https://bit.ly/3JgGYjp.
990 National Guarantor for the rights of detained persons, Yearly report to the Parliament 2021, June 2021, available in Italian at: https://bit.ly/35UHwx5.
991 MOI; hearing at Parliament of Director Bontempi, 25 November 2020.
992 Update on detention immigration as of 15 November 2021, National Guarantor for the rights of detained persons, available in Italian at: https://bit.ly/3InUDEc.

Palazzo San Gervasio(Potenza)	150	781
Trapani	205	121
Gradisca d'Isonzo (Gorizia)	150	702
Macomer (Nuoro)	50	185
Milan	140	432
Total	**1,425**	**4,489**

Source: Guarantor of detained persons, updated as of 15 November 2021.

As of 15 November 2021, according to data reported by the National Guarantor, Potenza, Gorizia and Turin were the CPRs with the highest influx of persons. The practice of detention in CPRs did not change even during the COVID-19 pandemic and the related lockdowns, which led to periods of border closure and suspension of connections with countries of origin: despite the impossibility of removal/deportation, the validations and extensions of detention orders continued without interruption. [993] Decree Law 13/2017, implemented by L 46/2017, had foreseen the extension of the network of the CPR to ensure the distribution across the entire national territory.[994] In order to speed up the implementation of CPR, Decree Law 113/2018 encouraged the use of negotiated procedures, without tender, for works whose amounts are below the EU threshold relevance and for a maximum period of three years.[995]

The current situation in the 10 CPRs can be described as follows:[996]

1. Milan's CPR, situated in the outskirts of the city, currently has an official capacity of 140 places; as of April 2021, 49 persons were detained. The new call for tender issued in April 2021 foresees 84 places and has been won by ENGEL srl (who is already managing Potenza's CPR).
2. Turin's CPR, which was first opened in 1999, currently has an official capacity of 180 places. As of April 2021, 107 persons were detained. It has been managed since 2015 by Gepsa, a multinational society which had previously managed detention centres in Rome and Milan and is considered one of the main actors in the business of detention immigration.[997] In September 2021, its isolation section known as Ospedaletto was closed down, following the report of the visit of the National Guarantor – which took place shortly after a migrant, Moussa Balde, committed suicide in the isolation section in May 2021 –,[998] who had deemed detention in this area as an inhumane and degrading treatment and called for its immediate and definitive closure.[999]
3. Gorizia's CPR, which was first activated in 2006 but has been closed from 2013 to 2019 following protests on its conditions, currently has an official capacity of 150 places; as of July 2021, 82 persons were detained.
4. Macomer's CPR is the first immigration detention facility in Sardinia and was opened in 2020 (after a structure previously hosting a high security prison was repurposed). It is situated on the outskirts of a small town, more than 50 kilometres away from the closest cities (Nuoro and Oristano). It has an official capacity of 50 places; as of July 2021, it hosted 38 detainees.
5. Rome's CPR, situated in Ponte Galeria, in the outskirts of the city, has been active since 1998. It currently has an official capacity of 210 places. It is the only Italian immigration detention facility for women; the women's section was partially renovated in 2020, but some parts remain in dire conditions. As of July 2021, only 20 persons (18 men and 2 women) were detained.

993 ASGI, The Black book on the Pre-Removal Detention Centre (CPR) of migrants in Turin – Corso Brunelleschi, September 2021, available at: https://bit.ly/3CQZQD5.
994 Article 19(3) Decree Law 13/2017 implemented by L 46/2017.
995 Article 2(2) Decree Law 113/2018, implemented by L 132/2018.
996 CILD, *Buchi Neri*, available at: https://bit.ly/3JgTwY8.
997 Ilaria Sesana, La detenzione amministrativa dei migranti è un affare. Anche in Italia, Altraeconomia, 2017, available in Italian at: https://bit.ly/3IeVMxt.
998 National Guarantor for the rights of detained persons, Chiuso l'Ospedaletto del Cpr di Torino: accolta la Raccomandazione del Garante nazionale, September 2021, available in Italian at: https://bit.ly/3MVVKOz.
999 National Guarantor for the rights of detained persons, Report on the visit to Turin's CPR in June 2021. Available in Italian at: https://bit.ly/3MVVKOz.

6. Potenza's CPR is located in the outskirts of the town of Palazzo San Gervasio, 65 km from Potenza, in a very isolated and hard to reach area, and it has an official capacity of 150 places. It was reopened in 2018 and it has recently been closed for renovation from May 2020 to February 2021. It has an official capacity of 150 places and, as of mid-November, 781 persons were reportedly detained there in 2021 (more than 17% of the total of persons detained in CPRs).
7. Bari's CPR has an official capacity of 126 places and has been managed from 2018 to 2021 by the social cooperative Badia Grande (which also manages Trapani's CPR). In October 2021, several CPR's managers, including the director of the CPR until February 2021, were involved in criminal investigations for serious malpractices in the management of the CPR.[1000]
8. Brindisi's CPR has an official capacity of 48 places and as of mid-November 209 persons (less than 5% of the total of persons detained in CPRs) were detained here in 2021.
9. Caltanissetta's CPR currently has an official capacity of 96 places; as reported in mid-November 2021, 426 persons (around 10%) had been detained there throughout the year. It has been closed down for renovations, following requests by the National Guarantor, from April 2020 to May 2021.
10. Trapani's CPR currently has an official capacity of 150 places; as of mid-November, 121 persons were detained here in 2021. It has been closed for renovations from April 2020 to August 2021.

From a gender perspective, it must be noted that – also due to the temporary closure in 2021 of the women section of Rome's CPR, which is the only present on the national territory –a sharp decrease in numbers of women detained in CPRs was registered. In 2021, as of November, only 5 women (2 Tunisian, 2 Nigerians, and 1 Romanian) were detained in the CPR, only 1 of which was returned (3 were released following non-validation of the detention order by the judge and 1 as applicant for international protection). In 2020, 223 women had been detained in the CPR, representing circa 4% of the total detained persons; the most represented nationalities were China (47 women), Nigeria (33), Morocco (14), Tunisia (13), Ukraine and Georgia (12); 31 were returned, 146 were released due to non-validation of the detention by the judge, 26 were released upon reaching maximum term of detention, 9 were released as applicants for international protection.[1001]

Access to CPRs for rights organisations and civil society remains problematic in practice. In December 2021, Sardinia's Administrative Tribunal (TAR) invalidated acts by Nuoro's Prefecture not allowing access of civil society organisations in Macomer's CPR, acknowledging the legitimate interest of rights organisations and civil society to enter immigration detention facilities to ensure the protection of fundamental rights. Similar judgments have been issued in April 2021 by Piedmont's TAR with regard to access to Turin's CPR and in October 2020 by Sicilia's TAR with regard to access to Caltanissetta's CPR.[1002]

Locali idonei

LD 113/2018, converted into Law 132/2018, has expanded the places of deprivation of liberty suitable for the administrative detention of foreign citizens pending the validation of immediate accompaniment to the border. The new Art. 13 para 5-bis of the Consolidated Immigration Act introduced the possibility that the justice of peace, at the request of the Questore, orders the detention of the aforementioned foreign citizens in "suitable structures" ("locali idonei") if there are no available places in CPRs. Furthermore, if the unavailability of places in CPRs persists after the validation hearing, it is possible to order the detention of foreign citizens in "suitable premises at the border office concerned, until the actual removal is carried out and, in any case, no later than forty-eight hours following the hearing of validation". The provision has

1000 Chiara Spagnolo, "Migranti, frode sull'assistenza sanitaria nel centro di permanenza di Palese: 4 indagati", La Repubblica, October 2021, available in Italian at: https://bit.ly/3iaqZYc.

1001 National Guarantor for the rights of detained persons, Update on immigration detention as of 15 November 2021, available in Italian at: https://bit.ly/3InUDEc; National Guarantor for the rights of detained persons, Relazione al Parlamento, June 2021, available in Italian at: https://bit.ly/35UHwx5; National Guarantor for the rights of detained persons, Relazione al Parlamento, June 2020, available in Italian at: https://bit.ly/3ibI5ov.

1002 TAR Sardegna, 838/2021, published on 24/12/2021, available in Italian at: https://bit.ly/35YBFH4; TAR Piemonte, 360/2021, published on 6/4/2021, available in Italian at: https://bit.ly/3qcz1nI; TAR Sicilia, 2169/2020, published on 21/10/2020, available in Italian at: https://bit.ly/37CPFqn.

been criticised by the National Guarantor[1003] as well as by ASGI[1004] for its indeterminacy, as the methods of detention and the suitability criteria are not specified, leaving it exclusively to the discretion of the public security authorities. The UN Committee on Enforced Disappearances, in the concluding observations of its 2019 report on Italy, expressed concern for the unavailability of a list of locali idonei, which effectively prevents the Guarantor from monitoring them. The Committee thus recommended the Italian government to immediately publish the aforementioned list and guarantee access by the National Guarantor to these premises[1005].

LD 130/2020, converted into Law 173/2020, confirmed the expansion of places of deprivation of liberty intended for the detention of foreign citizens pending validation of the forced repatriation, but – in pursuance of recommendations made by the National Guarantor[1006] – specified that art. 14 of the TUI applies: in such places of detention, adequate sanitary and housing standards must be ensured and fundamental rights must be guaranteed. These places are thus to be considered as surrogates of CPRs and respond to the same standards. The National Guarantor has further clarified that all the protections provided for in the Cpr compatible with a short stay, including the possibility of visits by persons authorised to access the institutes prisons and security rooms as well as by national and international protection organisations[1007].

There is no data on detention in the so-called "locali idonei" that took place from the entry into force of the rule. ASGI, as part of the In Limine project, has thus urged the publication of this information, sending FOIA requests to concerned authorities in July 2020. All questioned Questure (Bergamo, Bologna, Brescia, Milan, Parma, Roma) replied to the request for information, although often information was only partial due to alleged reasons of public security. More specifically, none of the Offices – notwithstanding requests made by the National Guarantor as well as the UN Committee on Enforced Disappearances – has shared a list of structures identified as locali idonei, nor provided clear information on criteria to be used in the suitability assessment, merely citing inputs received on this by the National Guarantor but not confirming whether any specific regulation has been adopted.
The disclosed information confirms that all the 6 Questure questions have implemented detention in "locali idonei". Between July 2019 and July 2020, at least 393 persons were held here in locali idonei. Most represented nationalities appear to be Morocco, Albania and Tunisia[1008].
The National Guarantor has visited, between December 2020 and January 2021, in "locali idonei" in Immigration Offices in Parma and Bologna. The former has 2 holding chambers, in which 38 persons were held pursuant to Art. 13 para 5-bis TUI; no critical events were reported. The latter uses the so-called "sale accompagnati" as locali idonei; in 2020, 17 people were held here pursuant to Art. 13 para 5-bis TUI; among these, 6 were held for 2 nights, 4 for 3 nights, 2 for nights.[1009]

1.2. Hotspots

As described in the Hotspots section, there are four operating hotspots (the fifth, the hotspot of Trapani was converted into a CPR in September 2018). In 2020 and 2021, hotspots were temporarily, partially or completely converted to quarantine facilities, with varying capacity and conditions. As of November 2021, Messina's hotspot appears not operational.

1003 National Guarantor, Opinion on LD 113/2018, October 2018, available in Italian at: https://bit.ly/3KJJ63i.
1004 ASGI, I "locali idonei" al trattenimento dei cittadini stranieri: le criticità del dettato normativo, i rilievi mossi dalle autorità di garanzia e i dati raccolti da ASGI, April 2021, available in Italian at: https://bit.ly/3MXOtxI.
1005 UN Committee on Enforced Disappearances, Concluding observations on the report submitted by Italy under article 29 (1) of the Convention, May 2019, available at: https://bit.ly/3MYgGVt.
1006 National Guarantor, Opinion on LD 130/2020, November 2020, available in Italian at: https://bit.ly/3id2N7z.
1007 National Guarantor, Thematic report on suitable structures used for detention of third-country nationals, August 2021, available in Italian at: https://bit.ly/3Jh0aNS.
1008 ASGI, I "locali idonei" al trattenimento dei cittadini stranieri: le criticità del dettato normativo, i rilievi mossi dalle autorità di garanzia e i dati raccolti da ASGI, April 2021, available in Italian at: https://bit.ly/3MXOtxI.
1009 National Guarantor, Thematic report on suitable structures used for detention of third-country nationals, August 2021, available in Italian at: https://bit.ly/3Jh0aNS.

Hotspot	Capacity
Lampedusa	250
Pozzallo	230
Taranto	400
Messina	250
Total	**1130**

As already noted, the hotspot approach is used beyond hotspots centres. In October 2020, ASGI reported that the first line reception facility of Monastir, in Sardinia, was being used as a de facto detention facility; a further visit in April 2021 confirmed persisting criticalities.[1010] In 2021, ASGI also reported on the many criticalities observed at the "new border" of Pantelleria, where newly arrived migrants are also channelled in hotspot-like procedures.[1011]

The Reception Decree does not provide a legal framework for the operations carried out in the First Aid and Reception Centre (CPSA) now converted into hotspots. Both in the past and recently in the CPSA, in the absence of a legislative framework and in the name of unspecified identification needs, asylum seekers have been unlawfully deprived of their liberty and held for weeks in conditions detrimental to their personal dignity. The legal vacuum, the lack of places in the reception system and the bureaucratic chaos have legitimised in these places detention of asylum seekers without adopting any formal decision or judicial validation.

In the case of *Khlaifia v. Italy*, the European Court of Human Rights (ECtHR) has strongly condemned Italy for the detention of a group of Tunisians in the Lampedusa CPSA in 2011. In particular, the Court found that their detention was unlawful, and that the conditions in which the Tunisians were accommodated – in a situation of overcrowding, poor hygienic conditions, prohibition of contacts with the outside world and continuous surveillance by law enforcement, lack of information on their legal status and the duration and the reasons for detention – constituted a violation of Articles 3 and 5 ECHR, in addition to the violation of Article 13 ECHR due to the lack of an effective remedy against these violation.[1012] The Grand Chamber judgement of 15 December 2016 confirmed the violation of such fundamental rights.[1013] Despite civil society organisations calling out the continued practice of detention in hotspots in violation of the Khlaifia judgement, in December 2021 the supervision procedure on the implementation of the ECtHR judgement was officially closed. ASGI, A Buon Diritto and CILD have expressed concern for the closure of the supervision procedure and stressed again the persistence of serious and systematic violations of fundamental rights.[1014] Regarding the unlawfulness of detention, the Government asserted that it had fully implemented the Khlaifia judgement by enacting L 173/2020.[1015] Nevertheless, as pointed out by the National Guarantor for the Rights of Detainees, the 2020 reform did not introduce any new provisions related to hotspots, amending solely the legislation covering CPRs.[1016]

Although the new Article 6(3-bis) of the Reception Decree foresees the possibility of detention for identification purposes in specific places, such places are not identified by law. In a Circular issued on 27 December 2018, the Ministry of Interior specified that it will be the responsibility of the Prefectures in whose territories such structures are found to identify special facilities where this form of detention could be performed. At the time of writing, there is no information on the identification of these premises.

1010 ASGI, Un resoconto della visita di ASGI al Centro di accoglienza di Monastir, April 2021, available in Italian at: https://bit.ly/3CKQecX.

1011 ASGI, La frontiera di Pantelleria: una sospensione del diritto. Report del sopralluogo giuridico di ASGI, June 2021, available in Italian at: https://bit.ly/3tcSwyD.

1012 ECtHR, *Khlaifia and Others v. Italy*, Application No 16483/12, Judgement of 1 September 2015.

1013 ECtHR, *Khlaifia and Others v. Italy*, Grand Chamber, Judgement of 15 December 2016.

1014 ASGI, Trattenimento in hotspot: c'era un giudice a Strasburgo, January 2022, available in Italian at: https://bit.ly/3JkBXpX.

1015 Rappresentanza permanente d'Italia presso il Consiglio d'Europa, Communication of the Italian Government, February 2021, available at: https://bit.ly/34NItGJ.

1016 National Guarantor, Opinion on DL 130/2020, November 2020, available in Italian at: https://bit.ly/3id2N7z.

As those dedicated premises have not been identified, detention for identification purposes occurs de facto in hotspots.[1017]

According to ASGI, detention in facilities other than CPRs and prisons violates Article 10 of the recast Reception Conditions Directive, which does not allow for detention to take place in other locations than those designated for this purpose and additionally because in these places the guarantees envisioned by this provision are not in place. According to ASGI, the amended Reception Decree also violates Article 13 of the Italian Constitution, since the law does not indicate the exceptional circumstances and the conditions of necessity and urgency allowing, according to constitutional law, for the application of detentive measures. Moreover, the law makes only a generic reference to places of detention, which will be not identified by law but by the prefectures, thus violating the "*riserva di legge*" laid down in the Article 13 of the Constitution, according to which the modalities of personal freedom restrictions can be laid down only in legislation and not in other instruments such as circulars.[1018]

1.3. Transit zones

The lack of a clear legal definition of transit zones has led to a situation of legal ambiguity, on which illegitimate practises of refusal of entry and detention have been built. Border authorities, considering these areas as extraterritorial, act as if they were exempt from the application of constitutional, national and international standards for the protection of fundamental rights. This interpretation is untenable under the rule of law, since the jurisdiction exercised by the State over such places is not in question. People who are denied entry at airports are forced to wait for repatriation to their country of origin in transit zones. In some cases, this wait can last several days. Foreign citizens are brought back by the same company they travelled with to reach Italy. During this period, people are arbitrarily detained in grossly inadequate conditions and in the absence of the basic guarantees accorded to persons deprived of their liberty. Detention takes place in premises that are structurally unsuitable for the purpose, isolated from the outside world, without access to fresh air, with little opportunity to consult a lawyer, without any detention order being issued and therefore without any validation by a judge.

De facto detention is used intensively by the authorities in the management of migratory flows in transit at airports. Such deprivation of personal liberty is enforced in the absence of a legal basis, a maximum period of detention and a judicial review of the legitimacy of the detention, in inadequate conditions. Persons detained in airport transit zones have extremely limited possibilities of getting in touch with organisations, protection bodies, family members and lawyers - as their access to such areas is strictly limited. The obstacles put in place by border authorities to reduce outsiders' access to transit areas result in a series of violations, among which the right to information, the right to defence (it is often impossible for detainees to physically contact a lawyer), and effective access to judicial protection. Moreover, the lack of access of civil society to these areas makes them almost invisible to public opinion. Furthermore - while it is difficult for the outside world to enter the transit zones, the authorities do not take any measures to ensure that detained persons can communicate outwardly. On the contrary, on numerous occasions foreign nationals are informally deprived of their mobile phones and, on several occasions, appointed lawyers have been denied entry on the basis that these areas are considered as 'sterile', meaning that only certain categories of persons may have access.[1019]

Responding, on 10 October 2019, to an open letter from ASGI, the Ministry of Interior, Central Directorate for Immigration, has made it known that the staying even for several days in the transit area is not supposed to be considered as detention, and therefore to have the defence rights guarantees related to

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1017 Guarantor for the rights of detained persons, Relazione al Parlamento, 15 June 2018, available in Italian at: http://bit.ly/2TZy9ol, 233.

1018 ASGI, *Manifeste illegittimita' costituzionali delle nuove norme concernenti permessi di soggiorno per esigenze umanitarie, protezione internazionale, immigrazione e cittadinanza previste dal decreto-legge 4 ottobre 2018, n. 113*, 15 October 2018, available in Italian at: http://bit.ly/2FCsyLW.

1019 Asgi, Le zone di transito aeroportuali come luoghi di privazione arbitraria della liberta, January 2021, available in Italian at: https://bit.ly/3CLdOqh.

detention because it is implemented as part of the immediate refoulement procedure that does not provide for jurisdictional validation.[1020]

However, the Guarantor for detained persons maintained that a de facto detention contrary to Articles 13 of the Italian Constitution and to Article 5 of the ECHR was configurable in the situation where people were unable to enter Italy since they were notified of an immediate refoulement measure and were obliged, at the disposal of the border police, to stay in special rooms in the transit area of the airports.[1021] This period of time varied according to the availability of flight connections with the place of origin.

During visits carried out in early 2019 at the Rome Fiumicino and Milano Malpensa airports, the national Guarantor for detained persons found that, in 2018, 260 people, in the case of Rome and, 333 people, in the case of Milano, were held at the border crossing for over 3 days immediately after their arrival in Italy, as they were considered not entitled to enter the national territory. Some of them were held in these areas for 8 days. In both areas, as evidenced by the Guarantor, access to lawyers is effectively prevented.[1022]

In 2021, the National Guarantor newly stressed concerns over de facto detention in transit zones, noting the persisting practice at air or port borders where the effective rejection of the foreign citizen present ai border crossings does not take place immediately and people be blocked for days in the transit area, and its criticalities in terms of lack of judicial review of detention as well as conditions of detention.[1023]

In 2020, 4,319 persons have been pushed back at borders; there is no data on how many were held in transit zones, and for how long.[1024]

Article 13 (5 bis) TUI, as amended by DL 113/2018,[1025] introduced the possibility of detaining people, to be expelled after being in Italy, in suitable premises at the concerned border office.
Responding to ASGI requests, the air border police offices of Rome Fiumicino and Milan Malpensa communicated in early 2020 that still no premises have been identified within the transit areas of the two airports for the detention of those who have to be expelled and that therefore no detention measures had been carried out in these areas.[1026]

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities		
1.	Do detainees have access to health care in practice?	☒ Yes ☐ No
	If yes, is it limited to emergency health care?	☐ Yes ☒ No

In relation to detention conditions, the Reception Decree provides as a general rule that full necessary assistance and respect of dignity shall be guaranteed to the detainees. Separation of persons in respect of gender differences, maintaining, where possible, the family unity and the access to open-air spaces must be ensured.[1027] Detention conditions are monitored, *inter alia*, by the Human Rights Commission of

1020 Letter from Ministry of Interior, 8 October 2019, available in Italian at: https://cutt.ly/WyO4qYF.
1021 Guarantor report, page 7. See also, Questione Giustizia, Zone di transito internazionali degli aeroporti, zone grigie del diritto, 9 December 2019, available in Italian at: https://cutt.ly/EyO4wL9.
1022 National Guarantor, Rapporto sulle visite ai locali in uso alle forze di polizia presso alcuni valichi di frontiera, 2019, available in Italian at: https://bit.ly/3iaYo4T.
1023 National Guarantor for the rights of detained persons, Relazione al Parlamento, June 2021, available in Italian at: https://bit.ly/35UHwx5.
1024 Ibidem.
1025 Article 13(5bis) as amended by Article 4 (1) DL 113/2018 converted by L. 132/2018 introduced the possibility of detaining the people to be expelled, pending the validation procedure and in the event of no availability of places at the CPRs, in structures in the availability of the Public Security Authority. Detention is ordered by the Magistrate (Giudice di Pace) at the request of the Questore with the decree which sets the hearing to validate the expulsion. After this hearing, the Magistrate, at the request of the Questore, may authorize further detention, for a maximum of 48 hours, in suitable premises at the border office concerned.
1026 Article 13 (5 bis) TUI.
1027 Article 7(1) Reception Decree.

the Senate, the Inquiry Commission on the reception system set up by the Chamber of Deputies, as well as the Guarantor for the rights of detained persons.

The decree-law 130/2020 expressly provides that adequate sanitary and housing standards must be ensured in the CPR.[1028] Regarding the former, as pointed out by the Guarantor of prisoners in his reports, the protection of the right to health and adequate assistance is strongly influenced by the organisational factor as the law reserves a secondary role for the National Health System and entrusts the performance of health services within the CPRs to the managing body. The Guarantor has repeatedly called out for the urgent establishment of MoU between CPR's and local health authorities (ASL), but these are not yet in place in all CPRs.

Decree Law 130/2020 introduced the possibility of making requests or complaints in written or oral form to the National Guarantor and to the regional or local Guarantors of the rights of detained persons.[1029] However, as the National Guarantor underlined in his latest report, the effectiveness of this provision is limited by the absence of information on this point and by the limits set by the CIE Regulation which provides that the delivery and use of pencils is forbidden inside the housing modules; and in any case it takes place under the supervision of the managing body which is responsible to collect them after use.[1030]

Serious regulatory protection deficits remain with respect to the actual prison regime. These regard, for example:

- the lack of a mechanism that allows family members to be notified in case of need, a circumstance that has made it extremely difficult to notify the families of people who have lost their lives in detention;
- the absence of a mechanism for monitoring prison conditions entrusted, as for prisons, to the judicial authority;
- the absence of a strong role of public health and the decisive role left to the managing body for the protection of health.

The Reception Decree states that foreigners detained in CPR shall be provided by the manager of the facility with relevant information on the possibility of applying for international protection. The asylum applicants detained in such facilities are provided with the relevant information set out by Article 10(1) of the Procedure Decree, by means of an informative leaflet.[1031]

The right of detainees to be adequately informed of their rights and of the possibility to apply for asylum is expressly provided for by the CIE Single Regulation. The CPR managing body is in charge of organising a "normative information provision" service, funds for which however have been drastically cut via the draft tender specifications prepared by the Ministry of Interior in 2018 and confirmed in 2021. There was, in fact, a decrease in the number of hours dedicated to this activity: (i) by 66% (for Centres with up to 50 places); (ii) by 70% (for Centres with up to 150 places); (iii) by 78% (for Centres with up to 300 places). This had inevitable repercussions on the effective protection of the right to information of detainees.[1032]

2.1. Overall conditions

Hotspots

It is necessary to recall here that, as previously mentioned, in 2016 the ECtHR in the Khlaifia judgment condemned Italy for the arbitrary detention of foreign citizens in the Centre of Aid and First Reception (CSPA) — now renamed hotspots — of Lampedusa. The Court was also heavily critical regarding the lack of effective remedies against this deprivation of liberty and related living conditions. Since then, the Italian government has not filled this critical gap in Italian legislation and has kept on detaining people

1028 Article 14 (2) TUI as amended by Article 3 (4 a) of Decree Law 130/2020.
1029 Article 14 (2 bis) TUI.
1030 Guarantor for the rights of detained persons, Report on visits in CPR (2019-2020), 12 April 2021, available in Italian at: https://bit.ly/3ogz2F8.
1031 Article 6(4) Reception Decree.
1032 CILD, Buchi Neri, available in Italian at: https://bit.ly/3JgTwY8.

(even minors and vulnerable people) without the required validation from a judge. Some NGOs (including CILD, ASGI, and A Buon Diritto) have actively taken part in the judgement's implementation supervision procedure before the Committee of Ministers of the Council of Europe. From 2018 until now, they have redacted around ten observations reports demonstrating that the Italian government had done next to nothing to end the systematic violation of human rights in these places.[1033] Notwithstanding, the implementation supervision procedure has been closed in December 2021. Civil society has expressed concerns over the closure of the procedure and stressed again the urgency of addressing the need for adequate legal, procedural and reception standards in immigration detention.[1034]

As reported by ASGI's InLimine Project as a result of its monitoring and legal assistance activities, in the summer of 2021, during the period of peak arrivals, people have been de facto detained, even for up to one month, in the Lampedusa hotspot without validation by a judge and without the application of proper hygienic measures, including those directed at preventing the spread of COVID-19. Detention conditions were inhumane; migrants were hosted in potentially risky settings and hotspots were overcrowded, even reaching a point where 1,000 people were accommodated in a location with an official capacity of 250 people. Even vulnerable persons were informally detained for an extended period of time, lacking any adequate mechanism of assistance, referral and/or priority transfer for people who had survived the shipwreck, human trafficking, gender-based violence, torture or who were fragile for any other reason. Such informal and prolonged detention also involved minors, whose transfers were often slowed down by the unavailability of places in centres for sanitary isolation. In particular, there were reports of people being subject to informal and extended detention in the Lampedusa hotspot even when they suffered from medical and/or psychological illness. As an example, a family consisting of two minors and a mother who had suffered from a carcinoma was kept in the hotspot under inadequate conditions including a lack of access to appropriate medical treatments, from 12 July to 12 August 2021, when the family was finally transferred to a centre for fiduciary isolation. Another family consisting of two minors, one of whom suffered from a severe illness that causes motor disability, and of a father who had requested international protection, was kept in a hotspot from 1 July to 10 August 2021.[1035]
In September 2021, MSF, who had deployed teams to provide medical and psychological assistance at landings and in the hotspot during the summer, providing help to over 11,000 persons, ceased its activities in Lampedusa, citing the inadequacy of the emergency approach adopted and the need for structural interventions to ensure the respect and protection of fundamental rights.[1036]

The Pozzallo hotspot is located in the premises of the former customs office in the port of Pozzallo. It is enclosed by a barrier about 3 metres high and has a constantly manned entrance. The structure consists of three large dormitories, divided according to gender and age. During 2019, it mainly welcomed people awaiting transfers to other European countries in the context of the so-called voluntary relocation. Such redistribution procedures usually involved long-term stays within the centre. From March 2020 to the end of 2021, due to the pandemic, the hotspot has been used for the execution of quarantine and fiduciary isolation periods for arriving foreign citizens, including minors. This use raises critical issues as the hotspots are not, in fact, compatible with the implementation of measures aimed at the prevention and spread of COVID-19 for obvious structural reasons, since these places are unsuitable for long-term stays. Inspectors sent by the Sicily Region in September 2020 highlighted multiple sanitary criticalities such as common toilets, not proportionate for the real capacity and insufficient sanitation.[1037] In July 2021,

1033 Open Migration, The shameful topicality of the Khlaifia case, November 2021, available at: https://bit.ly/35Wvaoc.
1034 ASGI, Trattenimento in hotspot: c'era un giudice a Strasburgo, January 2022, available in Italian at: https://bit.ly/3JkBXpX.
1035 ASGI, Una prospettiva di genere sull'Hotspot di Lampedusa: la sistematica e colposa violazione dei diritti delle donne, October 2021, available in Italian at: https://bit.ly/3tgdRHf.
1036 MSF, Lampedusa: approccio emergenziale poco efficiente, serve intervento strutturale, September 2021, available in Italian at: https://bit.ly/37uJlRz.
1037 Ragusa Oggi, L'HotSpot di Pozzallo, ma anche il centro San Pietro, bocciati dagli ispettori regionali: "inadeguato per prevenire il covid e per la quarantena", September 2020, available in Italian at: https://bit.ly/3D1uNEZ.

migrants protesting in the hotspot caused a fire in the building, a few migrants escaped from the hotspot but were traced by authorities.[1038]

The Taranto hotspot is located a few metres from the entrance to the commercial port of the city, close to the gigantic industrial area. The proximity to the former Ilva steelwork factory and other polluting industrial plants is made evident by the thick patina of red dust that covers the tensile structures and containers that make up the centre's structure. In 2019, ASGI, ActionAid and Oxfam visited the hotspot and reported inadequate structures creating situations of promiscuity and the lack of adequate medical services and support for vulnerable persons.[1039] In November 2020, protests in the hotspots culminated in the escape of 16 persons and, one year later, in the arrest of one migrant held responsible for the protests and for resisting to the police.[1040]

The Messina hotspot is made up of a series of containers of zinc sheets and tensile structures capable of hosting up to 250 people. During 2019, the Messina hotspot mainly welcomed people awaiting transfer to other European countries in the context of the so-called voluntary relocation.[1041] In 2020 it was mostly used as quarantine facility[1042].

As already noted, in October 2020 and again in April 2021, ASGI reported that the first line reception facility of Monastir, in Sardinia, was being used as a de facto hotspot, despite not being defined as a hotspot facility. The Monastir reception centre is located in a military area surrounded by large fences. Although the legal configuration of the centre is not clear, the same evidently has functions attributable to those defined by the hotspot approach; all the typical hotspot procedures are also carried out int the centre, such as health screening, pre-identification via news sheet, identification, fingerprinting and control in databases for the purpose of defining the legal status of the foreign citizen on the territory and for channelling them into asylum procedures or towards repatriation. The same structure has been used for periods of fiduciary isolation and quarantine. With regard to the conditions of stay, it was reported that an area housed 25 people in quarantine, with a single toilet equipped with a shower, and other chemical toilets outside the building.[1043]

In 2021, ASGI reported many criticalities in Pantelleria, where newly arrived migrants are also channelled in hotspot-like procedures[1044]. Those arriving on the island are hosted in a structure largely unsuitable for reception, that previously hosted military barracks. It is a transit centre without any precise legal configuration and with many criticalities in terms of reception conditions and protection of rights.[1045]

CPR

As already mentioned, immigration detention continued during the COVID-19 pandemic and the related lockdowns, notwithstanding the fact that no transfer could take place and concerns raised by civil society.[1046] It has been noted – including by judges while not validating detention in CPRs – that detention applied while transfers were blocked is without legal basis: detention in CPRs is supposed to be exclusively preparatory to repatriation and if this is not possible, any detention is considered

1038 Repubblica, Migranti, incendio all'hotspot di Pozzallo: 30 in fuga, July 2021, available in Italian at: https://bit.ly/3CLcSlI.

1039 Asgi, Visita all'hotspot di Taranto, July 2019, available in Italian at: https://bit.ly/3telHjr.

1040 Corriere del Mezzogiorno, Taranto, fece scappare 16 ospiti: arrestato dalla polizia, November 2021, available in Italian at: https://bit.ly/3tVK2e8.

1041 ASGI, Cosa succede ai migranti nell'hotspot di Messina, February 2019, available in Italian at: https://bit.ly/3tisWZ7.

1042 ASGI, Hotspot di Messina, December 2020, available in Italian at: https://bit.ly/3Ijhfpb.

1043 ASGI, Un resoconto della visita di ASGI al Centro di accoglienza di Monastir, April 2021, available in Italian at: https://bit.ly/3CKQecX.

1044 ASGI, La frontiera di Pantelleria: una sospensione del diritto. Report del sopralluogo giuridico di ASGI, June 2021, available in Italian at: https://bit.ly/3tcSwyD.

1045 ASGI, La frontiera di Pantelleria: una sospensione del diritto. Report del sopralluogo giuridico di ASGI, June 2021, available in Italian at: https://bit.ly/3tcSwyD.

1046 ASGI et al, *Emergenza COVID-19. L'impatto sui diritti delle/dei cittadine/i straniere/i e le misure di tutela necessarie: una prima ricognizione*, March 2020, available in Italian at: https://bit.ly/3qac6JW.

illegitimate.[1047] A first MoI circular urging reception managing bodies to adopt appropriate measures to prevent COVID-19 contagion in CPRs was issued in March 2020. Adequate measures have not always been put in place and detainees felt abandoned inside the centres, where distancing was virtually impossible, while also being exposed to very precarious living conditions.[1048] No official data is available on access to vaccines of persons in CPR. As of September 2021, vaccination activities had not yet kicked off in CPRs in Rome, Bari, Trapani.[1049] In Potenza's CPR, the lack of adequate prevention measures and proper internal information provision led in March 2020 to hunger strikes and protests, which were violently repressed; two parliamentary interrogations were presented on conditions in the centre.[1050]

In providing for a distribution of CPR on the entire national territory, Decree Law 13/2017, implemented by L 46/2017, specified that this should have followed an accentuation of the role of the Guarantor for the rights of detained persons, and an extension of the power of access for those who do not require authorisation, and an absolute respect for human dignity. A further expansion of the role of the National Guarantor on monitoring of all places of detention has been foreseen by L. 173/2020. The National Guarantor, in the context of its dedicated focus on immigration detention, has repeatedly noted the lack of an adequate legal framework for detention in CPRs. More recently, the Guarantor has highlighted the importance of the ongoing review of the consolidated regulation for CPRs, currently being undertaken by the MoI's Department of Civil Liberties and Immigration. Even if the regulation does not suffice to ensure a legal basis for detention, it could provide for a more solid central governance of immigration detention and the evolution of the system towards higher standards of protection.[1051]

CPRs detain people with very different legal statuses, from those coming from prisons to applicants for international protection. According to the law, asylum seekers detained in CPR should be placed in a dedicated space.[1052] The National Guarantor has reported on the overall lack of distinctions made on this respect in CPRs, where separation of persons in different conditions is often not possible due to lack of adequate spaces, affecting the safety of the detention environment.[1053]

"Modalities of detention seriously and physiologically problematic" was the wording used by the National Guarantor to describe the structural issues affecting the immigration detention system in Italy.[1054] The National Guarantor describes regulatory gaps, structural problems and issues in the management of detention facilities. CPR facilities and resources are generally described as lacking at best, resulting in a very poor quality of life for detained persons. The National Guarantor also describes worrying practises compromising the ability of detained persons to communicate with the outside world. The Guarantor has therefore repeatedly called out for the improvement of detention facilities and of their connection to local services (especially in terms of access to the National Health System) as well as of the ability of detained persons to communicate freely through their mobile phones.[1055]

Concerning overall conditions of detention in CPRs, several issues have been reported, mainly regarding:[1056]

1047 The Specialised Section of Rome in a decision dated March 2020 did not authorise the extension of the detention of an asylum seeker from Bangladesh detained in the Ponte Galeria CPR by assessing the reasonableness of detention in the pandemic emergency context. That same day, the Court of Trieste issued a ruling in which it did not validate the detention of an asylum seeker detained in Potenza's CPR, stating that detention was not justifiable as it had lost the purpose of being "strictly functional to enable the timely processing of applications for international protection and the subsequent and possible execution of the expulsion". CILD, Migrant detention in Covid-19 times, August 2020, available at: https://bit.ly/3KTAvvf.

1048 Francesca Esposito, Emilio Caja, Giacomo Mattiello, "No one is looking at us anymore" - Migrant Detention and Covid-19 in Italy, Border Criminologies, November 2020, available at: https://bit.ly/35YDTGq.

1049 CILD, Buchi Neri, available in Italian at: https://bit.ly/3JgTwY8.

1050 Ibidem.

1051 National Guarantor for the rights of detained persons, Yearly report to the Parliament 2021, June 2021, available in Italian at: https://bit.ly/3Nl1P6T.

1052 Article 6(2) Reception Decree.

1053 National Guarantor for the rights of detained persons, Rapporto sulle visite effettuate nei CPR (2019 - 2020), available in Italian at: https://bit.ly/35UHwx5.

1054 National Guarantor for the rights of detained persons, Rapporto sulle visite effettuate nei CPR (2019 - 2020), available in Italian at: https://bit.ly/3MPri93.

1055 Ibidem

1056 CILD, Buchi Neri, available in Italian at: https://bit.ly/3JgTwY8.

- The privatised management of CPRs (even for health-related services) is one of the most controversial issues in administrative detention. In recent years, the social cooperatives that manage these facilities have been gradually joined by multinational corporations, which manage detention centres or services in prisons all over Europe;
- The tendency to minimise the costs of managing the CPRs in favour of profit maximisation is evident in the outline of the tender specifications prepared by the Ministry of the Interior in 2018, and partially confirmed in the new outline of the same description in 2021. This has resulted in a drastic decrease in all services for people within CPRs, a reduction in the hours staff employed by the Centres' managing bodies (operators, information and mediation services, health personnel) and has thus led to a structural lack of sufficient staff in the various CPRs, with pathological drifts recorded in some facilities;
- In some cases, the square metre size of single rooms does not comply with the minimum living space standard set by the European Court of Human Rights. Further critical issues observed in CPRs concern the lack of natural light in the sleeping rooms, deriving from the presence of screened windows; the lack of possibility for detainees to directly turn lights on or off; in some instances, the presence of cockroaches and non-insulated rooms, of worn-out, mouldy mattresses;
- In some facilities, there is an inadequate number and/or very poor hygienic conditions of sanitary services, which are often without doors and thus do not ensure any privacy;
- The poor quality of food, lack of compliance with food safety regulations and menus which do not always take into account diets for religious or medical reasons;
- The total lack of common living spaces and activities for detainees;
- Freedom of communication is often partially and completely limited: in most CPRs, the number of landline telephones, which according to the legislation should be present in a number not lower than 1 for every 15 people, was insufficient; in many CPRs, the possibility to make video calls with family members during COVID-19 was not given. Furthermore, the illegitimate practice of seizing mobile phones of detainees upon entrance in centres continues in Torino, Potenza, Roma, Trapani, and Macomer. In February 2021, the Civil Court of Milan accepted the urgent appeal presented by a Tunisian asylum seeker held at the CPR of Milan, in order to obtain the return of his mobile phone which, according to the current practice also in other CPRs, he was prevented from using inside the centre. The Court observed that the impossibility of accessing one's mobile phone constitutes a limitation of the right to freedom of communication of the detainees, not permitted by Italian law, but can also constitute a violation of the right of defence of detainees. In the case of the applicant, the impossibility of communicating with his lawyer before the hearing to validate the detention, prevented him from being able to avail himself of his assistance there. The Court further observed that freedom of correspondence cannot be guaranteed through the availability of fixed or portable devices, generally present within the centre.[1057]

Especially dire conditions have been reported in Turin's CPR, whose infamous sanitary isolation section (so-called Ospedaletto) was closed in September 2021 upon insistence of the National Guarantor, following the tragic suicide of Moussa Balde a few months before.[1058]

Several cases of self-harm and/or suicide attempts in CPRs have been reported in Milan, Turin, and Bari.[1059] Revolts over detention conditions in CPRs are frequent; in 2021, detained persons protested and revolted in Turin and Milan. In May 2021, a protest over lack of food in Milan's CPR was violently repressed by riot police, resulting in 8 persons harmed and followed up by hunger strikes and cases of self-harm.[1060]

1057 Civil Court of Milan, decision of 23 February 2021, available at: https://bit.ly/3bopoLe.

1058 ASGI, The Black book on the Pre-Removal Detention Centre (CPR) of migrants in Turin – Corso Brunelleschi, September 2021, available at: https://bit.ly/3CQZQD5; National Guarantor for the rights of detained persons, Chiuso l'Ospedaletto del Cpr di Torino: accolta la Raccomandazione del Garante nazionale, September 2021. Available in Italian at: https://bit.ly/3MVVKOz.

1059 CILD, Buchi Neri, available in Italian at: https://bit.ly/3JgTwY8.

1060 Ibidem.

Locali idonei

Very limited information on "locali idonei" is available. According to information acquired by ASGI via FOIA, the 6 Questure of Bergamo, Bologna, Brescia, Milan, Parma and Roma have implemented detention in such spaces. Between July 2019 and July 2020, at least 393 persons were held in these locations. Most represented nationalities appear to be Morocco, Albania and Tunisia. Guarantees on information provision, right to defence, access to the asylum procedures and contacts with the exterior appear to be left at the ample discretion of authorities.[1061]

The National Guarantor has visited, between December 2020 and January 2021, the "locali idonei" in Immigration Offices in Parma and Bologna. The former has 2 holding chambers, in which 38 persons were held in 2020 pursuant to Art. 13 para 5-bis TUI; no critical events were reported. The latter uses the so-called "sale accompagnati" as locali idonei, although the Guarantor pointed out that no renovation of the rooms was ensured prior to their conversion for this use. In 2020, 17 people were held here pursuant to Art. 13 para 5-bis TUI; among these, 6 were held for 2 nights, 4 for 3 nights, 2 for nights. With regard to both Parma and Bologna, the Guarantor noted that many standards were not complied with: both have dirty walls and are almost empty, with a bench – to be used as sitting in daytime and bed at night, with only a blanket as bedding – being the only place of furniture. Sanitary services are external and can be used only upon request to police. There are no external spaces for yard time. In Bologna, the rooms have a glass wall, meaning persons held have no privacy at all. Based on inadequate detention conditions observed in Parma and Bologna, the National Guarantor has asked the Department of Public Security circulates clear indications to ensure the suitability of detention premises, as well as called upon visited Immigration Offices for the prompt improvement of detention conditions as per the Guarantor's recommendations. The Guarantor has also noted how neither in Parma nor in Bologna rights of persons held were adequately protected. In both premises, detainees' phones are seized upon entrance, leaving held persons unable to freely communicate. Regarding freedom of communications, the Guarantor stressed how the right to realise phone calls must be granted, recalling the already cited 2021 judgement by Milan's Court. No adequate information provision materials or activities are in place. Judicial validation of detention is not always rightly ensured, as different cases in which persons were held without the authorisation of the judge, pending the transfer to CPRs, were reported. When detention validation orders are present, they are not always well motivated, as it appears that judges are not aware of detention conditions in the locali idonei. Issues with the recording of presences were also noted.[1062]

Transit zones

In transit zones, people are arbitrarily detained in grossly inadequate conditions and in the absence of the basic guarantees accorded to persons deprived of their liberty. Detention takes place in premises that are structurally unsuitable for the purpose, isolated from the outside world, without access to fresh air, with little opportunity to consult a lawyer, without any detention order being issued and therefore without any validation by a judge. Such deprivation of personal liberty is enforced in the absence of a legal basis, a maximum period of detention and a judicial review of the legitimacy of the detention, in inadequate conditions. Persons detained in airport transit zones have extremely limited possibilities of getting in touch with organisations, protection bodies, family members and lawyers - as their access to such areas is strictly limited.

Between January and February 2019, the Guarantor for detained persons visited the transit areas of the airports of Rome Fiumicino and Milan Malpensa where people who just landed in Italy are held while waiting for the immediate refoulement to be carried out. With respect to the areas where the detention takes place in Rome, the Guarantor observed that the place appears unsuitable for the permanence of people for a period of time longer than 24 hours. The European Committee in its report on the visit carried out in June 2017, pointed out the inadequacy of the environments, in particular due to the lack of natural

1061 ASGI, I "locali idonei" al trattenimento dei cittadini stranieri: le criticità del dettato normativo, i rilievi mossi dalle autorità di garanzia e i dati raccolti da ASGI, April 2021, available in Italian at: https://bit.ly/3MXOtxI.

1062 National Guarantor, Thematic report on suitable structures used for detention of third-country nationals, August 2021, available in Italian at: https://bit.ly/3Jh0aNS.

air and light and the impossibility of accessing the outdoors and the transfer of people to other facilities in case of stay longer than 24 hours.[1063]

With reference to the transit areas of Rome Fiumicino and Milan Malpensa, the National Guarantor has reported that these “open space which overlook, or are connected to via corridor, other smaller rooms used as dormitory, toilets or (in case of Rome Fiumicino airport) well-closed rooms dedicated to hosting dangerous persons". Rooms are not equipped with windows: therefore no natural light enters and proper ventilation is impossible. The detained persons do not have the possibility to leave at any time, even in the face of periods of detention of several days. As for sleeping facilities, iron camp beds, without a mattress, are positioned next to each other and equipped only with a thin blanket and a pillow like those supplied on planes.[1064]

In the transit area of Milan Malpensa, foreign citizens are taken to a room inside of the airport called "Imola 21" from which exit is prohibited until boarding the flight of repatriation. There are reportedly more people being held in the venue than how many the space could accommodate adequately.[1065]

In 2019, Brescia’s Court has held that detention conditions in Milan Malpensa where in violation of art. 3 ECHR.[1066]

2.2. Activities

According to Article 4(h) of the CIE Regulation, social, recreational and religious activities shall be organised in the centres.

In practice, it has been reported that in most CPRs, apart from unequipped outdoor concrete courtyards, there are no: (i) football fields or libraries; (ii) places of worship; (iii) recreational and cultural activities; (iv) agreements with civil society associations that can provide additional services and activities.[1067] The shortage of recreational activities in CPR bears especially negative impact on living conditions of people staying in the CPR 24 hours a day for prolonged periods, thus being one of the main factors entailing distress among people in detention. As pointed out by the National Guarantor, these shortages mean that CPRs are "empty shells", where people are reduced to bodies to be held and confined.

The security approach to administrative detention makes CPRs places of extreme social marginality and isolation from a community which is prevented from entering detention facilities and creating relationships with detainees. The people detained in CPRs live in a condition of permanent forced idleness, where even small daily life choices, such as reading a book, writing, or playing sports are limited and regulated.[1068]

2.3. Health care and special needs in detention

Access to health care is guaranteed to all persons in detention. The law provides as a general rule that full necessary assistance and respect of dignity shall be guaranteed.[1069] The law further states that the fundamental rights of detained persons must be guaranteed and that inside detention centres essential health services are provided.[1070]

Moreover, the Reception Decree provides that asylum seekers with health problems incompatible with the detention conditions cannot be detained and, after the amendment made by Decree Law 13/2017 and

1063 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), available at: https://www.coe.int/en/web/cpt/italy.
1064 National Guarantor, Rapporto sulle visite ai locali in uso alle forze di polizia presso alcuni valichi di frontiera, 2019, available in Italian at: https://bit.ly/3u3xgug.
1065 Asgi, Le zone di transito aeroportuali come luoghi di privazione arbitraria della liberta, January 2021, available in Italian at: https://bit.ly/3wjvmIG.
1066 Tribunale di Brescia (ordinanza del 03.03.2020, R.G. n. 2370/2019).
1067 CILD, Buchi Neri, available in Italian at: https://bit.ly/3u710qg.
1068 National Guarantor for detained persons, Report of 12 April 2021, p. 6.
1069 Article 14(2) TUI.
1070 Article 21(1) and (2) PD 394/1999.

L 46/2017, it also establishes the incompatibility of detention for vulnerable people, as defined by Article 17 of the Reception Decree. Within the socio-health services provided in the CPR, a periodical assessment of the conditions of vulnerability requiring special reception measures must be ensured.[1071] The Prefectures are obliged to ensure coordination with local health authorities to ensure access to medical services ex art. 35 of the Consolidated Act on Immigration; art. 3 of the CIE then foresees the stipulation of dedicated Memorandum of understanding (MoU).

Health care inside CPRs should be considered "complementary" (not substitutive) to services provided by the National Health Service, implying a necessary link with the latter. This connection should be guaranteed by the above-mentioned MOUs between the relevant Prefecture and the local ASL, which are essential to guarantee a timely access of the detainees to ASL health facilities and periodical inspections of the health authority inside the centres. However, these MOUs are often not adequately implemented. In Turin and Brindisi, despite the existence of MoUs, no inspections have ever been carried out by the ASL in the Centres to verify the hygienic and sanitary conditions, the quality of sanitary services and of the food administered. A similar situation has already led to critical consequences in 2019 in Caltanissetta, where, despite the existence of a MoU since 2015, no connection with the national health service was established, which resulted in a critical situation of degradation and insalubrity of the facilities, not monitored by the Local Health Authority. Only after a reminder from the Guarantor did the health authority carry out inspections in that centre, concluding that it was necessary to proceed with its closure, given existent risk factors around the health of the detainees. In Milan, for a long time the absence of a MoU has impaired access of detained persons to health services; only in July 2021, after countless interventions by the National Guarantor, civil society associations and some parliamentarians, the Prefecture of Milan signed two MoU with the ASL of Milan: one being aimed at the detainees' access to the SSN and inspection activities by health authorities. This MOU run from 1 July 2021 to 31 December 2021. The other is aimed at issuing a STP code to detainees who do not have it and runs from 1 July 2021 to 30 June 2022. However, it is not clear why such strict time limits have been set for their validity. It seems unreasonable to have waited so long for the finalisation of a MOU between the health authorities and the Prefecture of Milan and then to only provide for a period of operation of six months and one year respectively, of those instruments.[1072]

The lack of adequate supervision by local health authorities resulted even more evident in the context of the COVID-19 pandemic. ASGI and other civil society organisations have repeatedly called out local health authorities to play a more active role in the supervision of health and sanitary conditions in CPRs.[1073]

It is to be noted that in CPRs health care is de facto – especially in the light of the absence of adequately implemented MoUs with local health authorities – managed by private parties, being entrusted to the managing body of the CPRs and not to the National Health Service (SSN).
The SSN is merely assigned, at a regulatory level, the task of carrying out the preliminary medical examinations to verify the suitability of the detainee for life in a restricted community. However, this provision is, in most cases, disregarded in practice: it has been indeed found that the certificate for this purpose is actually issued: by a doctor of the managing institution in the CPRs of Turin, Milan and Potenza; by the health staff of hotspots or quarantine ships in the case of Brindisi, Bari, Caltanissetta, Trapani and Gradisca d'Isonzo. Medical examinations to verify the suitability of detention for an individual are not, in most cases, carried out in an adequate manner; they are generally rushed, and the medical records of the person concerned are often not properly assessed. The presence of law enforcement personnel during medical examinations also appears to be very frequent in CPRs, despite this practice contradicting what is required by the CIE Single Regulation and what is prescribed by the CPT, as absence of "medical confidentiality" is one of the factors preventing the detection of possible ill-treatment. As a result, the detention of people unsuited for detention conditions, including persons undergoing methadone treatment

1071 Article 7(5) Reception Decree.
1072 CILD, Buchi Neri, available in Italian at: https://bit.ly/3u710qg.
1073 ASGI, ASGI chiede alle ASL di verificare il rispetto del diritto alla salute dei migranti nei CPR, April 2020, available in Italian at: https://bit.ly/3ibDvqx.

on a sliding scale, persons suffering from serious diseases and/or mental health issues, has been reported[1074].

According to the National Guarantor, the organisation of health services within CPRs appears to be "particularly critical", due to lack of staff adequately trained in medicine related to migration,[1075] and to the absence of risk prevention protocols, despite the numerous episodes of self-harm occurring in the Centres.[1076]
Additionally, the new scheme of contract specifications has led to a drastic decrease in the number of hours per week dedicated to personal services, starting with health services. More specifically, between 2017 and 2018-2021 there has been a serious cut of hours for medical and psychological services in all centres: 40% cut for medical and 55% cut for psychological assistance in CPRs with a capacity of 50 places; 27% for medical and 33% for psychological assistance in CPRs with a capacity between 51 and 150 places; 70% for medical and 55% for psychological assistance in CPRs with a capacity of more than 150 places. As a result:
● In Milan's CPR (140 places), for each detainee: (i) medical assistance is guaranteed for 15 minutes per week and (ii) psychological assistance for 6 minutes per week. Moreover, it was noted that, in this facility, there is a long list of detainees waiting for a visit with the psychologists of the centre, one of whom is also the Director of the Centre itself;
● In Turin's CPR (180 places), for each detainee: (i) medical assistance is guaranteed for 14 minutes per week and (ii) psychological assistance for 8 minutes per week. The inadequacy of the service offered by the managing body was such that, in February 2021, the latter signed a memorandum of understanding with the order of doctors of the province of Turin. According to the National Guarantor, this protocol could not overcome the criticalities observed in this centre, with particular reference to the provision of specialist services within the competence of the territorial services[1077];
● In Macomer's CPR (50 places), medical assistance was provided for only 3 hours a day and psychological assistance for 8 hours a week. However, after only three weeks of opening the Centre in February 2020, the internal health staff threatened to strike and resign due to the lack of conditions that would allow them to work safely. In March 2020, the National Guarantor found that the number of health workers present in the structure was insufficient. This led the Prefecture of Nuoro to increase the medical assistance service to 5 hours a day, while psychological assistance, according to the lawyers assisting detainees in the Centre, continues to be "non-existent"[1078].

The monitoring of psychiatric cases and the administration of psychotropic drugs is often managed by psychologists and nurses appointed by the managing body, with no involvement nor supervision of local health authorities. It has been noted how the percentage of detainees subjected to the administration of psychotropic drugs and anxiolytics is very high. As an example, in Milan's CPR, this percentage reaches - according to the managing body itself - 80% of the total detainee population. This situation is made even more concerning by the lack of connection with the local ASL and, therefore, the total absence of adequate psychiatric assistance. In Turin's CPR, according to the medical director of the facility, "psychotropic drugs are used by the litre", but without adequate monitoring, considering that throughout 2020 no psychiatrist has ever visited the facility, while no information is available for 2021. In Rome's CPR, according to the competent health authority, the percentage of detainees who are given psychotropic drugs and anxiolytics is 65-70%. In Gradisca's CPR, according to data provided by the regional Guarantor, 70% of the detained population is subjected to therapies requiring the administration of psychotropic drugs and tranquilisers. The abuse in the administration of psychotropic drugs, which is apparent in most CPRs, can be traced back to the absence of a connection with the national health system and to the management of health

1074 CILD, Buchi Neri, available in Italian at: https://bit.ly/3u710qg.
1075 Intended as Doctors who are specialized in the assistance and treatment of migrants (such as SAMIFO or INMP in Rome) or S.I.M.M. (Italian society of Migration Medicine).
1076 National Guarantor for the rights of detained persons, Rapporto sulle visite effettuate nei CPR (2019 - 2020), available in Italian at: https://bit.ly/3tgzIlq.
1077 National Guarantor, Rapporto sulla visita effettuata il 14 giugno 2021 nel Centro di permanenza per i rimpatri (Cpr) di Torino, September 2021, available in Italian at: https://bit.ly/3Jmspuu.
1078 CILD, Buchi Neri, available in Italian at: https://bit.ly/3u710qg.

services entrusted to private bodies, with the risk of bending medical and pharmacological intervention to the needs of discipline and security of the facilities.[1079]

Access to medical records is a serious issue. Despite the fact that the legislation provides for the right of the detainee to see and obtain a copy of his/her medical file, practises impairing this right have been reported in CPRs. In the Turin centre, not even lawyers, delegated by the detainees, are allowed to have a copy of the medical documentation Furthermore, in most cases medical records are not adequately compiled. Already in 2017, the CPT had found that in the CPR of Turin, the medical staff of the managing institution were filling in medical files of each detainee in a very general, broad way, with a noticeable absence of detail, especially in registration of possible injuries (necessary to verify possible ill-treatment). The issue has been reported also in 2021 by the National Guarantor, who recommended that the medical records of each detainee should be always properly filled in, including the records of possible complaints of ill-treatment and beatings suffered by the detainee.[1080]

There is still no reliable, effective and complete system in place within the CPR network to record critical events (e.g. suicides or attempted suicides; episodes of self-harm; hunger strikes; deaths), despite this deficiency being identified and brought to the attention of the Italian Government by the European Committee for the Prevention of Torture already in 2017.[1081] In addition, the National Guarantor has been recommending, for several years, that a standardised and centralised system of recording critical events be introduced, which would allow overseeing bodies to have rapid knowledge of the most relevant events occurring in the Centres and ensure greater transparency regarding the functioning of these places of detention.[1082]

Provisions regulating CPRs do not foresee solitary confinement (for justice, health, disciplinary or security reasons), but only the possibility to place detainees in sanitary "observation" rooms, in case the existence of elements that may reflect the incompatibility of a detainee with restricted community life, which did not emerge during the initial certification of suitability for detention, is noted by the personnel. The most striking example of how this provision can lead to severe violations as regards respect of human dignity was the so-called Ospedaletto within Turin's CPR, which, according to the National Guarantor, looked like the "old section of a zoo". In these premises, detainees were put in isolation for a wide range of reasons (from disciplinary reasons to alleged needs of "protection"), without a maximum time limit being fixed, which in some cases reached 5 months. Two detainees have died in Ospedaletto in 2019 and 2021 respectively. Following the suicide of Moussa Balde in May 2021, and the insistent requests by the National Guarantor, the Ospedaletto was finally closed in autumn 2021.[1083] The broader issue of confinement in sanitary rooms in CPRs remains to be addressed.

It is necessary to note that the number of deaths in CPRs has never been as high as in recent years. Between June 2019 and May 2021, six foreign nationals lost their lives whilst held in administrative detention. The specific instances differ in terms of causes and circumstances, but what is common between them is a lack of clarity about the circumstances of their deaths, doubts about the suitability of these persons to be placed in this restricted community setting in the first place, and the risks arising from inadequate protection of the health of detainees.[1084]

1079 CILD, Buchi Neri, available in Italian at: https://bit.ly/3u710qg.
1080 National Guarantor for the rights of detained persons, Relazione al Parlamento, June 2021, available in Italian at: https://bit.ly/3qfLXtg.
1081 CPT, Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 13 June 2017, available at: https://bit.ly/3InPE6e.
1082 National Guarantor for the rights of detained persons, Rapporto sulle visite effettuate nei CPR (2019 - 2020), available in Italian at: https://bit.ly/3tgzIlq.
1083 National Guarantor for the rights of detained persons, Chiuso l'Ospedaletto del Cpr di Torino: accolta la Raccomandazione del Garante nazionale, September 2021. Available in Italian at: https://bit.ly/3Jmspuu.
1084 CILD, Buchi Neri, available in Italian at: https://bit.ly/3u710qg.

2. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to
   - ❖ Lawyers: ☐ Yes ☒ Limited ☐ No
   - ❖ NGOs: ☐ Yes ☒ Limited ☐ No
   - ❖ UNHCR: ☐ Yes ☒ Limited ☐ No
   - ❖ Family members: ☐ Yes ☒ Limited ☐ No

Decree Law 13/2017, implemented by L 46/2017, has clarified that access to CPR is guaranteed under the same conditions as access to prisons. This means that the Guarantor for the rights of detained persons and parliamentarians, among other official bodies, has unrestricted access to CPR.

As CPR and eventually hotspots are places where asylum seekers are detained, Article 7 (2) of the Reception Decree applies. It states that UNHCR or organisations working on its behalf, family members, lawyers assisting asylum seekers, organisations with consolidated experience in the field of asylum, and representatives of religious entities also have access to CPR.[1085] Access can be limited for public order and security reasons or for reasons related to the administrative management of the centres but not fully impeded.[1086]

However, the regulation of CPRs requires an authorisation from the competent Prefecture for family members, NGOs, representatives of religious entities, journalists and any other person who make the request to enter CPR.[1087] Prefectures apply the regulation of CPR significantly restricting the scope of the guarantees provided by Law 46/2017 and by Reception decree.

Access to CPR for journalists is also quite difficult. They have to pass through two different stages before gaining authorisation to visit the CPR. Firstly, they need to make a request to the local *prefecture* (the local government representative), which then forwards the request to the Ministry of Interior who investigates the applicant, before finally sending the authorisation back to the Prefecture.

Access to CPRs and hotspots for rights organisations and civil society remains problematic in practice and has often led to litigation in front of national Courts.

In 2020, 2 out of 6 requests for access in hotspots by ASGI were accepted. In 2020, Sicilia's TAR had accepted ASGI's request to suspend and re-examine a denial to entry in Lampedusa's hotspot by Agrigento's Prefecture;[1088] in August 2021, Sicilia's TAR has confirmed the accessibility of hotspots and other places of detention by civil society organisations ex art. 7 of the Reception Decree and has also clarified that no absolute limitation to the principle of accessibility is acceptable.[1089]

In December 2021, Sardinia's Administrative Tribunal (TAR) invalidated acts by Nuoro's Prefecture not allowing access of civil society organisations in Macomer's CPR, acknowledging the legitimate interest of rights organisations and civil society to enter immigration detention facilities to ensure the protection of fundamental rights. Similar judgments have been issued in April 2021 by Piedmont's TAR with regard to access to Turin's CPR and in October 2020 by Sicilia's TAR with regard to access to Caltanissetta's CPR.[1090]

1085 Article 7(2) Reception Decree.
1086 Article 7(3) Reception Decree.
1087 Article 6 (4) and (5) Moi Decree 20 October 2014
1088 ASGI, Accesso agli hotspot da parte della società civile, October 2020, available in Italian at: https://bit.ly/3wjtAr1.
1089 ASGI, Hotspot di Lampedusa: Tar Sicilia conferma il principio di accessibilità della società civile ai luoghi di trattenimento, available at: https://bit.ly/3KV0wdl.
1090 TAR Sardegna, 838/2021, published on 24/12/2021, available in Italian at: https://bit.ly/3CR3Gwf; TAR Piemonte, 360/2021, published on 6/4/2021, available in Italian at: https://bit.ly/3KSxUBw; TAR Sicilia, 2169/2020, published on 21/10/2020, available in Italian at: https://bit.ly/3CRdBlf.

Persons detained in airport transit zones have extremely limited possibilities of contacting organisations, protection bodies, family members and lawyers, as their access to such areas is strictly limited. The obstacles put in place by border authorities to reduce outsiders' access to transit areas result in a series of violations, among which to the right to information, the right to defence (it is often impossible for detainees to physically contact a lawyer), and effective access to judicial protection. Moreover, the lack of access of civil society to these areas makes them almost invisible to public opinion. Furthermore - while it is difficult for the outside world to enter the transit zones, the authorities do not take any measures to ensure that detained persons can communicate outwardly. On the contrary, on numerous occasions third country nationals are informally deprived of their mobile phones and appointed lawyers have often been denied entry on the basis that these areas are considered as 'sterile', meaning that only certain categories of persons may have access, as they are considered to be of an extraterritorial nature.[1091]

As of November 2019, ASGI asked access to the transit zones but the competent authorities never answered to the request.[1092] In January 2021 ASGI sent again a request to have access to the transit zones of Malpensa airport and Rome Fiumicino airport. The Prefecture of Rome replied not to have any competence in deciding on the access. Other authorities did not answer the request.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention			
1.	Is there an automatic review of the lawfulness of detention?	☒ Yes	☐ No
2.	If yes, at what interval is the detention order reviewed?	30 days for irregular migrants and up to 60 days for asylum seekers	

Asylum seekers should not be sent to CPR before they have had the possibility to seek asylum, due to lack of proper information on the asylum procedure or because they are denied access to the procedure (see Registration). In practice, however, this happens and, in this case, they are subject to the procedure for irregular migrants provided by the TUI until they are able to ask for asylum. In 2020, in several cases, the Civil Court of Trieste did not validate the detention of Tunisians asylum seekers who had already submitted an asylum application from the quarantine ship and whose application therefore could not be considered instrumental.[1093]

The detention decision must be validated within 48 hours by the competent Magistrates' Court (*giudice di pace*). After the initial period of detention of 30 days, the judge, upon the request by the Chief of the Questura, may prolong the detention in CPR for an additional 30 days.[1094] After this first extension, the Questore may request one or more extensions to a lower civil court, where it is decided by a Magistrates' Court, in case there are concrete elements to believe that the identification of the concerned third-country national is likely to be carried out or that such delay is necessary to implement the return operations. The assessment concerning the duration of such an extension lies with the magistrate who decides on a case-by-case basis. The third-country national has the right to challenge the detention. The TUI, in fact, provides the right to appeal a detention order or an order extending detention.[1095]

Decree Law 113/2018, implemented by L 132/2018, has provided for the possibility of detention in premises other than CPR. According to the amended Article 13(5-bis) TUI, in case of unavailability of places in the CPR located in the district of the competent Court, the Magistrate, upon request by the Questura, and fixing by decree the hearing to validate the detention, may authorise the temporary stay of the foreigner in different and suitable structures in the availability of the Public Security Authority until the

1091 Asgi, Le zone di transito aeroportuali come luoghi di privazione arbitraria della liberta, January 2021, available in Italian at: https://bit.ly/3wjvmIG.
1092 ASGI, In Limine Project, 18 February 2020, see: https://cutt.ly/6yO5rMM.
1093 i.e. Civil Court of Trieste, decision of 20 November 2020.
1094 Article 14(5) TUI.
1095 Article 14(6) TUI.

conclusion of the validation procedure. In case the unavailability of places in CPR remain even after the validation hearing, the Magistrate can authorise the stay in suitable places near the Border Police Office concerned until the effective removal and in any case not exceeding 48 hours following the validation hearing.[1096]

If, after being sent to a CPR or other places according to Article 13(5-bis) TUI, third-country nationals apply for asylum, they will be subject to detention pursuant to Article 6 of the Reception Decree. In these cases, the competence to the judicial review on the validation or extension of detention is up to the Specialised Section of the competent Civil Court, having regard to the place where the centre is located.[1097]

The Questore's order related to the detention or the extension thereof shall be issued in writing, accompanied by an explanatory statement, and shall indicate that the applicant may submit to the court section responsible for validating the order, personally or with the aid of a lawyer, statements of defence. Such order shall be communicated to the applicant in the first language that the applicant has indicated or in a language that the applicant can reasonably understand.[1098]

According to the law, where possible, the applicant takes part in the hearing on the validation of detention by videoconference, allowing the lawyer to be present at the place where the applicant is located. The presence of a police officer should ensure that there are no impediments or limitations on the exercise of the asylum seeker's rights.[1099] The lawyer is thus forced to choose between being present next to the client or next to the judge at the validation hearing.[1100]

The Questore shall transmit the relevant files to the competent judicial authority to validate the detention for a maximum period of 60 days, in order to allow the completion of procedure related to the examination of the asylum application.[1101] However, the detention or the prolongation of detention shall not last beyond the time necessary for the examination of the asylum application under accelerated procedure,[1102] unless additional detention grounds are present pursuant to Article 14 TUI. Any delays in the completion of the administrative procedures required for the examination of the asylum application, if not caused by the applicant, should not constitute valid ground for the extension of the detention.[1103]

A long-standing practice of holding detention validation/extension hearings in CPRs exists,[1104] against which the Superior Council of the Judiciary had already intervened with decisions in 2010, clarifying that these hearings should take place in Court, except for cases of absolute impossibility[1105] – continues[1106]. Another critical issue is the absence of concerned persons in hearings, since their attendance is not always guaranteed;[1107] Furthermore, the Supreme Court of Cassation has clarified in a recent sentence

1096 Article 13(5-bis) TUI, inserted by Article 4 Decree Law 113/2018 and L 132/2018.
1097 Article 3 (1 c), read in conjunction with art. 4 (3) Law decree 13/2017 converted by Law 46/2017 and Article 6 (7) Reception Decree.
1098 Article 6(5) Reception Decree, as amended by L 46/2017. Nevertheless, as reported to ASGI, some Questure, when issuing the detention order, do not provide asylum seekers with copy of such orders nor explanations of the reasons for detention.
1099 Article 6(5) Reception Decree, as amended by L 46/2017.
1100 Senate, *2017 CPR Report*, December 2017.
1101 Article 6(5) Reception Decree.
1102 Pursuant to Article 28-bis(1) and (3) Procedure Decree.
1103 Article 6(6) Reception Decree.
1104 It was reported that in Turin already in 2015 only 10% of hearings for the validation/extension of immigration detention were taking place at the Judge's chambers, as the majority of hearings took place in the immigration detention centre. Fabrizio Mastromartino, Enrica Rigo, Maurizio Veglio, "Lexilium. Osservatorio sulla giurisprudenza in materia di immigrazione del giudice di pace: sintesi Rapporti 2015", in Diritto, Immigrazione e Cittadinanza, 2017, available in Italian at: https://bit.ly/3u518GP.
1105 Consiglio Superiore della Magistratura (CSM), Delibera del 21 luglio 2010, avente ad oggetto: "Convalida dei provvedimenti di allontanamento dei cittadini comunitari emessi dal Questore ai sensi dell'art. 10 c. 11 e 12 dlvo 30/07 (come modificato dal dlvo 32/08): locali da utilizzare e criteri da adottare per la individuazione di quelle esigenze residuali che giustifichino il ricorso al supporto logistico delle questure per l'organizzazione della suddetta udienza". Available in Italian at: https://bit.ly/3N0Zui4.
1106 Melting Pot, Aspetti critici delle udienze di convalida e/o proroga del trattenimento presso il Cpr di Palazzo San Gervasio, November 2021. Available in Italian at: https://bit.ly/3wfv2uK.
1107 CILD, Buchi Neri, available in Italian at: https://bit.ly/3u710qg.

that the absence of the third-country national at the hearing for the validation or extension of his/her detention, it is not an absolute ground for invalidity, but merely a nullity which must be promptly objected to by the party. The Court highlights how the procedure outlined by article 14 of the Consolidated Law on Immigration is a civil proceeding at nature and therefore does not follow the rules of criminal trials; thus the presence of the party at the hearing is not a public interest but merely an interest of the party.[1108]

Other critical aspects of the judicial review of detention in the context of the validation and extension hearings regard the appointment of lawyers by the detainees and the timing of communications to the lawyers, which the latter argued amounted to obstacles to the right of defence, as well as the inadequate duration of the hearings, which usually last between 5 and 10 minutes.

Finally, it has been reported that validation and extension decree are often not well motivated, and rather "standardised" grounds for validation and extension are used. In 2021, the Court of Cassation annulled a detention extension order pointing out that the judicial authority had not adequately explained the motivation behind its decision;[1109] in another ruling, the Supreme Court dismissed the decree of a Justice of the Peace who prolonged for the fourth time the detention of a foreigner in a CPR, pointing out the total absence of adequate reasons for such an order, also considering that the judicial authority, instead of adequately motivating the decision, had simply proceeded to tick specific boxes on a pre-printed form.[1110]
In December 2020, the Court of Cassation reiterated that detention must be considered exceptional and considered the extension in object illegitimate because it was not adequately motivated with respect to the corresponding functionality for repatriation.[1111]

In the same month, the Court of Cassation affirmed an important principle regarding the need not to limit personal freedom for asylum seekers beyond the time limits established for examining the application under the accelerated procedure, unless there are other reasons for detention. In the case examined by the Court, the applicant had submitted an application, while held in the CPR that was deemed as motivated by the sole purpose of preventing or avoiding a removal order. After around two months, the Civil Court of Turin extended the detention of the applicant, even though the Territorial Commission had not yet summoned him for a personal interview. Therefore, the time taken to examine the application had exceeded the limits set out in Article 28 bis of the Procedure Decree and the provisions of Article 6 of the Reception Decree were violated, as according to such article any delays in the procedure not attributable to the applicant do not justify the extension of the detention.[1112]
By extending the scope of this ruling to the judicial phase, the Civil Court of Trieste rejected the extension of detention in a case in which the suspension of the refusal issued by the Territorial Commission had been requested with the appeal for more than two and a half months. The Court observed that the Court of Trieste itself had omitted to rule about the suspension within 5 days from the request, as required under accelerated procedure by the Procedure Decree.[1113]

The practice of the “double information paper”, whose impact on access to the procedure has already been addressed (see Different treatment of specific nationalities in the procedure), affects also the review of detention. For instance, in 2019 the Civil Court of Palermo assessed the legitimacy of the detention of some foreign citizens transferred from the Lampedusa hotspot to the Trapani CPR. During their stay in hotspot these persons had already expressed their will to seek asylum but before their transfer they were asked to sign an information sheet “scheda informativa” declaring to be no longer interested in seeking international protection. Transferred to the CPR of Trapani these persons again expressed their will to seek asylum before the Magistrate (*Giudice di Pace*) during the detention validation hearing. Their detention was validated as the Magistrates based their decision on the statements contained in the information sheet (*scheda informativa*). Only after about 20 days, they were able to lodge applications for

1108 Supreme Court of Cassation, I Civil Section, 5520/2021, published in March 2021 and available in Italian at: https://bit.ly/3Jk6dl1.
1109 Supreme Court, I Civil Section, 9440/2021, available in Italian at: https://bit.ly/3CMAciZ.
1110 Supreme Court, III Civil Section, 13172/2021, available in Italian at: https://bit.ly/3CPHkeo.
1111 Court of Cassation, decision of 23 July 2020, published on 9 December 2020, no. 28063.
1112 Court of Cassation, decision no. 2548/2021, of 11 December 2020, published on 3 February 2021. See also for a note to the decision: https://bit.ly/3oeonus.
1113 Civil Court of Trieste, decision 16 March 2021.

international protection at the competent Questura. Deciding on the validity of their detention order, in two out of three cases the Civil Court of Palermo did not validate the detention, statement contained in the *scheda informativa* by considering it was not sufficient to fulfil the duty of information on the right of asylum pursuant to art. 10 ter TUI and in any case considering it was unreliable for the way it was hired.[1114] In 2020, in two relevant cases the Court of Cassation confirmed the inconsistency of "foglio notizie" to determine the legal status of migrants (see Information at the border).[1115]

In 2020, out of 4,387 persons detained in CPRs, 723 were released as the detention was not validated by the judge; in 2021, as of 15 November, out of 4,489 persons detained in CPR, 702 were released as the detention was not validated by the judge.[1116]

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
   ☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?
   ☒ Yes ☐ No

According to Article 2 of the CIE Regulation the individual is informed of his or her rights and duties in a language he or she understands and is provided with the list of lawyers. Due to the broad discretion of each Prefecture in authorising access to CPR (see section on Access to Detention Facilities), however, lawyers may have problems entering these detention structures.[1117]

Under the TUI, free legal aid must be provided in case of appeal against the person's expulsion order, on the basis of which third-country nationals who have not lodged their asylum application can be detained.[1118] Free legal aid is also provided for the validation of detention of asylum seekers, as well. In this case, the asylum seeker concerned can also request a court-appointed lawyer. Lawyers appointed by the State have no specific expertise in the field of refugee law and they may not offer effective legal assistance. In addition, according to some legal experts, assigned attorneys may not have enough time to prepare the case as they are usually appointed in the morning of the hearing.

Free legal aid is provided for the validation or extension of detention of third-country nationals. However, the effectiveness of the legal defence is compromised due to the circumstance that relevant documents are sent in advance to the judge (Giudice di Pace) but not to the lawyer who, therefore, generally manages to see the reasons underlying the request for validation or extension of the detention only immediately before the hearing. The same situation concerns the defence of asylum seekers who do not have or no longer have the right to remain in the centre (therefore in Italy) pending the judicial decision on their asylum application, since in such cases the jurisdiction is of the Giudice di Pace and not of the Civil Court.[1119]

CPRs' managing bodies are in charge of organising a "normative information provision" service. The funds for such service, however, have been drastically cut via the tender specifications for 2018 and 2021. There was, in fact, a decrease in the number of hours dedicated to this activity: by 66% (for Centres with up to 50 places); by 70% (for Centres with up to 150 places); by 78% (for Centres with up to 300 places). This had inevitable repercussions on the effective protection of the right to information of detainees.[1120]

1114 Civil Court of Palermo, decision available in Italian at: https://cutt.ly/myO5LIE.
1115 See ASGI, Cassazione sulle prassi hotspot: il secondo foglio notizie non può limitare l'accesso al diritto di asilo, available at: https://bit.ly/3u8sI5O.
1116 Update on immigration detention as of 15 November 2021, National Guarantor for the rights of detained persons, available in Italian at: https://bit.ly/3tj7Hq4.
1117 LasciateCIEntrare, *Mai più CIE*, 2013, 7.
1118 Article 13(5-bis) TUI.
1119 Article 6 (7) LD 142/2015.
1120 CILD, Buchi Neri, available in Italian at: https://bit.ly/3u710qg.

Another relevant obstacle which hampers persons detained in CPR from obtaining information on their rights and thus enjoying their right to legal assistance is the shortage of interpreters available in the detention centres, who should be provided by the specific body running the structure. In 2021, it was reported that in Milan's CPR, some daytime operators also worked as cultural mediators and cleaners; in Turin's CPR, there is a lack of cultural mediators and those present do not cover all languages spoken by detainees; in Gradisca's CPR, the lack of linguistic mediation service has led to the practice - condemned by the CPT - of using other detainees as ad hoc "translators".

Regarding interviews with lawyers, in 2020 and 2021 limitations on access to the Centres for the conduct of defence interviews were reported. In some cases, these limitations were justified because of the effects of COVID-19 or other public order-related problems. In the Palazzo San Gervasio and Macomer centres, lawyers are prevented from using their mobile phones inside the facility. It was also reported that confidentiality is not always guaranteed during defence interviews and that there is no adequate linguistic support personnel in the CPR to support.[1121]

Significant limitations to freedom of communication – which is guaranteed in theory but often significantly limited, if not completely denied (with inadequate number of landline phones and/or seizing of personal mobile phones) – may also affect the concrete exercise of the right to defence.

E. Differential treatment of specific nationalities in detention

As of November 2021, the most 5 represented nationalities in CPRs were Tunisia (2,465 persons, representing almost 55% of CPRs' population), Egypt (471 persons, 10%), Morocco (329 persons, 7%), Albania (191, 4%), and Nigeria (168, 3,7%), [1122] similarly to 2020, when the 5 most represented nationalities were Tunisia (2,623, more than 59%), Morocco (490, 11%), Nigeria (204, 4%), Egypt (125, 3%), and Albania (110, 2%).[1123]

Similarly to what already noted in Differential treatment of specific nationalities in the procedure, it is to be reported that persons coming from specific countries – and especially Tunisia – are particularly targeted for what concerns detention. Tunisia is indeed by far the most represented nationality in CPRs, as well as the Country where most returns are carried out to.

In 2020, as reported from the Guarantor for the rights of detained persons, 4,387 people - 94% of them males - had been detained in CPRs, roughly 50% out of which (2,232) were actually returned. Tunisia is by far the most represented nationality amongst detained migrants and the country with the highest return rate (2,623 out of 4,387 detained migrants are Tunisians and 1,865 out of 2,232 returned migrants are returned to Tunisia).[1124] As of November 2021, 4,489 migrants had been detained in CPRs, out of which 2,231 (less than 50%) were returned. Tunisia remains the most represented nationality (55%, followed by Egypt, whose nationals represent the 10% of detained migrants) and the country where most of the returns (72%) take place.[1125]
It has been noted how the speed with which returns to Tunisia continue being carried out has led to serious violations of the rights of Tunisian nationals transiting through CPRs, from the violation of the right to be informed about the possibility of applying for asylum, to the practice of not formalising applications for international protection, to, where an application for international protection is finalised, subjecting Tunisian asylum seekers to a fast track procedure.[1126]

1121 Ibidem.
1122 National Guarantor for the rights of detained persons, Update on immigration detention as of 15 November 2021, available in Italian at: https://bit.ly/3tj7Hq4.
1123 National Guarantor for the rights of detained persons, Relazione al Parlamento, June 2021, available in Italian at: https://bit.ly/3qfLXtg.
1124 Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available at: https://bit.ly/36nWIT6.
1125 National Guarantor for the rights of detained persons, *Update on immigration detention as of 15 November 2021*, available in Italian at: https://bit.ly/3tj7Hq4.
1126 CILD, Buchi Neri, available in Italian at: https://bit.ly/3u710qg.

In the past, other nationalities have been targeted for detention and repatriation. This was the case of Nigeria: in 2017, the Moi issued a circular ordering the emptying of all immigration detention centres (at that time, these were still called CIEs) to make room for Nigerian nationals.[1127] Record numbers of returns to Nigeria were registered in 2019, with 734 persons returned via 8 charter flights.[1128] In 2020 and 2021, detention and returns of Nigerian nationals decreased.[1129]

For a gender perspective on the topic, see section on Detention of vulnerable applicants.

1127 Open Migration, Perché sono i nigeriani a venire rimpatriati più spesso, July 2017, available at: https://bit.ly/3tgbuV1.

1128 National Guarantor for the rights of detained persons, Relazione al Parlamento, June 2020, available in Italian at: https://bit.ly/3CPliIB.

1129 Annexes to the yearly report of the National Guarantor for the rights of detained persons, June 2021, available at: https://bit.ly/36nWIT6.

Content of International Protection

A. Status and residence

1. Residence permit

Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?
   - ❖ Refugee status 5 years
   - ❖ Subsidiary protection 5 years
   - ❖ Special protection 2 years

International protection permits for both refugee status and subsidiary protection are granted for a period of 5 years.[1130]

The application is submitted to the territorially competent Questura of the place where the person has a registered domicile.

A common problem regarding the issuance of residence permits for international protection beneficiaries is the lack of a registered domicile address, which must be provided to the police. Domicile has to be attached to the application submitted to the Questura, but some beneficiaries of international protection do not have a fixed address to provide and Questure often reject issuance or renewal requests submitted by beneficiaries who lack a real domicile and provide either a fictitious/virtual residence or a registered legal address at an organisation's office.[1131]
In order to discourage such practice, already in 2015, the Ministry of Interior issued a circular addressed to the Questura of Rome, remarking that the law does not require beneficiaries of international protection to attach a registered address certificate to the residence permit issuance or renewal request. Instead, a declaration by the person concerning his/her domicile is considered sufficient; at the same time, the Ministry clarified that fictitious/virtual residences must be accepted as proof of the domicile when the Questura deems necessary, for security reasons, to have knowledge of the domicile of beneficiaries of international protection.[1132] On 25 June 2019, the Civil Court of Rome accepted the urgent appeal lodged by an Afghan beneficiary of subsidiary protection whose residence permit renewal request was rejected by the Questura of Rome due to the lack of a real domicile certificate, as the applicant had attached to the renewal request the virtual residence certificate - and ordered the immediate issuance of the residence permit.[1133]

The renewal of the residence permit for asylum is done by filling out the appropriate form and sending it through the post office. After the application for renewal has been submitted, people have to wait a long time up to several months to know the outcome of the request and to obtain the new permit.

According to the law, the residence permit for **subsidiary protection** can be renewed after verification that the conditions imposed in Article 14 of the Qualification Decree are still satisfied.[1134] The application is sent back to the administrative Territorial Commission that decided on the original asylum application, which has to assess the renewal request and either express a favourable opinion to the renewal or send the file to the National Asylum Commission, which is responsible for the proceedings concerning the cessation or withdrawal of protection status. The Territorial Commission also considers information provided by the police concerning crimes committed during the person's stay in Italy, while assessing the

1130 Article 23(1) and (2) Qualification Decree.
1131 Please refer to CSD Diaconia Valdese, Monitoring report on illegitimate practices by Questure, July 2021, available in Italian at: https://bit.ly/3CPIo1S.
1132 Ministry of Interior Department of Civil Liberties and Immigration, Circular 18 May 2015, Beneficiaries of international protection - Domicile and residence permit renewal request, available at: https://bit.ly/3tgckB9.
1133 Civil Court of Rome, 25 June 2019, decision available in Italian at: https://bit.ly/36qfUiY.
1134 Article 23(2) Qualification Decree.

renewal request. In practice, these permits are usually renewed and the main reason why renewal may not happen is the commission of certain crimes.

Another frequent reason why these permits are not renewed is evidence that the refugee has had contacts with his or her embassy or has returned to the country of origin, even if for a short period. Sometimes, on this basis, the non-renewal procedure has been initiated even for **subsidiary protection** beneficiaries. To this regard it has to be underlined that L. 132/2018 which amended Decree Law 113/2018, introduced Article 15 (2 - ter) to the Qualification Decree, according to which, for the purpose of terminating the needs of subsidiary protection, "any return to the country of origin is relevant, if not justified by serious and proven reasons". Following legal action initiated by ASGI the cessation of international protection by NAC in a few of such cases has been cancelled, even if the provision is still in place.

Some Questure illegitimately subordinate the issuance of residence permits for subsidiary protection to the exhibition of the passport by the applicant. On 27 February 2019, the Civil Court of Naples accepted the appeal lodged by a Nigerian citizen to whom the Questura of Naples refused to issue the subsidiary protection status permit because she did not have a passport from her country of origin.[1135] On 31 January 2020, the Civil Court of Brescia upheld the appeal lodged by an ASGI lawyer for a Nigerian beneficiary of subsidiary protection to whom the Questura of Bergamo refused to issue the residence permit because he did not have a passport.[1136]

Following the abolition of the humanitarian protection status upon entry into force of Decree Law 113/2018 on 5 October 2018 (see Regular Procedure), those who had previously obtained a two-year residence permit for humanitarian protection reasons could no longer renew their residence permits and, in order to preserve their right to stay on the territory, had to meet the criteria for the conversion of their permits either in permits for work reasons or in special protection permits.

The 2018 reform provided for a transitional regime only for those who had been waiting for the issuance of the first residence permit for humanitarian protection or those to whom the Territorial Commissions had already granted, although not yet communicated, humanitarian protection before 5 October 2018. These persons received a residence permit for “special cases” granted for two years and convertible into a labour residence permit.[1137] Upon expiry, if not converted into work permits, those “special cases” permits cannot be renewed. The only option for the holders of such permit is then to obtain a “special protection” permit if they meet the conditions.

The government justified the abolition of humanitarian protection with the need to delimit the scope of such residence permit. Humanitarian reasons were then circumscribed to certain hypotheses and the government introduced, for this purpose, some new residence permits that can be released directly by the Questure in “special cases” (*casi speciali*), namely for medical treatment,[1138] particular civil value,[1139] and for natural calamity.[1140]

However, Decree Law 130/2020 and L 173/2020 reintroduced the need to consider, in rejecting permits to stay, the existence of constitutional and international obligations, and changed the substance of the special protection (*protezione speciale*) permits which can be granted when the hypothesis of non-expulsion or refoulement rises.[1141] Decree Law 130/2020 specified that the refoulement or expulsion of a person is not admitted when there are good reasons to believe that the removal from the national territory involves a violation of the right to respect for his private and family life, unless that it is necessary for

1135 Civil Court of Naples, Decision 35170/2018, 27 February 2019.

1136 Civil Court of Brescia, Decision 18250/2019, 31 January 2020, available in Italian at: https://bit.ly/3u84JDZ.

1137 Article 1(9) Decree Law 113/2018 and L 132/2018.

1138 Article 19(2)(d-bis) TUI, inserted by Article 1(1)(g) Decree Law 113/2018 and L 132/2018.

1139 Article 42-bis TUI, inserted by Article 1(1)(q) Decree Law 113/2018 and L 132/2018.

1140 Article 20-bis TUI, inserted by Article 1(1)(h) Decree Law 113/2018 and L 132/2018. It is issued when the country to which the foreigner should return has a situation of contingent and exceptional calamity that does not allow the return and the stay in safe conditions. The permit is valid for 6 months, only in national territory, and allow to work but it is not convertible into a work permit.

1141 Articles 19(1) as amended by Decree Law 130/2020 and L. 173/2020.

national security reasons, public order and safety as well as health protection. It also stated that the nature and effectiveness of the family ties of the person concerned, their effective social insertion in Italy, the duration of his stay on the national territory as well as the existence of family, cultural or social ties with his or her country of origin, have to be taken into account.[1142]

In such cases, special protection permits are granted, either through the international protection procedure or following the submission of a direct request to the Questura subject to a favourable opinion by the Territorial Commission. Special protection permits have a duration of two years and are renewable - upon expression of a favourable opinion by the Territorial Commission -,[1143] and convertible in labour residence permits, with the exception of cases in which such protection was recognized in application of the non-refoulement principle following the exclusion from international protection.[1144]

Despite the Supreme Court clarifying in a report on the new legislation[1145] that the amended normative provides for two different channels through which it is possible to obtain the issuance of a permit for special protection by the Questura (either following the transmission of the acts by the TC that rejects the application for international protection, or when a request for a residence permit is submitted directly by the applicant to the Questura, subject to the favourable opinion of the TC), following the amendment of the special protection regime in 2020, several Questure rejected as 'unreceivable' (irricevibili) the special protection requests lodged by applicants directly at police stations. Such practice was unanimously condemned by Civil Courts throughout Italy, which upheld appeals lodged by applicants, and ordered Questure to immediately receive the special protection requests.[1146]
In order to discourage such illegitimate practices by Questure and avert further convictions of the public administration by the judicial authority, on 19 July 2021 the National Asylum Commission issued a circular in which it endorsed the interpretation of the relevant provision offered by the Supreme Court and subsequently unanimously upheld by Civil Courts, clarifying once and for all the 'receivability' of special protection applications by the Questure.[1147]

An additional and more recent circular, issued by the Department of Public Security of the Ministry of the Interior on 23 November 2021, provides for the non-convertibility of the residence permit for special protection obtained through a specific request to the Police Headquarters and not within the international protection procedure.[1148]

However, this interpretation - which would create an unjustified difference in treatment between those who obtain a residence permit for special protection within the procedure for international protection and those who are granted it following a specific request submitted to the Questure, risking to induce applicants to apply for international protection even in cases where they would chose instead to apply only for special protection at the Questura - does not appear to be supported in any way by the newly amended legislation, which explicitly states that the only hypothesis of non-convertibility of the special

1142 Article 32 (3) Procedure Decree and Article 19 (1.1) TUI as amended by Decree Law 130/2020 and L 173/2020.
1143 Article 32(3) Procedure Decree, as amended by Decree Law 113/2018 and L 132/2018 and later by Decree Law 130/2020 and L 173/2020.
1144 Hypotheses ruled by Articles 10(2), 12 (1) (b) and (c) and 16 of the Qualification Decree.
1145 Supreme Court of Cassation, Ufficio del Massimario e del Ruolo, Report n. 94 on new legislation, 20 November 2020, International Protection - Urgent provisions on matter of immigration, international protection and complementary - D.l. 21 October 2020, n. 130, available in Italian at: https://bit.ly/3N1Wim7.
1146 Civil Court of Bologna, Decision 3246/2021 , 6 May 2021, available in Italian at: https://bit.ly/3qdgA2x; Civil Court of Naples, Decision 11264/2021, 24 May 2021, available in Italian at: https://bit.ly/3MS636x; Civil Court of Ancona, Decision 2505/2021, 29 May 2021, available in Italian at: https://bit.ly/3qdVvow; Civil Court of Venice, Decision 3057/2021, 3 June 2021, available in Italian at: https://bit.ly/3tizAyh; Civil Court of Rome, Decision 20342/2021, 28 June 2021, available in Italian at: https://bit.ly/3u9F265; Civil Court of Naples, Decision 18799/2021, 11 August 2021, available in Italian at: https://bit.ly/3qcI4oX.
1147 National Asylum Commission, Law n. 173/2020 - Art. 19 Legislative decree n. 286/1998, Special protection and prohibition of expulsion and refoulement, available in Italian at: https://bit.ly/3CQ9bv0.
1148 Ministry of Interior, Department of Public Security, Legislative Decree n. 286/1998, article 19, c. 1.2. Residence permit for special protection reasons, 23 November 2021.

protection permit is the one related to cases in which such protection was recognized in application of the non-refoulement principle following the exclusion from international protection, and is thus likely to be challenged in Court and disapplied by Judges.

Decree Law 130/2020 introduces another transitional regime stating that the new provisions on special protection permits apply to all pending cases before the Territorial Commissions, the Questore, and the specialised sections of Civil Courts.[1149]

Following the outbreak of the pandemic, several Civil Courts have partially upheld appeals lodged by applicants and granted them special protection permits due to the health emergency situation and management of COVID-19 in their countries of origin.[1150]

2. Long-term residence

Beneficiaries of international protection or special protection can apply for registration.

Decree Law 113/2018 repealed the rules governing civil registration (*iscrizione anagrafica*) of asylum seekers,[1151] and stated that the residence permit issued to them did not constitute a valid title for registration at the registry office.[1152]

Many organisations, including ASGI, raised the discriminatory aspect of this rule which, by denying a subjective right to one single category of foreigners, asylum seekers, would violate the principle of equality enshrined by Article 3 of the Italian Constitution. In fact, the TUI, which was not amended, states that the registration of personal data and changes to such data for legally residing foreigners are carried out under the same conditions as Italian citizens.[1153]

On 31 July 2020 the Constitutional Court declared the denial of the civil registration for asylum seekers introduced by the legislative Decree 113/2018 contrary to the principle of equality enshrined in the Italian Constitution[1154] Later, the Decree Law 130/2020, amended by L 173/2020, repealed the law introduced by the Decree Law 113/2018 again expressly allowing asylum seekers to obtain civil registration.

After registration, asylum seekers get an identity card of three years validity.

As some provisions of social welfare are conditional upon registration at the registry office, in 2020, before the decision of the Constitutional Court, the lack of residence led in many cases to deny asylum seekers' access to social care services as public administration officials had not received instructions on how to guarantee these rights without civil registration.

Article 5(3) of the Reception Decree states that asylum seekers have access to reception conditions and to all services provided by law in the place of domicile declared to Questura upon the lodging of the application or subsequently communicated to Questura in case of changes.[1155]

1149 Article 15 (1) Decree Law 130/2020.

1150 Civil Court of Naples, Decision 23602/2018, 25 June 2020, available in Italian at: https://bit.ly/3tgBWOm. An english summary of the decision is available at European Database of Asylum Law (EDAL), Italy: Residence permit on humanitarian grounds due to COVID-19 situation in country of origin, available at: https://bit.ly/3Ihi7uj; Civil Court of Bari Decision 1049/2019, 24 July 2020, available in Italian at: https://bit.ly/3KQDW5J; Civil Court of Campobasso, Decision 443/2020, 19 January 2021, available in Italian at: https://bit.ly/3Il6kLw; see also Sara Mariotti, Relevance of the health emergency from Covid-19 in the countries of origin of asylum seekers: risk indicators and evaluation of the Courts, Fonzaione ISMU, available at: https://bit.ly/3wfZtAW.

1151 Article 5-bis Reception Decree was repealed by Article 13 Decree Law 113/2018 and L 132/2018.

1152 Article 4(1-bis) Reception Decree, inserted by Article 13 Decree Law 113/2018 and L 132/2018.

1153 Article 6(7) TUI.

1154 Decision no. 186/2020 of 31 July 2020, available at: https://bit.ly/3y4Hfka

1155 Article 5(3) Reception Decree, as amended by Article 13 Decree Law 113/2018 and L 132/2018.

In some cases, the duration of the registry registration guarantees greater chances of obtaining access to welfare. Academics have pointed out that after the sentence of the Constitutional Court all the applications for registration already rejected in force of the d. 113/2018 must be accepted retroactively, since those rejections cannot be considered as definitive because they can still be challenged under a ten-year term. In the immediate aftermath of the Constitutional Court ruling, some municipalities did not accept such interpretation and accepted to register applicants for international protection in the registry office only if they had submitted or resubmitted their application after the publication in the Official Gazette of the sentence of August 5, 2020, and only with effect from that application.[1156]

Even after the intervention of the Constitutional Court, applicants and beneficiaries of international protection continue to be excluded from the exercise of rights due to unlawful discriminatory practices implemented in the registry offices in many municipalities of the national territory, as denounced in December 2020 by Action Aid, ASGI, Black lives matter Roma, Caritas Roma, Centro Astalli, CIR – Consiglio Italiano per i Rifugiati, Comunità di Sant'Egidio, Focus – Casa dei diritti sociali, Intersos, Laboratorio 53, MEDU – Medici per i diritti umani, MSF – Medici senza frontiere, Médecins du Monde France – Missione ItaliaPensare Migrante.[1157]

2.1. Registration of child birth

The birth of a child can be registered at the hospital within 3 days from the birth, or later at the municipality, with the presentation of a valid identification document.

2.2. Registration of marriage

According to the Italian Civil Code, foreign citizens who intend to contract a marriage in Italy must present a certification of the absence of impediments to contracting the marriage (*nulla osta*), issued by their embassy.[1158] Until recently **refugees** could substitute the *nulla osta* with a UNHCR certification. This practice was established following a formal note sent on 9 April 1974 by the Ministry of Justice to the Ministry of Foreign Affairs, copying UNHCR. In order to obtain such substitutive authorisation for the marriage, refugees had to produce: a declaration (affidavit), signed before the Civil Court or before a notary and certified by two witnesses; the decision granting them refugee status; a valid residence permit; and a valid document of the future spouse.

Following the evolution of the legislation on the recognition of refugee status, which has entrusted the entire international protection procedure to the Ministry of Interior, UNHCR encouraged the latter to define new procedures with regard to the clearance for marriage for beneficiaries of refugee status. On 12 January 2022, the Ministry of Interior, following up on the suggestion made by the UN Agency, published a circular which introduces a new procedure, informed by the procedure described in Article 1 paragraph 2 of Legislative Decree 19 January 2017, n. 7, for the clearance for marriage for refugees: to the request for publication of the marriage submitted to the municipality, the refugee has only to attach a substitutive declaration, pursuant to Presidential Decree no. 445 of 28 December 2000.[1159]

The law does not provide a solution for applicants for international protection and beneficiaries of **subsidiary protection and of national protection** who cannot request the *nulla osta* from their embassies with a view to registering a marriage. In this case, they can follow the procedure set out in Article 98 of the Italian Civil Code, which entails a request for the marriage authorisation to the municipality and, after the refusal of the request for want of *nulla osta*, an appeal to the Civil Court, asking the Court to ascertain that there are no impediments to the marriage.

1156 ASGI, ASGI to the municipalities: the registration of applicants for international protection must be accepted retroactively from the moment of the request, 24 August 2020, available in Italian at: https://bit.ly/3wfrzfF.

1157 Action Aid et al, The rejecting registry office: a photography of Rome in emergency, 10 recommendations for the effective exercise of rights, December 2020, available in Italian at: https://bit.ly/3igkyTq.

1158 Article 116 Civil Code.

1159 Ministry of Interior, Department for Internal and Territorial Affairs, Circular n. 1/2022, on the clearance for the refugee who intends to contract marriage in Italy, available at: https://bit.ly/3MYvzqv.

In such cases, and when the applicants do not want or cannot apply to the authorities of their countries of origin, a request can be submitted, pursuant to the procedure set out in article 98 of the Italian Civil Code, to the register of the municipality of residence for the publication of the marriage (attaching a notarial act signed in court or before a notary or a declaration in lieu of affidavit - with a written statement explaining the reasons why the person cannot submit the clearance issued by the authorities of his/her country of origin). In cases of rejection of the request by the register, the person can appeal to the court, asking the judge to establish that there are no impediments to the marriage and to order the registrar to proceed with the publication of the marriage.

On 22 May 2018, the Civil Court of Genova, in accordance with established case-law, upheld the appeal lodged by an ASGI lawyer for a Nigerian applicant for international protection and authorised the publication of the marriage, stating that in cases in which the presentation of the clearance is made impossible, the foreigner must be allowed to prove by any means the recurrence of the conditions for marriage according to the laws of their countries. The Court further observed that such interpretation is necessary in order to harmonise domestic law with the Fundamental Charter of Rights (ECHR), since the Strasbourg Court has affirmed that the margin of appreciation reserved to States in matters of a foreigner's capacity to marry cannot extend to the point of introducing a general, automatic and indiscriminate limitation on a fundamental right guaranteed by the Convention (Judgement of 14 December 2010, O'Donoghue and Others v. The United Kingdom).[1160]

On 9 September 2019, the Civil Court of Milan accepted the appeal lodged by a Chinese applicant for international protection and ordered the Milan municipality to proceed with the publication of the marriage, noting that the failure to issue the requested clearance by the authorities of the country of origin cannot be interpreted as a refusal by the authorities to the celebration of the marriage for reasons that may be contrary to public order under Article 16 L. 218/1995 or be attributable to the existence of some effective impediment.[1161]

3. Long term residence

Indicators: Long-Term Residence	
1. Number of long-term residence permits issued to beneficiaries in 2021:	Not available

The total number of holders of long-term residence permits as of 1 January 2021, according to Istat, was of 2,173,327.[1162] The disaggregated figure for long-stay permits issued to beneficiaries of international protection is not available, nor is the general figure for long-stay permits issued in the year 2021.

According to Article 9(1-bis) TUI, refugees and subsidiary protection beneficiaries residing in Italy for at least 5 years can obtain a long-term resident status if they have an income equal or higher than the minimum income guaranteed by the State. The starting point to count the period of stay for beneficiaries of international protection is the date of submission of the application for international protection.[1163]

In case of vulnerabilities, the availability of a free dwelling granted by recognised charities and aid organisations, contributes figuratively toward the income to the extent of 15% of the amount.

Contrary to other third-country nationals, international protection beneficiaries do not have to prove the availability of adequate accommodation responding to hygiene and health conditions, nor to pass the Italian language test, before obtaining long-term residence.[1164]

1160 Civil Court of Genova, Decision 473/2018, 22 May 2018, available in Italian at: https://bit.ly/3tkx7Uk.

1161 Civil Court of Milan, Decision 7166/2019, 9 September 2019, available in Italian at: https://bit.ly/3qA6gBV.

1162 Istat, Non-EU Citizens in Italy, October 2021, available in Italian at: https://bit.ly/3ideZoO.

1163 Article 9(5-bis) TUI.

1164 Article 9 (1-ter) and (2-ter) TUI.

The application to obtain the long-term residence permit is submitted to the Questura and must be issued within 90 days.[1165] The issuance of the permit is subject to a contribution of €130.46.[1166]

4. Naturalisation

Indicators: Naturalisation	
1. What is the waiting period for obtaining citizenship?	
❖ Refugee status	5 years
❖ Subsidiary protection	10 years
2. Number of citizenship grants to beneficiaries in 2021:	Not available

In 2020, a total of 131,803 citizenships were granted.[1167] Disaggregated data on citizenship grants to beneficiaries of international protection are not available, nor are general data for the year 2021.

Italian citizenship can be granted to **refugees** legally resident in Italy for at least 5 years.[1168] Beneficiaries of **subsidiary protection** are instead subject to the general rule applied to third-country nationals: they can apply for naturalisation after 10 years of legal residence.[1169]

In both cases, the beneficiary's registration at the registry office must be uninterrupted. This can be particularly challenging for beneficiaries of international protection, as the law does not ensure any support or long-term accommodation for them and some might be forced to live in precarious situations. Moreover, following the entry into force of the Decree Law 113/2018, implemented by L 132/2018, registration at the registry could only be obtained after the grant of a protection status (Civil Registration).

The situation has changed after the decision of the Constitutional Court n. 186/2020, which declared the legal provision introduced to create a different legal regime for asylum seekers contrary to the principle of equality stated by the Italian Constitution. The Decree Law 130/2020 was amended and expressly recognises to asylum seekers the right to civil registration. However, under Decree Law 113/2018, many asylum seekers received a denial of civil registration and, even after the ruling by the Constitutional Court, several municipalities were initially reluctant to recognize the right to register them retroactively.

The 2018 reform also introduced the requirement of the sufficient knowledge of the Italian language (at least B1 level), attested through specific certifications or through the qualification in an educational institution recognised by the Ministry of Education.[1170] Applications presented after 5 December 2018 without meeting this requirement have been rejected.[1171]

The amended Citizenship Act also provides that citizenship obtained by way of naturalisation can be revoked in the event of a final conviction for crimes committed for terrorist purposes.[1172] The law does not provide any guarantee to prevent statelessness.

Despite the pandemic, the number of citizenship acquisitions increased between 2019 and 2020. The lengthy process required to assess applications (often pre-dating the acquisition by at least three years) and the digitization of procedures have clearly counteracted the effects of the pandemic and economic downturn. According to the ISTAT report published on 22 October 2021,[1173] 131,803 foreigners acquired Italian citizenship in 2020: out of these, 119,000 (90%) were non-EU citizens, with a 4% increase i

1165 Article 9(2) TUI.
1166 Ministerial Decree of 8 June 2017.
1167 Istat, Citizenships grants, 2020, available in Italian at: https://bit.ly/3CMVQDK.
1168 Articles 9 and 16 L 91/1992 (Citizenship Act).
1169 Article 9(1)(f) Citizenship Act.
1170 Article 9.1 Citizenship Act, inserted by Article 14 Decree Law 113/2018 and L 132/2018.
1171 Ministry of Interior Circular No 666 of 28 January 2019.
1172 Article 10-bis Citizenship Act, inserted by Article 14 Decree Law 113/2018 and L 132/2018.
1173 ISTAT Report, 22 October 2021, available in Italian at: https://bit.ly/3u2hGze.

compared to 2019. In 2020, there was a significant decrease in acquisitions by marriage (-16.5%), acquisitions by election by those born in Italy at the age of 18 (-40.2%) and by ius sanguinis (-30.9%). In the first case, these are files processed by the municipalities, which were affected by a suspension of deadlines due to the slowdown in the activities of the offices as a result of the pandemic. In the latter, mobility from one country to another, which has become more difficult, has prevented the descendants of Italian emigrants from reaching Italy and requesting citizenship. On the contrary, acquisitions by residence and - consequently - those by transmission of the right from parents to minors have increased respectively by 25.7% and 5.9% compared to 2019: in 2020, almost 80% of acquisitions took place by residence (48.5%) or by transmission (30.3%). Almost 25% of the non-EU citizens who have acquired citizenship in 2020 were born in Italy.

In 2020, the greatest number of acquisitions were recorded by Albanians, followed by Moroccans, Brazilians, Pakistanis, and Bangladeshi. Among the top ten communities for acquisitions of citizenship, the highest increases were recorded by Bangladeshi, for whom acquisitions have almost quadrupled in 2020, and by Egyptians and Pakistanis, who recorded more than twice as many successful acquisitions compared to 2019. In contrast, acquisitions by North Macedonians and Brazilians declined (both more than 30%).

From a territorial point of view, new citizens are heavily concentrated in six regions of the Centre-North: Lombardy, Veneto, Emilia-Romagna, Piedmont, Lazio and Tuscany, which host 73.5% of those who have acquired citizenship in 2020 (with 25.5% of them living in Lombardy alone).

Naturalisation procedure

The application is submitted online through the website of the Ministry of Interior, by attaching the extract of the original birth certificate and the criminal records certificate, issued by the authorities of the country of origin and duly translated and legalised. Since the 2018 reform, applicants must also submit a certification of knowledge of the Italian language. The originals are submitted to the Prefecture of the place of residence.

Refugees may submit, in lieu of the original birth certificate and criminal records certificate, a declaration (affidavit), signed before a Court and certified by two witnesses. The law does not provide this possibility for beneficiaries of **subsidiary protection**. However, on 13 November 2019, the Civil Court of Rome recognized a woman of Sierra Leone with subsidiary protection status the right to produce self-signed certificates, instead of a criminal record and birth certificates, to request the Italian citizenship, assessing the risk she would have incurred in by turning to the authorities of her country of origin.[1174]

The application is subject to the payment of a €250 contribution.

The evaluation of the citizenship application is largely discretionary. As consistently confirmed by the case law of the Administrative Courts,[1175] the denial may be motivated by insufficient social inclusion in the national context. Even if not provided by law, a further general requirement established by the Ministry of Interior for those who apply for citizenship by residency is the necessary to have an income produced on Italian territory, which amount shall not be less than those established by the Decree-Law 382/1989, signed into law 8/1990 as confirmed by art. 2 of the Act 549/1995.[1176] The benchmarks are euro 8,263.31 for the unmarried applicant, euro 11,362.05 for the applicant with a spouse, and euro 516.00 to be added for each child. If the applicant does not possess their own income or has an income below those established by law, it is possible to consider the incomes of other household members (in the same family status of the applicant). Pending the acceptance of the citizenship request the applicant must retain, without interruptions, both the residence and the income capacity.

1174 Civil Court of Rome, decision 21785 of 13 November 2019.
1175 See e.g. Administrative Court of Lazio, Decision 8967/2016, 2 August 2016.
1176 Ministry of Interior, Income required for the application for citizenship by residence and modalities for their indiation and updating, 30 November 2020, available in Italian at: https://bit.ly/3ihIS7o.

Decree Law 113/2018, implemented by L 132/2018 extended the time limit for the completion of the procedure from 730 days to 48 months from the date of application.[1177] The Administrative Court of Lazio decided that it also applied to cases brought to Court before the date of coming into force of the Decree Law, since the Decree Law was silent on the date of entry into force.[1178]

The Decree Law 130/2020 has repealed the provision of Decree Law 113/2018 which extended the 48 months term applicable to citizenship applications pending at the time of the entry into force of the decree law.[1179] Thus, the previous term of 730 days will be applied to the applications submitted before the entry into force of Decree Law 113/2018.[1180]

Decree Law 130/2020 converted into L. 173/2020 has introduced a new time limit for the completion of the citizenship procedure by Prefectures, set in 24 months extendable up to a maximum of 36 months, which applies to requests submitted on or after December 20, 2020.[1181]

Thus, currently, there are different deadlines for the conclusion of the procedure, depending on when the application was submitted, whether before, during or after the end of the validity of the provision of Decree-Law 113/2018.

It should be noted that these are indicative non-mandatory time limits.

The person concerned is notified about the conclusion of the procedure by the Prefecture. In case of approval, he or she is invited to give, within 6 months, the oath to be faithful to the Italian Republic and to observe the Constitution and the laws of the State. In case of denial, he or she can appeal to the Administrative Court.

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the cessation procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

5.1. Grounds for cessation

According to Article 9 of the Qualification Decree, a third-country national shall cease to be a **refugee** if he or she:

(a) Has voluntarily re-availed himself or herself of the protection of the country of nationality;
(b) Having lost his nationality, has voluntarily re-acquired it;
(c) Has acquired Italian nationality, or other nationality, and enjoys the protection of the country of his or her new nationality;
(d) Has voluntarily re-established him or herself in the country which he or she left or outside which he or she remained owing to fear of persecution;

1177 Article 19-ter Citizenship Act, inserted by Article 14 Decree Law 113/2018 and L 132/2018.
1178 Administrative Court of Lazio, Decision 1323/2019.
1179 Article 4 of Decree Law 130/2020 repealed Article 14 (2) of the Decree Law 113/2018 which had set the deadline for the definition of the proceedings pending at the time of entry onto force of the Decree Law 113/2018 in 48 months.
1180 According to Article 3 DPR 18.4.1964 n. 362.
1181 Article 9-ter Citizenship Act as amended by Decree Law 130/2020 and L 173/2020. According to Article 4(6) of Decree Law 130/2020 the provision applies to the applications submitted from the entry into force of the L 173/2020.

(e) Can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of nationality; or
(f) In the case of a stateless person, he or she is able, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, to return to the country of former habitual residence.

The change of circumstances which led to the recognition of protection constitutes also a ground for cessation of **subsidiary protection**.[1182]

In both cases, the change must be of non-temporary nature and there must not exist serious humanitarian reasons preventing return to the country of origin.[1183] The Qualification Decree states that, even when the situation in the country of origin has changed, the beneficiary of international protection can invoke compelling reasons arising out of previous persecution for refusing to avail him or herself of the protection of the country of nationality not to be returned.[1184]

In practice, Territorial Commissions may express a negative opinion on the renewal of subsidiary protections (ex art. 14, lett. c, of the legislative decree no. 251 of 2007) recognized by Civil Courts following an appeal, when in disagreement with the orientation of the judicial authority circa the situation of indiscriminate violence in the country of origin of the person, and send instead the documents to the National Asylum Commission for an assessment of the applicability of cessation clauses on the basis of changed circumstances. In practice, cessation on the basis of changed circumstances appears to be rarely applied. Decree Law 113/2018 has introduced a new provision to the Qualification Decree according to which any return to the country of origin which is not justified by serious and proven reasons is relevant for the assessment of cessation of both refugee status and subsidiary protection.[1185]

The circumstances taken into consideration to assess termination are: frequency of trips to the country of origin; length of stay in the country of origin; place of stay in the country of origin; reasons for travel to the country of origin.[1186]

5.2. Cessation procedure

The NAC is responsible for deciding on cessation of international protection.[1187] According to the law, cessation is declared on the basis of an individual evaluation of the refugee's personal situation.[1188] No specific group of beneficiaries in Italy face cessation of international protection.

However, on 7 October 7 2021, UNHCR has recommended that States hosting Ivorian refugees expatriated due to political crises in their country of origin to end their refugee status as of 30 June, 2022 and facilitate their voluntary repatriation, reintegration, or acquisition of permanent residency or naturalisation for those wishing to remain in host countries, highlighting that those who have ongoing international protection needs will be entitled to request an exemption from cessation.[1189] In light of this, it should be monitored whether the NAC will issue, in the following months, a circular recommending the cessation of the refugee status for Ivorian citizens, and whether safeguards, including procedural guarantees, will actually be provided for those who still have protection needs or who wish to invoke compelling reasons arising out of previous persecution for refusing to avail themselves of the protection of the country of nationality, and whether the acquisition of permanent residency or naturalisation will be actually facilitated by authorities for those wishing to remain in Italy. Specifically, it should be monitored

1182 Article 15(1) Qualification Decree.
1183 Articles 9(2) and 15(2) Qualification Decree.
1184 Articles 9(2-bis) and 15(2-bis) Qualification Decree.
1185 Articles 9(2-ter) and 15(2-ter) Qualification Decree, inserted by Article 8 Decree Law 113/2018 and L 132/2018.
1186 EMN, Studio del Punto di Contatto Italiano European Migration Network (EMN), 2020, available at: https://bit.ly/3fiWCwP.
1187 Article 5 Procedure Decree; Article 13 PD 21/2015.
1188 Article 9(1) Qualification Decree.
1189 UNHCR, UNHCR recommends the cessation of refugee status for Ivorians, 7 October 2021, available at: https://bit.ly/3idupt4.

that collective termination procedures are not implemented and that an individual assessment of the refugee's personal situation is made instead.

According to the information disclosed in June 2019 by NAC President during a hearing by the Constitutional Affairs Committee of the Chamber of Deputies, beneficiaries of international protection of Pakistani, Afghani and Malian nationality tends to be flagged more frequently to NAC by the border police because of returns in the countries of origin and consequently incur more often than others in the starting of the cessation procedure by NAC, which can then entail a final decision of either cessation or confirmation of the protection.[1190] From 1 September 2017 to 31 May 2019, NAC received a total of 2,891 reports by the border police concerning cases of beneficiaries of international protection who had either departed for their country of origin (898 cases) or returned to Italy from their countries of origin (2,083 cases).
Concerning the cessation rate, NAC disclosed that in 2018 out of a total of 388 decisions taken, 252 were cessations of international protection, with a cessation rate of 65%, and 94 were confirmations of international protection, with a confirmation rate of 24%. While the cessation rate for the files assessed by NAC as of 31 May 2019 (please note that the total data for 2019, 2020 and 2021 are not available at the moment of writing), was 37% (55 cessations out of a total of 150 decisions taken) and the confirmation rate is 53% (79 confirmations out of a total of 150 decisions taken).

The new provision introduced by Decree Law 113/2018 on the relevance, for the application of cessation clauses, of any return of the beneficiary to the country of origin, will likely continue to result in the automatic initiation of the cessation procedure for all those signalled to NAC by the border police.

The person concerned must be informed in writing that the National Commission is re-assessing his or her eligibility to international protection and the reasons for the re-examination; he or she must be given the opportunity to set out in a personal interview or in a written statement, the reasons why his or her status should not be terminated. In most cases, in practice, a personal interview of the beneficiary of international protection is conducted by NAC. If the person, duly invited, fails to appear, the decision is made on the basis of the available documentation. The NAC shall, in the course of this procedure, apply mutatis mutandis the basic principles and safeguards set forth for the assessment of international protection applications. In the course of the proceedings, the person concerned has no access to free legal assistance. NAC should decide within 30 days from the date of the interview or from the expiration of the deadline for submitting documents. In the event of a decision to terminate international protection statuses, the NAC must assess whether, as prescribed by the TUI, a residence permit on other grounds may be granted, or if, in application of the principle of non-refoulement, a special protection must be granted to the person (the special protection residence permit issued subsequently a termination has a validity of two years, is renewable, subject to the opinion of the Commission, allows the person to work, and is convertible in a permit for work reasons).

If the residence permit for refugee status or subsidiary protection expires in the course of proceedings before the NAC, or if proceedings before NAC were initiated following a negative opinion by the Territorial Commission on the renewal of the subsidiary protection, the permit is renewed by the Questura until a final decision is reached by NAC.[1191]

An appeal against the decision can be lodged before the competent Civil Court, within 30 days from notification. The appeal has automatic suspensive effect and follows the same rules as in the Regular Procedure: Appeal.[1192]

As previously mentioned, statistics concerning cessations and revocation procedures for the years 2019, 2020 and 2021 are not available at the moment of writing.

1190 National Asylum Commission, Hearing by the Constitutional Affairs Committee of the Chamber of Deputies, 11 June 2019, available in Italian at https://bit.ly/3wbWBF6; https://bit.ly/3CS4ZL3.

1191 Articles 32(3) and 33 Procedure Decree; Article 6(1-bis)a TUI; Article 33 Procedure Decree; Article 14 PD 21/2015.

1192 Article 35-bis(3) Procedure Decree.

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the withdrawal procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

Cases of withdrawal of international protection are provided by Article 13 of the Qualification Decree for **refugee status** and by Article 18 of the same Decree for **subsidiary protection**.

Both provisions state that protection status can be revoked when it is found that its recognition was based, exclusively, on facts presented incorrectly or on their omission, or on facts proved by false documentation.

International protection is withdrawn also when, after the recognition, it is ascertained that the status should have been refused to the person concerned because:

(a) He or she falls within the exclusion clauses.

Decree Law 113/2018, implemented by L 132/2018, has significantly extended the list of crimes triggering exclusion and withdrawal of international protection, including, inter alia, violence or threat to a public official; serious personal injury; female genital mutilation; serious personal injury to a public official during sporting events; theft if the person wears weapons or narcotics, without using them; home theft; non-aggravated drug offenses.[1193]

(b) There are reasonable grounds for considering him or her as a danger to the security of Italy or, having been convicted by a final judgement of a particularly serious crime, he or she constitutes a danger for the public order and public security.

The withdrawal of a protection status,[1194] and the appeals against it,[1195] are subject to the same procedure foreseen for Cessation decisions. The only exception worth mentioning concerns beneficiaries of international protection for whom the protection is revoked because they fall within the exclusion clauses: when the NAC assesses that, in application of the principle of non-refoulement, a special protection must be granted, the residence permit issued by the Questura will not be convertible in a permit for work reasons pursuant to art. 6 TUI.

B. Family reunification

1. Criteria and conditions

[1193] Articles 12(1)(c) and 16(d-bis) Qualification Decree, as amended by Article 8 Decree Law 113/2018 and L 132/2018.
[1194] Article 33 Procedure Decree; Article 14 PD 21/2015.
[1195] Article 19(2) LD 150/2011.

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No
   - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application? ☐ Yes ☒ No
   - ❖ If yes, what is the time limit?
3. Does the law set a minimum income requirement? ☐ Yes ☒ No

Since the entry into force of LD 18/2014, the family reunification procedure governed by Article 29bis TUI, previously only applicable for refugees, is applied to both **refugees** and beneficiaries of **subsidiary protection**.

Beneficiaries can apply at Prefecture as soon as they obtain the electronic residence permit – which can mean several months in some regions – and there is no maximum time limit for applying for family reunification.

Contrary to what is prescribed for other third-country nationals,[1196] beneficiaries of international protection are not required to prove a minimum income and adequate housing in order to apply for family reunification. They are also exempted from subscribing a health insurance for parents aged 65 and over.

Beneficiaries may apply for reunification with:[1197]

a. The spouse who is not legally separated from the applicant and who must not be under the age of 18 years;
b. Minor children, including those of spouse, or those born outside marriage, on the condition that the other parent, in the case where he/she is available, has given his/her consent;
c. Dependent children over 18 who, for objective reasons, are incapable of supporting themselves due to severe health problems resulting in complete invalidity;
d. Dependent parents in the following cases: no other children in the country of origin or birth; parents over the age of 65 years whose other children are incapable of supporting them due to documented severe health problems.

Article 29 bis of the TUI establishes that, if a beneficiary of international protection cannot provide official documents proving his or her family relationships, due to his or her status, or to the absence of a recognised authority, or to the presumed unreliability of the documents issued by the local authority, the diplomatic missions or consular posts shall issue relevant certificates based on the checks considered necessary. Other means may be used to prove a family relationship, including elements taken from documents issued by international organisations, if considered suitable by the Ministry of Foreign Affairs. Under Paragraph 1bis of Article 29 of the TUI, when the applicant cannot find documentary evidence of family relationship with the family member he or she intends to reunite with, he or she may request DNA testing. The DNA testing may be also requested by diplomatic or consular authorities responsible for issuing the family reunification visa if there are doubts over the existence of a family relationship or over the authenticity of the documentation produced. All costs of testing and related expenses must be borne by the applicant. Article 29 bis of the TUI specifies that an application cannot be rejected solely on grounds of lack of documentary evidence.

In practice, the phase of the procedure falling under the competence of embassies and consular authorities is characterised by unpredictable, and often illegitimate, practises that factually hinder beneficiaries' access to the right to reunification with their families, including, inter alia: obstacles in accessing the premises of the embassy or consular office; difficulties in communicating with the authorities; frequent recourse to DNA testing; recourse made to external companies that take

1196 Article 29-bis TUI, citing Article 29(3) TUI.
1197 Article 29(1) TUI.

responsibility for handling visa applications and collecting documentation; administrative delays and setbacks in visa issuance; incorrect and restrictive interpretation of the normative framework.[1198]

On 8 January 2020, the Civil Court of Rome upheld the appeal of a Somali citizen, beneficiary of subsidiary protection, against the decision of inadmissibility of the visa application by the Italian Consulate of Istanbul, which had declared its lack of jurisdiction concerning the issuance a visa for family reunification to her husband. The woman had lodged an urgent appeal fearing for the health conditions of her husband, who needed urgent medical care, and in view of the risk that the clearance for reunification issued by the competent Prefecture, which has a validity of only six months, could expire. The judge, in accepting the appeal, concluded that pursuant to art. 5 of Presidential Decree no. 394/1999, the consulate of the "foreigner's place of residence", in this case Istanbul, where the applicant's husband holds a Turkish residence permit, is competent to issue the visa. In fact, 'residence' must be intended as the place where the person has his or her habitual abode, that is the place where he or she regularly stays and takes care of himself or herself, as from the documentation presented. The representation in Nairobi (in charge of consular services for Somalis) cannot be considered competent since the husband has not been residing for some time in Somalia from where he fled. Finally, the court recalled that the rejection of the application cannot be motivated solely on the lack of documentary evidence of family ties when refugees cannot provide official documents proving their family ties.[1199]

On 16 January 2020, the Court of Appeal of Rome upheld the appeal lodged by ASGI lawyers for an Afghan beneficiary of refugee status who had requested and obtained the authorization to be reunited with his parents residing in Afghanistan and to whom the Embassy in Kabul had rejected to issue visas, due to insufficient documentary evidence of family ties, of the condition of dependency of the parents, and of the absence of the applicant's brothers in Afghanistan. In reality, the applicant's brothers were all living abroad, as demonstrated by the submission of authentic copies of identity documents issued by their respective countries of residence. The Court first of all reiterated the relevance of art. 29-bis which is a direct application of art. 25 of the Geneva Convention. This provision - taking into consideration the difficulties encountered by refugees in finding documentation attesting personal and family relations and facts, which sometimes prevents them from exercising their fundamental rights - obliges states to provide administrative assistance to refugees. It is for this reason that art. 29-bis introduces a particular facilitation of evidence for refugees seeking family reunification and specifically provides that consular representatives must provide assistance and support applicants in finding the necessary documentation, it is also possible to use other means of proof to demonstrate the existence of the requirements for reunification and - in any case - it is excluded that the application for reunification is rejected for the sole lack of documentary evidence of family ties.[1200]

On 30 September 2020, the Court of Rome upheld the appeal filed by a beneficiary of international protection who had requested to be reunited with his daughter. The Italian embassy in the country of origin of the applicant did not accept the documents submitted to prove the family relationship and subjected the applicant and his daughter to DNA testing, which showed that the girl was not the applicant´s biological daughter. In the appeal, the applicant claimed that Italian law does not limit the principle of filiation to biological descent, and that, in any case, the father had recognized the girl as his own, providing for her for years. The claimant also complained about the excessive use of DNA testing by Italian consular authorities. The Court acknowledged that the applicant and his daughter constituted a family unit and that the non-issuance of the visa would harm the young girl's right to family unity. The decision censored the Embassy´s decision to resort to DNA testing without giving reasons about the invalidity of the documents submitted, stressing that DNA testing must be considered as a measure of

1198 Caritas Italiana, Consorzio Communitas, UNHCR, Family First - In Italy with your family, November 2019, available in Italian at: https://bit.ly/3IqmPq0.

1199 Civil Court of Rome, Decision 8 January 2020, available in Italian at: https://bit.ly/3MYMXvp.

1200 Court of Appeal of Rome, Decision 5093/2018, 16 January 2020, available in Italian at: https://bit.ly/3iduEnY.

last resort, to be recurred to only when official documents or other evidence proving a family relationship is missing or unavailable.[1201]

On 5 February 2021, the Civil Court of Rome upheld the urgent appeal lodged by an Eritrean refugee status holder who had requested to be reunited with her minor child, who was alone in Ethiopia, and for whom the result of the DNA test had confirmed the family link. In spite of this, and not taking into consideration that the applicant's son was holding a travel document expiring on 9 August 2020 and that the application included also a declaration in lieu of affidavit concerning the son's father unavailability, the consular authority orally informed the applicant that the office was unable to issue the visa due to the expiration of the travel document. After stating that the visa application appeared to be well-founded, as the outcome of the DNA test confirmed the parental relationship and that the consular authority did not raise any impediment to the issuance of the visa other than the absence of a valid travel document, the Court, reiterating the pre-eminence of the protection of family unity, especially in the presence of a minor, ordered the immediate issuance of a visa with territorial validity limited to the granting State ex Article 25 of Regulation (EC) N. 810/09, which is directly applicable and does not require further internal implementing provisions.[1202]

Starting from 2020 and until 31 July 2021, the validity of the authorizations for family reunification issued by the Prefectures, which in normal circumstances have a duration of six months, was extended by law due to the pandemic and to the difficulties family members might encounter in requesting the visa or in travelling and entering Italy. At the moment of writing, no further extensions have been granted.[1203]

On 17 March 2021, the Civil Court of Rome accepted the urgent appeal lodged by ASGI lawyers for a Sri Lankan applicant for family reunification whose wife had been unable to submit her visa application, also due to difficulties linked to the ongoing pandemic. In response to the embassy's inertia and considering the forthcoming expiration of the authorization for reunification, the applicant's lawyers sent several warnings and reminders to the Italian diplomatic authority in Colombo, which remained unanswered. Despite this, during the course of the proceedings Italian diplomatic authorities claimed that no response was given because they considered the authorization expired. It should be noted that authorizations for family reunification were extended by law until 30 April 2021 due to the pandemic. The judge ordered the immediate formalisation of the visa request, reiterating the validity of the clearance.[1204]

Following the Taliban´s takeover of Afghanistan in August 2021, ASGI repeatedly denounced the inertia of Italian institutions in addressing and resolving the serious situation of Afghan men and women who can no longer remain in their country because of the high risk that would pose to their safety.
In the letters that ASGI has addressed to the Ministry of Foreign Affairs and Cooperation in September and October 2021, the organization requested clear indications concerning those persons who have a right to obtain a visa for family reunification.[1205] The Ministry replied that, for those who had already been authorised with a nulla osta from the Prefecture whose validity had expired (due to the impossibility, since long before August 2021, to obtain visas by the Embassy in Kabul, today no longer existing), the representation that receives the visa application would be entitled to ask for confirmation of its validity to the prefecture. However, a valid nulla osta was once more requested in order to release family visas.

1201 European Union Agency for Fundamental Rights (FRA), Migration: key fundamental rights concerns, December 2020, available at: https://bit.ly/3dChq21; Civil Court of Rome, Decision, 30 September 2020, available at: https://bit.ly/3th42c3.

1202 Civil Court of Rome, Decision, 5 February 2021, available at: https://bit.ly/36nuk3t.

1203 Article 103 (2 quarter, e) DL 18/2020 converted by L. 27/2020, extended the validity up to 30 August 2020; later, L 159/2020, converting the Decree Law 125/2020, extended it up to 30 December 2021, and the Decree Law 2/2021, converted by L 29/2021 extended it up to 30 April 2021. And Decree Law 56/2021, converted by L. 27/2021.

1204 Civil Court of Rome, Decision 12457/2021, 17 March 2021, available in Italian at: https://bit.ly/3IqnkQU; see also Civil Court of Rome, Decision 39375/2021, 15 July 2021, available at: https://bit.ly/3u7PuL4.

1205 ASGI, Afghanistan, ASGI to the Ministry of Foreign Affairs and Cooperation: public indications for entry visas, 29 September 2021, available at: https://bit.ly/3JkpjHH; ASGI, Italy's inaction in rescuing people at risk in Afghanistan, 8 October 2021, available at: https://bit.ly/3KIJBuG.

Indeed, the Ministry of Foreign Affairs allowed Afghans to self-certify the family bond with family members for whom reunification is requested if there are no documents that can prove it or if the documents are not legalized.

In ASGI´s opinion, this generates a pointless bureaucratisation of the process, and causes its excessive extension in time, two elements that are incompatible with the need for those concerned to speedily leave the country and have the right to do so. Moreover, the government´s guidance does not clarify which parameters should be taken into consideration by the prefectures. Even the indications provided by the Ministry concerning access to embassies in neighbouring countries are not clear, and seem to ignore the fact that the possibility to obtain an appointment is of central importance to effectively ensure that Afghan citizens have access to their right to be reunited with their family members as prescribed by law.

On 24 December 2021, the Civil Court of Rome upheld the urgent appeal lodged by ASGI lawyers for an Afghan beneficiary of subsidiary protection who had obtained on July 2021 the authorization from the Prefecture to be reunited with his wife, an Afghan citizen who had been forced to take refuge in Pakistan since August 2021. The applicant and his wife had tried several times - both by phone and by email - to request an appointment at the Italian Embassy in Islamabad to formalize the visa application in time, without obtaining a response. The Court, in reaffirming its jurisdiction in matters of family reunification even in the case of silence and inertia of the public administration, considered subsistent both the fumus boni iuris, for the likely existence of the right to family reunification of the applicant, and the periculum in mora. In fact, the irreparable damage was found on the one hand in the imminent expiration of the six-month authorization and on the other hand in the dangerous situation to which the wife of the applicant was exposed, irregularly present in Pakistan and therefore at risk of repatriation to Afghanistan. The court ordered the Italian Embassy in Islamabad, Pakistan, to schedule an urgent appointment for the visa application for family reunification in favour of the wife of the applicant.[1206]

The Court of Cassation,[1207] deciding on 14 July 2021 on the family reunification of a refugee with her mother, under 65 years of age, who had another son in her country of origin, and recalling Article 8 of the ECHR, stated that the presence of the other child is not decisive in excluding the right to family reunification if the latter cannot provide for the financial support of the parent who, in this case, depended on the assistance of the refugee who had requested reunification.[1208]

2. Status and rights of family members

According to the law and in application of the principle of family unity,[1209] family members who are not individually entitled to international protection status have the same rights as those granted to the relative who holds international protection. The family members of the beneficiary of international protection present in the national territory who are not individually entitled to such protection are issued a residence permit for family reasons pursuant to article 30 of the TUI.[1210] According to the latter, in the case of family members of beneficiaries of international protection, the residence permit for family reasons has to be issued notwithstanding the fact that the family member was previously not in possession of a valid residence permit and was irregularly present on the territory.[1211] These provisions do not apply to family members who are or would be excluded from international protection[1212]

For what concerns minor children of beneficiaries of international protection, pursuant to the law, the application for international protection submitted by a parent is considered extended also to the unmarried minor children present on the national territory with the parent at the time of its submission. This implies

1206 Civil Court of Rome, Decision 72951/2021, 24 December 2021;
1207 Court of Cassation, decision 20127 of 14 July 2021, available at: https://bit.ly/37hKk84.
1208 Meltingpot, Status di rifugiato e ricongiungimento familiare – La sola presenza di figli nel Paese di origine non esclude l'ingresso del genitore infrasessantacinquenne, available at: https://bit.ly/3xMAplA.
1209 Article 22 Qualification Decree.
1210 Article 30 TUI.
1211 Article 30 TUI.
1212 Occurring cases governed by Articles 10 and 16 Qualification Decree.

that any decision to recognize international protection will also be extended to the minor children of the applicant, who will be issued the same residence permits as the parent.[1213]

Furthermore, the law provides that the minor child of a third country national living with him/her and resides regularly in Italy is subject to the legal status of the parent with whom he/she lives, or to the most favourable status of the parents with whom he/she lives.[1214] In the implementation of the Qualification Decree, the best interests of the child are taken into considerations as a priority.[1215]

Until 2014, Questure refused to issue a residence permit for international protection to children of beneficiaries of international protection born after to their parents were granted international protection. Instead, they issued a permit for family reasons. This practice, which was backed by a circular issued by NAC in 2010,[1216] resulted in: (1) a lack of protection for the child born in Italy after the recognition of international protection to the parent, who was not recognized any protection by Italy, paradoxically entailing that, in his/her regard, the protection of the country of origin of the parent should have applied, even if it was the same country from which the child's parent had to flee, and (2) a disparity of treatment between members of the same family unit (children born before and after the granting of the protection to the parent) in relation to substantially equivalent situations, with a consequent violation of constitutionally protected rights.

This widespread and illegitimate practice was partially curbed by a further circular issued by NAC in July 2014,[1217] which, pursuant to Articles 19(2-bis) and 22(1) of the Qualification Decree, definitively clarified that minor children born in Italy after the recognition of refugee or subsidiary protection status to their parents are entitled to the same rights, also from the point of view of the right to international protection, as the parent entitled to such protection, until they reach adult age.

The application for the extension of international protection to minor children born after the recognition of international protection to the parent, i.e. the request for the issuance of a residence permit for international protection, must be lodged at the Questura by the parent beneficiary of international protection, who must submit a copy of the original birth certificate of the child and of the decision granting international protection.

C. Movement and mobility

1. Freedom of movement

Refugees, beneficiaries of subsidiary protection, and applicants for international protection, can freely circulate within the Italian territory.[1218] If beneficiaries of international protection are not accommodated in reception centres (by choice, revocation of the reception measures or end of the period of reception foreseen by law), they can settle in the city or town of their choice.

If accommodated in a government reception centre, beneficiaries of international protection could be requested to return to the structure by a certain time in the early evening. More generally, in order not to lose the accommodation, beneficiaries of international protection are not allowed to spend more than a certain amount of days outside of reception structures without authorisation (see Reception Conditions).

1213 Article 6(2) TUI.
1214 Article 31(1) TUI.
1215 Article 19(2-bis) Qualification Decree.
1216 National Asylum Commission, Circular n. 3208 - Extension of refugee status, 23 November 2010, available in Italian at https://bit.ly/3qcW6qo.
1217 National Asylum Commission, Circular 2267 - Beneficiaries of international protection and extension to minor children, 17 July 2014, available in Italian at: https://bit.ly/3wb3AOB.
1218 Pursuant to art. 6(6) TUI, besides what is established in the military laws, the Prefect can prohibit third country nationals from staying in municipalities or in places that interest the military defence of the State. Such prohibition is communicated to third country nationals by the Local Authority of Public Security or by means of public notices. Those who violate the prohibition can be removed by means of public force.

Once and if beneficiaries of international protection obtain a place in a SAI project, they must necessarily accept the place assigned to them, even if it implies moving to another city. If the assigned place is refused, the beneficiary definitively loses the right to be accommodated in a SAI reception centre.

2. Travel documents

Travel documents for beneficiaries of international protection are regulated by Article 24 of the Qualification Decree.

For **refugees**, the provision refers to the 1951 Refugee Convention and states that travel documents (*documenti di viaggio*) issued are valid for 5 years and are renewable. The issuance of travel documents is refused by Questura, or, if already issued, the document is withdrawn, if there are very serious reasons relating to national security and public order that prevent its release. In practice, travel documents are usually issued automatically to beneficiaries of refugee status by Questure.

On 20 December 2018 the Regional Administrative Court of Florence examined a case in which the Questura of Pistoia refused the renewal of the travel document to a Nigerian refugee due to the fact that the latter had never complied with the payment of a pecuniary penalty - established with a sentence of 4 years imprisonment and a fine of 20,000 euros for the crime of drug dealing - and, according to the Questura, pursuant to art. 3 lett. d) of Law 21 November 1967, n. 1185, it is not allowed to issue a passport to those who have not paid a fine established with a sentence. The Court, upholding the appeal, deemed the refusal to renew the travel document illegitimate, considering that refugees have a special status, aimed at the maximum protection of this category of people also through the complete regulation of the case in question of the issue of a travel document, with the consequence of the inapplicability of the aforementioned cause hindering the issue of a passport to the citizen also to the similar issue of a "travel document" to the refugee pursuant to art. 24 of the Qualification Decree. In fact, the Court held that the normal exercise of the State's punitive power and the related need to ensure the effectiveness of the punishment (in this case, however, a pecuniary one) for a common crime, such as drug dealing, cannot be included among the "very serious reasons relating to national security and public order" which can legitimize the refusal to issue the travel document. This could be the case, on the contrary, of subjects convicted or suspected of very serious crimes against the personality of the State or related to terrorism, or, more generally, when the behaviour of the refugee constitutes a real, current and particularly serious threat to a fundamental interest of society or to the internal or external security of the State. Therefore, the provisions of art. 24(3) of the Qualification Decree, in limiting to exceptional cases the refusal to issue a travel permit to a refugee, cannot be subject to corrective interpretations, nor does it seem to require interventions by the Constitutional Court for violation of art. 3 of the Constitution, since this regulatory provision is the implementation by the national legislator of an international obligation (pursuant to art. 117, paragraph 1, of the Constitution) to protect the fundamental rights of refugees.[1219]

On 23 February 2020, the Civil Court of Florence examined the case of a Somali refugee to whom the Questura of Florence did not issue a travel document, opposing a long silence after 2 years from the lodging of the request. The Court upheld the appeal ordering Questura to issue the travel document, after examining passport legislation in the light of the provisions of the 1951 Geneva Convention on refugees, whose art. 28 excludes the issuance of a travel document only for reasons of state security or public order.[1220]

When there are well-founded reasons that do not allow the beneficiary of subsidiary protection to request a passport from the diplomatic authorities of the country of citizenship, the competent Questura issues a travel permit (titolo di viaggio, as opposed to the travel document, documento di viaggio, issued to refugees) to the person concerned. When applying for a travel permit in Questura, beneficiaries of

[1219] Regional Administrative Court of Florence, Decision 34/2018, 20 December 2018, available at: https://bit.ly/3q8LBEH.

[1220] Civil Court of Florence, Decision 13202/2019, 23 February 2020, available at: https://bit.ly/34OdsT1.

subsidiary protection must therefore submit a note or documentation explaining why they cannot apply for or obtain a passport from the authorities of their countries of origin. Beneficiaries of subsidiary protection whose diplomatic or consular authorities are not present in Italy are usually issued a travel permit by Questura.

The administrative procedure aimed at issuing the travel document can be activated upon request of the beneficiary of subsidiary protection (and, as explained below, of the beneficiary of humanitarian/special protection). Questura is required not only to receive the request for the issuance of the travel document but also to assess the request and adopt an express decision on the application.[1221] As for the competence to deal with disputes relating to the failure to issue the travel document for refugees, beneficiaries of subsidiary protection and of humanitarian/special protection alike, although there is no lack of rulings by the ordinary judge (see above, inter alia, the decision of the Regional Administrative Court of Florence), the administrative jurisprudence has affirmed its competence by recalling art. 133, paragraph 1, letter u), of the c.p.a. which attributes to the exclusive jurisdiction of the administrative judge disputes concerning the provisions relating to passports as well as art. 21 of Law 21 November 1967, n. 1185, which also refers to the documents, equivalent to the passport, in favour of foreigners and stateless persons.[1222]

With regard to the prerequisites for the issuance of the travel document, as already mentioned above, it is indisputable that for the beneficiary of subsidiary protection it is sufficient to state the well-founded reasons why he/she cannot apply to the diplomatic representation of his/her country of origin to request the passport, reasons that can be found in the grounds for applying for international protection or in the conduct of the authorities of the country of origin. Beneficiaries of subsidiary protection can thus invoke, inter alia, reasons linked to their status and to their international protection claim to the procedures applied by their embassies or to the lack of documentation requested, such as original identity cards or birth certificates. Evidence, such as a written note from the embassy refusing a passport, is not required but helpful if provided. The Questura usually verifies whether the person concerned in fact is not in possession of these documents, looking at the documents he or she provided during the international protection procedure. In some cases, immigration offices contact the embassies asking for confirmation of the reported procedure. The applicant assumes responsibility, under criminal law, for his or her statements. The Questura can reject the application lodged by beneficiaries of international protection if the reasons adduced are deemed unfounded or not confirmed by embassies. According to the law, if there are reasonable grounds to doubt the identity of the beneficiary of subsidiary protection, the document is refused or withdrawn by Questura. However, the administrative case-law has established that it appears contradictory to attribute a status to a subject and deny the same subject one of the concrete projections of this status (in this case, the travel permit) due to a profile (that of identity) that pertains to the very core of this type of administrative measures considering that in the absence of certainty about the applicant's identity, the Commission could not have granted the requested protection and the Questura issued the relative residence permit.[1223]

Important to note is that, while the travel document issued to refugees is valid for all countries recognized by the Italian State, excluding the country of citizenship of the refugee, Italian law does not prohibit beneficiaries of subsidiary protection from using the Italian travel permit to go back to their country of origin. However, after the 2018 reform each return to the country of origin can cause the starting of a cessation procedure (See Cessation).

For beneficiaries of national protection (either the former humanitarian protection or the current special protection, please consider that for the latter no jurisprudence is available at the moment of writing),

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1221 Regional Administrative Court of Catania, Decision 179/2015, available in Italian at: https://bit.ly/3Ijcs7f.

1222 Regional Administrative Court of Rome, Decision 7390/2014, 30 September 2015, available at: https://bit.ly/3JeiIOR; Regional Administrative Court of Rome, Decision 7768/2011, 2 March 2015, available at: https://bit.ly/3thuPFe.

1223 Regional Administrative Court of Lazio, Decision 11465/2015, 30 September 2015, available at: https://bit.ly/3uoT2sP.

already back in 1961 the Ministry of Foreign Affairs and International Cooperation with Circular n. 48[1224] clarified that third country nationals who do not have the qualification of refugees and who, for various reasons, cannot obtain the passport from the authorities of their country of origin, will be issued a new document, in the shape of a light green booklet, called "Travel permit for third-country nationals". The Ministry further stated that the granting of the document may take place, except in cases of urgent necessity, only after the interested party has proved that he/she is unable to obtain a passport from the authorities of his/her country and that he/she has no pending lawsuits or obligations towards the family. In 2003 the Ministry of Interior,[1225] - following up on clarification requests received by several Questure on the renewal of humanitarian protection residence permits for those who continue to be without a passport or equivalent document or who, although possessing it at the time of the first release, no longer possess it or its validity has expired - underlined that beneficiaries of humanitarian protection are allowed to remain in Italy by reason of their particular objective situation which is connected, on the basis of elements assessed by the Territorial Commissions, to a concrete exposure to risks to personal safety or to the exercise of fundamental personal rights, and that by its very nature, this situation, although not attributable to that of a refugee, often precludes the issuance of a passport by the authorities of the country of origin, also depriving the individual of the right to travel abroad. The Ministry then, recalling that the above-mentioned circular by the Ministry of Foreign Affairs had never been repealed, reiterated to the Questure that the release of travel permits for beneficiaries of national protection has to be granted, adding that otherwise there would be a reduction of the rights recognized to legally residing third-country nationals also in relation to the Italian Constitution.

However, on several instances Questure have practically hindered the issuance of travel permits for beneficiaries of subsidiary protection and national protection through illegitimate practices which have been generally sanctioned by the resulting case-law, as proven by the collected jurisprudence here below.

On 10 October 2019, the Regional Administrative Court of Sardinia accepted an appeal lodged against the refusal of the Questura of Cagliari to issue a travel document to a Malian beneficiary of subsidiary protection, due to alleged doubts concerning his identity. The Court considered the doubts of Questura regarding the applicant's identity unfounded as he had corrected his personal data during the hearing before the competent Territorial Commission.[1226]

The same Regional Administrative Court issued a similar decision on 26 February 2020, again ordering the Questura of Cagliari to issue a travel document to a Malian beneficiary of subsidiary protection who could not get a passport from his embassy and to whom the Questura had denied the issuance of the requested travel permit, despite the submission by the applicant of a statement by the Malian diplomatic authorities attesting the impossibility to issue a passport in Italy, despite having recognized the Malian citizenship of the person concerned. The Court found the prerequisites for the application of article 24 Qualification Decree, considering that for the Italian system the applicant is already the holder of a 'peculiar' residence permit, an identity card, health card and tax code, by virtue of the recognition of subsidiary protection.[1227]

One month earlier, on 31 January 2020 the Civil Court of Brescia censured the Questura of Brescia's refusal to issue a residence permit for subsidiary protection (recognized by the Territorial Commission) due to the applicant's lack of passport. The Court ruled out the possibility that the issuance of a residence permit for subsidiary protection could be conditioned by the possession of a passport. According to the Court, the passport may be relevant if the beneficiary of protection applies for a travel permit, as per art. 24 Qualification Decree, indicating the well-founded reasons for the impossibility of obtaining it from the authorities of the country of origin, but this is a completely different case from the one contemplated in art. 23. The Court, and hereby the relevance of that judgment to the subject matter, also points out that

1224 Ministry of Foreign Affairs and International Cooperation, Circular n. 48 - Travel permit for third-country nationals, 5 March 2004, available at: https://bit.ly/36pZPtU.

1225 Ministry of Interior, Circular n. N.300/C/2003/331/P/12.214.5/1^DIV - On provisions regarding the renewal of residence permits for humanitarian reasons, 24 February 2003, available at: https://bit.ly/3MUe62N.

1226 Regional Administrative Court of Sardinia, interim decision 260/2019, 10 October 2019.

1227 Regional Administrative Court of Sardinia, interim decision 44/2020, 26 February 2020.

the passport cannot be attributed the identification purpose proposed by the Ministry of Justice, since the applicant had already been identified several times during the international protection procedure and has a CUI and Vestanet code, on the basis of the documentation already in possession of the same Questura and of the competent Territorial Commission for the Recognition of International Protection.[1228]

The subject at hand was examined on at least three occasions by the Council of State as well. The Court ruled, on 24 September 2015, on the applicability of art. 24 Qualification Decree also for beneficiaries of humanitarian protection, and affirmed that such provision expressly requires, as a prerequisite for the issue of a travel document for third-country nationals, the existence of well-founded reasons that do not allow the applicant to obtain the passport from the diplomatic authorities of the country of origin. The Council of State established that the beneficiary must indicate the reasons that do not allow him or her to apply for a passport to the diplomatic authorities of his country, because they are not obvious in the case examined, and that in the absence of such reasons, the denial of the travel permit is justified and legitimate on the basis of the legal provisions cited above, which require not only that reasons be given, but also that they appear to be well-founded.[1229]

On 27 February 2020 the Council of State[1230] once again intervened on the subject of travel permits for beneficiaries of humanitarian protection, stating that the constitutionally oriented interpretation of the protection system provided for by the Qualification Decree, entails the extension of the provision set forth in art. 24 of the aforementioned decree even to beneficiaries of humanitarian protection if there are well-founded reasons preventing them from obtaining a passport by the authorities of their countries of origin, as also confirmed by the above-mentioned Circulars of the Ministry of Foreign Affairs and International Cooperation and the Ministry of Interior.

On 27 July 2018, the Council of State examined the case of a Nigerien beneficiary of humanitarian protection who was refused the renewal of the travel permit despite having submitted a written statement of the Embassy of Niger stating that such authority was not authorised to issue the passport. Such case was one deriving from the long-established practice by the Questura of Rome to issue travel permits for beneficiaries of humanitarian protection only once, on the assumption that the travel permit must be used by beneficiaries in order to reach their country of origin in order to obtain the passport. The Court, confirming that the prerequisite of the 'well-founded reasons' was satisfied by the attestation submitted by the applicant, noted that in the case examined the applicant had already obtained a travel document from the Rome Questura on the basis of such reasons. The Court then found that the challenged denial from the Questure was in contradiction with what was previously decided by the same authority.[1231]

D. Housing

Indicators: Housing

1. For how long are beneficiaries entitled to stay in SIPROIMI/SAI? 6 months*
* The reception period in the SAI projects is fixed at 6 months for beneficiaries of international protection. This period can be extended up to one year and in exceptional cases (for example during the COVID-19 emergency or for particularly critical situations) even beyond that period.

2. Number of beneficiaries staying in reception centres as of 31 December 2021: 25,938[1232]

1228 Civil Court of Brescia, Decision 18250/2019, 31 January 2020, available at: https://bit.ly/3u3CyWE.
1229 Council of State, Section III, Decision No 451, 4 February 2016, available in Italian at: http://bit.ly/2k5xcFS.
1230 Council of State, Section III, Decision N. 528, 27 February 2020, available in Italian at: https://bit.ly/34OdsT1.
1231 Council of State, Section III, Decision N. 3552, 27 July 2018, available in Italian at: https://bit.ly/3ie9PZF.
1232 Ministry of Interior, Cruscotto Statistico giornaliero, 31 January 2022, available in Italian at: https://bit.ly/3CPL2ok; the data could also refer to some applicants for international protection accommodated in SAI as since the entry into force of the Decree Law 130/2020 (20 October 2020) applicants are again entitled to access the accommodation system.

As underlined in the reception condition chapter, Decree Law 130/2020 converted into Law 173/2020 has, on paper at least, reformed the reception system back to a single system for asylum seekers and beneficiaries of international and special protection, even if organised in progressive phases. Nevertheless, despite the reform, the SAI system is still conceived and indicated as primarily intended for beneficiaries of international protection and unaccompanied foreign minors. Other foreign nationals can only access SAI in case of available places.[1233] The system remains based on the voluntary adhesion of the municipalities. Even after the reform SAI still does not have enough places to meet the reception needs of all those who are entitled to it.

A possible solution, which ASGI has indicated several times since 2015, is a reform that transfers the administrative functions to manage reception to the Municipalities: this would lead to the gradual absorption of specific services for reception within the social services guaranteed at the territorial level, as part of the related welfare system and, therefore, no longer optional. In this way, the Municipalities could no longer choose, as is the case now, whether to activate a SAI project or not, that is, whether or not to deal with reception services for asylum seekers and refugees: reception would become an integral part of local welfare and minimum levels of assistance could also be established which the Municipalities should adhere to.[1234]

6. Stay in first reception centres and CAS

A protection status does not allow the beneficiary to remain in first reception facilities or CAS. This creates a protection gap in practice, given the scarcity of places in the SAI. Already before the 2018 reform, some Prefectures considered that material conditions may be immediately ceased after the status recognition.

Although depending on the discretionary decisions of the responsible Prefectures and on bureaucratic delays, beneficiaries of international protection, after obtaining protection status, might be allowed to stay in the reception centre a few months or a few days after the notification or until the access to a SAI project.

7. Accommodation in SAI

Following the 2020 reform, accommodation of beneficiaries of international protection is carried out in the SAI system, System of accommodation and integration (*Sistema di accoglienza ed integrazione),* the former SPRAR established by L 189/2002. SAI is a publicly funded network of local authorities and NGOs which accommodates unaccompanied children - under some conditions also after they become adults - (see Reception of Unaccompanied Children), beneficiaries of international protection and, in case of available places, applicants for international protection and people who have obtained some other residence permits for specific reasons (among which beneficiaries of national protection).

Unaccompanied children should have immediate access to SAI. Local authorities can also accommodate in SAI: THB survivors; domestic violence survivors and labour exploitation survivors; persons issued a residence permit for medical treatment, or for natural calamity in the country of origin, or for acts of particular civic value.[1235] Moreover, Decree Law 130/2020 states that local authorities can also accommodate in these facilities applicants for international protection, beneficiaries of special protection,

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1233 Article 1 sexies (1) DL 516/1989 according to which in the SAI system, dedicated to beneficiaries of international protection and unaccompanied minors, municipalities can also accommodate asylum seekers and holders of specified permits to stay.

1234 According to Article 118 of the Italian Constitution, administrative functions are attributed to the municipalities. See ASGI, *Manifeste illegittimita' costituzionali delle nuove norme concernenti permessi di soggiorno per esigenze umanitarie, protezione internazionale, immigrazione e cittadinanza previste dal decreto-legge 4 ottobre 2018*, *n. 113*, 15 October 2018, available in Italian at: https://bit.ly/2W4am3n. For a more detailed analysis, see Gianfranco Schiavone, 'Le Prospettive Di Evoluzione Del Sistema Unico Di Asilo Nell'unione Europea E Il Sistema Di Accoglienza Italiano. Riflessioni Sui Possibili Scenari' in Fondazione Migrantes, *Il diritto d'asilo, minori rifugati e vulnerabili senza voce, Report 2017*, February 2017.

1235 Article 1 sexies (1) DL 416/1989, as amended by DL 130/2020, citing Articles 18, 18-bis, 19(2)(d-bis), 20, 22(12-quater) and 42-bis TUI. The statuses in Articles 20 and 42-bis had been inserted by Decree Law 113/2018.

beneficiaries of special cases protection (former humanitarian protection),[1236] and former unaccompanied minors, who obtained the continuation of assistance.[1237] Access to the SAI is precluded to beneficiaries of special protection who have obtained the permit because subjected to international protection exclusion clauses.[1238]

The SAI system is formed by small reception structures where assistance and integration services are provided. SAI projects are run by local authorities together with civil society actors such as NGOs. According to the Ministry of Interior Decree of 18 November 2019, SAI accommodation centres ensure interpretation and linguistic-cultural mediation services, legal counselling, teaching of the Italian language and access to schools for minors, health assistance, socio-psychological support in particular to vulnerable persons, training, support at providing employment, counselling on the services available at local level to allow integration locally, information on (assisted) voluntary return programmes, as well as information on recreational, sport and cultural activities.[1239] Such Decree,[1240] which includes the Guidelines for the Siproimi system, has not yet been replaced by a new one reflecting the actual new configuration of the SAI.

Decree Law 130/2020 introduced two different levels of services for persons accommodated in SAI projects:

- First level services: applicants for international protection who are accommodated in SAI (before being granted international or special protection) will be able to benefit from "first level" services. First level services include, in addition to material reception services, health care, social and psychological assistance, linguistic-cultural mediation, the teaching of Italian language courses and legal and territorial guidance services.[1241]
- Second level services: only available for beneficiaries of an international or special protection, include support for integration, job research, job orientation and professional training.[1242]

In contrast to the large-scale buildings provided in Governmental centres CPSA (former CARA and CDA) and CAS, according to official data from the SAI network,[1243] as of April 2022, SAI comprised of a total of 848 smaller-scale decentralised projects. The projects funded a total of 35,898 accommodation places.[1244] With a significant increase compared to the 760 projects for a total 30,049 accommodation places existing as of January 2021, and with a slight increase even compared to the 809 projects with 31,284 places that existed at the beginning of 2020. Of the SAI projects currently funded, 28,451 are ordinary places, 6,644 for unaccompanied minors (including 1,506 FAMI places), and 803 for people with mental distress or disabilities.

In 2020, a total of 37,372 people was accommodated (compared to 39,686 in 2019) in 31,324 places (33,625 in 2019). The majority of beneficiaries (83%) were received within ordinary projects, 15.2% in projects for unaccompanied minors and the remaining 1.8% in projects for people with mental distress or disabilities. Despite the fact that the total number of beneficiaries accepted has decreased compared to 2019 (-2,314, or -5.8%), there was a sharp increase in the number of unaccompanied minors accommodated, which reached a total of 5,680[1245]. At the end of the second quarter of 2021, the network for Unaccompanied Minor (MSNA) in the SAI increased from 4,369 to 6,698 places, an increase of 53%,

1236 Ibid, mentioning Articles 1 (9) DL 113/2018 (special cases); Article 19, (1, 1.1) TUI, amended by DL 130/2020, special protection.
1237 Article 1 sexies (1 bis) DL 416/1989, introduced by DL 130/2020.
1238 Articles 10(2), 12 (1) (b) and (c) and 16 of the Qualification Decree; Article 1 sexies (1) (a) DL 416/1989, as amended by DL 130/2020.
1239 Article 34 MoI Decree 18 November 2019.
1240 Decree of the Ministry of Interior, 18 November 2019, published on 18 November 2019 on Gazzetta Ufficiale, available in Italian at: https://cutt.ly/ayPqqeE.
1241 Article 1 sexies (2 bis, a) DL 416/1989, introduced by DL 130/2020.
1242 Article 1 sexies (2 bis) DL 416/1989, introduced by DL 130/2020.
1243 Sistema Accoglienza e Integrazione (SAI), The numbers of SAI, available in Italian at : https://bit.ly/3tiYZbf.
1244 Ibid.
1245 Sistema Accoglienza e integrazione (SAI), Annual report SIPROIMI/SAI, May 2021, available in Italian at: https://bit.ly/3CMXvJu.

hitting a total maximum capacity never reached before. During this period there was also an expansion of 174 places (14 projects) for people with mental distress or disabilities.[1246]

The Moi Decree of 18 November 2019 establishes that reception in the SAI system lasts six months.[1247]

Only in some cases, indicated by the Decree, reception conditions may be extended for a further six months, with adequate motivation and with prior authorization from the competent Prefecture. In particular, the decree allows the extension for the conclusion of integration paths, or for extraordinary circumstances related to health reasons. Furthermore, the extension of six months could be authorised in case of vulnerabilities, as indicated in Article 17 of the Reception decree. In this case the request for extension must contain the explicit indication and evidence of the vulnerability.

A further six months could be granted in case of persistent serious health reasons or to allow the completion of the school year.[1248]

Decree Law 130/2020 does not specifically regulate the duration of the reception in the SAI. However, it states that at the expiry of the period of stay, all the people accommodated are included in further integration paths for which the competent municipalities are responsible within the limits of human, instrumental and financial available resources.[1249] Despite this, the Annual Report of the Sprar/Siproimi reception system shows that refugees who are accommodated in Sprar/Siproimi facilities face many obstacles in achieving housing autonomy. In particular, in 2018, less than 5% of the people accommodated within the Sprar/ Siproimi system benefited from an accommodation subsidy when their time in the system came to an end, and less than 1% was supported with lease procedures as they left reception facilities.[1250]

According to the SAI report published in 2021, beneficiaries who left SAI facilities in 2020 were 14,280. Out of the total number, less than the half (45,0%) choose to leave the project, while the 49,4% had to leave because of the expiring date of the accommodation path.[1251]

More in detail, with regard to beneficiaries of international protection, the National Plan drawn up by the National Coordination Table set up at the Ministry of the Interior - Department for Civil Liberties e immigration,[1252] identifies interventions about:

- linguistic training aimed at the knowledge of Italian language at least at A1 level;
- knowledge of the fundamental rights and duties enshrined in the Constitution of the Italian Republic;
- orientation to essential public services;
- orientation to job placement.[1253]

Even though the accommodation system should be considered as a unique system, the withdrawal of reception conditions governed by the Accommodation Decree only refers to first reception facilities.

The MoI Decree also dictates specific rules for the withdrawal of reception conditions which could be ordered in the event of:
a) serious or repeated violation of the house rules, including damages to the facilities or serious and violent behaviour;
b) unjustified failure to report to the facility identified by the SAI Central Service;

1246 Associazione NAGA, More outside than inside - The new reception system for asylum seekers and refugees and the condition of those who remain outside it. A qualitative investigation, December 2021, available in Italian at: https://bit.ly/35Z7saU.
1247 Article 38 MoI Decree 18 November 2019.
1248 Article 39 MoI Decree 18 November 2019.
1249 Article 5 (1) Decree Law 130/2020 converted by L 173/2020.
1250 UNHCR, ASGI and SUNIA, The refugee house - Guide to housing autonomy for beneficiaries of international protection in Italy, February 2021, available at: https://bit.ly/3weRsMl.
1251 Rapporto Sai Siproimi 2021, available at: https://bit.ly/3k6tFXW, 55.
1252 According to Article 29 (3) of the Qualification Decree.
1253 Article 5 (2) Decree Law 130/2020 converted by L 173/2020.

c) unjustified abandonment of the facility for over 72 hours, without prior authorization from the Prefecture;
d) application of the measure of pre-trial detention in prison for the beneficiary.

The withdrawal of the reception measures is ordered by the responsible Prefecture.[1254]

Article 14 of Decree Law 130/2020 sets a financial invariance clause for all the changes made by the decree and, for what concerns the SAI, it states that this also applies to any increase in places in the related projects.
Furthermore, the Decree provides that financial invariance is also ensured, where necessary, through compensatory variations in the Ministry of the Interior's budget dedicated to the management of migratory flows.[1255] As observed by some studies,[1256] this clause makes it unlikely that the SAI will actually be able to accommodate the categories of people, including applicants for international protection, to whom the decree gives the right to access the SAI system.

Due to the exceptional reception needs resulting from the political crisis in Afghanistan, art. 7 of Law Decree no. 139 of October 8, 2021 provided for an increase in the financial allocation to the National Fund for Asylum Policies and Services corresponding to 11,335,320 euros for the year 2021 and 44,971,650 euros for each of the years 2022 and 2023, in order to increase the SAI network by 3,000 places for the ordinary category.[1257]

In December 2021, 2,000 additional SAI places were activated, to meet accommodation needs of Afghan asylum seekers.[1258]

Later, DL 16 of 28 February 2022,[1259] later transposed into DL 14/2022 converted with modification by L 28/2022, established the *ad hoc* expansion of 3,000 SAI places and the possibility for people escaped from Ukrainian's war to access the SAI places already activated for Afghans.[1260]

In order to speed up the activation of SAI places to face the need of accommodation due to the war in Ukraine, the derogation from the direct assignment procedures envisaged by the public contracts code is envisaged.[1261]

8. Access to public housing

From the point of view of international and supranational law, the issue of housing is of particular importance. Art. 21 of the Convention on the Status of Refugees states that "As regards housing, the Contracting States, in so far as the matter is regulated by law or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances". Therefore, according to the Convention, refugees must enjoy the most favourable treatment possible when accessing housing, in a manner that is not, in any case, disadvantageous compared to other foreigners. The law of the European Union is also in line with the Convention: in fact,

1254 Article 40 MoI Decree 18 November 2019.
1255 Article 14 (3) Decree Law 130/2020 converted by L 173/2020.
1256 See Francesca Biondi Dal Monte, I percorsi di accoglienza e integrazione e il loro finanziamento, in Immigrazione, protezione internazionale e misure penali, commento al decreto legge 130/2020, conv. In L 173/2020, Pacini Giuridica.
1257 Ministero dell'Interno, Published the funding decree for additional SAI network projects, 21 December 2021, available in Italian at: https://bit.ly/37sGF6W. Places increased by Article 7 (1) DL 139/2021, converted into L 205/2021, as modified by Article 5 quater (5) DL 14/2022 converted into L 28/2022
1258 2,000 places according to Article 3(4) DL 16/2022, modifyng Article 1 (390) L 234/2021, later transposed in DL 14/2022 as modified by Article 5 quater (6) DL 14/2022 converted into L 28/2022.
1259 DL 16/2022, Article 3, then repealed and transfused in the DL 14/2022, Article 5 quater as modified by the conversion Law n. 28 of 5 April 2022, without prejudice to all effects, acts and measures adopted in the meantime on the base of DL 16/2022.
1260 Article 5 quater DL 14/2022 converted with modifications into L 28/2022.
1261 Ordinance of the Head of the Civil Protection no. 872 of 4 March 2022, Article 8, available at: https://bit.ly/3k7njY2.

art. 32 of EU Directive 95/2011 provides for the principle of equal treatment in access to housing between beneficiaries of international protection and third countries citizens who are legally residing in their territories.

National legislation on this subject is even clearer: art. 29 paragraph 3-ter of Legislative Decree 19 November 2007, n. 251, provides that "Access to housing benefits provided for in Article 40, paragraph 6, of Legislative Decree 25 July 1998, no. 286, is open to beneficiaries of refugee status and of subsidiary protection, on equal terms with Italian citizens". The right to access housing support measures is therefore among those rights for which the Italian legal system provides for equal treatment between refugees and Italian citizens.[1262]

Consistent with the relevance of the issue, housing integration is addressed by the National Integration Plan for beneficiaries of international protection, the most important institutional policy document on the issue of refugee integration in recent years, published by the Ministry of the Interior in 2017. This document identifies access to housing as one of the priority interventions.[1263]

However, some structural characteristics of the Italian housing system make it not particularly responsive to the needs of beneficiaries of international protection. First of all, the share of public housing appears to be low: in the last thirty years, public housing has steadily represented between 5 and 6% of the overall housing market. In absolute terms, the public housing stock is estimated at around 800,000 units, with a capacity of nearly two million people, with 650,000 applications pending housing allocation in municipal rankings. Furthermore, in many cases the criteria for the allocation of public housing is disadvantageous for many immigrants, even when they have a very low income, as a minimum seniority of residence is required: this criterion can exclude all those beneficiaries of international protection who have been residing in Italy for a shorter time.[1264]

In Italy, people with no income or with an income that does not allow them to buy a house or to pay rent can ask their Municipality to access publicly owned housing (commonly called "social housing"), within Public Residential Housing (“Edilizia Residenziale Pubblica”, or ERP). Regions have the power to issue laws that regulate access criteria and distribution of economic resources. Municipalities are responsible for issuing calls for tenders for the submission of access applications and for selecting people to whom housing is assigned.[1265]

The possibility of competing for the allocation of housing is given to Italian citizens, citizens of an EU member state, as well as foreign citizens legally residing in Italy, either with an EU residence permit for long-term residents or with a two-year permit at least. Beneficiaries of international protection are treated on the same footing as Italian citizens regarding access to public housing: they can always apply and they cannot be asked to meet additional or different requirements than those provided for Italian citizens. Application requirements vary among Regions, and sometimes even among Municipalities within the same Region. Some Regions have specific scores for refugees. In general terms, criteria can be: maximum income (normally measured through ISEE), non-ownership of housing, residence in the Municipality where the application is submitted, no previous allocation of public residential housing, no illegal occupations.[1266]

1262 Article 29 Qualification Decree; Article 40(6) TUI; UNHCR, ASGI and SUNIA, The refugee house - Guide to housing autonomy for beneficiaries of international protection in Italy, February 2021, available at: https://bit.ly/3weRsMl.

1263 Ministry of the Interior, National Integration Plan for beneficiaries of international protection, 2017, available at: https://bit.ly/34PTS99.

1264 Colombo, F., Housing autonomy of applicants and beneficiaries of international protection in Italy, University of Urbino Carlo Bo, DESP - Department of Economics, Society, Politics, 2019, available at: https://bit.ly/3ifGKgz.

1265 UNHCR, ASGI and SUNIA, The refugee house - Guide to housing autonomy for beneficiaries of international protection in Italy, February 2021, available at: https://bit.ly/3weRsMl.

1266 UNHCR, ASGI and SUNIA, The refugee house - Guide to housing autonomy for beneficiaries of international protection in Italy, February 2021, available at: https://bit.ly/3weRsMl.

When calls to access residential housing, published by locally responsible Municipalities, are closed, applications duly complying with the call's requirements are given scores for ranking purposes. The methods of giving scores vary depending on Regions and Municipalities. Scores can be attributed for income, family composition, seniority of residence, overcrowding, cohabitation with other families, presence of severely disabled persons within the family, inadequate or unhygienic accommodation, expulsion or eviction decisions, and newly-formed family units. The Municipality publishes the provisional ranking with the indication of the deadline by which any appeals can be filed for scoring mistakes. The final ranking is then published, and available accommodation is assigned on its basis.[1267]

Numerous regional laws provide that only those individuals who do not own a property in any country in the world or, at least, in their country of origin can access public housing. This limitation entails discrimination to the extent that the Region (or the Municipality) only asks non-EU citizens for documents issued by a competent authority in the country of origin to certify the absence of real estate in that country. In any case, beneficiaries of international protection cannot contact the authorities in their countries, so they are not required to provide evidence regarding real estate property in the country of origin.[1268]

The procedure to access social housing is regulated by regional provisions and Municipalities' administrative acts. Among the documents necessary to access the application procedure, some Regions require documents translated and certified by the Italian Embassy, attesting the absence of real estate properties abroad or in the country of origin. Beneficiaries of international protection cannot be asked for this documentation, as stateless citizens or political refugees are treated on equal footing with Italian citizens. This means that, for the purposes of assessing their economic circumstances, there is no need to submit declarations issued by Embassies or Consulates, since only income and assets potentially held in Italy must be taken into account and, if existent, be self-certified, as is required of Italian citizens. In any case, two judgments of the Court of Milan in 2020 established that requesting the above documents to all non-EU citizens is discriminatory. •As a further requirement to access the public housing application procedure, some Regions and Municipalities require prolonged residence or work activity in the area for a few years. The regional law of Lombardy, which required 5 years of residence and was particularly disadvantageous for foreign citizens, was declared unlawful by the Constitutional Court, and therefore repealed. Moreover, with judgement no. 9/2021, the Constitutional Court established that the seniority of residence cannot be included among the criteria for attributing a higher score for the assignment of public housing because it does not determine a condition of greater need.[1269] In the same judgement, the Constitutional Court also declared that the requirement of legalised documents attesting the absence of real estate properties abroad or in the country of origin represent a discriminatory provision, contrary to Article 3 of the Italian Constitution.

E. Employment and education

1. Access to the labour market

The residence permit issued to refugees and beneficiaries of subsidiary protection enables them to have access to work and to public employment, with the only admitted limitation being positions involving the exercise of public authority or responsibility for safeguarding the general interests of the State. However, the Code of Navigation establishes that the enrolment of cadets, students and trainees is reserved only for EU or Italian citizens, a rule that appears discriminatory.[1270]

Beneficiaries are entitled to the same treatment as Italian citizens with regard to employment, self-employment, registration with professional associations, professional training, including refresher courses, on-the-job training and services provided by employment centres.

1267 Ibid.
1268 Ibid.
1269 Ibid.
1270 Article 119 Navigation Code.

According to the law, the Prefects, in agreement with the Municipalities, promote initiatives for the voluntary involvement of applicants and beneficiaries of international protection in activities of social utility in favour of local communities. The activities are unpaid and financed by EU funds.[1271]

Decree Law 21/2022 provided for a derogation from the discipline of the recognition of professional health qualifications, stating that public or private health structures can hire with fixed-term contracts Ukrainian doctors, nurses and OSS resident in Ukraine before 24 February 2022 and in possession of the European Qualifications Passport for Refugees.[1272]

A research based on 17 interviews to beneficiaries of international protection in Italy out of the reception system, shows possibilities in obtaining a job and sometimes even in keeping it depends less from the quantity and quality of previous skills, from diplomas, internship or apprenticeship certificates than from friendships, social networks and - from the beginning - on the weight of economic obligations towards the family. Those who feel that the obligations towards families are very pressing leads to take advantage of the social networks that can be immediately activated in order to get a job in the shortest possible time. For these subjects, accommodation is experienced as an impediment or a useful support strictly necessary to be able to move in search of a job. A constant of those who find themselves in this situation seems to be that of not building networks with the natives and not having an interest in learning Italian. The need for a quick job leads them to search within “community” networks, for compatriots in the city, or between migrants and refugees, often known in Libya or in the reception facility. Often, they accept informal work in the countryside or to sale goods illegally in the main cities, or even move to other European countries in search of better opportunities (such as Spain, France, Sweden, Germany, Malta, etc.). Instead, for those who have a lower need for economic restitution, because younger people, without wife or children, a social path built also through networks of indigenous people internships, even if with little income, or social contacts also through sport activities become important. However, the research shows that this does not mean that those who adhere to this model necessarily want to stay in Italy. Indeed, only one person claims to be a possibilist; all the others argue that they will move back to their home country.[1273]

2. Access to education

According to the law, minors present in Italy have the right to education regardless of their legal status. They are subject to compulsory education and they are enrolled in Italian schools under the conditions provided for Italian minors. Enrolment may be requested at any time during the school year.[1274]

The law distinguishes between minors under the age of 16 and over 16.

- Minors under 16 are subject to compulsory education and they are enrolled in a grade corresponding to their actual age. Taking into account the curriculum followed by the pupil in the country of origin and his or her skills, the Teachers’ Board can decide otherwise, providing the assignment to the class immediately below or above the one corresponding to the minor’s age.[1275]
- Minors over 16 and no longer subject to compulsory education are enrolled if they prove proper self-preparation on the entire prescribed programme for the class they wish to follow.[1276]

Current legislation does not allow the establishment of special classes for foreign students and the Circular of the Ministry of Education of 8 January 2010 maintains that the number of non-nationals in school classes should be limited to 30%.

1271 Article 22-bis Reception Decree, as amended by Article 8 Decree Law 13/2017 and L 46/2017, amended by L 173/2020 in order to include asylum seekers.
1272 Article 34 DL 21 of 21 March 2022.
1273 Rapporto di ricerca "Rifugiati al lavoro - Quali reti? Quali politiche?", IRES Piemonte, December 2021, available at: https://bit.ly/3MBXhZg.
1274 Article 38 TUI; Article 45 PD 394/1999.
1275 Article 45(2) PD 394/1999.
1276 Article 192(3) LD 297/1994.

Schools are not obliged to provide specific language support for non-national students but, according to the law, the Teachers' Board defines, in relation to the level of competence of foreign students, the necessary adaptation of curricula and can adopt specific individualised or group interventions to facilitate learning of the Italian language.

As underlined by the Ministry of Education in guidelines issued in February 2014, special attention should be paid to Italian language labs. The Ministry observes that an effective intervention should provide about 8-10 hours per week dedicated to Italian language labs (about 2 hours per day) for a duration of 3-4 months.[1277]

The Qualification Decree also specifies that minors holding refugee status or subsidiary protection status have access to education of all levels, under the same procedures provided for Italian citizens,[1278] while adult beneficiaries have the right of access to education under the conditions provided for the other third-country nationals.

International protection beneficiaries can require the recognition of the equivalence of the education qualifications.

Paragraph 3-bis of Art. 26 of the Qualification Decree provides that: "to recognize professional qualifications, diplomas, certificates and other qualifications obtained by refugees or beneficiaries of subsidiary protection abroad, competent authorities shall identify appropriate systems of assessment, validation and accreditation allowing for the recognition of qualifications under Art. 49 of Decree of the President of the Republic No. 394 of 31 August, 1999, even when the country where the degree was obtained will not issue a certification, provided that the person concerned will prove his/her impossibility to acquire such certification".[1279]

The General Direction for students, development and higher education internationalization of the Ministry for Education, University and Research, inside its "Procedures for entry, residency and enrolment of international students and the respective recognition of qualifications, for higher education courses in Italy" has invited Italian higher education institutions to "recognise cycles and periods of study conducted abroad and foreign study qualifications, with a view to entering higher education, proceeding with university studies and obtaining Italian university qualifications (Art. 2 Law 148/2002)" and "to make all necessary efforts to introduce internal procedures and mechanisms to evaluate refugee and subsidiary protection holder qualifications, even in cases where all or part of the relative documents certifying the qualifications are missing".[1280]

Despite the above mentioned normative having the potential to have a significant and positive impact on the integration of beneficiaries of international protection, until recently such provision has been implemented only on an occasional basis, mostly by single universities that have autonomously recognized qualifications even in the absence of original certificates.

In 2017, the Council of Europe launched the European Qualifications Passport for Refugees (EQPR) through a pilot project involving four countries, including Italy, as well as the UNHCR. The purpose of the EQPR is to provide a methodology for assessing refugees' qualifications even when these cannot be fully documented and to have the assessment accepted across borders. It provides an assessment of higher education qualifications based on available documentation and a structured interview. It also presents information on the applicant's work experience and language proficiency. The document provides reliable information for integration and progression towards employment and admission to further studies. In Italy, the EQPR has been used mainly as an instrument for access to higher education, giving refugees with

1277 For more information, see ASGI, *Minori stranieri e diritto all'istruzione e alla formazione professionale. Sintesi della normativa vigente e delle indicazioni ministeriali*, ASGI, March 2014, available at http://bit.ly/2kHi5Sf.
1278 Article 26 Qualification Decree.
1279 Article 26 Qualification Decree.
1280 Information Centre on Academic Mobility and Equivalence (Cimea), Recognition of qualifications held by refugees, available at: https://bit.ly/3Ijdxfj.

adequate qualifications the possibility to enrol in academic programmes. So far, 143 interviews have been conducted and 49 EQPR holders are studying at Italian higher education institutions. This has been made possible thanks to a systemic approach, with the support of the Ministry of University and Research, the coordination of CIMEA (the Italian ENIC), and the active involvement of 34 higher education institutions in the National Coordination for the Evaluation of Refugee Qualifications (CNVQR). Since 2020, the EQPR was accepted among the documents allowing holders to apply for the university scholarships offered to refugees or international protection holders managed by the Conference of Italian University Rectors (CRUI) with the Italian Ministry of the Interior and the National Association of the bodies for the right to higher education (ANDISU). CRUI received 207 applications, and 96 out of the 100 scholarships available were awarded to students now enrolled in Italian universities. Of these, 11 are EQPR holders.[1281]

F. Social welfare

Article 27 of the Qualification Decree specifies that beneficiaries of international protection are entitled to equal treatment with Italian citizens in the area of health care and social security.[1282]

Social security contributions in Italy are mainly provided by the National Institute of Social Security (*Istituto Nazionale di Previdenza Sociale*, INPS), the National Institute for Insurance against Accidents at Work (*Istituto Nazionale Assicurazione Infortuni sul Lavoro*, INAIL), municipalities and regions.

The provision of social welfare is not conditioned on residence in a specific region but in some cases is subject to a minimum residence requirement on the national territory. This is namely the case for income support (*Reddito di Cittadinanza*), to be paid from 1 April 2019, which is subject to 10 years of residence on the national territory out of which at least 2 years' uninterrupted residence.[1283]

This can entail serious obstacles for beneficiaries of international protection in practice, due to the difficulties in obtaining housing after leaving the reception system.

G. Health care

Article 27 of the Qualification Decree specifies that beneficiaries of international protection are entitled to equal treatment with Italian citizens in the area of health care and social security.

Like asylum seekers, beneficiaries of international protection have to register with the National Health Service.[1284] They have equal treatment and full equality of rights and duties as Italian nationals concerning the obligation to pay contributions and the assistance provided in Italy by the National Health Service.

Registration is valid for the duration of the residence permit and it does not expire in the renewal phase of the residence permit.[1285] As highlighted by MSF in March 2016, problems related to the lack of accommodation and to the lack of a domicile for beneficiaries of international protection also affect the exercise of their right to medical assistance, as the renewal of the health card depends on the renewal of the permit of stay and many health services (such as the choice of a general doctor) are connected with the place of domicile given for the renewal of the residence permit.[1286]

1281 University World News, Opening up education opportunities for refugee scholars, 27 March 2021, available at: https://bit.ly/363MZBD; Council of Europe (CoE), European Qualifications Passport for Refugees, https://www.coe.int/en/web/education/recognition-of-refugees-qualifications; ASGI, Recognition of academic and employment qualifications of refugees, 27 January 2020, available at: https://bit.ly/3u3DFpi.

1282 Article 27 Qualification Decree.

1283 Article 2(1)(a)(2) Decree Law 4/2019.

1284 Article 34 TUI; Article 16 PD 21/2015; Article 21 Reception Decree.

1285 Article 42 PD 394/1999.

1286 MSF, *Fuori campo: Richiedenti asilo e rifugiati in Italia: insediamenti informali e marginalità sociale*, March 2016, available in Italian at: http://bit.ly/1S5IHGh.

Beneficiaries of international protection enjoy equal treatment with Italian citizens in the COVID-19 vaccination scheme.

1. Contribution to health spending

Beneficiaries of international protection and national protection (humanitarian/special), as applicants for international protection, are obliged to register with the National Health Service and are entitled to equal treatment and full equality of rights and duties compared to Italian citizens both with regard to the obligation to contribute and to the assistance provided in Italy by the NHS and its temporal validity (art. 34 of TUI). On the subject of exemption, of particular relevance is what is provided for by art. 17(4) of the Reception Conditions Directive, transposed in Italy by the Reception Decree, pursuant to which "member States may oblige applicants to bear or contribute to the costs of the material reception conditions and health care provided for in this Directive, if the applicants have sufficient resources, for example where they have been employed for a reasonable period of time." Despite this, access to health care for beneficiaries of international protection varies greatly across regions. The main differences and difficulties are found with reference to the exemption from the cost-sharing of healthcare costs. Only some regions, including Friuli-Venezia Giulia and Puglia, currently extend the exemption until the beneficiaries of international and national protection actually find a job.[1287]

On April 18, 2016, ASGI and other NGOs sent a letter to the Ministry of Health, asking it to implement Article 17(4) of the recast Reception Conditions Directive, according to which applicants for international protection may be required to contribute to health care costs only if they have sufficient resources, i.e., if they have worked for a reasonable period of time. ASGI also asked the Ministry to consider that, following the adoption of DL 150/2015 for the granting of the right to exemption from participation in health care costs, distinctions can no longer be made between the unemployed and the inactive. On May 9, 2016, the Ministry of Health responded that it had engaged the Ministry of the Economy and the Ministry of Labour and Social Policies in order to obtain a uniform interpretation of these regulations.[1288]

While waiting for the Government to take an official position on the matter, the right to exemption from healthcare spending for unemployed refugees has also been recognized by the Court of Rome, which, on February 17, 2017, ruled on an appeal lodged by an ASGI lawyer for a refugee woman whose request for exemption was refused by the local health authorities because she was considered inactive and not unemployed".[1289]

In 2018, the Civil Court of Rome confirmed the previous decision and accepted the appeal lodged by a Sudanese citizen in subsidiary protection, reaffirming the right to exemption from the "health ticket" for people without work and without income.[1290]

In a judgment of October 22, 2018, the Court of Appeal of Milan upheld the appeal, stating that for the law it is not possible to make any distinction between those who have already had a job and lost it (unemployed) and those who have never had it such as, for example, asylum seekers and refugees (inactive).[1291] The Civil Court of Brescia ruled on July 31, 2018 in a similar manner.[1292]

In 2019 and 2020, again in response to the illegitimate practice of the ASLs of refusing the exemption to beneficiaries of international and national protection, the jurisprudence unanimously reiterated that the

1287 SAI and ASGI, Legal Handbook for Workers - International protection and other forms of protection, July 2019, available at: https://bit.ly/3u0wRZA.
1288 Article 19 LD 150/2015 states that “unemployed” are workers who declare, in electronic form, their immediate availability to exercise work activities.
1289 Civil Court of Rome, Decision 33627/16, 17 February 2017, available at: http://bit.ly/2nIv0HF.
1290 Civil Court of Rome, Decision 5034/2018, 13 June 2018.
1291 Court of Appeal of Milan, Decision 1626/2018, 22 October 2018, available at: https://bit.ly/2uTd5kx.
1292 Civil Court of Brescia, Order 5185/2018, 31 July 2018, available in Italian at: https://bit.ly/2GdgbVJ.

distinction between inactive and unemployed is not applicable for purposes of accessing health care services.[1293]

2. Specialised treatment

To implement Article 27(1-bis) of the Qualification Decree, the Ministry of Health published on 22 March 2017 the Guidelines for the planning of assistance and rehabilitation as well as for treatment of psychological disorders of refugees and beneficiaries of international protection victims of torture, rape or other serious forms of psychological, physical or sexual violence.[1294] The Guidelines explicitly specify that also applicants for international protection are entitled to specialised assistance and rehabilitation.

The Guidelines emphasise the importance of early identification of these vulnerable cases in order to provide probative support for the application for international protection, to direct the person to appropriate reception facilities and towards a path of protection even after that international protection has been granted, but also to provide for rehabilitation and assistance. According to the guidelines, the recognition of a traumatic experience is the first step towards rehabilitation. The work of multidisciplinary teams and the synergy of local health services with all those who, for various reasons, come into contact with beneficiaries of international protection or applicants for international protection - reception operators, educators, lawyers - is considered crucial in these cases.

The Guidelines highlight the importance of early detection of such vulnerable cases in order to provide probative support for the international protection application, to direct the person to appropriate reception facilities and to a path of protection even after the grant of protection, but also to provide for rehabilitation itself. According to the Guidelines, the recognition of a traumatic experience is the first step for rehabilitation. The work of multidisciplinary teams and the synergy of local health services with all those who in various ways come into contact with protection holders or asylum seekers – reception operators, educators, lawyers – is deemed decisive in these cases.

According to the Guidelines, the medical certification, to be understood not as a merely technical act but as the result of a network collaboration, must follow the standards set out by the Istanbul Protocol and maintain maximum impartiality, assessing the consistency of the person's statements with the examination findings without expressing any judgment on the truthfulness of the individual's narrative. The Guidelines also propose templates of health certificates to be adopted in cases of torture, trauma, psychiatric or psychological disorders and propose the use of the final formulas suggested by the Istanbul Protocol: evaluation of non-compatibility, compatibility, high compatibility, typicality, specificity.

Five years after the guidelines' publication, the required activation by each local health authority of a multidisciplinary therapeutic and assistance program - the cornerstone of the assistance and rehabilitation of torture victims - has, however, remained a dead letter: the few services that already existed have barely managed to continue operating, and little to no new ones have been created.

1293 Court of Appeal of Venice, Decision 15/2020 of 27 April 2020; Civil Court of Milan, Decision 5688/2019, 18 July 2019, available in Italian at: https://bit.ly/34SqYFm; Civil Court of Milan, Decision 3568/2019, 21 May 2019, available in Italian at: https://bit.ly/3u4mcNA.

1294 Ministry of Health, Linee guida per la programmazione degli interventi di assistenza e riabilitazione nonché per il trattamento dei disturbi psichici dei titolari dello status di rifugiato e dello status di protezione sussidiaria che hanno subito torture, stupri o altre forme gravi di violenza psicologica, fisica o sessuale, 22 March 2017, available in Italian at: http://bit.ly/2EaINAY.

ANNEX I – Transposition of the CEAS in national legislation

The following section contains an overview of incompatibilities in transposition of the CEAS in national legislation:

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
Directive 2011/95/EU Recast Qualification Directive	Article 16	Article 15 (2 - ter) Qualification Decree	According to Article 15 (2 ter) any return to the country of origin is relevant for cessation of subsidiary protection, if not justified by serious and proven reasons. This relevance is not accorded by the Recast Qualification Directive
Directive 2013/32/EU Recast Asylum Procedures Directive	Article 40	Article 29 bis Procedure Decree	Article 29 bis allows to automatically avoid the exam of the subsequent asylum application in cases not included in the Procedures Directive
	Article 41 and Article 46 (5) (6) and (8)	Article 35 bis (5) Procedure Decree	Need to leave the national territory after inadmissibility decision issued on a first subsequent application: Article 41 of Directive 2013/32 / EU does not include this hypothesis in cases where it is not possible to await on the national territory the judge's decision on the suspension request. Article 46 states the right to an effective remedy does not exclude the right to await the decision on the request for suspension in these cases.
	Articles 43 and 31 (8)	Article 28 bis (1 ter) Procedure Decree	Border procedure: the attempt to evade border controls is not included in the acceleration grounds laid down in Article 31(8) of the Directive which could lead to the application of a border procedure. Also, the requirement of Article 43 of the Directive to allow the applicant to enter the territory if the determining authority has not taken a decision within 4 weeks has not been incorporated in the Procedure Decree. In case of asylum seekers coming from a safe country of origin, the decision rejecting the application is based on the fact that the person concerned has not shown that there are serious reasons to believe that the designated safe country of origin is not safe in relation to his or her particular situation. The law allows TC not to motivate the reasons of rejections but to only refer to the country of origin

	Article 11 (2)	Article 9(2-bis) Procedure Decree	
Directive 2013/33/EU Recast Reception Conditions Directive	Article 20 (1) Article 20 (4) Article 20 (5) and (6) Article 8 (1) and (3)	Article 23 Reception Decree Article 6 (3 bis) Reception Decree	The law only provides for the withdrawal of reception conditions without any progression and proportion to the contested behaviour. Moreover, the law provides for the withdrawal of reception conditions even in case of violation of the house rules while Article 20(4) of the Directive does not allow the withdrawal of reception conditions in these cases Also, the Italian law does not oblige authorities to ascertain, before issuing the withdrawal decision, that the asylum seeker can maintain dignified standards of living (Article 20 (5) of the Directive) The law allowing detention of asylum seekers for identification purposes does not specify in which cases the need for identification arises, thus linking detention not to the conduct of the applicant but to an objective circumstance such as the lack of identity documents. According to ASGI, the new detention ground represents a violation of the prohibition on detention of asylum seekers for the sole purpose of examining their application under Article 8(1) of the recast Reception Conditions Directive. Also, it seems to violate Article 8(3) of the recast Reception Conditions Directive, according to which the grounds for detention shall be laid down in national law.
Regulation (EU) No 604/2013 Dublin III Regulation	Article 28	-	Asylum seekers cannot be detained for the purpose of Dublin transfers