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**Stakeholder Submission to the United Nations Office of the High Commissioner for Human Rights**  
***Universal Periodic Review – Italy***  
*Fourth Cycle*

**Eroding Protection while Obstructing Search and Rescue at Sea: The Impact of Italy's New  
Legislation on the Health and Fundamental Rights of Migrants**

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Médecins Sans Frontières (MSF) is an international, independent medical humanitarian organization providing medical assistance to people affected by conflict, epidemics, disasters, or exclusion from healthcare. Our teams are made up of tens of thousands of health professionals, logistic and administrative staff - most of them hired locally. Our actions are guided by medical ethics and the principles of impartiality, independence and neutrality.

## I. Background

1. Since the last Universal Periodic Review of Italy, migration laws and policies in the country have shifted towards an increasingly restrictive and emergency-based approach. These changes have focused on criminalizing migration, externalizing borders control, and dismantling protection mechanisms.
2. Médecins Sans Frontières (MSF) medical and humanitarian organization operating in Italy, in particular with a project for Survivors of Torture (SoT) in Palermo and with Search and Rescue operations in the Central Mediterranean area, has been witnessing the impact that the new legislation and policies have had on migrants, including SoTs, as well as on non-governmental organizations conducting search and rescue (SAR) operations. Since the last Review, MSF has documented that Italy's weakening of protection and reception responses, along with the criminalization and obstruction of SAR operations, has harmed migrants' health and fundamental human rights, including their right to seek protection.
3. Despite Italy's commitment during the last UPR cycle to "continue review[ing] and assess[ing] its immigration laws and policies to ensure that the rights of migrants are fully safeguarded, in accordance with international human rights standards"<sup>i</sup>, MSF along with other organizations observed that the country has instead regressed. The latest revision of immigration laws and policies represent a setback in the fundamental rights situation, with Italy failing to uphold its obligation to protect and assist migrants in need, including asylum seekers, refugees, and those in danger at sea<sup>ii</sup>. Furthermore, the tightening of measures on migration have been guided and endorsed by European Union institutions, whose policies have equally shifted towards deterrence and containment, in contradiction to recommendation no. 148.292 raised during the third Universal Periodic Review and explicitly accepted by Italy<sup>iii</sup>.
4. In respect to the latest developments in national legislation, MSF has identified three major issues of concern. First, the right to seek asylum and protection has been progressively eroded while migrants are increasingly exposed to the risk of *refoulement*, as the scope of protection has been reduced and accelerated border procedures are becoming the norm, a trend further emphasized by the adoption of decree-law no. 20 of 10 March 2023 passed into law no. 50 of 5 May 2023. Secondly, building on the Security Decrees from 2019, decree law 20/2023 has exacerbated the dismantling of the reception system in the country significantly impacting the

most vulnerable individuals. The asylum application uncertainty and the limited access to care have heightened the risk of re-traumatization and disrupted the rehabilitation of torture survivors. Third, Italian authorities have restricted NGO SAR activities by introducing decree-law no. 1 of 2 January 2023, passed into law no. 15 of 24 February 2023. Among other things, decree-law 1/2023 states that civilian rescue ships must head back to port immediately after each rescue, effectively requiring them to ignore other distress cases at sea, in contradiction to international maritime conventions and human rights treaties. Moreover, it places on rescue ships burdensome obligations as regards communication with the Italian Coastguard and other authorities. These legislative obstacles are compounded by the informal policy to assign NGO vessels distant ports far to the north of Italy, necessitating several extra days of navigation and keeping rescue vessels away from areas where most distress cases occur for extended periods.

## II. Erosion of the right to seek asylum and protection and increased risk of *refoulement*

5. Recent developments in national legislation have progressively eroded the right to seek asylum and other forms protection, and exposed migrants to a greater risk of administrative detention and *refoulement*, in contradiction to Recommendations n. 148.274 and 148.280 from the last UPR cycle<sup>iv</sup>.
6. Decree-law no. 20/2023 has introduced several provisions that reduce the scope of the “Special Protection”, a complementary form of protection for individuals who do not qualify for refugee or subsidiary protection status. The decree has restricted the grounds for prohibiting the expulsion of foreigners. Previously, Article 19 of the Immigration Act prevented the removal of a foreigner if it violated their right to private and family life, considering factors such as family ties, social integration, and duration of stay in Italy. The recent changes eliminate these protections. In addition, the special protection permit is now valid for one year, can be renewed only once and cannot be converted into a work permit. These changes limit the possibilities of obtaining a residence permit for special protection and, with it, the possibility of registration with the national healthcare system. These legal provisions increase precariousness of status and risk of *refoulement*, as individuals may lose their residence permit and either facing expulsion or falling into irregularity. This constitutes a setback vis-à-

vis the progress presented in Italy's Mid-Term Report, which refers to an expansion in the scope of the "special protection" and to its convertibility into residence and work permits<sup>v</sup>.

7. Decree-law 20/2023 has also introduced changes to the asylum process, particularly for individuals arriving from countries designated as "safe countries of origin". The legal framework implements accelerated border procedures for asylum claims filed at the border or transit zones by individuals from these designated countries. In addition, a Decree of the Ministry of Foreign Affairs dated 7 May 2024<sup>vi</sup> has expanded the list of countries that are considered as "safe" while reducing the time for appealing a rejection of an application for protection. Furthermore, any rejection in the accelerated procedures results in an expulsion unless the lawyer specifically requests a suspension. These provisions reduce the guarantees of defense and the very possibility of effective access to international protection. Besides, they create situations of irregularity whereby the person, while waiting for the examination of the appeal, loses access to the reception system and to healthcare services.
8. The MSF team in Palermo runs a project for the rehabilitation of migrants survivors of torture (SoT), providing specialized care that includes medical, psychological, social and legal assistance through a multidisciplinary team. According to the team, the new legislation has significantly impacted the physical and psychological health of those patients that have been directly or indirectly affected by the provisions presented above. Out of a cohort of 84 patients, 66 of them come from countries designated as "safe" and face risk of irregularity or expulsion despite being identified as SoT. Some of them have undergone the interview with the Territorial Commissions without any prior legal orientation and before their vulnerabilities were identified. Additionally, when their asylum applications are rejected, they are forced into a state of limbo, negatively impacting their physical and mental health. For patients who were stable or discharged, this often results in significant mental health setbacks. Among the 84 patients monitored for mental health issues, the majority (40%) have shown symptoms of anxiety and depression, with 34% exhibiting signs of PTSD. Most (78%) come from countries deemed safe and are still in the asylum process. Despite being recognized as torture survivors, they face ongoing fear and uncertainty about their future, hindering their recovery. If left untreated or unaddressed, these complex psychological conditions can aggravate existing traumas and impact every aspect of their lives, resulting in serious human and societal consequences.

### III. Dismantling the reception system and reducing access to care

9. The latest changes in national legislation on migration have gradually dismantled the reception system in the country. This considerable and progressive erosion has increased reliance on the social private sector, leading civil society and non-governmental organizations to fulfill obligations that belong to the state. At the same time, these developments contradict Italy's commitments to "implement measures to integrate and protect the most vulnerable groups among migrants and refugees"<sup>vii</sup> and to "eliminate any provision that constitutes an obstacle to [migrants and refugees'] access to justice [and] health care"<sup>viii</sup>.
10. Decree Law 20/2023 has established that asylum seekers cannot be accommodated in the Reception and Integration System (SAI) centers, unless they present specific vulnerabilities. In parallel, the decree has reduced the services available in Extraordinary Reception Centers (CAS), where most asylum seekers are accommodated; psychological support, legal orientation and assistance, integration services have been repealed, while social support has been scaled down. These two provisions are especially relevant for those asylum seekers whose vulnerabilities are not identified upon arrival, which is also the case for the majority of MSF patients later identified as SoTs. The "emergency" approach to the migration phenomenon, especially in terms of little medical screening and identification of vulnerabilities upon arrival, has led to the creation of further exclusion as vulnerabilities are rarely identified and access to needed care is further prevented.
11. Due to the absence of a functioning system for the early identification of vulnerabilities, including being survivors of torture, around 40% of the patients supported by MSF in Palermo have been accommodated in CAS structures where they have not been able to have access to proper support and have reported issues related to overcrowding, limited intercultural mediation, difficulties in accessing health care and lack of other integration services. For those individuals at risk of severe mental health disorders due to serious traumatic events, such as SoT, delayed identification often leads to exacerbation and chronic progression of symptoms. For instance, MSF teams have found survivors with severe symptoms living in the reception system for years without mental health support.
12. At the same time, a prefectural circular issued on 11 August 2023 provides for the revocation of the permit to be accommodated in CAS once an applicant has obtained protection despite

not having been assigned an accommodation within the SAI system or any other alternative housing. In this regard, refugees or migrants who regularly hold a residency permit risk losing access to housing services as soon as they are granted protection. This is particularly concerning as these people, including the most vulnerable, risk losing access to adequate housing and to even the most basic services, including primary healthcare. Once again, the state of uncertainty can trigger a general state of anxiety that, in the case of SoT, hampers the already long and complex process of rehabilitation and recovery. Currently, out of the 84 torture survivors receiving treatment in the MSF cohort, at least ten have been affected by this provision.

13. Finally, the inadequate regional implementation of the 2017<sup>ix</sup> "Guidelines for Planning Assistance and Rehabilitation Interventions for Victims of Torture, Intentional, and Sexual Violence" released by the Ministry of Health hinders the regular integration of therapeutic pathways into local services. The absence of clear protocols and procedures leads to inconsistent interventions and difficulties in accessing healthcare. The lack of intercultural mediation and chronic underfunding of reception systems further complicates the identification and treatment of torture survivors, thereby obstructing long-term planning efforts.

## IV. Obstruction of Civilian SAR Operations

14. Shipwrecks at the European borders continue to cost thousands of lives each year. At least 2,526 people have died or gone missing on the Central Mediterranean route in 2023<sup>x</sup>, making it the deadliest year on record since 2017. As of July 2024, IOM has recorded 893<sup>xi</sup> dead or missing migrants and refugees for the year along the same stretch of sea. In response to the huge shortage of rescue capacity in the Central Mediterranean, MSF launched its first fully managed search and rescue operation with the Geo Barents in May 2021. Since the beginning of activities, Geo Barents has rescued 11,692 people and recovered 24 deceased.
15. In spite of these worrisome trends, in December 2022, the Italian government adopted measures, which obstruct the activities of NGO ships, who perform rescue operations in the central Mediterranean.
16. The above-mentioned decree law 1/2023, states that, following a rescue at sea, humanitarian search and rescue vessels should navigate directly and without delay towards the assigned

port of safety, thus preventing them from carrying out more than one rescue operation at a time. This implies that vessels should not assist other boats in distress in the area, in defiance to the international law obligation to provide assistance at sea to people in distress. The decree law further places rescue vessels under burdensome obligations in terms of information due to the competent authorities and provides for heavy administrative sanctions (including fines and the potential detention of the vessel), in case of non-compliance.

17. Under the distant-port practice, in turn, which is not included in any Italian legislation, but has been common practice since December 2022 – humanitarian search and rescue vessels are systematically assigned ports of safety in northern rather than southern Italy. This affects both rescued people, whose condition is already extremely vulnerable, and NGO ships, significantly increasing journey times.
18. Since the enforcement of this new framework, the decree law has been used in 22 instances to detain humanitarian search and rescue vessels in Italian ports, amounting to 464 days of detention. In some of these instances, detention was justified simply with the alleged failure of humanitarian search and rescue vessels to comply with the instructions from Libyan Coast Guard during rescue operations in international waters.
19. However, Italian courts subsequently declared some of these detentions to be unlawful, most recently the civil court of Crotone, regarding the detention of Humanity 1.<sup>xii</sup> Since 2023, the extra navigation required to reach distant ports has resulted in NGO vessels losing 520 days (about 1 and a half years), which could have been spent rescuing people in distress at sea.
20. In February 2023, the Ancona coastguard notified MSF and Geo Barents of the 20-day detention and a fine of up to €10,000 for failing to provide the voyage data recorder to authorities on arrival at Ancona, a port city on Italy's Adriatic coast, on 17 February to disembark people rescued at sea. On 20 March 2024, the Geo Barents was again issued a 20-day detention order and a fine ranging from 2,000 to 10,000 Euros by Italian authorities, based on the same legislation, for allegedly failing to comply with coastguard instructions and endangering survivors' lives during an operation on 16 March. MSF strongly disputes these allegations.
21. The detentions of the Geo Barents are a direct consequence of the enforcement of Italy's decree law 1/2023, and the latest example of the Italian government deploying its administrative powers to punish organisations involved in search and rescue activities and to obstruct civilian efforts to rescue people in distress at sea.



22. In addition, the Italian government has been cooperating with the Libyan authorities, by supporting and financing the Libyan Coast Guard and criminalizing NGOs conducting search and rescue activities in the Central Mediterranean Sea. In November 2022, the government renewed the Memorandum of Understanding (MoU) between Italy and Libya for an additional three years. Furthermore, the Italian Government's policy towards migration appears to be aggravated by the recent Italy-Albania Protocol, which aims at restricting access to the territory, thereby limiting the application of the array of guarantees provided by EU law.

## V. Conclusions and Recommendations

23. In conclusion, recent changes in Italy's migration laws have severely undermined the protection of migrants and asylum seekers, resulting in a profound deterioration of medical and humanitarian conditions. Instead of "strengthening its efforts to respond to the protection needs" of migrants<sup>xiii</sup> the new legislation has weakened protection and reception systems and hindered NGOs' search and rescue activities in the Central Mediterranean. MSF teams have observed the negative impact of these changes on the health of migrants, including torture survivors and those rescued during search and rescue missions. For these reasons, MSF:

- Urges Italy to immediately cease obstructing NGO lifesaving assistance at sea and to fulfil its obligations to assist persons in distress at sea, ensuring timely and dignified rescue and disembarkation in a safe place, in accordance with international maritime law and regulations. This includes establishing, in collaboration with EU and its member states, a dedicated search and rescue program in the Central Mediterranean and an effective state-led SAR mechanism.
- Demands that Italy guarantee access to international or other forms of protection as well as to adequate reception and integration services for migrants in need, in compliance with its obligations under international human rights law and refugee law. This is particularly urgent for Survivors of Torture for whom Italy must ensure complete rehabilitation, under Article 14 of the UN Convention against Torture.

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<sup>i</sup> A/HRC/43/4/Add.1 - Para.4, Recommendation n. 148.300. Available at <https://documents.un.org/doc/undoc/gen/g20/041/86/pdf/g2004186.pdf?token=m7SifWHVXm43FdYoiO&fe=true>

<sup>ii</sup> A/HRC/43/4/Add.1 - Para.4, Recommendations n. 148.263, 148.286, 148.292, 148.299.

<sup>iii</sup> A/HRC/43/4/Add.1 - Para.4, Recommendation n. 148.292, "Continue coordinated actions with the European Union for the protection of the rights of migrants" (Japan).

<sup>iv</sup> A/HRC/43/4/Add.1 - Para.4. See also A/HRC/43/4/Add.1 - Para.11.

<sup>v</sup> Ministry of Foreign Affairs and International Cooperation (2021). Italy's Mid-Term Report, Following UPR3's Consideration, p. 10. Available at <https://www.ohchr.org/sites/default/files/2021-11/ItalyMidTermReview3.pdf>

<sup>vi</sup> List of "safe countries of origin", as of Ministerial Decree dated 7 May 2024: Albania, Algeria, Bangladesh, Bosnia-Herzegovina, Cameroun, Cape Verde, Colombia, Ivory Coast, Egypt, Gambia, Georgia, Ghana, Kosovo, North Macedonia, Morocco, Montenegro, Nigeria, Peru, Senegal, Serbia, Sri Lanka and Tunisia.

<sup>vii</sup> A/HRC/43/4/Add.1 - Para.4, Recommendation n. 148.288. See also Rec. n. 148.303, 148.272.

<sup>viii</sup> A/HRC/43/4/Add.1 - Para.4, Recommendation n. 148.283.

<sup>ix</sup> [https://www.salute.gov.it/portale/news/p3\\_2\\_1\\_1\\_1.jsp?lingua=italiano&menu=notizie&p=null&id=2926](https://www.salute.gov.it/portale/news/p3_2_1_1_1.jsp?lingua=italiano&menu=notizie&p=null&id=2926)

<sup>x</sup> <https://data.unhcr.org/en/countries/>

<sup>xi</sup> <https://missingmigrants.iom.int/region/mediterranean>

<sup>xii</sup> <https://sos-humanity.org/en/press/final-court-decision/>

<sup>xiii</sup> A/HRC/43/4/Add.1 - Para.4, Recommendation n. 148.266.