

Country Report: Italy



2017
Update



Acknowledgements & Methodology

The first report and four subsequent updates were written by Maria de Donato and Daniela di Rado of the Italian Council for Refugees (CIR). The 2016 and 2017 updates were written by Caterina Bove 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 2017, 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 20 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI, UK) and 3 non-EU countries (Serbia, Switzerland, Turkey) 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.



This report is part of the Asylum Information Database (AIDA), funded by the European Programme for Integration and Migration (EPIM), a collaborative initiative by the Network of European Foundations, and the European Union's Asylum, Migration and Integration Fund (AMIF). The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of EPIM or the European Commission.



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Glossary & List of Abbreviations

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 Immigration Office of the Police
Questura	Immigration Office of the Police
Relocation	Transfer of an asylum seeker from one Member State to another Member State
Strutture temporanee	Temporary reception centres, also known as <i>centri di accoglienza straordinaria</i> (CAS)
Verbalizzazione	Lodging of the asylum application through an official form entitled “C3”
AMIF	Asylum, Migration and Integration Fund
ANCI	Associazione Nazionale Comuni Italiani
ASGI	Association for Legal Studies on Immigration Associazione per gli Studi Giuridici sull'Immigrazione
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
CNDA	National Commission for the Right of Asylum Commissione nazionale per il diritto di asilo
CPSA	First Aid and Reception Centre Centro di primo soccorso e accoglienza
CTRPI	Territorial Commission for the Recognition of International Protection Commissione territoriale per il riconoscimento della protezione internazionale
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
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
MEDU	Doctors for Human Rights Medici per I diritti umani
Rel	Income support Reddito di inclusione
SIMM	Society of Migration Medicine Società Italiana di Medicina delle Migrazioni
SPRAR	System of Protection for Asylum Seekers and Refugees Sistema di protezione per richiedenti asilo e rifugiati
TUI	Consolidated Act on Immigration Testo unico sull'immigrazione
VESTANET	Registration database

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 (CNDA).

Applications and granting of protection status at first instance: 2017

	Applicants in 2017	Pending at end 2017	Refugee status	Subsidiary protection	Humanitarian protection	Rejection	Refugee rate	Subs. Prot. rate	Hum. Prot. rate	Rejection rate
Total	130,119	145,906	6,827	6,880	20,166	42,700	8.4%	8.5%	24.9%	58.2%

Breakdown by countries of origin of the total numbers

Nigera	25,964	:	806	302	3,406	11,882	4.9%	1.8%	20.8%	72.5%
Bangladesh	12,731	:	84	20	1,828	3,742	1.5%	0.3%	32.2%	66%
Pakistan	9,728	:	346	1,035	1,524	5,624	4%	12.1%	17.9%	66%
Gambia	9,085	:	139	59	2,510	3,723	2.2%	0.9%	39%	57.9%
Senegal	8,680	:	81	33	1,416	3,570	1.6%	0.6%	27.8%	70%
Cote d'Ivoire	8,374	:	203	104	1,237	2,470	5.1%	2.6%	30.8%	61.5%
Guinea	7,777	:	58	38	1,162	2,188	1.7%	1.1%	33.7%	63.5%
Mali	7,757	:	76	605	1,329	2,431	1.7%	13.6%	38.6%	46.1%
Ghana	5,575	:	54	35	1,235	2,117	1.6%	1%	35.9%	61.5%
Eritrea	4,979	:	269	109	10	42	62.6%	25.3%	2.3%	9.8%
Syria	2,270	:	1,703	36	1	17	96.9%	2%	0.05%	1.15%
Iraq	1,661	:	345	785	139	58	26%	59.1%	10.5%	4.4%
Afghanistan	982	:	362	1,497	47	54	18.5%	76.4%	2.4%	2.7%

Source: CNDA: <http://bit.ly/2p5em4C>. "Rejection" includes inadmissibility decisions.

¹ Ministry of Interior, *I numeri dell'asilo*, available in Italian at: <http://bit.ly/2pzBgnd>.

Gender/age breakdown of the total number of applicants: 2017

	Number	Percentage
Total number of applicants	130,119	-
Men	109,066	83.8%
Women	21,053	16.2%
Children	16,309	12.5%
Unaccompanied children	9,782	7.5%

Source: Ministry of Interior, I numeri dell'asilo: <http://bit.ly/2pzBgnd>.

Comparison between first instance and appeal decision rates: 2017

Statistics on appeals are not available.

Overview of the legal framework

Main legislative acts relevant to asylum procedures, reception conditions, detention and content of protection

Title (EN)	Original Title (IT)	Abbreviation	Web Link
Legislative Decree 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." <i>Amended by:</i> Legislative Decree 220/2017	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 <i>status</i> di protezione internazionale." <i>Modificato:</i> Decreto Legislativo 22 dicembre 2017, n. 220	LD 142/2015 LD 220/2017	http://bit.ly/1Mn6i1M (IT) http://bit.ly/2CJXJ3s (IT)
Legislative Decree no. 286/1998 "Consolidated Act on provisions concerning the Immigration regulations and foreign national conditions norms" <i>Amended by:</i> Law no. 189/2002	Decreto Legislativo 25 luglio 1998, n. 286 "Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero" <i>Modificato:</i> Legge 30 luglio 2002, n. 189	TUI L 189/2002	http://bit.ly/1PYQbyL (IT) http://bit.ly/1GfWiu7 (IT)
Law 94/2009 "norms on public security" (Security Package)	Legge 15 luglio 2009, n. 94 "Disposizioni in materia di sicurezza pubblica" (Pacchetto Sicurezza)	L 94/2009	http://bit.ly/1GQKhdk (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" <i>Amended by:</i> Legislative Decree no. 18/2014	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, nonché norme minime sul contenuto della protezione riconosciuta" <i>Modificato:</i> Decreto Legislativo 21 febbraio 2014, n. 18	Qualification Decree LD 18/2014	http://bit.ly/1FOscKM (IT) http://bit.ly/1IOioRw (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" <i>Amended by:</i> Legislative Decree no. 159/2008 "Amendments and integration of the legislative Decree of 28 January 2008 [...]" <i>Amended by:</i> Legislative Decree no. 142/2015	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" <i>Modificato:</i> Decreto Legislativo 3 ottobre 2008, n. 159 "Modifiche ed integrazioni al decreto legislativo 28 gennaio 2008, n. 25 [...]" <i>Modificato:</i> Decreto legislativo n. 142/2015	Procedure Decree LD 159/08 LD 142/2015	http://bit.ly/1PYQjOW (IT) http://bit.ly/1KxD3tO (IT) http://bit.ly/1Mn6i1M (IT)

Decree-Law no. 89/2011 "Urgent provisions for the full application of the Directive 2004/38/EC on the free movement of EU citizens and for the transposition of the Directive 2008/115/EC on returning illegally staying third-country nationals"	Decreto-Legge 23 giugno 2011, n. 89 "Disposizioni urgenti per il completamento dell'attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini di Paesi terzi irregolari"	Decree-Law 89/2011	http://bit.ly/1SPQ4V2 (IT)
<i>Implemented by:</i> Law 129/2011	<i>Conversione in:</i> Legge 2 agosto 2011, n. 89	L 129/2011	http://bit.ly/1HGdkfL (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/1FI2OsN (IT)
Decree-Law no. 119/2014 "[...] for assuring the functionality of the Ministry of Interior (Article 5 to 7)" implemented by Law no. 146/2014	Decreto-Legge 22 agosto 2014, n. 119 "Disposizioni urgenti in materia di contrasto a fenomeni di illegalità e violenza in occasione di manifestazioni sportive, di riconoscimento della protezione internazionale, nonché per assicurare la funzionalità del Ministero dell'Interno"	Decree-Law 119/2014	http://bit.ly/1QjHpWQ (IT)
<i>Implemented by:</i> Law no. 146/2014	<i>Conversione in:</i> Legge 17 ottobre 2014, n. 146	L 146/2014	http://bit.ly/1M330IU (IT)
Law 154/2014 "European Delegation Law 2013 – second semester"	Legge 7 ottobre 2014, n. 154 "Delega al Governo per il recepimento delle direttive europee e l'attuazione di altri atti dell'Unione europea - Legge di delegazione europea 2013 - secondo semestre"	European Delegation Law 2013	http://bit.ly/1HGdrYv (IT)
Law no.161/2014 "Provisions for Italy's compliance with the EU obligations – European Law 2013-bis"	Legge 30 ottobre 2014, n. 161 "Disposizioni per l'adempimento degli obblighi derivanti dall'appartenenza dell'Italia all'Unione europea - Legge europea 2013-bis"	European Law 2013-bis	http://bit.ly/1KH93id (IT)
Decree-Law n. 113/2016, urgent financial measures for local authorities <i>Implemented by:</i> Law no. 160/2016	Decreto-legge 24 giugno 2016, n. 113, recante misure finanziarie urgenti per gli enti territoriali e il territorio <i>Conversione in legge:</i> Legge di 7 agosto 2016, n. 160	L 160/2016	http://bit.ly/2ljOFL1 (IT)
Law Decree no. 193/2016 Urgent provisions for taxation matters and for financing non-postponable needs (converted into Law n. 225/2016)	Decreto legge n. 193/2016 recante disposizioni urgenti in materia fiscale e per il finanziamento di esigenze indifferibili. Convertito in Legge n. 225/2016	L 225/2016	http://bit.ly/2kc68OO (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)
Decree Law no. 13/2017 Urgent measures for accelerating the proceedings related to the international protection, as well as for fighting against illegal immigration <i>Implemented by:</i> Law no. 46/2017	Decreto Legge 17 febbraio 2017, n. 13 - Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale. <i>Conversione in legge:</i> Legge di 13 aprile 2017, n. 13	Decree Law 13/2017 L 46/2017	http://bit.ly/2kZOBQe (IT) http://bit.ly/2foac3T (IT)

Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of 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/1M33qlX (IT)
<i>Amended by:</i> Presidential Decree no. 334/2004 "on immigration"	<i>Aggiornato con le modifiche apportate dal:</i> Decreto del Presidente della Repubblica 18 ottobre 2004, n. 334 "in materia di immigrazione"	PD 334/2004	http://bit.ly/1KxDnsk (IT)
Decree of the Head of the Civil Liberties and Immigration Department of the Ministry of Interior of 17 September 2013	Decreto 17 settembre 2013 del capo Dipartimento per le Libertà civili e l'Immigrazione	D 17/9/2013	http://bit.ly/1eLif89 (IT)
Circular of the Ministry of Interior of 20 June 2014 on the "Influx of foreign nationals following further disembarkations on the Italian coasts"	Circolare del Ministero dell'Interno del 20 giugno 2014 "Afflusso di cittadini stranieri a seguito di ulteriori sbarchi sulle coste italiane"	MoI Cir. 20/6/2014	http://bit.ly/1REyzpg (IT)
Circular of the Ministry of Interior of 27 June 2014 on the "Distribution of resources in favour of the System for Protection of Asylum Seekers and Refugees SPRAR, year 2014"	Circolare del Ministero dell'Interno del 27 giugno 2014 "Ripartizione risorse in favore del Sistema di protezione di richiedenti asilo e rifugiati SPRAR, annualità 2014"	MoI Cir. 27/6/2014	http://bit.ly/1KH9hWH (IT)
Ministry of Interior Decree of 17 October 2014 "National coordinating working group on unplanned migratory flows"	Decreto del Ministero dell'Interno "Tavolo di coordinamento nazionale sui flussi migratori non programmati di cui all'art. 1 del Decreto Legislativo 18/2014"	MoI D 17/10/2014	http://bit.ly/1IOjj4t (IT)
Regulation of the Ministry of Interior of 20 October 2014 "Criteria for the organisation and management of Identification and expulsion centres set by Article	Regolamento recante: "Criteri per l'organizzazione e la gestione dei centri di identificazione ed espulsione previsti dall'articolo 14 del	MoI Reg. 20/10/2014	http://bit.ly/1PpOVmi (IT)

14 of legislative Decree of 25 July 1998 n. 286 and following changes".	decreto legislativo 25 luglio 1998, n. 286 e successive modificazioni"		
Ministry of Interior Circular of 17 December 2014 on the "Influx of foreign nationals following further disembarkations on the Italian coasts"	Circolare del Ministero dell'Interno del 17 dicembre 2014 "Afflusso di cittadini stranieri a seguito di ulteriori sbarchi sulle coste italiane"	Mol Cir. 17/12/2014	http://bit.ly/1BBN6sJ (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)
Ministry of Interior Decree of 27 April 2015 on "Modalities for requests for services from local entities for the reception in SPRAR of foreign unaccompanied minors"	Decreto del Ministero dell'Interno "Modalità di presentazione delle domande di contributo, da parte degli enti locali, per i servizi finalizzati all'accoglienza nella rete SPRAR di minori stranieri non accompagnati"	Mol D 27/4/2015	http://bit.ly/1KH9kBF (IT)
Directive of the Minister of Interior on the implementation of activities aimed to control the managing bodies of reception services for non- EU citizens.	Direttiva del Ministro dell'Interno in materia di implementazione delle attività di controllo sui soggetti affidatari dei servizi di accoglienza dei cittadini extracomunitari.	Mol Directive 04/08/2015	http://bit.ly/21VEjKD (IT)
Decree of the Minister of Interior of 7 August 2015 on the submission of projects related to the reception with the aim to strengthen the SPRAR system.	Decreto del Ministro dell'Interno del 7 agosto 2015 per la presentazione di progetti relativi all'accoglienza di richiedenti/titolari di protezione internazionale e dei loro familiari, nonché degli stranieri e dei loro familiari beneficiari di protezione umanitaria per 10.000 posti a valere sul Fondo nazionale per le politiche e i servizi di asilo.	Mol D 07/08/2015	http://bit.ly/1QjnPyF (IT)
Ministry of Interior Circular of 6 October 2015 on the Decision of the European Council n. 1523 of 14 September 2015 and Decision n.1601 of 22 September 2015 on relocation procedure.	Circolare del Ministero dell'Interno del 6 ottobre 2015 "Decisioni del Consiglio europeo n. 1523 del 14 settembre 2015 e n. 1601 del 22 settembre 2015 per istituire misure temporanee nel settore della protezione internazionale a beneficio dell'Italia e della Grecia – Avvio della procedura di <i>relocation</i> .	Mol Cir. 06/10/2015	http://bit.ly/1OmjO6P (IT)
Ministry of Interior Circular of 30 October 2015 on Legislative Decree 142/2015	Circolare del Ministero dell'Interno del 30 ottobre 2015 "Decreto legislativo 18 agosto 2015, n. 145"	Mol Cir. 30/10/2015	http://bit.ly/1mybXMX (IT)
Ministry of Interior Circular of 15 February 2016 on "Dublin Regulation n. 604/2013. Guarantees for vulnerable cases"	Circolare del Ministero dell'Interno del 15 Febbraio 2016 sul Regolamento Dublino n. 604/2013. Garanzie per casi di vulnerabilità: nuclei familiari con minori.	Mol Cir. 15/02/16	http://bit.ly/1QxxRqJ (IT)
Ministry of Interior Circular of 5 May 2016 Accommodation of asylum seekers and refugees.	Circolare del Ministero dell'Interno del 5 maggio 2016. Sistema di accoglienza richiedenti asilo e rifugiati. Inserimento dei richiedenti	Mol Cir. 05/05/2016	http://bit.ly/2kf48yx (IT)

Access of asylum seekers and beneficiaries of international protection and of their relatives, more than beneficiaries of humanitarian protection and their relatives to Sprar	e titolari della protezione internazionale e dei loro familiari, nonché degli stranieri e dei loro familiari beneficiari della protezione umanitaria, nelle strutture dello Sprar		
Circular of the Central Service for Sprar: time limits of accommodation in Sprar	Circolare del Servizio Centrale Sprar: Tempi di accoglienza all'interno dello SPRAR	07/07/2016	http://bit.ly/2kCeBS2 (IT)
Ministry of Interior Decree "Access of municipalities to the National Fund for Asylum (FNSA) for the accommodation of asylum seekers, international and humanitarian protected; guidelines for Sprar	Decreto del Ministero dell'Interno del 10 agosto 2016 "Modalita' di accesso da parte degli enti locali ai finanziamenti del Fondo nazionale per le politiche ed i servizi dell'asilo per la predisposizione dei servizi di accoglienza per i richiedenti e i beneficiari di protezione internazionale e per i titolari del permesso umanitario, nonché approvazione delle linee guida per il funzionamento del Sistema di protezione per richiedenti asilo e rifugiati (SPRAR)"	Mol D. 10/08/2016	http://bit.ly/2jWE7zI (IT)
Ministry of Interior Circular of 17 August 2016: asylum seekers: accommodation in temporary centers – registry enrolment – identity card request	Circolare del Ministero dell'Interno del 17/08/2016 – richiedenti protezione internazionale: sistemazione nei centri di accoglienza temporanea –iscrizione anagrafica – richiesta e rilascio carta di identità	Mol Cir. 17/08/2016	http://bit.ly/2kf48yx (IT)
Mol Decree of 01/09/2016 "Establishment of first reception centers dedicated to unaccompanied minors"	Decreto del Ministero dell'Interno, del 1° Settembre 2016 Istituzione di centri governativi di prima accoglienza dedicati ai minori stranieri non accompagnati	Mol D. 01/09/2016	http://bit.ly/2cOzpm (IT)
Ministry of Interior Circular of 11 October 2016 on "Rules for starting of a gradual and sustainable distribution system for asylum seekers and refugees on the national territory through the SPRAR"	Circolare del Ministero dell'Interno 11 Ottobre 2016 "Regole per l'avvio di un sistema di ripartizione graduale e sostenibile dei richiedenti asilo e dei rifugiati su territorio nazionale attraverso lo SPRAR"	Mol Cir. 11/10/16	http://bit.ly/2jhfh2i (IT)
Ministry of Interior Circular of 30 December 2016 on "tracking down of irregular foreign citizens throughout the country for repatriation"	Circolare del Ministero dell'Interno del 30 Dicembre 2016 "Attività di rintraccio dei cittadini stranieri irregolari sul territorio nazionale ai fini del rimpatrio"	Mol Cir. 30/12/2016	http://bit.ly/2jqbbjk (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"		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.		http://bit.ly/2Fn38Um (IT)

Overview of the main changes since the previous report update

The previous report update was published in **February 2017**.

Asylum procedure

- ❖ **Push backs:** Since the end of February 2017, readmission measures have been initiated against people arriving in Italy from Austria via train. Persons boarding regional trains are checked when they get off the train. If they do not hold valid documentation to enter Italy, they are immediately directed back to the same train by which they arrived, without written notifications or explanations of the reasons for their readmission. They are not allowed to seek asylum or to benefit from linguistic assistance and their individual circumstances are not examined.
- ❖ **Registration:** Severe obstacles continue to be reported with regard to access to the asylum procedure. Several Questure such as Naples, Rome, Bari and Foggia have set specific days for seeking asylum and limited the number of people allowed to seek asylum on a given day, while others have imposed barriers on specific nationalities. In Rome and Bari, nationals of certain countries without a valid passport were prevented from applying for asylum. In other cases, Questure in areas such as Milan, Rome, Naples, Pordenone or Ventimiglia have denied access to asylum to persons without a registered domicile, contrary to the law. Obstacles have also been reported with regard to the *verbalizzazione* of applications, with several Questure such as Milan or Potenza refusing to complete the lodging of applications for applicants which they deem not to be in need of protection.
- ❖ **Dublin procedure:** Since December 2017, a specific Dublin procedure has been set up in Questure in the Friuli-Venezia Giulia region with support from EASO. According to that procedure, as soon as a Eurodac 'hit' is recorded, Questure move the lodging appointment to a later date and notify a Dublin transfer decision to the persons concerned prior to that date. Applicants are therefore subject to a Dublin transfer before having lodged their application, received information on the procedure or had an interview.
- ❖ **Age assessment:** L 47/2017 has laid down rules on age assessment which apply to all unaccompanied children. Currently, however, the new law is not properly applied. Age assessment is conducted only wrist X-ray, the margin of error is not written on the report and the decision is notified many months later or not even adopted. Moreover, the applicant is often treated as an adult while awaiting the age assessment, contrary to the principle of the benefit of the doubt.

Reception conditions

- ❖ **Reception capacity:** Despite a continuing increase in the capacity of the SPRAR system, which currently counts over 35,000 funded places, the vast majority of asylum seekers are accommodated in temporary reception centres (CAS). CAS hosted around 80% of the population at the end of 2017. In Milan, for example, the ratio of SPRAR to CAS is 1:10.
- ❖ **Destitution:** At least 10,000 persons are excluded from the reception system, among whom asylum seekers and beneficiaries of international protection. Informal settlements with limited or no access to essential services are spread across the entire national territory. Médecins Sans Frontières (MSF) has also reported an increase in Dublin returnees among the homeless migrants they assisted in Rome in 2017.
- ❖ **Reception of unaccompanied children:** Throughout 2017, both due to the problems related to age assessment and to the unavailability of places in dedicated shelters, there have been cases

of unaccompanied children accommodated in adults' reception centres, or not accommodated at all. Several appeals have been lodged to the European Court of Human Rights against inappropriate accommodation conditions for unaccompanied children.

Detention of asylum seekers

- ❖ **Detention capacity:** Five pre-removal centres (CPR) are currently operational, while a new hotspot has been opened in Messina. The hotspots of Lampedusa and Taranto have been temporarily been closed as of March 2018.
- ❖ **Conditions in detention facilities:** Substandard conditions continue to be reported by different authorities visiting detention facilities, namely the hotspots of Lampedusa and Taranto and the CPR of Caltanissetta and Ponte Galeria.
- ❖ **Specific nationalities:** Practice indicates that nationals of Nigeria remains particularly targeted by detention. During three visits of the Senate to the CPR of Ponte Galeria, Nigerians represented the main nationality, while Nigerians, Moroccans and Tunisians were the main nationalities in the CPR of Torino.

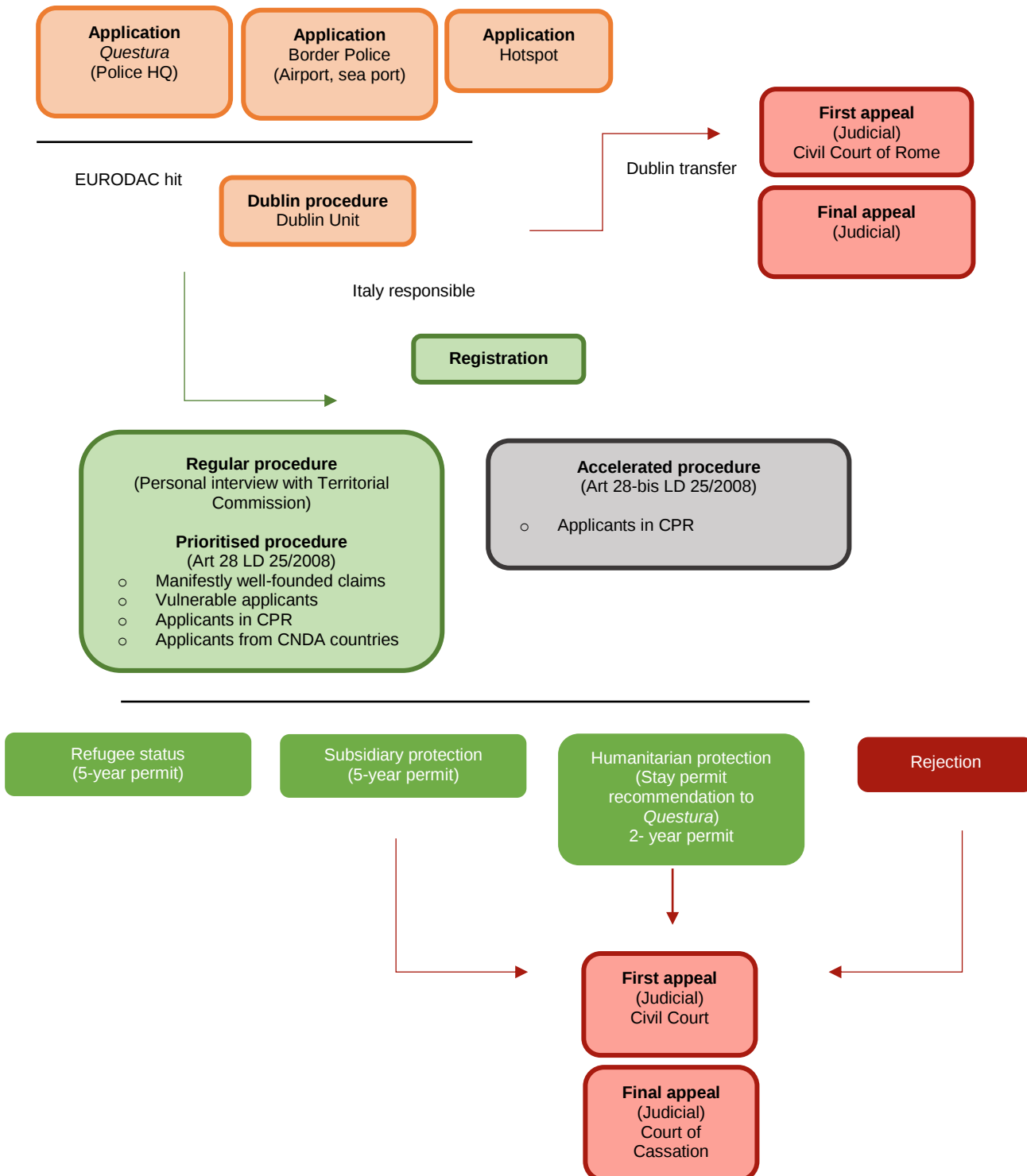
Content of international protection

- ❖ **Health care:** As part of the implementation 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. At the moment, the guidelines seem to be applied in Rome and Parma, while an operating protocol is about to be signed in Trieste and Brescia.

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: ² | ☒ Yes | ☐ No |
| ▪ Fast-track processing: ³ | ☐ Yes | ☒ No |
| ❖ Dublin procedure: | ☒ Yes | ☐ No |
| ❖ Admissibility procedure: | ☐ Yes | ☒ No |
| ❖ Border procedure: | ☐ Yes | ☒ No |
| ❖ Accelerated procedure: ⁴ | ☒ Yes | ☐ No |
| ❖ Other: | | |

3. List of authorities intervening 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 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. Number of staff and nature of the first instance authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
Territorial Commissions and Sub-commissions for International Protection	20 Territorial Commissions 29 sub-Commissions	Ministry of Interior	☐ Yes ☒ No

5. Short overview of the asylum procedure

The Italian asylum system foresees a single regular procedure, the same for the determination of both refugee status and subsidiary protection status. Within this procedure the Territorial Commissions may decide those cases falling under the prioritised procedure or in the accelerated procedure.⁵

² For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.

³ Accelerating the processing of specific caseloads as part of the regular procedure.

⁴ Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

⁵ Article 28(1-bis) LD 25/2008.

According to Italian legislation, there is no formal time-frame for lodging an asylum request. The intention to make an asylum request may be expressed also orally by the applicant in his or her language with the assistance of a linguistic-cultural mediator.⁶ However, asylum seekers should present their application as 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.⁷

The asylum claim can be lodged either at the border police office or within the territory at the provincial Police station (*Questura*), where fingerprinting and photographing are carried out. In case the asylum request is made at the border, police authorities invite the asylum seekers to present themselves at the *Questura* for formal registration. Police authorities cannot examine the merits of the asylum application.

The police authorities of the *Questura* ask the asylum seeker questions related to the Dublin III Regulation during the formal registration stage and then contact the Dublin Unit of the Ministry of the Interior which then verifies whether Italy is the Member State responsible for the examination of the asylum application.

The police authorities send the registration form and the documents concerning the asylum application to the Territorial Commissions or Sub-commissions for International Protection (*Commissioni territoriali per il riconoscimento della protezione internazionale*, CTRPI) located throughout the national territory, the only authorities competent for the substantive asylum interview.⁸ The asylum seeker will then be notified by the *Questura* of the date of the interview with the Territorial Commission. Whereas, according to L 46/2017 interview appointments and decisions can be notified by managers of reception centres,⁹ a Circular of the National Commission for the Right of Asylum (*Commissione nazionale per il diritto di asilo*, CNDA) issued a few days before the entry into force of the law has suspended the implementation of this procedure and requires *Questura* to continue to carry out notifications.¹⁰

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.¹¹

These bodies belong to the Department of Civil Liberties and Immigration of the Italian Ministry of Interior. They are independent in taking individual decisions on asylum applications and do not follow instructions from the Ministry of Interior.

First instance procedure

According to the Procedure Decree,¹² the CTRPI interviews the applicant within 30 days after having received the application and decides in the 3 following working days. When the CTRPI is unable to take a decision in this time limit and needs to acquire new elements, the examination procedure is concluded within six months of the lodging of the application.

However, the CTRPI 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, the CTRPI, in duly justified circumstances, 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.¹³ In the light of the different possibilities of extension, the asylum procedure this may last for a maximum period of 18 months.

⁶ Article 3(1) PD 21/2015.

⁷ Article 3(2) PD 21/2015.

⁸ Article 4 LD 25/2008, as amended by LD 220/2017.

⁹ Article 11(3)-(3-sexies) LD 25/2008, as amended by L 46/2017.

¹⁰ CNDA Circular No 6300 of 10 August 2017.

¹¹ Articles 13 and 14 PD 21/2015.

¹² Article 27 LD 25/2008.

¹³ Article 27 LD 25/2008.

According to ASGI's experience, due to the large number of simultaneous applications, the 30 days time limit is never respected in practice, and the asylum seeker is never informed about the authorities' exceeding of the deadline.

The Procedure Decree provides an accelerated procedure and a prioritised procedure. The President of the CTRPI identifies the cases under the prioritised or accelerated procedures.¹⁴

Appeal

Asylum seekers can appeal against a negative decision issued by the Territorial Commissions within 30 days before the competent Civil Tribunal. Following L 46/2017, there are specialised court sections competent for examining asylum appeals. Applicants placed in detention facilities and those under the accelerated procedure have only 15 days to lodge an appeal.¹⁵ This reform has also removed the possibility of onward appeal before the Court of Appeal if the first appeal has been dismissed, within 30 days of the notification of the decision. A decision of the Civil Court can only be challenged by a final appeal before the Court of Cassation within 30 days.

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

1.1. Arrivals by sea

The year 2017 has been characterised by media, political and judicial crackdown on non-governmental organisations (NGOs) saving lives at sea, and by the implementation of cooperation agreements with African countries, notably Libya.

Restriction of search and rescue

Following a European Commission plan,¹⁶ the Italian Government adopted a Code of Conduct for NGOs engaged in search and rescue activity in the Central Mediterranean Sea at the end of July 2017.¹⁷ Although it was not mandatory, at least for non-signatory NGOs, the Code of Conduct resulted in discouraging rescue operations by many NGOs, accused of colluding with smugglers. The Special Rapporteur on trafficking in persons has also expressed concern at the Code of Conduct vis-à-vis risks of endangering thousands of lives by limiting rescue operations in waters near Libya.¹⁸

On 1 February 2018, the European Border and Coast Guard Agency (Frontex) launched "Operation Themis", a new operation in the Central Mediterranean Sea replacing "Operation Triton" launched in 2014, to assist Italy in border control activities. Frontex declared that it will continue including search and rescue activities but, as stated by the Frontex Executive Director Fabrice Leggeri, the operation will focus on

¹⁴ Article 28(1)(c) and (1-bis) LD 25/2008.

¹⁵ Article 19(3) LD 150/2011.

¹⁶ European Commission, *Central Mediterranean Route: Commission Action Plan to support Italy and stem migration flows*, July 2017, available at: <http://bit.ly/2FtJphL>.

¹⁷ Ministry of Interior, *Code of Conduct for NGOs engaged in search and rescue activities*, available in Italian at: <http://bit.ly/2FpaxCo>.

¹⁸ United Nations Special Rapporteur on trafficking in persons, AL ITA 4/2017, 28 November 2017, available at: <http://bit.ly/2FDsIDG>.

preventing criminal groups from entering Europe undetected, tracking down criminal activities, and detecting foreign fighters and other terrorist threats at the external borders.¹⁹

After the tragedy of 6 November 2017, when at least five refugees drowned, including a four-year-old boy, and at least 35 others went missing, many organisations including ASGI launched a petition asking the Italian Parliament to urgently hold a hearing with the Italian activist who witnessed the criminal behaviour exhibited by the Libyan Coast Guard.²⁰ The video material, published by the German NGO Sea Watch, clearly shows the violence used by the Libyan Coast Guard against the survivors. According to the Italian activist present at the operation, Libyan guards whipped and beat people with ropes and clubs to prevent them from diving and reaching the family members aboard the “Sea Watch 3” dinghies, which had meanwhile saved 59 people. The Coast Guard also prevented the NGOs and the Italian and French units present at the scene of the shipwreck from proceeding with the rescue operations.

Cooperation with Libya

While Amnesty International and Médecins Sans Frontières (MSF) were reporting torture and abuse against thousands of migrants detained in Libya in inhumane conditions,²¹ the Criminal Court of Milan sentenced a Somali national to life imprisonment on 10 October 2017 as he was found guilty of serious acts of violence committed in the early months of 2016 in a detention camp for migrants in Libya. According to the testimonies made in the trial by the victims, hundreds of people of every age were subjected to torture, sexual violence, homicide for demonstration purposes or simply cruelty on a daily basis, in a climate of desperate resignation by the victims.²²

Moreover, ASGI found that the Italian Ministry of Foreign Affairs had awarded €2.5 million to the Ministry of Interior to send four patrol boats to the Libyan authorities. The Government had also organised meetings with several Italian organisations asking them to be present in Libyan detention centres in order to guarantee humane treatment to migrants,²³ and in order to launch “integration and cooperation” projects in Libya.

As ASGI found that the funds given to the Libyan authorities come from the €200 million allocation made by the Italian Parliament for the Africa Fund for cooperation, it notified an appeal to the Administrative Court of Lazio against the Ministry of Foreign Affairs and the Ministry of Interior. Through the appeal, ASGI has asked the court to rule on the incompatibility of this financial grant with the purposes of the legislation establishing the Africa Fund and the illegitimacy of a loan that will serve to equip the Libyan authorities to perform *refoulement* to Libya on Italy’s behalf, effectively rendering this a “delegated” *refoulement*.²⁴

In a letter sent on 28 November 2017 to the Italian and the Libyan governments, the Special Rapporteur on trafficking in persons expressed serious concern about critical aspects of Memorandum of Understanding (MoU) signed by the Italian Government with Libya. The Special Rapporteur observed that the Italian cooperation in the creation of Libyan reception centres for migrants under the exclusive control of the Libyan authorities was *de facto* preventing asylum seekers from access to international protection.

¹⁹ Frontex, ‘Frontex launching new operation in Central Med’, 31 January 2018, available at: <http://bit.ly/2nxJ4md>.

²⁰ Change.org, ‘Contro il crimine dei respingimenti in Libia: il Parlamento incontra Gennaro Giudetti!’, available at: <http://bit.ly/2FAB3Ws>.

²¹ Amnesty International, ‘Libia: i governi europei complici di torture e violenze’, 12 December 2017, available in Italian at: <http://bit.ly/2z8EMsA>; MSF, ‘Libya: Open letter - European governments are feeding the business of suffering’, 6 September 2017, available at: <http://bit.ly/2xQHDDT>.

²² Criminal Court of Milan, Judgment of 10 October 2017, available in Italian at: <http://bit.ly/2DdOHvI>; ASGI, ‘Ecco cosa succede nei campi di detenzione per migranti’, 27 December 2017, available in Italian at: <http://bit.ly/2p3Gvcn>.

²³ La Stampa, ‘I campi dei migranti sotto il controllo delle ONG’, 8 September 2017, available in Italian at: <http://bit.ly/2j7OjKx>.

²⁴ ASGI, ‘Depositato il ricorso ASGI contro lo sviamento di 2,5 milioni di euro dal c.d Fondo Africa’, 14 November 2017, available in Italian at: <http://bit.ly/2zkmbEO>.

The Special Rapporteur also observed that the MoU, aimed at stopping migratory movements towards Europe, resulted in externalising borders without taking into account the violations of human rights and abuses suffered by migrants in Libya. Finally, concern was expressed about the destination of Italian funds to support Libyan authorities in border control activities, declaring worrying interception of migrants at sea and their unlawful return to Libya.²⁵

At the beginning of 2018, several MPs lodged an appeal before the Constitutional Court against the MoU with Libya, asking it to ascertain the violations committed by the Government in its failure to submit to Parliament the draft law on authorisation for ratification, as provided for by Article 80 of the Italian Constitution.²⁶

During 2017 the harbour most affected by arrivals was that of **Augusta**, followed by **Pozzallo**, **Lampedusa**, **Reggio Calabria** and **Trapani**. As with the past year, the disembarkations that took place at fully-fledged hotspots represented less than the 30% of the total. In 2017, these were 35,726 on a total number of about 119,310 persons arriving in Italy.²⁷ Since July 2017, with the gradual development of agreements with the Libyan authorities, sea arrivals have dropped considerably: the number recorded from July to December 2017 was about half of that recorded between January and June 2017.²⁸

On the other hand, Amnesty International stated that the Libyan Coast Guard intercepted 19,452 people in 2017, who were returned to the mainland and transferred to detention centres.²⁹

According to the Consolidated Act on Immigration (TUI), the border police rejects third-country nationals who present themselves at the border without the conditions required for entry into the territory of the State. Refusal of entry is also ordered towards foreigners:

- a. entering the territory evading border controls, stopped at the entrance or immediately thereafter;
- b. temporarily admitted to the territory for assistance.

The law also provides that such provisions do not apply in the cases provided by the current provisions governing international or humanitarian protection. The law also expressly provides an obligation to provide appropriate information on the asylum procedure,³⁰ to be discharged even at border crossings.³¹

The way the provisions related to the information obligation are applied determines the actual legitimacy of rejections but the limitations of the **Hotspot** approach make it clear that people not properly informed and not channelled to the asylum procedure may be refused entry under a determined legal basis.

Particularly between October 2015 and January 2016, in **Sicily**, as recorded by ASGI lawyers and reported by some NGOs,³² Questure issued hundreds of deferred rejection orders. The orders had not been preceded by individual interviews and no copy was given to the persons concerned.

In **Taranto** as well, hundreds of people have been notified of such orders. As reported by ASGI,³³ as of 7 December 2015 this happened, after disembarkation, to some 150 people coming from the Maghreb area,

²⁵ United Nations Special Rapporteur on trafficking in persons, AL ITA 4/2017, 28 November 2017, available at: <http://bit.ly/2FDsIDG>.

²⁶ Agenzia Nova, 'L'accordo Italia-Libia finisce in Corte costituzionale', 26 February 2018, available in Italian at: <http://bit.ly/2FFzDwf>.

²⁷ Ministry of Interior, *Cruscotto statistico giornaliero*, 31 December 2017.

²⁸ *Ibid.*

²⁹ Amnesty International, 'Libia: i governi europei complici di torture e violenze', 12 December 2017, available in Italian at: <http://bit.ly/2z8EMsA>.

³⁰ Article 3 LD 142/2015.

³¹ Article 10 TUI.

³² Amnesty International, *Hotspot Italy: How EU's Flagship Approach Leads To Violations Of Refugee And Migrant Rights*, November 2016, available at: <http://bit.ly/2kt1UfC>, 40; Oxfam, *Hotspot: Rights denied*, 19 May 2016, available at: <http://bit.ly/2kMWVCH>, 29.

³³ ASGI, *Il diritto negato: dalle stragi in mare agli hotspot*, 26 January 2016 available in Italian at: <http://bit.ly/2ltPEYD>.

while a group of Nigerian nationals were immediately moved to expulsion centres based in **Bari** and **Restinco**, where they faced lack of defence against detention and many difficulties to formalise their asylum application.

1.2. Situation at the northern border

1.2.1. Push backs

Many migrants attempting to cross the borders with France, Austria and Switzerland have been subject to rejection at the border, often accompanied by violence. According to MSF, more than twenty people in the last two years died in the attempt to cross these borders.³⁴

French border

As many as 50,000 people have been arrested by French authorities at the border in 2017, of whom 98% have been pushed back to Italy.³⁵ According to a report of the Senate, from January to mid-October 2017 this included approximately 8,000 people with authorisation to stay in Italy and 15,000 undocumented persons.³⁶

On 17 and 18 February 2018, a joint action by Italian and French organisations and lawyers on the border enabled legal assistance to people, namely unaccompanied children, unlawfully rejected by the French authorities.³⁷ Thanks to the action, the French lawyers lodged 20 appeals before the Administrative Court of Nice against readmissions made by the French authorities in Italy, out of which 19 appeals concerning unaccompanied children were accepted, suspending the rejection provisions.³⁸

Austrian border

Since the end of February 2017, readmission measures have been initiated against people arriving in Italy from Austria via train.³⁹ Controls have reportedly been based on racial profiling, intercepting mostly Afghan and Pakistani nationals. Different procedures have been recorded depending on the type of train people are found on:

- Eurocity trains are subject to less stringent controls. When apprehended people without documentation, police send them to the Questura of **Bolzano**, where they have the possibility to seek international protection. However, in many reported cases, the police holds these persons in the police station until the departure time of a regional train to Austria, forcing them to board the train and pushing them back to Austria;
- As regards regional trains from Austria, persons are checked when they get off the train. If they do not hold valid documentation to enter Italy, they are immediately directed back to the same train by which they arrived, to travel towards Innsbruck, Wörgl and Kufstein. People are not provided with written notifications or explanations of the reasons for their readmission. They are not allowed to seek asylum or to benefit from linguistic assistance and their individual circumstances are not examined.

³⁴ MSF, *Fuori campo*, February 2018, available at: <http://bit.ly/2Gagwa2>, 2.

³⁵ AIDA, Country Report France, 2017 Update, February 2018, available at: <http://bit.ly/2BsOFmB>, 22.

³⁶ Senate Human Rights Commission, *Rapporto sui centri di permanenza per il rimpatrio in Italia*, December 2017, available at: <http://bit.ly/2FwcE3d>, 40.

³⁷ ASGI, 'Frontiera Francia-Italia : associazioni ed avvocati si mobilitano per il diritto d'asilo e la protezione dei minori stranieri', 20 February 2018, available in Italian at: <http://bit.ly/2Hgrk7d>.

³⁸ See e.g. Administrative Court of Nice, Order No 1800699, 23 February 2018, available at: <http://bit.ly/2FFB9yr>.

³⁹ ASGI, *Lungo la rotta del Brennero*, 25 September 2017, available in Italian at: <http://bit.ly/2oVIlwO>.

Checks are also systematically performed on trains leaving Italy. People found in possession of a residence permit but without a valid travel document are invited to take a train towards **Bolzano**. People without a residence permit are instead brought into the police station for identification and invited to Questura of Bolzano to regularise their position. According to the police of Tyrol, in 2017, irregular arrivals via train from Italy were reduced by 75%.⁴⁰

Regarding the checks carried out by the Austrian police on trains or cars crossing the border, according to the testimonies of migrants returned to Italy, when police intercepts people coming from Italy, it orders them to return to Italy without starting of any formal procedure. Migrants have reported not being able to communicate with the Austrian police and to express their intention to seek asylum or to declare their minor age, namely due to the absence of linguistic mediators. During the reintroduction of internal controls between 10 and 30 May 2017, the Austrian police controlled on average one in two cars in road checks.⁴¹

At other border-crossing points, such as **San Candido / Sillian**, in the same period, the Italian police was present at the entrance in Italy and at the exit in Austria. These checks still continue, though not systematically.

1.2.2. From Swiss, Austrian and French borders to expulsion

In August 2016, ASGI interviewed several third-country nationals present in **Como** where some 400-500 were camping in the park in front of the train station, pushed back from Switzerland and awaiting to try again to cross the border.

Almost all the persons reported to ASGI they had never received adequate information, neither on arrival in Italy nor subsequently, on how to apply for international protection, on the criteria for establishing the State responsible for examining a request provided by Dublin Regulation III and the possibility to request relocation, and had not been able to make use of an interpreter who spoke their language. Those who reported to have been informed about relocation at disembarkation said that they were not assisted later to trigger the procedure. ASGI found that very few of them had applied for international protection in Italy, although most of them were in clear need of protection, coming from Eritrea and Ethiopia.⁴²

Some of them have been transferred from Chiasso border to the **Taranto** hotspot (see [Detention](#)).

On 3 August 2016, a Memorandum of Understanding was signed by the Italian and Sudanese police authorities.⁴³ The agreement provides that, upon request, the Sudanese police collaborates in identifying and repatriating Sudanese nationals who have not applied for asylum. Implementing the agreement, Italy returned 40 Sudanese to Khartoum on 24 August 2016.⁴⁴

According to the information recorded by ASGI, these repatriations are likely to be considered collective expulsions as there has been no individual examination of their cases. The Sudanese nationals were arrested in **Ventimiglia**, where they had moved after being rescued at sea and disembarked a few weeks before. They were detained for some days in a centre, different from a CIE, where a judge swiftly validated their expulsion, and then moved to the **Taranto** hotspot. They told ASGI that neither upon disembarkation nor later did they receive information on the asylum procedure and on the consequences of not applying for asylum.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² ASGI, 'Le riammissioni di cittadini stranieri alla frontiera di Chiasso: profili di illegittimità', 31 August 2016 available in Italian at: <http://bit.ly/2bBpAKe>; 'Migranti : diritti violati al confine italo-svizzero', 31 August 2016, available in Italian at: <http://bit.ly/2l7G2Xt>.

⁴³ The agreement is available in Italian at: <http://bit.ly/2kuQXam>.

⁴⁴ See also ECRE, 'Italy's deportation of 48 Sudanese citizens may amount to collective expulsion', 16 September 2016, available at: <http://bit.ly/2d3b1Wl>.

Other Sudanese nationals, caught in the same police operation but luckily not embarked on the same flight, as they managed to get assistance and information by NGOs and by specialist lawyers, sought asylum and were granted refugee status.

In the light of such practices, ASGI lawyers lodged an appeal before the European Court of Human Rights (ECtHR) in February 2017.⁴⁵ In February 2017, Italy has also signed similar Memoranda of Understanding also with Tunisia and Libya.⁴⁶

2. Hotspots

Part of the European Commission's European 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 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 new reception facilities, operating instead from already existing ones. Frontex helps with the identification, registration and fingerprinting of recently arrived people, enforcement of return decisions and collection of information on smuggling routes, while EASO helps with the processing of asylum claims and the eventual relocation procedure. UNHCR officers present in the “hotspot” should monitor the situation.

Through the new “Operation Themis” launched on 1 February 2018, Frontex will continue its presence in the Italian hotspots to assist the national authorities in registration, fingerprinting and nationality screening of newly arrived migrants.⁴⁷

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.⁴⁸

By the end of February 2018, five hotspots were operating in **Lampedusa, Pozzallo, Trapani, Taranto** and **Messina**, the latter starting operations on 30 September 2017 with a capacity of 250 places.⁴⁹ As of 24 November 2017, the hotspots hosted a total of 624 persons, of whom 574 in Sicily and 50 in Taranto.⁵⁰

In March 2018, following an arson incident and a visit by several organisations, highlighting degrading conditions of detention, the **Lampedusa** hotspot has been temporarily closed.⁵¹ The **Taranto** hotspot was also temporarily closed,⁵² after the National Anti-Corruption Authority detected procurement irregularities.⁵³

⁴⁵ ASGI, ‘Rimpatriati in Sudan presentano ricorso contro l'Italia’, 16 February 2017, available in Italian at: <http://bit.ly/2mzwq54>.

⁴⁶ The agreement is available at: <http://bit.ly/2kzCFHg>.

⁴⁷ Frontex, ‘Frontex launching new operation in Central Med’, 31 January 2018, available at: <http://bit.ly/2nxJ4md>.

⁴⁸ Article 10-ter TUI, inserted by L 46/2017.

⁴⁹ European Commission, *Progress report on the European Agenda on Migration*, COM(2017) 669, 15 November 2017, 8.

⁵⁰ Ministry of Interior, Statistics, 24 November 2017.

⁵¹ Ministry of Interior, ‘Centro di accoglienza di Lampedusa: chiusura temporanea per la ristrutturazione’, 13 March 2018, available in Italian at: <http://bit.ly/2DGX82W>; ASGI et al., ‘Chiuso l’hotspot di Lampedusa-CILD, ASGI e IndieWatch: “Condizioni disumane e violazioni dei diritti umani”’, 14 March 2018, available in Italian at: <http://bit.ly/2FUTswm>.

⁵² Il Fatto Quotidiano, ‘Migranti, 600 da ricollocare dopo la chiusura degli hotspot di Lampedusa e Taranto, “Difficile sapere dove finiranno”’, 19 March 2018, available in Italian at: <http://bit.ly/2DGaOeG>.

⁵³ Il Fatto Quotidiano, ‘Anac: “Anomalie negli appalti dell’hotspot migranti. Troppe proroghe e affidamenti diretti in maniera impropria”’, 15 March 2018, available in Italian at: <http://bit.ly/2GbcamP>.

The Italian authorities have adopted the “hotspot” approach to channel the arrivals of mixed migration flows in the mentioned ports and to apply there the pre-identification, registration, photograph and fingerprinting operations. However, already in October 2015, NGOs including ASGI had highlighted that “hotspots” had become a standard procedure applied to migrants, regardless of the existence or not of an *ad hoc* reception centre.⁵⁴

By using this procedure, migrants are detained without any court order, forced to be fingerprinted, and classified as asylum seekers or economic migrants depending on a summary assessment, mainly carried out either by using questionnaires filled in by migrants at disembarkation,⁵⁵ or by orally asking questions relating to the reason why they have come to Italy. In both cases, due to the lack of cultural mediators, there are no guarantees as to migrants’ actual understanding of the process.

Following these operations, those identified as economic migrants *tout court* are notified with a rejection / expulsion order and, where places are available in pre-removal detention centres (CPR), are detained in such facilities. Asylum seekers, instead, are channelled to reception centres. Syrians, Eritreans and Iraqis who may adhere to the [Relocation](#) process are accommodated in *ad hoc* regional hubs or regional hubs with *ad hoc* places (hotels, barracks, reception centre of Castelnuovo di Porto, in Rome, Taranto, etc.)

People are often classified just solely on the basis of their nationality. Migrants from Nigeria, Gambia, Senegal, Morocco, Algerian and Tunisia are easily classified as economic migrants.

Considering that the vast majority of people arriving in Italy tend to proceed to other countries to present their asylum claim without even registering, to avoid being returned to Italy under the Dublin III Regulation, a large use of force to fingerprint migrants has been reported.⁵⁶

The Standard Operating Procedures (SOPs) adopted in February 2016 and applying at Hotspots have tried to regulate the procedure stating 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...”⁵⁷ L 46/2017 also provides that the repeated refusal to undergo fingerprinting constitutes a risk of absconding and legitimises detention in CPR (see [Grounds for Detention](#)).⁵⁸

According to the European Commission report published on 10 February 2016, since the setting up of the hotspots in Italy, the proportion of migrants whose fingerprints have been stored in Eurodac rose from 36% in September 2015 to 87% in January 2016.⁵⁹ By September 2016, according to the European Commission, the progress achieved in implementing the hotspot approach, even beyond the areas nominally designated as hotspots, had resulted in the achievement of close to 100% fingerprinting.⁶⁰ This trend has continued throughout 2017 according to the European Commission.⁶¹

Due to the concerns raised by several NGOs, including ASGI, since October 2015, as of January 2016, the Ministry of Interior stated in a Circular that it is not possible to deny access to asylum procedures and

⁵⁴ ASGI, *Garantire i diritti degli stranieri soccorsi in mare e sbarcati*, 21 October 2015, available in Italian at: <http://bit.ly/24EpBjt>.

⁵⁵ See the *foglio notizie* at: <http://bit.ly/1LXpUKv>.

⁵⁶ See for more information: ECRE et al., *The implementation of the hotspots in Italy and Greece*, December 2016, available at: <http://bit.ly/2hdldXj>; Amnesty International, *Hotspot Italy: How EU's Flagship Approach Leads To Violations Of Refugee And Migrant Rights*, November 2016, available at: <http://bit.ly/2kt1UfC>; Oxfam, *Hotspot: Rights denied*, 19 May 2016, available at: <http://bit.ly/2kMWVCH>.

⁵⁷ Ministry of Interior, Standard Operating Procedures applicable to Italian hotspots (hereafter “Hotspot SOP”), available at: <http://bit.ly/2kt9JBX>, para B.7.2.c.

⁵⁸ Article 10-ter(3) TUI, as amended by L 46/2017.

⁵⁹ European Commission, *State of Play of Implementation of the Priority Actions under the European Agenda on Migration*, COM(2016) 85, 10 February 2016, 5.

⁶⁰ European Commission, *6th report on resettlement and relocation*, COM(2016) 636, 28 September 2016.

⁶¹ European Commission, *Delivery of the European Agenda on Migration*, COM(2017) 558, 27 September 2017, 12.

fundamental rights to people arbitrarily considered “not in clear need of international protection”. The Ministry of Interior admitted that all migrants have the right to be protected from *refoulement* and not to receive expulsion orders if they have not previously been correctly informed.⁶²

On 20 January 2016, at the hearing held in front of the Parliamentary Commission of inquiry on reception, identification and expulsion centres, the Head of Police, Alessandro Pansa said that the distinction of migrants between asylum seekers and economic migrants had been carried out based on the data collected through the “questionnaire” and with the help of cultural mediators, but had often been too hasty, partly because of large numbers, causing confusion and mistakes, but with no intention of preventing access to asylum applications or of enforcing rejections or mass expulsions. He pointed out that many unlawful rejections were overturned at the judicial level.⁶³

According to the Report published by the Commission for the protection and promotion of human rights, of the Senate, that visited the hotspot of Lampedusa in January 2016, the pre-identification procedure was particularly critical. The Commission highlighted that most of the migrants pre-identified were not capable of properly filling the forms: the procedure was taking place when the refugees rescued at sea and just landed were often obviously still in shock following the long and risky journey, and many of them were unable to understand what was required, because mediators spoke only four languages and could not cover all the different areas of origin of the migrants.⁶⁴

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 procedures for the request of the international protection and on the relocation procedure).”⁶⁵

People interviewed by Amnesty International in July and August 2016 confirmed that the denounced practices were still going on throughout 2016 and, despite the abovementioned Circular of the Ministry of Interior of 8 January 2016 and the criticism of NGOs, expulsion orders were still issued after summary and superficial examinations.⁶⁶ After the report was published by Amnesty International in November 2016, the Government strongly refused such accusations, as well as those concerning illegal detention and the coercive measures to fingerprint the migrants, claiming that they were false (see [Detention of Asylum Seekers](#)).⁶⁷

In January 2018, the French press referred to a complaint brought by 38 people – of whom 37 from Sudan and one from Eritrea – in Pau, alleging “acts of torture and inhuman treatments they suffered upon their arrival in Italy” after the disembarkation in Lampedusa and Sicily due to their initial refusal to be fingerprinted. The group escaped to France after being sent to reception centres.⁶⁸

3. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for asylum seekers to lodge their application?
☒ Yes ☐ No
2. If so, what is the time limit for lodging an application?
❖ At the border 8 working days

⁶² Ministry of Interior, Circular addressed to the Head of Police and to Prefectures, 8 January 2016.

⁶³ Chamber of Deputies, *Parliamentary Commission of inquiry on reception and identification, Hearing of the Head of Police, Alessandro Pansa*, 20 January 2016, available in Italian at: <http://bit.ly/2IS6pgJ>.

⁶⁴ Senate, *Report on identification and expulsion centres in Italy*, February 2016, available in Italian at: <http://bit.ly/1LDALyv>.

⁶⁵ Hotspot SOP, 7, para B3.

⁶⁶ Amnesty International, *Hotspot Italy*, 34, 41.

⁶⁷ Il Fatto Quotidiano, ‘Migranti, Morcone: “Rapporto Amnesty su abusi in Italia? Cretinaggini”. Ue: “Nessuna violazione”’, 3 November 2016, available in Italian at: <http://bit.ly/2fg12W5>.

⁶⁸ RFI, ‘Migrants accuse Italy of torture in French legal case’, 11 January 2018, available at: <http://bit.ly/2oy6BnJ>.

LD 142/2015 clarifies that applications for international protection are made in the territory, including at the border and in transit zones, and in the territorial waters by non-EU citizens.⁶⁹ Moreover, the Decree also provides for training for Police authorities appropriate to their tasks and responsibilities.⁷⁰

LD 142/2015 provides for the issuing of a stay permit for asylum seekers valid for 6 months, renewable.⁷¹

3.1. Fotosegnalamento

Under the Procedure Decree,⁷² the asylum claim can be made either at the Border Police upon arrival or at the Immigration Office of the Police (*Questura*) if the applicant is already in the territory. The wish to seek international protection may be expressed orally or in writing by the person concerned in their own language with the help of a mediator.⁷³

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.⁷⁴ However, there is no provision for a time limit to lodge an asylum request before the *Questura* when the applicant is already on the national territory.

The procedure for the initial registration of the asylum application is the same at the border and at the *Questura*. The first step is an 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*”. In 2017 and early 2018, the European Asylum Support Office (EASO) has supported the *Questura* in the *fotosegnalamento* process.

There have been several reports of denial of access to the asylum procedure in 2017:

Campania: The *Questura* of Naples only allowed asylum applications on Monday morning for a limited number of applicants during 2017.⁷⁵ ASGI sent a letter to the *Questura* on 27 September 2017, urging it to refrain from preventing access to asylum seekers and their lawyers.⁷⁶ Although it has not responded to that letter, the *Questura* has introduced an online appointment procedure since January 2018, which is only available once a week and allows around 40-45 people to apply; this means that within a few minutes access to the procedure through that system is closed.

Once an appointment is made, the applicant obtains a printable receipt with the date when the *fotosegnalamento* will take place. Still at the very early stages of implementation, this new system seems to have only avoided the physical presence of applicants at the offices of the *Questura*, as access remains limited.

Lazio: In Rome, ASGI has documented limited access to the asylum procedure, with numbers varying from one day to another. In some cases, access is prevented for some nationalities due to a large number of people from the same region present in the *Questura* on the same day. In addition to a reported practice of allowing a number of about 20 asylum applications by day on the basis of nationality, the *Questura* of Rome has also requested applicants to present a national passport in order to be admitted.⁷⁷

⁶⁹ Article 1 LD 25/2008.

⁷⁰ Article 10(1-bis) LD 25/2008.

⁷¹ Article 4(1) LD 142/2015.

⁷² Article 6 LD 25/2008.

⁷³ Article 3(1) PD 21/2015.

⁷⁴ Article 3(2) PD 21/2015.

⁷⁵ La Repubblica, ‘Napoli, ressa tra i richiedenti asilo all'Ufficio immigrazione’, 25 September 2017, available in Italian at: <http://bit.ly/2hrLALu>.

⁷⁶ ASGI, ‘ASGI alla Questura di Napoli: illegittimo limitare l'accesso ai richiedenti asilo e ai loro avvocati’, 11 October 2017, available in Italian at: <http://bit.ly/2sU0BLx>.

⁷⁷ Rete legale per i migranti in transito, *Report April-October 2017*, available in Italian at: <http://bit.ly/2tyuUHF>, 5.

Puglia: In Bari and Foggia, Questure allow people to seek asylum only twice a week. In early 2018, ASGI recorded specific obstacles to access vis-à-vis Iraqi nationals in Bari, who were only allowed to seek asylum if they presented a passport to certify their identity.

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

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 arrest and deportation.

In addition, Article 5(1) LD 142/2015 clarifies that the obligation to inform 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 accommodation centres and of the CPR are to be considered the place of residence of asylum applicants who effectively live in these centres.⁷⁸ Article 4(4) LD 142/2015 also states that access to the reception measures and the issuance of the residence permit are not subject to additional requirements to those expressly required by the Decree itself.⁷⁹

With these two provisions,⁸⁰ the Decree has made it clear that the unavailability of a domicile shall not be a barrier to access to international protection. Nevertheless, during 2016 and 2017 Questure still denied access to the procedure for lack of domicile. This has been reported to ASGI as occurring for example in Milan, **Lombardia**, Rome and Frosinone, **Lazio**, Treviso, **Veneto**, Ventimiglia, **Liguria**, Naples, **Campania** and Trento, **Trentino Alto Adige**.⁸¹ The Questura of Pordenone, **Friuli-Venezia Giulia** has also denied access to the procedure for three months, 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.

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 can 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.

3.2. C3 and verbalizzazione

The preliminary phase is followed by a second step, consisting in the formal registration of the asylum request, which is carried out exclusively at the Questura within the national territory. EASO has also provided support in this process in 2017 and early 2018. The formal registration of the application (the so-called “*verbalizzazione*”) is accomplished through a form (“*Modello C/3*”).⁸² The form is completed with the basic information regarding the applicant’s personal history, the journey he or she has undertaken to reach Italy and the reasons for fleeing from the country of origin. This form is signed by the asylum seeker and then sent to the Territorial Commission, before the interview. Asylum seekers should receive, by law, a copy of the C3 and copies of all other documents submitted to the police authorities. In practice, it has been reported to ASGI that some Questure, like the one in Milan, **Lombardia**, do not give such copies to the applicants.

Then, even though the police is not entitled to know in detail the applicant’s personal history, it happens that some Questure, before filling in the C3, ask the applicant to provide a written statement concerning

⁷⁸ Article 5(1) LD 142/2015. 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.

⁷⁹ Article 4(4) LD 142/2015.

⁸⁰ Article 4(4) LD 142/2015, read together with Article 5(1) LD 142/2015.

⁸¹ See also MSF, *Fuori campo*, February 2018, 18.

⁸² “Modello C/3 - Modello per il riconoscimento dello status di rifugiato ai sensi della Convenzione di Ginevra”.

his or her personal reasons for fleeing from the country of origin. If the person concerned is not able to write, the interpreter writes for him or her. This results in several contradictions that the person is not really able to explain at the time of the interview with the Territorial Commission. This has been reported to ASGI to happen for example in Gorizia, **Friuli-Venezia Giulia**.

Other examples of Questure assessing whether the application should be lodged include the following:

Lombardia: At the Questura of Milan, **Lombardia**, as denounced by the NGOs ASGI, Naga and Avvocati per Niente with a letter sent to the Ministry of Interior in April 2016, the Police submits a questionnaire to asylum seekers pretending 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 to access the asylum procedure and notified of an expulsion order.⁸³ The same Questura is also reported to deny access to the applicants' lawyers. Replying to the report, the Questura rejected all accusations, explaining, that lawyers are allowed to intervene on specific mandate of their clients and for specific disputes with the immigration offices.⁸⁴

This practice has persisted in 2017.⁸⁵ For persons who spontaneously appear before the Questura of Milan to seek asylum, there is a very high frequency of expulsion measures. This is also the case for people accommodated in temporary reception centres (CAS), whom the Questura considers as shipwreck survivors and not necessarily asylum seekers; it distinguishes the two categories based on the aforementioned questionnaire. Throughout 2017, at least 23 people accommodated in CAS were issued expulsion orders after appearing before the Questura, and were notified of the **Withdrawal of Reception Conditions** at the same time.

Basilicata: The Questura of Potenza has started in November 2017 a pre-selection process for asylum seekers, whereby it interviews foreigners seeking protection and sets C3 appointments only to those it believes are in need of international protection.

Friuli-Venezia Giulia: Since 2018, Questure in the region have started to refuse formalisation of asylum applications for asylum seekers falling under the **Dublin** procedure. When a Eurodac 'hit' is recorded, Questure move the C3 appointment to a later date and notify a Dublin transfer decision to the persons concerned before that date. Applicants are therefore subject to a transfer before having lodged their application and had an interview.

With the completion of the C3, the formal stage of applying for international protection is concluded. The "*fotosegnalamento*" and the formal registration 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 requests 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 this respect, LD 142/2015 provides that the transcription of the statements made by the applicant is carried out within 3 working days from the manifestation of the willingness to seek protection or within 6 working days in case the applicant has manifested 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.⁸⁶

⁸³ For more information and the letter, see: <http://bit.ly/2kB5kli>.

⁸⁴ The response appeared on the newspaper *Avvenire* on 30 April 2016.

⁸⁵ ASGI et al., 'Protezione internazionale: la Questura deve ricevere la richiesta di asilo, non valutarla', 14 June 2017, available in Italian at: <http://bit.ly/2HN8J3V>.

⁸⁶ Article 26(2-bis) LD 25/2008.

However, these time limits are generally not respected. During 2017 as recorded by ASGI, only in a few cases – such as the Questure of Udine and Gorizia, **Friuli-Venezia Giulia** for women and families – could asylum seekers complete the C3 the same day or immediately after expressing the will to seek protection.

Conversely, in Naples, **Campania**, the average waiting period for the completion of C3 was 6 months. Following the introduction of the online procedure in January 2018, however, the C3 has been completed after 10 days on average.

Differential treatment has been reported depending on whether asylum seekers were accommodated in a centre or lived alone. In Caserta, **Caserta**, according to the reports, asylum seekers not living in a reception centre can wait up to one year, while those accommodated just one month. The same difference, albeit less sizeable, has been reported for example in Como and Milan, **Lombardia**, Florence, **Toscana** and Rome, **Lazio**.

Many cases have also been reported to ASGI where asylum seekers were not allowed to enter the building of the Questura and were obliged to wait several hours outside, over a barrier, being exposed to psychological ill-treatment, such as verbal abuse and shouting.

As of 29 December 2017, the breakdown of asylum applications by Commission was as follows:

New asylum applicants by Territorial Commission: 1 January – 29 December 2017			
Territorial Commission	Number	Territorial Commission	Number
Milan	8,517	Florence	4,212
Milan 1	420	Ragusa	654
Rome	7,043	Palermo	1,897
Rome 1	20	Lecce	1,897
Rome 2	1,606	Forli	3,102
Rome 3	1,128	Perugia	1,986
Siracusa	1,101	Verona	3,698
Trapani	1,178	Catania	2,849
Trapani 1	807	Catania 1	0
Gorizia	3,784	Salerno	8,434
Foggia	2,418	Padova	3,031
Crotone	2,827	Agrigento	952
Crotone 1	1,682	Frosinone	3,430
Caserta	4,745	Reggio Calabria	3,132
Caserta 1	962	Campobasso	1,918
Torino	5,400	Enna	651
Torino 1	0	Genova	4,612
Bari	2,265	Brescia	3,489
Bari 1	760	Vicenza	1,711
Bologna	7,210	Bergamo	1,645
Caltanissetta	746	Monza	3,512
Cagliari	5,581	Novara	1,935
Ancona	4,996	Livorno	1,685
Ancona 1	0	Treviso	2,000
		Udine	571

Source: CNDA.

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: ⁸⁷ | 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 29 December 2017: | 145,906 |

1.1.1. The Territorial Commissions

The authorities competent to examine the asylum application and to take first instance decisions are the Territorial Commissions for the Recognition of International Protection (CTRPI) and Sub-commissions, which are administrative bodies specialised in the field of asylum, under the Ministry of Interior. The Territorial Commissions are established under the Prefectures.⁸⁸ The functioning and composition of the Territorial Commissions was recently reformed by LD 220/2017, entering into force on 31 January 2018.

Decree-Law 119/2014 establishes the possibility of enlarging the number of the Territorial Commissions from 10 to 20,⁸⁹ while LD 220/2017 clarifies the possibility to create up to 30 additional sub-Commissions in the entire national territory,⁹⁰ in order to boost and improve the management of the increasing number of applications for international protection.

As of March 2017, there were 20 Territorial Commissions and 28 sub-Commissions in Italy.⁹¹ An additional sub-Commission was set up in Udine, **Friuli-Venezia Giulia** and started operations on 15 December 2017.

As established in LD 220/2017, each Territorial Commission is composed by at least 6 members, in compliance with gender balance. These include:⁹²

- 1 President, representative of the Ministry of Interior, with prefectoral experience;
- 1 representative of UNHCR;
- 4 or more highly qualified administrative representatives of the Ministry of Interior, appointed by public tender.⁹³

The Territorial Commissions may be supplemented, upon request of the President of 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.⁹⁴

⁸⁷ 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.

⁸⁸ Article 4(1) LD 25/2008, as amended by LD 220/2017.

⁸⁹ Article 4(2) LD 25/2008.

⁹⁰ Article 4(2-bis) LD 25/2008.

⁹¹ Chamber of Deputies, Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione, 15 March 2017, available in Italian at: <http://bit.ly/2F4frUn>.

⁹² Article 4(1-bis) LD 25/2008, as inserted by LD 220/2017.

⁹³ Article 13 DL 13/2017, following which 250 persons have been appointed by public tender.

⁹⁴ Article 4(3) LD 25/2008, as amended by LD 220/2017.

Before the appointment of the members of the Territorial Commissions, the absence of incompatibility and conflict of interests must be evaluated.⁹⁵ For the President and the UNHCR representative, one or more substitutes are appointed. The assignment is valid for 3 years, renewable.⁹⁶

The decision-making sessions of the Commission are composed by the President, the UNHCR-appointed expert and two of the administrative officers, including the one conducting the interview.⁹⁷

Under the Procedure Decree, the decision on the merits of the asylum claim must be taken by at least a simple majority of the Territorial Commission, which must be at least 3 members; in the case of a tie, the President's vote prevails.⁹⁸

LD 220/2017 specifies that the old composition of the Territorial Commission continues to operate for the appointment of highly qualified personnel, meaning that they comprise of: 1 President under the Ministry of Interior with prefectural experience; 1 representative of UNHCR; 1 senior police officer; and 1 representative of the municipality, province or region.

The CNDA has adopted a Code of Conduct for the members of the CTRPI, the interpreters and the personnel supporting them.⁹⁹

1.1.2. Time limits

According to LD 142/2015 the CTRPI interviews the applicant within 30 days after having received the application and decides in the 3 following working days. When the CTRPI is unable to take a decision in this time limit and needs to acquire new elements, the examination procedure is concluded within six months of the lodging of the application. The CTRPI 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; 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 CTRPI, in duly justified circumstances, 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.¹⁰⁰ In the 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 *Modello C3* form through VESTANET has taken place. On the other hand, the first instance procedure usually lasts several months, while the delays for different determining authorities in issuing a decision vary between Territorial Commissions. In cities such as **Rome**, the entire procedure is generally longer and takes from 6 up to 12 months.

According to the President of the CNDA, the average processing time in the period 2014-2016 was 260 days from the lodging of the application until a decision.¹⁰¹

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

⁹⁸ Article 4(4) LD 25/2008.

⁹⁹ Article 5(1-ter) LD 25/2008.

¹⁰⁰ Article 27(2)(3) LD 25/2008.

¹⁰¹ Chamber of Deputies, Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione, 15 March 2017, available in Italian at: <http://bit.ly/2F4frUn>.

The number of asylum applications pending at first instance as of 29 December 2017 was 145,906. Of those, 101,329 (69.5%) were waiting for an appointment for an interview. The Territorial Commissions with the highest backlog of cases were **Milan** (13,671), **Bologna** (10,861), **Salerno** (10,214), **Torino** (9,710) and **Genova** (8,836).¹⁰²

1.1.3. Outcomes of the regular procedure

LD 142/2015 states that when the applicant leaves the reception centre without any justification or absconds from detention without having been interviewed, the CTRPI suspends the examination of the application on the basis that the applicant is not reachable (*irreperibile*). The applicant, only once, may request the reopening of the suspended procedure within 12 months from the suspension decision. After this deadline, the CTRPI declares the termination of the procedure. Any application made after the declaration of termination of the procedure is submitted to a preliminary examination as a **Subsequent Application**. During the preliminary examination, the grounds supporting the admissibility of the application and the reasons of the moving away from the centres are examined.¹⁰³ In 2017, ASGI received several reports of suspension of procedures for people whose accommodation had been revoked e.g. in Pordenone, **Friuli-Venezia Giulia**. This has also occurred due to lack of communication between reception centres and Questure in the case of transfers to different facilities, as was the case for people moved out of Cona, **Veneto** due to overcrowding.

From 1 January to 29 December 2017, the Territorial Commissions issued 4,292 suspension decisions, of which 640 in the Territorial Commissions **Milan** and **Milan 1**, and 589 in **Bologna**.¹⁰⁴

The examination of the asylum application is also suspended if the asylum seeker is imprisoned.

There are 5 possible outcomes to the regular procedure, as well as a fifth outcome inserted by LD 142/2015. The Territorial Commission may decide to:¹⁰⁵

- Grant refugee status and issue a 5-year renewable residence permit;
- Grant subsidiary protection and issue a 5-year renewable residence permit;¹⁰⁶
- Recommend to the Police to issue a 2-year residence permit on humanitarian grounds e.g. for health conditions;¹⁰⁷
- Reject the asylum application; or
- Reject the application as manifestly unfounded.¹⁰⁸

The overall recognition rate in 2017 was 41.8%. It is worth noting, however, that the rate of positive decisions varies across different Territorial Commissions e.g. from 16.7% in **Perugia** and 19% in **Bari 1** to 75% in **Palermo** and 59% in **Reggio Calabria**.¹⁰⁹

1.2. Prioritised examination and fast-track processing

LD 142/2015 provides that the President of the CTRPI identifies the cases under the prioritised procedure, which applies:

- a. Where the application is likely to be well-founded;

¹⁰² CNDA, *Statistics*, 29 December 2017, available in Italian at: <http://bit.ly/2p5em4C>.

¹⁰³ Article 23-bis LD 25/2008.

¹⁰⁴ CNDA, *Statistics*, 29 December 2017, available in Italian at: <http://bit.ly/2p5em4C>.

¹⁰⁵ Article 6(1) PD 21/2015.

¹⁰⁶ The duration of validity of residence permits issued both to refugees and beneficiaries of subsidiary protection has been equalised by Article 23(2) LD 18/2014, which extended the duration of residence permit for subsidiary protection beneficiaries from 3 to 5 years.

¹⁰⁷ Article 32(3) LD 25/2008; Article 5(6) TUI.

¹⁰⁸ Article 32(1)(b-bis) LD 25/2008.

¹⁰⁹ CNDA, *Statistics*, 29 December 2017, available in Italian at: <http://bit.ly/2p5em4C>.

- b. Where the applicant is vulnerable, in particular an unaccompanied child or a person in need of special procedural guarantees;
- c. When the application is made by the applicant placed in an administrative detention centre;
- d. If 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 recognise subsidiary protection. The competent CTRPI, before adopting such a decision, informs the applicant of the opportunity, within 3 days from the communication, to be admitted to the personal interview. In absence of such request, the CTRPI takes the decision.¹¹⁰

In practice, the prioritised procedure is applied to those held in CPR and rarely to the other categories. Nevertheless, 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.

In practice, the prioritised procedure was not applied to unaccompanied children mainly because of the delay in appointing their legal guardian by the guardianship judge (*giudice tutelare*). The situation could change in 2018, however, since L 47/2017 allows the lodging of an asylum application by the manager of the reception centre until the appointment of a guardian.¹¹¹ The responsibility for the appointment of a guardian lies with the Juvenile Court.¹¹²

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

The Procedure Decree provides for a personal interview of each applicant, which is not public.¹¹³ LD 142/2015 has clarified that during the personal interview the applicant can disclose exhaustively all elements supporting his or her asylum request.¹¹⁴

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 Geneva 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, LD 142/2015 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

¹¹⁰ Article 28 LD 25/2008.

¹¹¹ Article 6(3) L 47/2017.

¹¹² Article 19(5) LD 142/2015, as amended by LD 220/2017.

¹¹³ Article 12(1) LD 25/2008; Article 13(1) LD 25/2008.

¹¹⁴ Article 13(1-bis) LD 25/2008.

serious reasons.¹¹⁵ The applicant recognised as such is allowed to ask for the postponement of the personal interview through a specific request with the medical certificates.¹¹⁶

- (c) For applicants coming from those countries identified by the CNDA, when considering that there are sufficient grounds to grant them subsidiary protection.¹¹⁷

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 members in order for a decision to be jointly taken. Upon request of the applicant, the President may decide to hold the interview him or herself or before the Commission.

Interpretation

In the phases concerning the presentation 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.¹¹⁸ Moreover, LD 142/2015 specifies that, where necessary, the documents produced by the applicant shall be translated.¹¹⁹

At border points, however, these services may not be always 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 available, there may therefore be significant difficulties in promptly providing an adequate number of qualified interpreters also 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.

Recording and transcript

Audio or video recording was not previously foreseen in the law, but according to LD 142/2015 the personal interview may be recorded. The recording is admissible as evidence in judicial appeals against the CTRPI's decision. Where the recording is transcribed, the signature of the transcript is not required by the applicant.¹²⁰ L 46/2017 states that the interview has to be taped by audiovisual means and transcribed in Italian with the aid of automatic voice recognition systems.¹²¹ 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 observations of the applicant which have not been directly implemented to correct the text of the transcript are included at the bottom of the transcript and signed by him or her. The transcript itself is

¹¹⁵ Article 12(3) LD 25/2008.

¹¹⁶ Article 5(4) PD 21/2015.

¹¹⁷ Article 12(2-bis) LD 25/2008, read in conjunction with Article 5(1-bis).

¹¹⁸ Article 10(4) LD 25/2008.

¹¹⁹ Article 10(4) LD 25/2008.

¹²⁰ Article 14(2-bis) LD 25/2008.

¹²¹ Article 14 LD 25/2008, as amended by L 46/2017.

signed only by the interviewer – or the President of the Commission – and by the interpreter.¹²² 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,¹²³ 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.¹²⁴ 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.¹²⁵

During 2017, 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. This means that all interviews in practice were a report given to the applicant at the end of the interview, with the opportunity for applicants to make further comments and corrections before 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 | ☐ No |
| 2. Average processing time for the appeal body to make a decision: | Not available | |

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 on humanitarian grounds instead of granting international protection.¹²⁶

The appeal must be lodged within 30 calendar days from the notification of the first instance decision and must be submitted by a lawyer.¹²⁷ Applicants placed in CPR and those under the accelerated procedure have only 15 days to lodge an appeal (see [Accelerated Procedure](#)).¹²⁸

L 46/2017 has established specialised sections in the courts, responsible for asylum cases.¹²⁹ Judges to be included in the specialised sections, who also deal with other immigration law matters, 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.¹³⁰

Moreover, new criteria to establish the competence of the Court have been established. In addition to the competence determined on the basis of the place of the competent CTRPI, now the competence is

¹²² Article 14(2) LD 25/2008, as amended by L 46/2017.

¹²³ Article 14(5) LD 25/2008, as amended by L 46/2017.

¹²⁴ Article 14(6-bis) LD 25/2008, as amended by L 46/2017.

¹²⁵ Article 14(7) LD 25/2008, as amended by L 46/2017.

¹²⁶ Article 35(1) LD 25/2008.

¹²⁷ Article 35-bis(2) LD 25/2008.

¹²⁸ Article 35-bis(2) LD 25/2008.

¹²⁹ Article 1 DL 13/2017, as converted into law by L 46/2017.

¹³⁰ Article 2(1) DL 13/2017, as converted into law by L 46/2017.

established also on the basis of the place where the applicant is placed (governmental reception centres, CAS, SPRAR and CPR).¹³¹

Suspensive effect

The first appeal has automatic suspensive effect.¹³² However, there are exceptions to automatic suspensive effect in the following cases:¹³³

- (a) The applicant is detained in CPR;
- (b) The claim is deemed inadmissible;
- (c) The claim is deemed “manifestly unfounded”;
- (d) The claim is made by an applicant under the **Accelerated Procedure** after having been apprehended for avoiding or attempting to avoid border controls, or immediately after, or for irregular stay, with the sole aim to avoid an expulsion or refusal of entry order.¹³⁴

However, in those cases, the applicant can request individually 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.¹³⁵

Moreover, when a **Subsequent Application** has been rejected for the second time as inadmissible, the appeal or the request of suspension do not suspend the effects of the order adopted.¹³⁶

Despite the aforementioned provisions on automatic suspensive effect of appeals, the Questura of Naples made an incorrect interpretation of the law, claiming that, for all appeals submitted after the entry into force of L 46/2017, suspensive effect had to be requested and obtained. The Questura deemed that all applicants automatically fell within the **Accelerated Procedure** on the ground that they had applied for asylum after being apprehended for avoiding or attempting to avoid border controls or found irregularly on the territory with the sole aim of avoiding removal or refusal of entry. Following a ruling of the Court of Appeal of Naples which clarified the nature of the accelerated procedure, ASGI requested the Questura to immediately stop this unlawful practice.¹³⁷

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.¹³⁸ 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.¹³⁹

Hearing

According to the appeal procedure following L 46/2017, oral hearings before the court sections are a residual option. The law states that, as a rule, judges will decide the cases only by consulting the videotaped interview before the Territorial Commission. They will 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.¹⁴⁰ A hearing is also to be provided when the videotaping is not

¹³¹ *Ibid.*

¹³² Article 35 LD 25/2008.

¹³³ Article 35-bis(3) LD 25/2008.

¹³⁴ Article 28-bis(c) LD 25/2008.

¹³⁵ Article 35-bis(4) LD 25/2008.

¹³⁶ Article 35-bis(5) LD 25/2008.

¹³⁷ Court of Appeal of Naples, Decision No 17, 3 January 2018, available at: <http://bit.ly/2mxJHvD>.

¹³⁸ Article 35-bis(7) and (12) LD 25/2008.

¹³⁹ Article 35-bis(8) LD 25/2008.

¹⁴⁰ Article 35-bis LD 25/2008, introduced by Article 6(10) DL 13/2017.

available or the appeal is based on elements not relied on during the administrative procedure of first instance.¹⁴¹

Since the adoption of Decree-Law 13/2017, which was converted into law by L 46/2017, 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 will not watch them with the assistance of interpreters so as to understand the actual extent of applicants' statements.

Throughout 2017, insofar as Territorial Commissions were still not video-recording interviews, most of the court sections have always held oral hearings with asylum seekers, as set out in the law in case the interview is not video-recorded. However, sections such as **Naples** interpret this as leaving discretion to the court even if the videotape is not available.

On 6 March 2018, the Civil Court of **Venezia** adopted a Protocol for its Immigration Section,¹⁴² which immediately alarmed part of the judiciary and ASGI. The most critical aspect of the Protocol concerns the hearing of the asylum seeker without the presence of the lawyer and the duty of the lawyer to inform the judge, before the hearing, about the possible existence of infectious diseases of the applicant with the obligation to produce medical certification attesting the absence of risks of contagion.¹⁴³

The Civil Court can either reject the appeal or grant international protection to the asylum seeker within 4 months.¹⁴⁴ Since the entry into force of the reform, the appeal procedure has sped up considerably.

1.4.2. Onward appeal

L 46/2017 has abolished the possibility to appeal a negative Civil Court decision before the Court of Appeal. This provision applies to appeals lodged after 17 August 2017. In case of a negative decision, the asylum seeker can only lodge an appeal before the Court of Cassation within 30 days, compared to 60 before the reform.¹⁴⁵

The onward appeal is not automatically suspensive. 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.¹⁴⁶

The reform has sparked strong reactions from NGOs,¹⁴⁷ 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 eventuality, further complicating access to free legal aid, and reducing the time for appeal to the Court of Cassation - also giving the possibility of suspending the effectiveness of the rejecting decision of the Civil tribunal to the same judge who decided the rejection – it drastically reduces the judicial protection of asylum seekers.

Moreover, the choice of legislative instrument – a Decree-Law, used in case of urgency and necessity –

¹⁴¹ Article 6(11) DL 13/2017.

¹⁴² Civil Court of Venezia, Immigration Section Protocol, 6 March 2018, available in Italian at: <http://bit.ly/2prcXpq>.

¹⁴³ Magistratura Democratica, 'Il diritto di difesa non è uguale per tutti', 18 March 2018, available in Italian at: <http://bit.ly/2pskqEH>. See also ASGI, Letter to the Civil Court of Venice, 19 March 2018, available in Italian at: <http://bit.ly/2u3NZ51>.

¹⁴⁴ Article 35-bis(13) LD 25/2008.

¹⁴⁵ Article 35-bis(13) LD 25/2008.

¹⁴⁶ Article 35-bis(13) LD 25/2008.

¹⁴⁷ 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>.

raises many concerns since these most important changes have entered into force only after 180 days.

The Magistrates' National Association – Cassation section also highlighted the unreasonableness of the choice to abolish the second degree appeal, which is still provided for civil disputes of much lower value if compared to international protection cases, also considering that the procedure before the Court of Cassation is basically a written procedure. Nevertheless, the Decree-Law was converted into L 46/2017 without any substantial modifications.

As regards appeals lodged before the entry into force of L 46/2017, a second appeal can still be brought before the Court of Appeal. The Court of Cassation has clarified that these second-instance appeals follow the same procedure as before the entry into force of LD 142/2015.¹⁴⁸

In practice, asylum seekers who file an appeal against the first judicial instance decision, in particular those who are held in CPR and those involved in the accelerate 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.

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 during the personal interview by legal advisors or lawyers financed by NGOs or specialised assisting bodies where they work. 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. With regard to reception facilities belonging to the SPRAR system, each project provides legal assistance for asylum seekers hosted in the centres. In this respect, 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.¹⁴⁹

¹⁴⁸ Court of Cassation, Decision 669/2018, 12 January 2018.

¹⁴⁹ Article 10(2-bis) LD 25/2008.

National funds are also allocated for providing information and legal counselling at official land, air, sea border points and where migrants arrive by boat.¹⁵⁰ 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 a lawyer and specialised NGOs have limited capacity due to lack of funds.

1.5.2. Legal assistance in appeals

With regard to the appeal phase, free state-funded legal aid ("*gratuito patrocinio*"), is provided by law to asylum seekers who declare an annual taxable income below €11,369.24 and whose case is not deemed manifestly unfounded.¹⁵¹

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.¹⁵² However, the law prescribes that if the person is unable to obtain this documentation, he or she may alternatively provide a self-declaration of income.¹⁵³ 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 DPR 115/2002.

The worrying practice of some Bar Associations such as **Florence**, **Genova** and **Rome**, which refused legal aid to applicants who could not provide consular certificates attesting their income abroad, seems to have ceased in 2017.

¹⁵⁰ Article 11(6) TUI.

¹⁵¹ Article 16(2) LD 25/2008.

¹⁵² Article 79(2) PD 115/2002.

¹⁵³ Article 94(2) PD 115/2002.

Merits test

In addition, access to free legal assistance is also subject to a merits test by the competent Bar Association (*Consiglio dell'ordine degli avvocati*) which assesses whether the asylum seeker's motivations for appealing are not manifestly unfounded.¹⁵⁴

During 2017, some Bar Associations such as **Milan** and **Triste** rejected almost all requests to access to free legal assistance, generally deeming the claims that the petitioners intended to rely on as manifestly unfounded.

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.¹⁵⁵

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.¹⁵⁶

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.

As denounced by some NGOs and by lawyers, it may also happen that lawyers paid by the Italian State may unlawfully request funds from the applicants.

In relation to the presence of the lawyer during the hearing, the Civil Court of **Venice** has recently adopted a Protocol for its Immigration Section, which provides that the hearing of the asylum seeker is to take place without the presence of the lawyer (see [Regular Procedure: Appeal](#)).¹⁵⁷

2. Dublin

2.1. General

Dublin statistics: 2017

The Dublin Unit has not provided statistics on the operation of the Dublin system in 2017 upon request. According to Eurostat statistics for 2016, Italy received 64,844 incoming requests, far ahead of any other country. The number of incoming transfers implemented in 2016 was 4,061.

Application of the Dublin criteria

The Italian authorities tend to use circumstantial evidence for the family unity purposes such as photos, reports issued by the caseworkers, UNHCR's opinion on application of the Dublin Implementing

¹⁵⁴ Article 126 PD 115/2002.

¹⁵⁵ Article 136 PD 115/2002.

¹⁵⁶ Article 35-bis(17) LD 25/2008.

¹⁵⁷ Civil Court of Venezia, Immigration Section Protocol, 6 March 2018, available in Italian at: <http://bit.ly/2prcXpq>.

Regulation 118/2014, and any relevant information and declarations provided by the concerned persons and family members.

Even where the asylum seeker has not indicated the existence of family members in another Member State from the outset of the application, mainly due to the superficial interview before the Questura, the Italian authorities tend to reconsider the case and take into account the additional information received. The authorities often cross-check the information received with information provided by family members in the country of destination.

The Dublin Unit does not provide data on the application of the discretionary clauses under Article 17 of the Dublin III Regulation. No data are available on the use of the discretionary clauses. However, according to ASGI's experience, it seems that the "sovereignty clause" is more frequently applied than the "humanitarian clause", in particular on vulnerability and health grounds.

Regrettably, no data on the criteria used for either incoming and outgoing requests are available. However, according to the Ministry of Labour, 283 children, mainly from Eritrea, were deemed eligible for transfers to other countries under Articles 8 and 17(2) of the Dublin Regulation:

Outgoing transfers of children under the Dublin Regulation: 2017		
	Completed	Agreed and pending
Total	37	33
Sweden	9	11
Switzerland	9	10
United Kingdom	9	2
Germany	7	0
Belgium	1	0
France	1	1
Norway	1	6
Netherlands	0	2
Spain	0	1

Source: Ministry of Labour: <http://bit.ly/2FvU6Aj>.

A total of 233 children were awaiting the conclusion of a Dublin procedure at the end of the year.

2.2. Procedure

Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? Not available

All asylum applicants are photographed and fingerprinted by police authorities who systematically store their fingerprints in Eurodac. When there is a Eurodac hit, the police contacts the Italian Dublin Unit within the Ministry of Interior.

The staff of the Italian Dublin Unit has significantly increased in 2017 and benefitted from the support of EASO personnel, mainly in relation to outgoing requests, family reunification and children. As a result, outgoing requests were issued within the deadlines set by the Dublin Regulation in early 2018.

The Minister of Interior informed the Chamber of Deputies in December 2017 that a specific procedure is implemented in Questura in the **Friuli-Venezia Giulia** region, on the basis that all asylum seekers arriving

in this region from Nordic countries or the Balkan route fall under the Dublin Regulation.¹⁵⁸ In fact, ASGI has witnessed a unique acceleration of the procedure in the Questure of Trieste and Gorizia in January and February 2018, where people are notified of a transfer decision within one or two months of arrival and fingerprinting in Italy. In many cases the Questure notify the transfer decision without even proceeding with the lodging (*verbalizzazione*) of the asylum application, as they set the *verbalizzazione* appointment at a distant date to be able to obtain replies from the Dublin State concerned beforehand. Subsequently, they cancel the lodging appointments, as a result of which people have no authorisation to stay in Italy. Asylum seekers are not informed about the procedure or given the possibility to highlight any family links or vulnerabilities.

Many transfer decisions have already been appealed. However, according to media reports, the authorities in Friuli-Venezia Giulia are organising mass transfers, the first implemented on 20 February 2018.¹⁵⁹

Concerning the general procedure, after the lodging of the asylum application, on the basis of the information gathered and if it considers that the Dublin III Regulation should be applied, the Questura transmits the pertinent documents to the Dublin Unit which examines the criteria set out in the Dublin III Regulation to identify the Member State responsible.

In order to avoid the application of the Dublin Regulation, after disembarkation some asylum seekers, particularly among Eritreans, Somalis and Syrians, refuse or are reluctant to be fingerprinted. However, as already underlined in the [Hotspot](#) section, since Italy has adopted the “hotspot approach”, the proportion of migrants fingerprinted has grown significantly, reportedly through the use of coercive measures by police.

Generally speaking, those who know they have a good chance of obtaining protection in the northern European countries, with expected better living conditions, or those interested in reaching other countries for family reasons, prefer not to stop their travel in Italy. Commonly, they have not been properly informed about their rights to reach their relatives legally or, if they had, they do not have confidence in the length of the process or they are not in possession of the necessary documents to prove family links.

Individualised guarantees

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 at least two cases in February 2018, the Dublin Unit decided to transfer vulnerable people without having received any information or guarantees on reception conditions in the country of destination: one was a Pakistani national suffering from diabetes to be transferred to Croatia, and the other was an Iraqi pregnant woman to be transferred to Bulgaria. Both have appealed the transfer decisions.

As regards the incoming procedure, information on the provision of individualised guarantees in line with *Tarakhel v. Switzerland* are not available. Following the *Tarakhel v. Switzerland* ruling, in practice the guarantees requested are ensured mainly to families and vulnerable cases. However, in relation to the guarantees for vulnerable cases, in particular to family groups with minors, on 8 June 2015 the Italian Dublin Unit sent to the other Dublin Units a circular letter,¹⁶⁰ together with a list of SPRAR centres for families transferred to Italy which provide “integrated reception” and adequate services. On 15 February 2016, the Italian Dublin Unit sent an updated list, including 85 places reserved in SPRAR projects for

¹⁵⁸ Chamber of Deputies, ‘Minniti: regolamento di Dublino III e applicazione in Italia per l’immigrazione’, 20 December 2017, available in Italian at: <http://bit.ly/2F6xkZa>.

¹⁵⁹ Trieste Prima, ‘Migranti: richiedenti asilo trasferiti da Gorizia in Austria secondo convenzione di Dublino’, 20 February 2018, available in Italian at: <http://bit.ly/2F6oLaf>; Il Piccolo, ‘Migranti, primi trasferimenti in Austria’, 14 February 2018, available in Italian at: <http://bit.ly/2F4iex4>.

¹⁶⁰ Ministry of Interior, Circular letter to all Dublin Units on “Dublin Regulation Nr. 604/2013. Guarantees for vulnerable cases: family groups with minors”, Rome, 8 June 2015.

families with minors,¹⁶¹ whereas the update of the list on 12 October 2016 mentioned 58 places.¹⁶² In 2017, the Ministry of Interior requested SPRAR to guarantee 70 places for vulnerable Dublin returnees.

There is no information available on the specific stage in the procedure when such guarantees are sought, however, generally speaking it seems that the guarantees are assessed before the taking charge of the “Dublin case”.

Transfers

In case another Member State is considered responsible under the Dublin Regulation, the asylum procedure is declared closed. 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.¹⁶³ Afterwards, the Questura arranges the transfer.

The applicants must then present themselves at the place and date indicated by the Questura. The applicants held in CPR are brought by the police authorities to the border from which they will be transferred to the responsible Member State.

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 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 III Regulation. The Head of Dublin Unit, Simona Spinelli, stated on 5 July 2016 that transfers to Hungary are *de facto* impossible due to the obstacles set by the Hungarian authorities: the airport is available only one or two days a month and dates are communicated only three days in advance. She affirmed that the majority of asylum seekers who received a transfer decision to the responsible Member State abscond and, as a result, “only persons with special needs are transferred...”¹⁶⁴

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

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 “Dublin cases” with adequate information that asylum seekers are able to go through the whole procedure. When necessary, the NGOs contact the public authorities to get the required information.

According to the data published by the Ministry of Labour, the time period between the request of the Dublin Unit 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

¹⁶¹ Ministry of Interior, Circular letter to all Dublin Units on “Dublin Regulation Nr. 604/2013. Guarantees for vulnerable cases: family groups with minors”, Rome, 10 February 2016, available at: <http://bit.ly/1QxxRqJ>.

¹⁶² Ministry of Interior, Circular letter to all Dublin Units on “Dublin Regulation Nr. 604/2013. Guarantees for vulnerable cases: family groups with minors”, Rome, 12 October 2016, available at: <http://bit.ly/2f0mi2E>.

¹⁶³ 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.

¹⁶⁴ Chamber of Deputies, Parliamentary Commission of Inquiry on the accommodation system, identification and expulsion, conditions of detention of migrants and public resources committed, *Hearing of the Head of the Dublin Unit*, 5 July 2016, available in Italian at: <http://bit.ly/2lz3WtS>.

of unaccompanied children.¹⁶⁵ However, according to ASGI's experience, the duration of the procedure is much longer.

Without prejudice to the procedure currently applied in **Friuli-Venezia Giulia**, the procedure may currently last over one year and no official measures have been adopted so far. Generally speaking, the Italian authorities tend to consider themselves competent for the examination of the asylum application when the duration of the procedure lasts over 12 months.

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, no personal interview of asylum seekers is envisaged during the Dublin procedure. In **Friuli-Venezia Giulia**, the Dublin procedure is conducted even before the application is lodged.

According to Article 5 of the Dublin III Regulation, the competent authority carrying out the interview, which in the case of Italy is the Police, should also take into consideration the situation of the applicant's family. Such information is only collected in a superficial manner in practice.

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.¹⁶⁶ 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: at first instance within 60 days from the notification before the Administrative Court of Lazio and, at the second appeal instance before the Council of State (*Consiglio di Stato*).

¹⁶⁵ Ministry of Labour, *I minori stranieri non accompagnati in Italia*, 31 December 2017, available in Italian at: <http://bit.ly/2FvU6Aj>, 14.

¹⁶⁶ Article 3(3-ter) LD 25/2008, as amended by L 46/2017.

During 2016, however, the administrative courts expressed with several decisions 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,¹⁶⁷ and subsequently by the Administrative Court of Lazio.¹⁶⁸

Reiterating this interpretation, L 46/2017 has designated the specialised section of the Civil Court of Rome as competent to decide on appeals against transfer decisions.¹⁶⁹

Suspensive effect

Since the entry into force of the Dublin III Regulation, the right to an effective remedy against the transfer decisions has been seriously compromised by the fact that many Questure did not consider the transfer suspended for the time allowed to appeal nor for the time necessary to get the answer from the court on the suspension request. In March 2015, ASGI sent a letter to the Department of Civil Liberties, claiming that Questure were organising such transfers well before the deadline for appeals had elapsed, therefore violating the minimum guarantee to an effective remedy provided by the Article 27 of the Regulation. The Dublin Unit did not reply.

In practice, in the absence of transposition of Article 27 of the Dublin III Regulation, each Questura had applied a different approach. The Dublin appeal procedure has been regulated by L 46/2017, in force since 17 August 2017. Nevertheless, the amended 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 inserted in the appeal.¹⁷⁰

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. However, in view of the current chaotic situation of transfers organised in **Friuli-Venezia Giulia** (see [Dublin: Procedure](#)), it is unclear whether Questure intend or not to wait during this time period.

The Court decides on the application for suspensive effect within 5 days and notifies 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.¹⁷¹ According to the very recent experience of ASGI lawyers, these timeframes are not complied with by the Civil Court of Rome.

The 6-month time limit for a transfer starts running from the rejection of the request for suspensive effect, otherwise from the decision on the appeal itself.¹⁷²

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

¹⁶⁷ Council of State, Decision No 5738 of 18 December 2015, available at: <http://bit.ly/2lbkoyn>.

¹⁶⁸ Administrative Court of Lazio, Session I-Ter, Decision No 9909 of 22 September 2016; Decision No 11911 of 28 November 2016, available at: <http://bit.ly/2IOS7AX>.

¹⁶⁹ Article 3(3-bis) LD 25/2008, as amended by L 46/2017. The jurisdiction of the Civil Court of Rome is not explicit but is inferred from the general rules for the competence of the specialised sections, according to which such competence is assigned based on the location of the authority issuing the appealed decision; in this case the Dublin Unit sitting in Rome.

¹⁷⁰ Article 3(3-quater) and (3-octies) LD 25/2008, as amended by L 46/2017.

¹⁷¹ Article 3(3-quater) LD 25/2008, as amended by L 46/2017.

¹⁷² Article 3(3-octies) LD 25/2008, as amended by L 46/2017.

file its own submissions. In the following 10 days, the applicant can in turn make submissions.¹⁷³ The court will set a hearing only if it considers it useful for the purposes of the decision.¹⁷⁴

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
❖ If yes, to which country or countries?

There is no official policy on systematically suspend the transfer of Dublin cases to other States. However, in practice, following the European Court on Human Rights (ECtHR)' *M.S.S. v. Belgium and Greece* judgment the Italian Dublin Unit tends not to transfer these cases to **Greece**. This was confirmed by the Head of the Dublin Unit, Simona Spinelli, in a hearing of 5 July 2016 before the Parliament.

Hungary: In late September 2016 the Council of State, cancelled a transfer to Hungary, defining it as an unsafe country for Dublin returns. The Council of State expressed concerns on the situation in Hungary, deduced from measures such as the the planned construction of an "anti-immigrant wall" that represents 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.¹⁷⁵

Bulgaria: In September 2016 the Council of State, also suspended transfers to Bulgaria on the basis that the country is unsafe.¹⁷⁶ The Council of State expressed concerns about the current 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.¹⁷⁷ In a ruling of November 2017, the Council of State reaffirmed its position and suspended the transfer of an Afghan asylum seeker to Bulgaria.¹⁷⁸

Nevertheless, the Italian Dublin Unit has continued to issue transfer decisions to Bulgaria. In February 2018, it issued decisions *inter alia* to an asylum seeker from Afghanistan and a family from Iraq including a pregnant woman.

2.7. The situation of Dublin returnees

According to Eurostat, Italy received 4,061 incoming transfers in 2016. Although data for 2017 are not available, organisations providing legal assistance in **Rome** report an increase in Dublin returnees.¹⁷⁹

¹⁷³ Article 3(3-quinquies) and (3-sexies) LD 25/2008, as amended by L 46/2017.

¹⁷⁴ Article 3(3-septies) LD 25/2008, as amended by L 46/2017.

¹⁷⁵ Council of State, Decision No 4004 of 27 September 2016, available at: <http://bit.ly/2kWIO1d>.

¹⁷⁶ Council of State, Decisions 3998, 3999, 4000 and 4002 of 27 September 2016, available at: <http://bit.ly/2lIJzAR>.

¹⁷⁷ *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.

¹⁷⁸ Council of State, Decision No 5085 of 3 November 2017, available at: <http://bit.ly/2GKtcVA>.

¹⁷⁹ Rete legale per i migranti in transito, *Report April-October 2017*, available in Italian at: <http://bit.ly/2tyUHf>, 3.

Only in cases where it expressly recognises its responsibility under the Dublin Regulation does Italy indicate the most conveniente airport where Dublin returnees should be sent 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** and **Milan**. At the airport, border police provides to the person returned under the Dublin Regulation an invitation letter (*"verbale di invito"*) indicating the competent Questura where he or she has to go.

The competent Questura is often located very far from the airport and asylum seekers only have a few days to appear there; reported cases refer to persons arriving in **Milan** and invited to appear before the Questura of Catania in **Sicily**. In addition, people are neither accompanied to the competent Questura nor informed of the most suitable means of transport thereto, thereby adding further obstacles to reaching the Questura within the required time. In some cases, however, people are provided with tickets from the Prefecture desk at **Milan Malpensa Airport**.

From January to October 2017, an average of 90 Dublin returnees arrived every month at **Milan Malpensa Airport**, totalling 702 transfers. 80% of those were assigned to the Prefecture of Varese, **Lombardia**.¹⁸⁰ Only 10% of incoming requests from Switzerland were refused by Italy during this period.¹⁸¹

Dublin returnees may face different situations depending on whether they have applied for asylum in Italy before moving on to another European country, and whether the determining authority has taken its decision on the status determination.¹⁸² Accordingly, the procedure to be applied to the Dublin returnee's case will depend on the category they fall into.

- ❖ Where the person did not apply for asylum during his or her initial transit or stay in Italy before moving on to another European country, he or she can lodge an application under the regular procedure;
- ❖ Where the person had already submitted an asylum applications, the following situations may arise:
 - The Territorial Commission may in the meantime have taken a positive decision and issued a permit of stay;
 - The Territorial Commission may have taken a negative decision. 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. If not, he or she may lodge an appeal when notified.
 - The Territorial Commission has not yet taken a decision and the procedure continues;
 - The person has not presented him or herself for the personal interview and will be issued a negative decision, but may request the Territorial Commission to have a new interview.

The main problem Dublin returnees face when they are transferred back to Italy relates to **Reception Conditions** and to possible obstacles to accessing the asylum procedure (see **Registration**) which are, however, a problem common to all asylum seekers. In its ruling of 4 November 2014 in *Tarakhel v. Switzerland*,¹⁸³ 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.

¹⁸⁰ Diaconia Valdese, *Il diritto di restare: il regolamento Dublino, i volti, le storie e le possibili buone pratiche*, January 2018, available in Italian at: <http://bit.ly/2FvhWgd>, 90.

¹⁸¹ *Ibid*, 92.

¹⁸² For more details, see ASGI, *Il sistema Dublino e l'Italia, un rapporto in bilico*, 2015, available in Italian at: <http://bit.ly/2kH0mvX>, 28.

¹⁸³ ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, Judgment of 4 November 2014.

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.”¹⁸⁴ As mentioned in [Dublin: Procedure](#), the Dublin Unit has transmitted to the other Member States’ Dublin Units a list of SPRAR projects for housing returning families with children.

On 9 February 2017, the Danish Refugee Council and the Swiss Refugee Council published a report disclosing the results of the monitoring they have carried out during 2016 on the situation of Dublin returnees in Italy.¹⁸⁵ The report mentions that none of the applicants monitored had access to SPRAR centres upon arrival in Italy but were accommodated in facilities not earmarked for families with children. In one case it was not ensured the unity of the family. The Dublin returnees were not provided with enough information on the procedure. Therefore, the authors conclude that the manner in which the families and persons with special reception needs are received by the Italian authorities is very arbitrary, and that “families and persons with specific reception needs who are transferred to Italy under the Dublin III Regulation risk violations of their human rights.”¹⁸⁶ The findings of these monitoring activities remain valid for 2017, with access to accommodation remaining a ‘lottery’ for Dublin returnees.

In its latest report of February 2018, MSF documents an increase in Dublin returnees among homeless persons in **Rome** who have no immediate and automatic access to the reception system.¹⁸⁷

3. Admissibility procedure

Italy does not apply a specific admissibility procedure. However, the Territorial Commission declares an asylum application inadmissible where:¹⁸⁸

- a. The person has already been recognised as a refugee by a state party to the Refugee Convention and can still enjoy such protection;
- b. The application has been submitted for the second time after a decision has been taken by the determining authorities without presenting new elements concerning the personal condition of the asylum seeker or the situation in his or her country of origin.

In these cases, 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.¹⁸⁹

4. Border procedure (border and transit zones)

Italy does not apply a border procedure.

5. Accelerated procedure

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

The Procedure Decree provides for an accelerated procedure that applies where:

- (a) the asylum application is made by an applicant placed in CPR.¹⁹⁰ In this case the Questura, upon receipt of the application, immediately transmits the necessary documentation to the CTRPI that within 7 days of the receipt of the documentation takes steps for the personal hearing. The decision is taken within the following 2 days.

¹⁸⁴ ECtHR, *Tarakhel v. Switzerland*, para 120.

¹⁸⁵ Danish Refugee Council and the Swiss Refugee Council, *Is mutual trust enough? – The situation of persons with special reception needs upon return to Italy*, February 2017, available at: <http://bit.ly/2kWjtTT>.

¹⁸⁶ *Ibid*, 22-23.

¹⁸⁷ MSF, *Fuori campo*, February 2018, 25.

¹⁸⁸ Article 29(1) LD 25/2008.

¹⁸⁹ Article 35-bis(3) LD 25/2008, as amended by L 46/2017.

¹⁹⁰ Article 28-bis LD 25/2008.

These time limits are doubled in the other three cases where the procedure is applicable:

- (b) the application is manifestly unfounded;
- (c) the applicant has introduced a subsequent application for international protection;
- (d) when the applicant has lodged his/her application after being stopped for avoiding or attempting to avoid border controls or after being stopped for irregular stay, merely in order to delay or frustrate the adoption or the enforcement of an earlier expulsion or rejection at the border order.¹⁹¹

According to Article 28-bis of the Procedure Decree, the CTRPI may exceed the abovementioned time limits where necessary to ensure an adequate and complete examination of the application for international protection, except the (maximum) time limit of 18 months.¹⁹² Where the application is made by the applicant placed in CPR, the above terms are reduced to a third i.e. maximum 6 months.¹⁹³

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

In practice, in some regions, ASGI has reported that asylum seekers whose application has been rejected as “manifestly unfounded” come to know that they have been involved in an accelerated procedure, and that they have half the time available (15 days) to appeal against the decision, only when they are notified of the rejection by the Questura.

In several cases, even though the law does not provide so, the rejection of an asylum request as “manifestly unfounded” has been automatically connected with the accelerated procedure, therefore applying the shorter appeal time limit for 15 days. During 2016, the Caserta Territorial Commission in **Campania** has rejected many asylum requests as “manifestly unfounded”, and most of the appeals were considered inadmissible by the Court of Naples because they were not lodged within the ostensible 15-day deadline. The judges, after refusing the suspensive request, give dates for the hearing one year later.

As result, asylum seekers, mostly coming from Gambia, Mali, Senegal, Ghana but even from Pakistan, have been obliged to leave the accommodation centre and, waiting for the definitive court decision, to abscond and avoid being repatriated or sent to a CPR.

The Court of Appeal of Naples overturned the Court’s decisions on 3 January 2018, stating that the shorter time limits for appeal only apply in the cases set out in Article 28-bis(2) of the Procedure Decree and in cases where an asylum seeker applies from a CPR. It highlighted that, in order to safeguard the asylum seeker’s rights of defence, the accelerated procedure must be triggered by the Territorial Commission before a decision is taken, and with the applicant being informed thereof, rather than retrospectively applied after a rejection decision has been issued following the regular procedure.¹⁹⁴

5.2. Personal interview

The same guarantees are those applied during the regular procedure are applied.

¹⁹¹ Article 28-bis LD 25/2008.

¹⁹² Article 27(3)-(3-bis) LD 25/2008.

¹⁹³ Article 28-bis(2) LD 25/2008.

¹⁹⁴ Court of Appeal of Naples, Decision No 17 of 3 January 2018, available at: <http://bit.ly/2mxJHvD>.

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

Applicants under the accelerated procedure have only 15 days to lodge an appeal.¹⁹⁵ This appeal does not have automatic suspensive effect.¹⁹⁶

5.4. Legal assistance

The same rules apply as under the regular procedure.

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
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❖ If for certain categories, specify which:
2. Does the law provide for an identification mechanism for unaccompanied children?

☐ Yes	☒ No
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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.¹⁹⁷

1.1. Screening of vulnerability

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.¹⁹⁸

¹⁹⁵ Article 35-bis LD 25/2008.

¹⁹⁶ Article 35 LD 25/2008.

¹⁹⁷ Article 2(1)(h-bis) LD 25/2008.

¹⁹⁸ Article 8(3-bis) LD 25/2007.

Children

The protection of asylum seeking children has been strengthened with the adoption of LD 18/2014 and L 47/2017 ("Zampa Law").

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 started in order 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.¹⁹⁹

A member of the CTRPI, specifically skilled for that purpose, interviews the minor at the presence of the parents or the legal guardian and the supporting personnel providing specific assistance to the minor. For justified reasons, the CTRPI may proceed to interview again the minor at 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, degree of maturity and development, in the sole minor's best interests.²⁰⁰

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, Médecins Sans Frontières (MSF) started a project in **Rome** in collaboration with ASGI and opened a centre specialising in the rehabilitation of victims of torture.²⁰¹ 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.

LD 142/2015 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 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.²⁰²

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.²⁰³ 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

¹⁹⁹ Article 19(7) LD 142/2015.

²⁰⁰ Article 13(3) LD 25/2008.

²⁰¹ 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>.

²⁰² Article 17(8) LD 142/2015.

²⁰³ Article 32(3-bis) LD 25/2008.

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.²⁰⁴

Giving effect to the legal provision, in 2017, the National Commission (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.²⁰⁵

LD 142/2015 clarifies that trafficked asylum seekers shall be channelled into a special programme of social assistance and integration.²⁰⁶

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 doubts on the age of the asylum seeker, unaccompanied children can be subjected to an age assessment through non-invasive examinations.²⁰⁷ 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 consent of the unaccompanied child concerned or of his or her legal guardian.²⁰⁸ The refusal by the applicant to undertake the age assessment has no negative consequences on the examination of the asylum request.

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 now laid down rules on age assessment which apply to all unaccompanied children.²⁰⁹

Identification documents and methods of assessing age

The law states that, in the absence of identification documents,²¹⁰ 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.²¹¹ 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.²¹²

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.²¹³

²⁰⁴ Article 13 L 228/2003; Article 18 TUI.

²⁰⁵ CNDA and UNHCR, *L'identificazione delle vittime di tratta tra i richiedenti protezione internazionale e procedure di referral*, September 2017, available in Italian at: <http://bit.ly/2FttAeK>.

²⁰⁶ Article 17(2) LD 142/2015 in conjunction with Article 18(3-bis) LD 286/1998 and LD 24/2014.

²⁰⁷ Article 19(2) LD 25/2008.

²⁰⁸ *Ibid.*

²⁰⁹ Article 19-bis LD 142/2015, as inserted by Article 5 L 47/2017.

²¹⁰ Article 19-bis(3) LD 142/2015.

²¹¹ Article 19-bis(4) LD 142/2015.

²¹² 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.

²¹³ Article 19-bis(5) LD 142/2015.

Pending the outcome of the procedure, the applicant benefits from the provisions on reception of unaccompanied children.²¹⁴ The benefit of the doubt is granted if doubts persist following the examination.²¹⁵

The law also states that the final decision on the age assessment, taken by the Juvenile Court, is notified to the children and to the guardian or the person exercising guardianship and must indicate the margin of error.²¹⁶

Currently, however, according to ASGI's experience, L 47/2017 is not properly applied. Age assessment is conducted only wrist X-ray, the margin of error is not written on the report and the decision is notified many months later or not even adopted. Moreover, the applicant is often treated as an adult while awaiting the age assessment, contrary to the principle of the benefit of the doubt.²¹⁷

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.²¹⁸ Before this law, in the absence of a specific provision, children were often prevented from challenging the outcome of age assessments.

The European Court of Human Rights 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.²¹⁹

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:

2.1. Adequate support during the interview

Moreover, the law requires the CNDA to ensure 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 an asylum seeker's personal and general circumstances, including the applicant's cultural origin or vulnerability. Since 2014, the National Commission has organised training courses 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. The CNDA has agreed that 20 EASO experts should help the Territorial Commissions in drafting the COI. Furthermore, the National Commission in collaboration with EASO organised, at local level, a vocational training workshop in order to explain the know-how to make a COI research.²²⁰

²¹⁴ Article 19-bis(6) LD 142/2015.

²¹⁵ Article 19-bis(8) LD 142/2015.

²¹⁶ Article 19-bis(7) LD 142/2015.

²¹⁷ 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.

²¹⁸ Article 19-bis(10) LD 142/2015.

²¹⁹ ECtHR, *Darboe and Camara v. Italy*, Application No 5797/17, Communicated 14 February 2017.

²²⁰ Chamber of Deputies, *Parliamentary Commission on the reception and identification system, Debate*, 14 May 2015, available at: <http://bit.ly/1Gb3xDX>, 14.

In May 2015, the National Commission, in collaboration with UNHCR, introduced a project for monitoring the skills of the Territorial Commissions through specific inspections to evaluate the local situation.²²¹ 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.²²² 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.

In this context, it is also important to emphasise that 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 which kind of personnel.²²³ During the personal interview, the applicant may be accompanied by social workers, medical doctors and/or psychologists.

According to LD 142/2015, 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, and accredited by the relevant judicial or administrative authority.²²⁴

2.2. Prioritisation and exemption from special procedures

Vulnerable persons are admitted to the prioritised procedure.²²⁵ Following the PD 21/2015, the Territorial Commission must schedule the applicant's interview "in the first available seat" when that applicant is deemed vulnerable.²²⁶ 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 present an asylum application through their parents.²²⁷

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

Italian legislation 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.²²⁸

²²¹ *Ibid.*

²²² Article 15 LD 25/2008.

²²³ Article 13(2) LD 25/2008.

²²⁴ Article 18(2-bis) LD 142/2015.

²²⁵ Article 28(1)(b) LD 25/2008.

²²⁶ Article 7(2) PD 21/2015.

²²⁷ Article 6(2) LD 25/2008.

²²⁸ Article 3 LD 251/2007.

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 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.²²⁹ Moreover, the applicant can ask for the postponement of the personal interview providing the CTRPI with pertinent medical documentation.²³⁰

The Qualification Decree allows the CTRPI to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, religious, child-related or gender issues. Where the CTRPI 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](#)).²³¹ When no medical examination is not 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.²³²

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 the 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.²³³ The guardian is responsible for the protection and the well-being of the child.

LD 142/2015, 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.²³⁴ 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.²³⁵

²²⁹ Article 12(2) LD 25/2008.

²³⁰ Article 5(4) PD 21/2015.

²³¹ Article 27(1-bis) LD 251/2007.

²³² Article 8(3-bis) LD 25/2008.

²³³ Article 343 et seq. Civil Code.

²³⁴ Article 18(2-bis) LD 142/2015, as inserted by L 47/2017.

²³⁵ Article 18(2-ter) LD 142/2015, as inserted by L 47/2017.

The individuals working with children shall be properly skilled or shall in any case receive a specific training and have the duty to respect the privacy rights in relation to the personal information and data of the minors.²³⁶

LD 142/2015 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.²³⁷

Timing of appointment

LD 142/2015, 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 for the appointment of a guardian.²³⁸

The Juvenile Court ("*Tribunale per i minorenni*") 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.²³⁹ As clarified by the CNDA, however, the guardian remains responsible for representing the child in the next steps of the procedure.²⁴⁰

Currently, the most common practice is the appointment of the Mayor of the municipality where the child is residing as guardian. In practice, the Mayor delegates this duty to individuals who provide social assistance or other services for the municipality. These persons have to deal with a high number of other vulnerable persons such as elderly, handicapped persons and so forth, and have no capacity to properly discharge their mandate.

In some cases, this also generates conflicts of interest, as the municipality may have an interest in requesting an age assessment even when there are no doubts, in order to reduce the number of children requiring accommodation.

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.²⁴¹ For this reason, the guardian accompanies 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.²⁴² LD 142/2015 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 line with his or her best interests.²⁴³

²³⁶ Article 18(5) LD 142/2015.

²³⁷ Article 6(3) LD 25/2008.

²³⁸ Article 19(5) LD 142/2015, as amended by LD 220/2017.

²³⁹ Article 26(5) LD 25/2008, as amended by L 47/2017.

²⁴⁰ CNDA, Circular no. 6425 of 21 August 2017, available in Italian at: <http://bit.ly/2Fn38Um>.

²⁴¹ Article 19(1) LD 25/2008.

²⁴² Article 13(3) LD 25/2008.

²⁴³ *Ibid.*

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.²⁴⁴

The Regional Guarantor for Childhood and Adolescence is responsible for selecting and training guardians. The National Guarantor for Childhood and Adolescence has established specific guidelines on the basis of which calls for selection of guardians have already been issued in each region.²⁴⁵ Training courses have started in many cities.

A total of 9,782 unaccompanied children applied for asylum in 2017:

Unaccompanied asylum-seeking children: 2017	
Nationality	Number
Gambia	2,090
Nigeria	1,166
Bangladesh	1,113
Guinea	996
Senegal	841
Mali	774
Côte d'Ivoire	742
Eritrea	580
Ghana	388
Others	1,092
Total	9,782

Source: Ministry of Labour, 31 December 2017.

²⁴⁴ Article 11 L 47/2017.

²⁴⁵ Guarantor for Childhood and Adolescence, *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>.

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

There is no clear definition of a “subsequent application” in the law. However, 2 provisions make reference to the possibility of filing a new asylum application.

The first is related to the possibility for the asylum seeker to present new elements before the Territorial Commission takes the final decision. According to the Procedure Decree, the applicant has the right to submit new elements and documents to the competent Territorial Commission at any stage of the asylum procedure, even after his or her personal interview.²⁴⁶ In addition, in case the asylum seeker makes a subsequent application before the determining authorities have taken the decision on the initial asylum request, the new elements of the request are examined in the framework of the previous request leading to a single decision issued by the Territorial Commission. In the decision, the competent authorities specify if the applicant made more than one asylum requests indicating the statements and documents attached to each request.

The second situation is related to a new application filed after the notification of the decision by the determining authorities. Under the law, the Territorial Commission must declare an asylum application inadmissible where the application has been submitted for the second time after a decision has been taken by the determining authorities without presenting new elements concerning the personal condition of the asylum seeker or the situation in his or her country of origin.²⁴⁷

LD 142/2015 states that in both cases the President of the Territorial Commission makes a preliminary assessment in order to evaluate whether new elements have been added to the asylum application. In the second case, when the applicant has reiterated the same application after the CTRPI has taken a decision without presenting new elements regarding his or her personal conditions and situation in his or her country of origin, the CTRPI, before adopting the decision on the inadmissibility of the subsequent application, notifies the applicant the opportunity to make comments, within 3 days from the notification, in order to support the admissibility of his or her application. In absence of observations, the CTRPI will take the decision.²⁴⁸

Subsequent applications have to be lodged before the Questura, which starts a new formal registration that will be forwarded to the competent Territorial Commission.

Italian legislation does not foresee a specific procedure to appeal against a decision on inadmissibility for subsequent applications. The Procedure Decree provides, however, that an appeal against an inadmissibility decision does *not* have automatic suspensive effect.²⁴⁹ 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 section on [Regular Procedure: Appeal](#)).

²⁴⁶ Article 31(1) LD 25/2008.

²⁴⁷ Article 29(1)(b) LD 25/2008.

²⁴⁸ Article 29(1-bis) LD 25/2015.

²⁴⁹ Article 35-bis(3) LD 142/2015, as amended by L46/2017.

Asylum seekers who lodge a subsequent application benefit from the same legal guarantees provided for asylum seekers in general and can be accommodated in reception centres, if places are available. However, according to the law, when asylum seekers accommodated submit a subsequent application, the accommodation can be revoked.²⁵⁰

Considering that subsequent applications are examined under the regular procedure, subsequent applicants can be assisted by a lawyer, as any other asylum seeker, at their own expense during the first instance procedure whereas they benefit from the free legal assistance during the appeal phase (see section on [Regular Procedure: Legal Assistance](#)).

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

The safe country of origin and safe third country concepts are not applicable in the Italian context.

However, the Territorial Commission declares an asylum application inadmissible where the applicant has already been recognised as a refugee by a state party to the Refugee Convention and can still enjoy such projection.²⁵¹

G. Relocation

Relocation statistics: 22 September 2015 – 31 December 2017

Relocation from Italy		
	Sent requests	Relocations
Total	13,005	11,464
Germany	:	4,984
Sweden	:	1,294
Switzerland	:	897
Netherlands	:	891
Norway	:	816
Finland	:	779
France	:	448
Belgium	:	414
Portugal	:	330
Luxembourg	:	249
Spain	:	205
Malta	:	67
Slovenia	:	60

²⁵⁰ Article 23 LD 142/2015.

²⁵¹ Article 29(1)(a) LD 25/2008.

Cyprus	:	47
Romania	:	45
Lithuania	:	29
Latvia	:	27
Croatia	:	21
Austria	:	17
Bulgaria	:	10
Estonia	:	4

Source: Ministry of Interior: <http://bit.ly/2mHsosd>.

Following the Commission proposal on relocation, the Council has adopted Decisions 2015/1523 and 2015/1601 on 14 and 22 September 2015,²⁵² establishing provisional measures in the area of international protection for the benefit of Italy and of Greece, in view of supporting them in better coping with an emergency situation characterised by a sudden inflow of third-country nationals in these countries. The Decisions provide that 39,600 asylum seekers will be relocated from Italy until September 2017. Only 9,078 applicants had been relocated by the end of the programme on 27 September 2017. The number rose to 11,464 at the end of the year, while another 698 people awaited transfer and 843 awaited a response from the Member State of relocation.

The majority of relocated persons were from Eritrea.

The organisational measures put in place by Italy responding to the obligation set out by the Council Decisions,²⁵³ in order to facilitate the functioning of the programme, included the designation of specific Hotspots where, after receiving medical assistance and first aid, people were identified by the Italian police authorities together with Frontex and EASO personnel.

In order to register and process the applications, the European Commission called on the need for Italy to increase the capacity of its authorities, including of the Dublin Unit. The Italian Dublin Unit recruited more staff members during 2017 and received assistance from EASO personnel. As observed by the Commission, EASO played a crucial role in the implementation of relocation, with 53 Member State experts, 18 EASO staff and 55 cultural mediators present in over 45 locations inside and outside hotspot areas.²⁵⁴

1. The relocation procedure in practice

According to the Standard Operating Procedures (SOPs) issued on 8 February 2016 to detail the operations carried out at hotspots, asylum seekers entitled to relocation were channelled into the dedicated procedure and received accurate information about the relocation programme, in particular accurate and targeted information from EASO experts, Italian cultural mediators and a UNHCR team in each hotspot. Persons who expressed the intention to submit an application for international protection or relocation underwent *fotosegnalamento* and were recorded into the VESTANET database under Eurodac “Category 1”, and were then transferred to a regional “hub” in the shortest possible time.²⁵⁵

As per the Council Decisions, the relocation process should be completed within two to three and a half months maximum.²⁵⁶

²⁵² OJ 2015 L239/146 and OJ 2015 L248/80.

²⁵³ Article 8(1) Relocation Decisions. The Council obliges Italy and Greece to provide structural solutions to address exceptional pressures on their asylum and migration systems, by establishing a solid and strategic framework for responding to the crisis situation.

²⁵⁴ European Commission, *Progress report on the European Agenda on Migration*, COM(2017) 669, 15 November 2017, 8.

²⁵⁵ Hotspots SOPs, para. B.8.2.

²⁵⁶ Article 5(10) Relocation Decisions.

1.1. The regional hubs

On 5 July 2016, Simona Spinelli, the Head of Italian Dublin Unit, stated in a hearing before the Parliament that, in order to facilitate the procedure, persons to be relocated were moved to the reception centres where the Questure are operational: **Bari**, **Crotone**, **Villa Sikania** and **Rome** (Castelnuovo di Porto).

In these specific hubs, 5 EASO experts and 3 cultural mediators provided information on relocation. Asylum seekers' applications were lodged through the C3 model in English and used for the following matchmaking process conducted at the Dublin Unit office in Rome. The matchmaking was conducted with the support of 10 EASO experts and liaison officers and consisted of examining the profiles of people to be relocated (in terms of academic qualifications, professional qualifications, languages spoken, etc.) and of combining such information with the offers made available from the various Member States.

For the persons eligible for relocation coming from the Eastern border and accommodated in reception centres in **Friuli-Venezia Giulia** region, the Ministry of Interior entrusted Prefectures with the relocation procedure, managing interviews with those who claimed to belong to eligible nationalities, and assessing their willingness to be relocated.

The subsequent approval by the receiving Member State was notified to the parties concerned at the specific regional hub. The Italian police and EASO experts assigned to the Dublin Unit conducted the transfer operations. The International Organisation for Migration (IOM) was also involved in the procedure and provided pre-departure health assessments in order to share relevant information with the Member State of relocation, orientation sessions for relocated persons to provide them giving basic information on the country they will be relocated and on travel details.

In June and September 2017, the European Commission called for more efforts to be put by Italy in order to identify, register and rapidly channel to relocation all eligible asylum seekers, including already present persons and new arrivals.²⁵⁷ According to the Commission, the most frequent practice recorded in Italy was the dispersal of relocation candidates all over the Italian territory. This, according to the Commission, slowed down the procedure also prevented the conduct of proper health checks before the transfer took place. The Commission found that the designated relocation hubs were often under-used and mostly hosted persons belonging to ineligible nationalities. Against this backdrop, the European Commission stressed the importance of implementing an information campaign in the local Prefectures and Questure and in the reception centres.

In the last two years, the legal support network, comprising of A Buon Diritto, Baobab Experience, Italian Council for Refugees and Radicals Roma, provided legal assistance to asylum seekers, operating near the Tiburtina station in **Rome** and trying as much as possible to respond to the lack of information provided in the reception centres after arrival.²⁵⁸ As reported in the report drawn up for the period April to October 2017, in 90% of the cases people declared to have reached Rome immediately after arriving in Italy, without having received any adequate information on the relocation programme.²⁵⁹

According to MSF, access to the relocation programme has also been hampered by a series of administrative barriers set by the Rome Questura, such as the requirement for applicants to present a medical certificate of "suitability for community life".²⁶⁰

²⁵⁷ European Commission, *13th report on relocation and resettlement*, COM(2017) 330, 13 June 2017; *15th report on relocation and resettlement*, COM(2017) 465, 6 September 2017.

²⁵⁸ Rete legale per i migrant in transito, *Report April-October 2017*, available in Italian at: <http://bit.ly/2tyuUHF>, 4.

²⁵⁹ *Ibid.*

²⁶⁰ MSF, *Fuori campo*, February 2018, 25.

1.2. Relocation of unaccompanied children

Relocation of unaccompanied children only started in May 2017 and no more than 102 have been relocated throughout the duration of the scheme.²⁶¹

Before May 2017, in the absence of a specific procedure to be implemented by the Ministry of Interior, the Questure did not accept to apply the Dublin procedure *mutatis mutandis*. In fact, it was not clear who would assess whether relocation was in the best interests of the child and who should accompany the child in the destination country. The procedure had been suspended for so long that Eritrean children, potentially eligible, eventually absconded.

In September 2017, the European Commission noted positive developments with regard to relocation of unaccompanied children as a result of coordinated action between the Commission, the Italian authorities and EASO. It stated that a two-page summary explaining the relocation procedure for unaccompanied children had been sent to Prefectures and Questure in **Sicily** and that an EASO team had been deployed in the Sicilian Questure to facilitate registration of unaccompanied children eligible for relocation.²⁶²

The Commission stressed the need to treat requests for vulnerable cases and unaccompanied children as an absolute priority and requested Germany to discontinue the imposition of strict preferences with regard to unaccompanied children.²⁶³

According to statistics from the Ministry of Labour, the following unaccompanied children had been relocated until the end of the year, while more were waiting to be relocated:

Relocation of unaccompanied children: 22 September 2015 – 31 December 2017		
	Relocated	Approved and pending relocation
Total	102	109
Netherlands	70	21
Belgium	13	15
Germany	8	21
Switzerland	7	18
Norway	2	0
Austria	2	2
Spain	0	32

Source: Ministry of Labour: <http://bit.ly/2FvU6Aj>.

A total of 246 unaccompanied children were waiting the completion of the relocation procedure, the majority hosted in **Sicily** (147), **Calabria** (30), **Lazio** (26) and **Lombardia** (19).²⁶⁴

On average, the average duration of the procedure between the request of the Italian Dublin Unit and its acceptance by the destination country was 26.5 days, while it was on average 29 days between the acceptance of the request and the actual transfer of unaccompanied children.²⁶⁵

²⁶¹ Ministry of Labour, *I minori stranieri non accompagnati in Italia*, 31 December 2017, available in Italian at: <http://bit.ly/2FvU6Aj>, 13.

²⁶² European Commission, *15th report on relocation and resettlement*, COM(2017) 465, 6 September 2017.

²⁶³ *Ibid.*

²⁶⁴ Ministry of Labour, *I minori stranieri non accompagnati in Italia*, 31 December 2017, available in Italian at: <http://bit.ly/2FvU6Aj>, 13.

²⁶⁵ *Ibid.*

2. Refusal to relocate and security checks

According to the Head of the Dublin Unit in a hearing of 5 July 2016, the reticence of migrants towards countries that have not commonly recognised host systems and attractive welfare is one of the main obstacles to the development of the programme.

Obstacles have also been encountered in relation to the performance of security checks prior to relocation. According to the 4th report on relocation of the European Commission, until June 2016 Member States were not relocating any applicants from Italy because the authorities were not allowing additional security interviews by the Member State of relocation.²⁶⁶

Immediately after the meeting of the National Contact Points on relocation that took place in Rome on 15 September 2016, attended by UNHCR, EASO, IOM, Europol and Frontex in addition to Member States, the European Commission pointed out the significant progress made with solving the bottlenecks identified linked to security issues.²⁶⁷ In its next reports, the Commission has underlined that the involvement of Europol and the implementation of the hotspots approach in all the disembarkation places in Italy have played a key role in accelerating the procedure from Italy, paving the way for more Member States to participate in relocation and for meeting the monthly expected targets of pledges and relocation transfers per month.

The arrangements with Europol to facilitate exceptional additional security interviews were discussed at a meeting in Rome on 25 November 2016 and became operational on 1 December 2016. For the first time they have been put in practice in January 2017 upon request from **Norway**. In September 2017, while welcoming pledges from **Estonia**, the European Commission called on Estonia and **Slovakia** to avoid over-restrictive preferences which were almost impossible for Italy to meet.²⁶⁸ **Ireland** has also refused to relocate from Italy on the ground that it was not allowed to conduct its own security checks with applicants.²⁶⁹

3. Information and consequences of non-compliance

The Department for Civil Liberties and Immigration has clarified in a meeting with NGOs, held on 2 February 2017, that where the first Member State denies the relocation transfer citing security reasons, Italy does not make further attempts with other Member States and declares itself responsible for the application, without notifying the measure to the applicant. The applicant is also never informed about the status of the relocation process, nor of the reasons for refusal put forward by the Member State to his or her transfer.²⁷⁰

This is regrettable, considering that it often happens that Member States refuse transfers on the basis of generic and non-motivated security concerns, as indicated by the European Commission reports.²⁷¹

The aforementioned situation of complete lack of awareness of the state of play of the procedure by the persons concerned was also reported by LasciateCIEntrare after their visit to **Castelnuovo di Porto** on 20 June 2016. They reported that EASO officials, working directly from inside the centre, informed the applicants about the relocation programme but communications on transfers could be given even only a

²⁶⁶ European Commission, 4th report on relocation and resettlement, COM(2016) 416, 15 June 2016.

²⁶⁷ European Commission, 6th report on relocation and resettlement, COM(2016) 636, 28 September 2016.

²⁶⁸ European Commission, 15th report on relocation and resettlement, COM(2017) 465, 6 September 2017.

²⁶⁹ Irish Times, 'Government urged to resolve migrant dispute with Italy', 17 May 2017, available at: <http://bit.ly/2FquDMP>.

²⁷⁰ Information provided by Prefect Morcone, former Head of the Department for Civil Liberties and Immigration, meeting with NGOs at the Ministry of Interior, 2 February 2017.

²⁷¹ European Commission, 8th report on relocation and resettlement, COM(2016) 791, 8 December 2016, 7.

few hours before the trip itself. They also reported that in the corridors of the centre were posted some warnings stating: "it is not possible to choose the country to which you are relocated".²⁷²

Currently, many people who have become exhausted from waiting and have moved to **Rome** in the belief to speed up the procedure have lost their accommodation place and are living in the streets, facing more obstacles than before to be made aware of the state of the procedure. At a meeting held on 2 February 2017 with NGOs, the former Head of the Department for Civil Liberties and Immigration had announced the implementation in Rome, probably in the **Fiumicino** area, of a Hub capable of hosting up to 2,000 or 2,500 applicants awaiting relocation, and the probable issue of a Circular to guarantee to the relocation candidates the possibility of returning in the shelters from which they had departed on their own decision. No further information is available in this regarding.

According to ASGI, asylum seekers should be involved in the decision process, being informed about the state of procedure and about the reasons of refusal eventually taken from the country requested, having the possibility to submit observations and to integrate the application. However, NGOs and refugee communities are not involved in the relocation process, even though they could highly contribute in "confidence building", in information campaigns, in interviewing people to be relocated and in gathering useful information and documents to be sent to the Italian authorities and to EASO and liaison officers for the matchmaking procedure. An independent and qualified monitoring system should be put in place.

In her hearing before the Parliament on 5 July 2016, the Head of the Dublin Unit also mentioned that people who, after receiving the relocation decision, refuse to be transferred, remain in Italy and continue the asylum procedure there. They are no longer involved in the relocation procedure and they are not sanctioned.

H. 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,²⁷³ when a person claims asylum, police authorities must 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. In addition, the Reception Decree provides that police authorities, within a maximum of 15 days from the presentation of the asylum request, should provide information related to reception conditions for asylum seekers and hand over information leaflets accordingly.²⁷⁴ The brochures distributed also contain the contact details of UNHCR and other refugee-assisting NGOs. However, the practice of distribution of these brochures by police authorities is actually quite rare. Moreover, although Italian legislation does not explicitly state that the information must also be provided orally, this happens in practice but not in a systematic manner and at the discretion of police authorities. Therefore, adequate information is not constantly and regularly ensured, mainly due to the insufficient number of police staff dealing with the number of asylum requests, as well as to the shortage of professional interpreters and linguistic mediators.

²⁷² See for more information Lunaria, *Il mondo di dentro*, 14.

²⁷³ Article 10(1) LD 25/2008.

²⁷⁴ Article 3 LD 142/2015.

PD 21/2015 provides that unaccompanied minors shall receive information on the specific procedural guarantees specifically provided for them by law.²⁷⁵

Information on the Dublin Regulation

More specifically, asylum seekers are not properly informed on the different steps in the Dublin procedure.

Generally speaking, they are not assisted by lawyers but they might be assisted by specialised NGOs. Generally, the interview before the Police during the formal registration of the asylum request is made in a language the asylum seekers do not always fully understand and they are not informed about the reason why some information is requested and its pertinence related to the Regulation's applicability. Indeed, it occurs very frequently that the Questura explains the Dublin procedure in a superficial manner. Furthermore, when asylum seekers in a Dublin procedure receive some explanations from the authorities, these are very often not adapted to their education level, which makes them very difficult for them to understand. Having information in writing can be more helpful, but it is not always understandable due to language barriers, the use of legal terms or because it also happens that some asylum seekers are illiterate.

Information in reception and detention centres

Depending on the type of accommodation centres where asylum seekers are placed, they will receive different quality level of information and interpretation services.

LD 142/2015 introduces a norm providing 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.²⁷⁶

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.²⁷⁷ Moreover, the previous norm, specifying that access to detention centres (CPR) shall be ensured to the representatives of UNHCR, to lawyers and to entities working for the protection of refugees, which are authorised by the Ministry of the Interior, has been abolished.²⁷⁸ 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 to them.

As for the hotspots, the SOP ensure that access to international and non-governmental organisations is guaranteed subject to authorisation of the Department for Civil Liberties and Immigration of the Ministry of the Interior and on the basis of specific agreements, for the provision of specific services. The SOP 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 will 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 SOP, is responsible for receiving applications for asylum together with Frontex, EASO and IOM.

²⁷⁵ Article 3(3) PD 21/2015.

²⁷⁶ Article 6(4) LD 142/2015.

²⁷⁷ Article 10(3) LD 25/2008.

²⁷⁸ Article 21(3) LD 25/2008 has been repealed by LD 142/2015.

Information at the border

According to the law,²⁷⁹ at the border, “those who intend to lodge an asylum request or foreigners who intend to stay in Italy for over three months” have the right to be informed about the provisions immigration and asylum law by specific services at the borders run by NGOs. These services, located at the official border points, also ensure “social counselling, interpreting service, search for accommodation, contact with local authorities/services, production and distribution of informative documents on specific asylum issues.”²⁸⁰ With regard to legal counseling, LD 142/2015 also clarifies that the information on the asylum procedure, the rights and obligations of applicants, on the timeframes and means to accompany the asylum application, are provided to foreigners who show their intention to seek asylum at border crossing points and in transit areas in the frame of the information and reception services set by Article 11(6) TUI. Access to the border points from representatives of UNHCR and other refugee-assisting organisations with experience is ensured. 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 totally denied.²⁸¹

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 continue to monitor the access of foreigners to the relevant procedures and the initial reception of asylum seekers and migrants in the framework of their mandates. The activities are funded under AMIF (Access and Reception).

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
3. 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

See the section on [Information on the Procedure](#).

I. 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: Syria, Eritrea
2. Are applications from specific nationalities considered manifestly unfounded? ☐ Yes ☒ No
❖ If yes, specify which:

According to Article 12(2-bis) of the amended 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

²⁷⁹ Article 11(6) TUI, read in conjunction with Article 4 MoI Decree of 22 December 2000.

²⁸⁰ CIR, S.A.B. *Project, Services at Borders: a practical cooperation*, 2008, 21.

²⁸¹ Article 10-bis(1)-(2) LD 25/2008.

be granted (see section on [Regular Procedure: Personal Interview](#)). Currently, the CNDA has not yet designated such countries.

In practice, as already underlined in [Hotspots](#) and [Registration](#), some nationalities face more difficulties to access the asylum procedure, both at hotspots and at Questure. In the hotspots, it has been reported to ASGI that people from **Senegal, Gambia, Nigeria, Morocco, Algeria** and **Tunisia** are easily classified as economic migrants and notified of orders to leave the country.

As regards registration, people from **Morocco, Algeria** and **Tunisia, Serbia, Albania**, Colombia, **El Salvador**, together with people coming from **Nigeria** and **Pakistan** in some cases, are often refused access to the asylum procedure and have to return more times to Questure to access the procedure. Nationals of **Iraq** have also faced undue barriers to registration in some Questure.

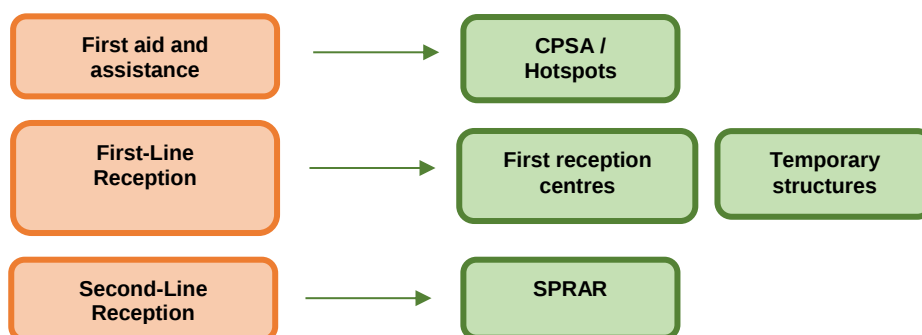
Reception Conditions

Short overview of the Italian reception system

In Italy, there is no uniform reception system. LD 142/2015 has amended the Procedure Decree 25/2008 and has repealed the previous Reception Decree 140/2005 (with the exception of the financial provisions), without substantially modifying the previous reception system. Articles 20 and 21 of the Procedure Decree, respectively on reception and administrative detention, have also been repealed by LD 142/2015.

LD 142/2015 articulates the reception system in phases, distinguishing between

1. Phase of first aid and assistance, operations that continue to take place in the centres set up in the principal places of disembarkation;
2. First reception phase, to be implemented in existing collective centres or in centres to be established by specific Ministerial Decrees or, in case of unavailability of places, in “temporary” structures; and
3. Second reception phase, carried out in the structures of the SPRAR system.²⁸²



Upon arrival, asylum seekers and migrants may be placed in the following first reception centres:

- ❖ First Aid and Reception Centres (CPSA), created in 2006 for the purposes of first aid and identification before persons are transferred to other centres, and now formally operating as “hotspots”;²⁸³
- ❖ Collective centres: This includes the centres previously known as governmental centres for accommodation of asylum seekers (CARA) and accommodation centres (CDA);²⁸⁴
- ❖ Temporary Reception Centres (CAS), implemented by Prefectures in case of unavailability of places in the first or second accommodation centres.²⁸⁵

According to LD 142/2015, first reception is guaranteed in the governmental accommodation centres in order to carry out the necessary operations to define the legal position of the foreigner concerned.²⁸⁶ It is also guaranteed in the temporary facilities, specifically set up by the Prefect upon the arrival of a great influx of refugees, due to unavailability of places in the first and second level accommodation centres.²⁸⁷ Indeed, accommodation in temporary reception structures is limited to the time strictly necessary for the transfer of the applicant in the first or second reception centres.²⁸⁸ LD 142/2015 provides also first aid and accommodation structures²⁸⁹ and clarifies that the current governmental reception centres (former CARA) have the same functions of first reception centres.²⁹⁰

²⁸² Article 8(1) LD 142/2015.

²⁸³ L 563/1995.

²⁸⁴ Article 9 LD 142/2015.

²⁸⁵ Their legal basis is now provided in Article 11 LD 142/2015.

²⁸⁶ Article 9(1) LD 142/2015.

²⁸⁷ Article 11(1) LD 142/2015.

²⁸⁸ Article 11(3) LD 142/2015.

²⁸⁹ Article 8(2) LD 142/2015.

²⁹⁰ Article 9(3) LD 142/2015.

The law does not specify any time limit for the stay of asylum seekers in these centres, and only provides that applicants stay “as long as necessary” to complete procedures related to their identification,²⁹¹ or for the “time strictly necessary” to be transferred to SPRAR structures.²⁹² The extensive use of these provisions and the lack of places in second-line reception cast doubt on the functioning of the entire mechanism, intended to follow different phases.

Second-line reception is provided under the System for the Protection of Asylum Seekers and Refugees (SPRAR). The SPRAR, established in 2002 by L 189/2002, is a publicly funded network of local authorities and NGOs which accommodates asylum seekers and beneficiaries of international protection. It is formed by small reception structures where assistance and integration services are provided. In contrast to the large-scale buildings provided in CARA, CDA, CPSA and CAS, SPRAR comprised of over 876 smaller-scale decentralised projects as of February 2018.²⁹³

SPRAR accommodates those destitute asylum seekers that have already formalised their applications. Therefore, asylum applicants already present in the territory may have access directly to the SPRAR centres.²⁹⁴

Coordination and monitoring

The overall activities concerning the first reception and the definition of the legal condition of the asylum applicant are conducted under the programming and criteria established by both National and regional Working Groups (*Tavolo di coordinamento nazionale e tavoli regionali*).²⁹⁵

Without prejudice to the activities conducted by the Central Service of the SPRAR, the Civil Liberties Department of the Ministry of Interior conducts, also through the Prefectures, control and monitoring activity in the first and second reception facilities. To this end, the Prefectures may make use of the municipality’s social services.²⁹⁶

Moreover, LD 142/2015 has introduced a more protective norm concerning the trafficked asylum seekers who can now be channelled to a special programme of social assistance and integration under Article 18(3-bis) TUI.²⁹⁷

On 10 August 2016, the Ministry of Interior issued a Decree to facilitate the accession of municipalities to SPRAR system, making it possible at any time without deadlines. Later, on 11 October 2016, the Ministry issued a Decree concerning a plan to improve the accommodation system in order to obtain a gradual and sustainable distribution of asylum seekers and refugees across the country. The plan, based on an agreement signed between the Ministry of the Interior and the National Association of Italian Municipalities (*Anci*), envisages the phasing out of the CAS, with a view to the consolidation of a uniform reception system obtained through an expansion of the SPRAR system. It provides for the implementation of the so-called “safeguard clause” (*Clausola di salvaguardia*), which allows the Municipalities that join the SPRAR network with a sufficient number of seats according to the agreed allocation share (equal to about 2.5 per thousand inhabitants, with variations for metropolitan areas) to be exempted from the activation of other forms of reception, such as temporary centres, and can proceed with the gradual closure of those existing on their territory.

²⁹¹ Article 9(4) LD 142/2015.

²⁹² Article 9(5) LD 142/2015.

²⁹³ SPRAR, *I numeri dello Sprar*, available at: <http://www.sprar.it/i-numeri-dello-sprar>.

²⁹⁴ Article 14 LD 142/2015.

²⁹⁵ Article 9(1) LD 142/2015.

²⁹⁶ Article 20(1) LD 142/2015.

²⁹⁷ Article 17(2) LD 142/2015.

Subsequently, Decree-Law 193/2016 (converted into L 225/2016) provided financial incentives for municipalities involved in the reception system, allocating €500 to each municipality for each asylum seeker hosted in its territory, not distinguishing between accommodation in SPRAR and CAS or governmental centres.²⁹⁸

However, according to ASGI, such prospects will not easily convince municipalities to participate in SPRAR and, until SPRAR projects are sufficient in number, it will be not possible to close existing or not to open new temporary shelters. According to ASGI, the solution should be examined from the mainstreaming of reception into the obligations of municipalities in the context of social services, in line with the Italian constitutional settlement.²⁹⁹

On 26 September 2017, the Ministry of Interior published the National Integration Plan for beneficiaries of international protection which specifies that, pending the SPRAR system becoming the only second-line reception system, CAS must adjust their services and activities such as language training, work and services orientation to those offered in the SPRAR system, in order to offer greater chances of integration also to beneficiaries of international protection who have spent their entire asylum procedure in these centres.

On the contrary, with a Decree of 7 March 2017, the Ministry of Interior adopted the tender specifications scheme (*capitolato*) for the supply of goods and services related to CPSA, first reception centres, CAS and CPR, which only foresees a basic level of services.³⁰⁰

In any case, the lack of experience and professionalism among the majority of participants in CAS calls for proposals and the absence of legislation that makes these requirements mandatory for CAS, suggests that, for the moment, the indications included in the abovementioned Integration Plan are far from being implemented in practice.

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
❖ 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
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LD 142/2015 sets out the reception standards for third-country nationals making an application for international protection on the territory, including at the borders and in their transit zones or in the territorial waters of Italy.³⁰¹

²⁹⁸ Article 12 Decree-Law n. 193/2013 Urgent provisions for taxation matters and for financing non-postponable needs, converted into Law n. 225/2016.

²⁹⁹ According to Article 118 of the Italian Constitution, administrative functions are attributed to the municipalities. 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.

³⁰⁰ Ministry of Interior Decree of 7 March 2017, available in Italian at: <http://bit.ly/2EcHbU7>.

³⁰¹ Article 1(1) LD 142/2015.

It clarifies that the reception measures apply from the moment applicants have manifested their willingness to make an application for international protection,³⁰² and that access to the reception measures is not conditioned upon additional requirements.³⁰³ However, access to SPRAR centres is only granted to destitute applicants. Destitution is evaluated by the Prefecture on the basis of the annual social income (*assegno sociale annuo*).³⁰⁴

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.

1.1. Reception and obstacles to access to the procedure

According to the practice recorded in 2016 and 2017, even though by law asylum seekers are entitled to material reception conditions immediately after claiming asylum and the “*fotosegnalamento*” (fingerprinting), they may access accommodation centres only after their formal registration (“*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 sleep on the streets.³⁰⁵

As reported by MSF in February 2018, at least 10,000 persons are excluded from the reception system, among whom asylum seekers and beneficiaries of international protection. Informal settlements with limited or no access to essential services are spread across the entire national territory, namely **Ventimiglia, Torino, Como, Bolzano, Udine, Gorizia, Pordenone, Rome, Bari and Sicily**.³⁰⁶

Friuli-Venezia Giulia: During 2016 and 2017, as reported to ASGI, people who entered Italy from the Eastern border faced lack of accommodation and, in some cases, obstacles to accessing the asylum procedure. In **Udine**, people facing obstacles to accessing the procedure had to take shelter in the train station subway.³⁰⁷ In 2017, in **Pordenone** and **Gorizia**, social tension on the issue of reception is reaching alarming peaks to the point that even Amnesty International denounced the “inhumane policies of electoral taste” carried out by the mayors of both the cities.³⁰⁸

In **Gorizia**, in November 2017, more than one hundred asylum seekers were reported sleeping on the streets in a tunnel in the city centre, *inter alia* due to the fact that the Questura has prevented access to the asylum procedure, thereby excluding these persons from the reception system. The situation led MSF to prepare a heated tent to shelter these people in December 2017. As reported by press, even after the Red Cross in **Pordenone** had proposed to open a dormitory entirely at their own expense, the mayor refused their offer, stating that this would attract more people. This led to over 60 people continuing to sleep on the street.³⁰⁹

Both in **Pordenone** and in **Trieste**, the mayors issued orders prohibiting bivouac and sleeping on the streets. Applying the order, the city police has imposed fines to some asylum seekers sleeping on the

³⁰² Article 1(2) LD 142/2015.

³⁰³ Article 4(4) LD 142/2015.

³⁰⁴ Article 14(1) and (3) LD 142/2015. For the year 2017, the amount corresponds to €5,825 and for the year 2018 to €5,824.

³⁰⁵ 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.

³⁰⁶ MSF, *Fuori campo*, February 2018, 2, 36.

³⁰⁷ ANSA, ‘Migranti: sgomberato nella notte sottopasso stazione Udine’, 31 March 2016, available in Italian at: <http://bit.ly/2kHTUqD>.

³⁰⁸ Amnesty International, ‘Migranti e richiedenti asilo: a Pordenone e Gorizia politiche disumane’, 24 November 2017, available in Italian at: <http://bit.ly/2GI5YGj>.

³⁰⁹ L’Espresso, ‘Pordenone, i migranti dormono al gelo. E al sindaco va bene: “Già si fa più del dovuto”’, 28 November 2017, available in Italian at: <http://bit.ly/2FIOEiN>.

streets but an appeal brought by ASGI lawyers to the Administrative Court of Friuli Venezia Giulia resulted in cancelling the order and consequently annulling the fines in December 2016.³¹⁰ In 2017, due the anti-bivouac ordinances, the blankets and sleeping bags that volunteers had provided to asylum seekers who slept on the street in Pordenone were systematically confiscated.

Lazio: In **Rome**, after the eviction of the Baobab centre happened on 24 November of 2015 and later in June and September 2016, asylum seekers have been assisted by volunteers in the streets close to Tiburtina station.³¹¹ As reported by MSF, by the end of 2015 there were 105 informal settlements of asylum seekers in Rome.³¹² On the occasion of the eviction of the building occupied by Eritrean refugees, which took place in Rome on 19 August 2017, UNHCR denounced the fact that hundreds of people fleeing war and persecution in transit in the city of Rome were forced to sleep on the streets in the absence of adequate reception.³¹³ Due to the chronic lack of places in reception, makeshift settlements are increasingly set up in abandoned buildings far from the city centre, where hundreds of people live under squalid conditions.³¹⁴

Despite the aforementioned cases, the full extent of this phenomenon is not known, since no statistics are available on the number of asylum seekers who have no immediate access to a reception centre immediately after the *fotosegnalamento*. Moreover, the waiting times between the *fotosegnalamento* and *verbalizzazione* differ between Questure, depending *inter alia* on the number of asylum applications handled by each Questura.

1.2. Reception at second instance

With regard to appellants, LD 142/2015 provides that accommodation is ensured until a decision is taken by the CTRPI and, in case of rejection of the asylum application, until the expiration of the timeframe to lodge an appeal before the judicial 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.³¹⁵ The applicant detained in a pre-removal detention centre (CPR) who makes an appeal and a request of suspensive effect of the order, if accepted by the judge, remains in the CPR. Where the detention grounds are no longer valid, the appellant is transferred to governmental reception centres.³¹⁶

Concerning possibility of remaining in accommodation in SPRAR projects after a second appeal, on 7 July 2016 the SPRAR Central Service issued a Circular stating that accommodation is ensured until the decision on the suspensive request is taken from the Court of Appeal.³¹⁷

According to ASGI, the laws concerning the duration of reception – Article 14(4) LD 142/2015 and Article 19(4) and (5) LD 150/2011 – should be read as also covering the second appeal phase where the suspensive request is accepted.

³¹⁰ Administrative Court of Friuli-Venezia Giulia, Decision No 551/2016, 9 December 2016, available at: <http://bit.ly/2kgQXd3>.

³¹¹ MSF, *Fuori campo*, February 2018, 24.

³¹² Lunaria, *Il mondo di dentro, il sistema di accoglienza di richiedenti asilo e rifugiati a Roma*, October 2016, available in Italian at: <http://bit.ly/2fl7WXX>, 11.

³¹³ UNHCR, 'Roma: UNHCR esprime preoccupazione per la sorte di circa 800 rifugiati richiedenti asilo sgomberati da Via Indipendenza', 21 August 2017, available in Italian at: <http://bit.ly/2BvbOB6>.

³¹⁴ MSF, *Fuori campo*, February 2018, 24.

³¹⁵ Article 14(4) LD 142/2015.

³¹⁶ Article 14(5) LD 142/2015.

³¹⁷ Circular of the SPRAR Central Service, 7 July 2016, available at: <http://bit.ly/2kCeBS2>.

Currently, according to ASGI experience, in many CAS asylum seekers also remain during the second appeal, while in SPRAR the cases are individually evaluated. However, with the entry into force of L 46/2017 (“Orlando-Minniti Decree”) on 18 August 2017 and the resulting abolition of the second-instance appeal (see [Regular Procedure: Appeal](#)), many Prefectures such as **Firenze** and **Milano** have begun to withdraw the accommodation to asylum seekers whose claims have been rejected at first appeal. This is done without taking into account the fact that those rejections are still appealable, since they were issued under the previous procedure.

This practice indicates that similar measures will be taken with regard to appeals issued under L 46/2017 if the applicant does not quickly obtain suspensive effect; which will be more difficult to obtain as it should be granted by the same judge who rejected the first appeal.

1.3. Reception in the Dublin procedure

With regard to the specific case of asylum seekers under the Dublin procedure, the Italian legal framework does not foresee any particular reception system.³¹⁸ In addition, LD 142/2015 has clarified that it applies also to the applicants subject to the Dublin procedure.³¹⁹ As regards outgoing transfers, since Italian law does not establish that persons who are waiting to be transferred to another Member State on the basis of the Dublin III Regulation have to be detained, asylum seekers who have received transfer orders are accommodated within the reception centres under the same conditions as other asylum seekers.³²⁰

In relation to Dublin returnees to Italy, a distinction is deemed necessary depending on whether the returnee had already enjoyed the reception system while he or she was in Italy or not.

- ❖ If returnees had not been placed in reception facilities while they were in Italy, they may still enter reception centres (CAS, collective centres, or SPRAR). However, once arrived in the airports they face a severe lack of legal information on how to access again to the asylum procedure and then, due to the lack of available places in reception structures and to the fragmentation of the reception system, the length of time necessary to find again availability in the centres is in most of the cases too long. Since there is no general practice, it is not possible to evaluate the time necessary to access an accommodation.

It occurs in practice that Dublin returnees are not accommodated and find alternative forms of accommodation such as makeshift settlements.³²¹ MSF has reported an increase in Dublin returnees among the homeless migrants they assist in **Rome** in 2017.³²²

- ❖ If returnees had been placed in reception facilities and they had moved away, they could encounter problems on their return to Italy for their new accommodation request. Due to their first departure, in fact, and according to the rules provided for the withdrawal of accommodation (see [Withdrawal of Reception Conditions](#)), the Prefect could deny them new access to the reception system.³²³

Returnees who have already been granted a form of protection face the same lack of accommodation as beneficiaries of international protection in Italy (see [Content of Protection: Housing](#)).

³¹⁸ ASGI, *Il sistema Dublino e l'Italia: Un rapporto in bilico*, March 2015, available in Italian at: <http://bit.ly/2kH0mvX>.

³¹⁹ Article 1(3) LD 142/2015.

³²⁰ *Ibid.*

³²¹ ASGI, *Il sistema Dublino e l'Italia, un rapporto in bilico*, March 2015. For observations from previous years, Pro Asyl, *The living conditions of refugees in Italy*, 2011, 23.

³²² MSF, *Fuori campo*, February 2018, 25.

³²³ According to Articles 13 and 23(1) LD 142/2015, 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.

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 2017 (in original currency and in €):

❖ Governmental centres	€75
❖ SPRAR	€45- €90
❖ CAS	€75
❖ Not accommodated	-

According to the law, governmental first reception centres generally offer basic services compared to those provided by second-line reception structures (SPRAR or other structures).³²⁴ First reception centres are in fact big buildings where high numbers of migrants and asylum applicants are accommodated. These centres offer basic services such as food, accommodation, clothing, basic information services including legal services, first aid and emergency treatments. Each centre is run by different entities and the functioning of the services inside the centre depends predominantly on the competences, expertise, and organisational attitude of the running body.

According to Article 10(1) LD 142/2015 these centres ensure respect for private life, including gender differences, age-related needs, protection of physical and mental health of the applicants, family unit of spouses and first degree relatives, specific measures for vulnerable persons, prevention of forms of violence and safety of the accommodated.

In practice, first accommodation centres do not all offer the same reception services. Currently, as already reported in the past years, their quality of assistance varies between facilities and sometimes fails to meet adequate standards, especially regarding the provision of legal and psycho-social assistance.³²⁵ Identification, referral and care provided to vulnerable individuals is often inadequate due to low levels of coordination among stakeholders, an inability to provide adequate legal and social support as well as the necessary logistical follow-up.³²⁶ Finally, the monitoring of reception conditions by the relevant authorities is generally not systematic and complaints often remain unaddressed.³²⁷

LD 142/2015 provides for a monitoring system in reception centres by the Prefecture through the social services of Municipalities.³²⁸

(1) First reception centres: Asylum seekers hosted in first reception centres receive €2.50 per day per person as pocket money, although in centres such as **Cavarzerani** in Udine, asylum seekers do not receive pocket money.³²⁹ This amount is issued for personal needs.

(2) CAS: Pocket money in CAS is agreed with the competent Prefecture but, according to the Ministry of Interior Circular issued on 20 of March 2014, the amount received by applicants hosted in CAS should be €2.50 per day per person and up to €7.50 for families.³³⁰

³²⁴ Article 10(1) LD 142/2015.

³²⁵ UNHCR, *UNHCR Recommendations on important aspects on refugee protection in Italy*, July 2013, 12.

³²⁶ CIR et al., *Maieutics Handbook – Elaborating a common interdisciplinary working methodology (legal-psychological) to guarantee the recognition of the proper international protection status to victims of torture and violence*, December 2012.

³²⁷ UNHCR, *UNHCR Recommendations on important aspects on refugee protection in Italy*, July 2013, 12.

³²⁸ Article 20(1) LD 142/2015.

³²⁹ LasciateCIEntrare, *Report20giugno LasciateciEntrare*, October 2016, available in Italian at: <http://bit.ly/2dJO5RM>, 25. Confirmed in January 2017 after a public visit by a delegation of local associations and a senator. The Prefect informed that pocket money was not included in the agreement with the Red Cross that ran the centre. In mid-October 2017, the new call for tenders for the management of the centre was published, and it included the supply of pocket money. However, the notice was subsequently suspended because interested parties denounced that the price offered was too low for the supply of the services: Il Gazzettino, 'Cavarzerani: sospeso il bando da 10 milioni di euro, ecco perché', 28 October 2017, available in Italian at: <http://bit.ly/2ibCcbE>.

³³⁰ Ministry of Interior Circular of 20 March 2014, 8.

(3) SPRAR: On the other hand, the SPRAR centres are run by local authorities and together with civil society actors such as NGOs. According to the Ministry of Interior Decree of 10 of August 2016, the 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 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.³³¹

Persons hosted in a SPRAR centre receive a pocket money, which varies depending on the individual project from €1.50 to €3 with up to 20% reduction for families exceeding two people.³³²

LD 142/2015 does not provide any financial allowance for asylum applicants needing accommodation and often where there are no places available in neither SPRAR nor CAS or governmental centres, the Prefecture sends asylum seekers to one of those structures, thereby exceeding their maximum reception capacity. As a result, this causes overcrowding and a deterioration of material reception conditions (see the section on [Conditions in Reception Facilities](#)).

The law does not provide a definition of “adequate standard of living and subsistence” and does not envisage specific financial support for different categories, such as people with special needs.

It is not possible to say that the treatment of asylum seekers concerning social benefits is less favourable than that of nationals, since the Qualification Decree establishes only a comparison between nationals and international protection beneficiaries and not with asylum seekers.³³³

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) LD 142/2015, the Prefect of the Province where the asylum seeker's accommodation centre is placed may decide on an individual basis with a motivated decision to revoke material reception conditions on the following grounds:³³⁴

- (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 seeker's conduct was considered seriously violent.

The law does not provide for any assessment of destitution risks when revoking accommodation.

According to LD 142/2015, 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

³³¹ Article 30 Ministry of Interior Decree of 10 August 2016.

³³² SPRAR, *Manuale unico per la rendicontazione Sprar*, March 2017, available at: <http://bit.ly/2rFGwI9>, 40.

³³³ LD 251/2007, as amended by LD 18/2014.

³³⁴ See also Article 13 LD 142/2015.

competent Prefecture.³³⁵ 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.³³⁶ Moreover, while assessing the withdrawal of reception conditions, the Prefect must take into account the specific conditions of vulnerability of the applicant.³³⁷

These conditions have been interpreted strictly by some Prefectures. On 22 September 2017, the Prefecture of **Verona** issued a note which provides for the automatic withdrawal of reception conditions without any evaluation of individual circumstances in cases such as: unauthorised absence of even one night from the reception centre, where it is not adequately justified; violation of the prohibition of smoking and consumption of alcohol and drugs, both inside and outside the centre; and the accumulation of more than one absence from Italian language courses.³³⁸

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, where unauthorised departure is 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 Administrative Court of Campania claiming a violation of the law, as the Prefecture has effectively introduced a ground for withdrawal of reception conditions not provided in the law.

According to LD 142/2015, asylum seekers may lodge an appeal before the Regional Administrative Court (TAR) against the decision of the Prefect to withdraw material reception conditions.³³⁹ To this end, they can benefit from free legal aid.

As the abovementioned Article 23(1) specifically refers to second-line reception, it is not clear if it correctly applies to asylum seekers accommodated in first reception centres.³⁴⁰ Currently, however, Prefectures are revoking reception conditions in CAS on that legal basis.

Moreover, the law does not clarify what is meant by “serious violations” of the accommodation centre’s internal rules and, according to ASGI, this has allowed Prefectures to misuse the provision revoking reception measures on ill-founded grounds. Still in 2017, the provision has continued to be used in several cases towards asylum seekers who have participated in protests against the conditions of the centre they were accommodated in. This happened among others in:

- La Spezia, **Liguria** in November 2017, against seven asylum seekers who protested to obtain identification documents, health cards and pocket money;³⁴¹
- Tonara, Nuoro, **Sardinia** in October 2017, against six asylum seekers who protested in order to obtain a certificate of attendance of Italian language courses;³⁴²
- Vicenza, **Veneto** in January 2017 concerning two asylum seekers;³⁴³
- Fondi, Latina, **Lazio** in October 2016 towards 5 Nigerians;³⁴⁴

³³⁵ Article 23(3) LD 142/2015.

³³⁶ Article 23(3) LD 142/2015.

³³⁷ Article 23(2) LD 142/2015.

³³⁸ Note 66/2017. See LasciateCIEntrare, ‘Verona e le “facili” revocche dall’accoglienza dei richiedenti asilo’, 11 January 2018, available in Italian at: <http://bit.ly/2GidEch>.

³³⁹ Article 23(5) LD 142/2015.

³⁴⁰ Article 23(1) LD142/2015 refers to the Article 14 of the same Decree which governs reception in SPRAR.

³⁴¹ La Nazione, ‘Rivolta tra i profughi, “dateci i nostri soldi”’, 30 October 2017, available in Italian at: <http://bit.ly/2xEjFLv>.

³⁴² La Nuova Sardegna, ‘Dopo le proteste accoglienza revocata a nove migranti’, 12 November 2017, available in Italian at: <http://bit.ly/2hngT6S>.

³⁴³ Corriere del Veneto, ‘Proteste a Vicenza: Stop all’accoglienza per due migranti’, 5 January 2017, available in Italian at: <http://bit.ly/2ljmV6>.

³⁴⁴ Latina Quotidiano, ‘Protesta alla Coop La Ginestra di Fondi, revoca delle misure di accoglienza per 5 nigeriani’, 27 October 2016, available in Italian at: <http://bit.ly/2lj53uj>.

- Caserta, **Friuli-Venezia Giulia** in October 2016 towards 15 asylum seekers,³⁴⁵ and
- Valderice, Trapani, **Sicily** in April 2016.³⁴⁶

According to ASGI, this 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. Currently, there are pending cases through which ASGI hopes that courts will rule in this direction.

Available figures seem to corroborate an overly broad use of withdrawal provisions. According to an investigation carried out by Altreconomia, on the basis of data from only 35 out of 100 Prefectures between 2016 and 2017, at least 22,000 asylum seekers have lost the right to be accommodated in reception centres.³⁴⁷

Where detention grounds apply to asylum seekers placed in the first and second-line reception centres or in a CAS, the Prefect orders the withdrawal of the reception conditions and refers the case to the *Questore* for the adoption of the relevant measures.³⁴⁸

In case the accommodation is revoked, the person concerned remains outside the national reception system. Asylum seekers out of the SPRAR system can resort to accommodation in private centres outside the national reception system. This accommodation is normally offered by charities.

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

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.³⁴⁹ In practice, this provision has never been applied so far.

4.1. Dispersal of asylum seekers

Asylum seekers can be placed in centres all over the territory, depending on the availability of places and on based on criteria which provide 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 2017, the distribution of migrants across the regions was as follows:

Distribution of migrants arriving in Italy per region: 31 December 2017		
Region	Number of migrants	Percentage
Lombardia	26,519	14%

³⁴⁵ Il Mattino, 'Migranti, dopo le loro proteste il prefetto revoca l'accoglienza', 25 October 2016, available in Italian at: <http://bit.ly/2jXt0qf>.

³⁴⁶ Trapani Oggi, 'Revocata accoglienza a migranti, scoppia la protesta al centro "Villa Sant'Andrea"', 28 April 2016, available in Italian at: <http://bit.ly/2jXowzS>.

³⁴⁷ Altreconomia, 'Richiedenti asilo: i numeri record delle revoche dell'accoglienza', 1 March 2018, available in Italian at: <http://bit.ly/2FVb7Eg>.

³⁴⁸ Article 23(7) LD 142/2015.

³⁴⁹ Article 5(4) LD 142/2015.

Campania	16,677	9%
Lazio	16,447	9%
Sicily	13,870	8%
Piemonte	13,685	7%
Emilia-Romagna	13,629	7%
Veneto	13,293	7%
Toscana	12,465	7%
Puglia	12,122	7%
Calabria	7,456	4%
Friuli-Venezia Giulia	5,062	3%
Sardinia	4,987	3%
Marche	4,953	3%
Abruzzo	4,283	2%
Trentino-Alto Adige	3,370	2%
Umbria	3,023	2%
Molise	2,989	2%
Basilicata	2,492	1%
Aosta	333	0%

Source: Ministry of Interior, Cruscotto giornaliero statistico, 31 December 2017: <http://bit.ly/2mHsosl>.

Transfers between reception centres

After their initial allocation, since the accommodation system is designed in phases, asylum seekers may be moved from one centre to another, passing from: (1) first aid and accommodation centres (CPSA); to (2) first reception centres (governmental centres) or to temporary centres (CAS); and finally (3) to second accommodation centres (SPRAR structures). However, in practice, due to the limited places in SPRAR, asylum seekers can spend all the asylum procedure in governmental centres or CAS.

Asylum seekers are often moved from one CAS to another CAS, in order to try to balance their presence on the territories. These transfers are decided by Prefectures with criteria of choice of people to move variables from place to place. Transfers cannot be appealed.

In October 2017, local organisations and asylum seekers hosted in the CAS set up in the former Montello barracks in **Milan**, whose closure was scheduled for 31 December 2017, organised a protest in the city centre to denounce the ways in which transfers were taking place, without taking into account asylum seekers' integration prospects and often advising residents to collect their personal effects only a few hours before being moved to another facility.³⁵⁰

In some regions, during 2016 and 2017, asylum seekers and beneficiaries of international protection had to be moved due to the discontent of the local population. In some cases, the protest of the inhabitants entirely prevented their reception. In Gorino, **Ferrara**, 20 asylum seekers, including 12 women and 8 children, were blocked on arrival on 24 October 2016, obliging the Prefecture to find temporary accommodation in a nearby town. In Sinagra and Castell'Umberto, **Messina**, the mayors and other residents blocked access roads to the hotel – placed in the border area between the two villages – where 50 unaccompanied children were to arrive on 15 July 2017. The next day they blocked the supply of

³⁵⁰ Milano Today, 'Caserma Montello, trasferiti alcuni migranti «senza alcun preavviso»', 22 September 2017, available in Italian at: <http://bit.ly/2xWVImC>.

electricity and one mayor posted comments against the Prefecture on social media. The Children were nevertheless accommodated but 25 of them were soon transferred elsewhere.³⁵¹

In other cases, even the news of imminent transfers have sparked protests among the resident population. In **Pistoia**, the inhabitants protested and collected 400 signatures against the imminent opening of a reception centre in July 2017. The same happened in San Salvo, **Chieti**, where some mayors from Abruzzo Region gathered to protest against the opening of a reception centre that would accommodate a hundred migrants. In Breno, **Piacenza**, in August 2017, 15 children were greeted by the writing on the walls: “no to blacks and to invasion”.³⁵²

4.2. Restrictions in accommodation in reception centres

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 they do 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](#)).

According to Article 10(2) LD 142/2015, in the first reception centres asylum seekers are allowed to leave the facilities during the day with the obligation to return in the evening hours. The law does not provide such a limitation for people accommodated in CAS or in SPRAR but rules concerning the entry to / exit from the centre are also laid down in an agreement signed between the body running the structure and the asylum seeker at the beginning of the accommodation period.

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 Reception Conditions](#) if the curfew is not observed.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres: Not available
2. Total number of places in the reception centres: Not available
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 / hospots; governmental reception centres; CAS; and SPRAR.

³⁵¹ Il Fatto Quotidiano, ‘Migranti, barricate e proteste nel Messinese contro l’arrivo di 50 profughi. E il sindaco stacca la luce’, 15 July 2017, available in Italian at: <http://bit.ly/2EeuMPz>; Il Post, ‘Le proteste per i migranti arrivati in provincia di Messina’, 16 July 2017, available in Italian at: <http://bit.ly/2tZ15ga>.

³⁵² Il Fatto Quotidiano, ‘Migranti, balle di fieno e scritta razzista contro l’arrivo di 15 profughi minorenni nel Piacentino: “No ai neri e invasione”’, 24 August 2017, available in Italian at: <http://bit.ly/2GnEOOU>.

1.1. First reception: CPSA / Hotspots

LD 142/2015 states that the first rescue and assistance operations take place in the centres regulated by the L 563/1995 ("Apulia Law") which, though improperly, is considered to govern the first aid and reception centres (CPSA) present at the main places of disembarkation.

During 2017, in addition to the existing hotspots in **Lampedusa**, **Pozzallo**, **Taranto** and **Trapani**, another hotspot was set up in **Messina**. In March 2018, the hotspots of **Lampedusa** and **Taranto** were temporarily closed.

The law does not provide a legal framework to the operations carried out in the CPSA.

During 2016, the Government clarified that such centres served as **Hotspots** (see also **Detention**). According to the SOPs, persons should stay in these centres "as short as possible",³⁵³ but in practice they are accommodated for days or weeks. As these few centres constantly face emergency situations with arrivals, as reported by several actors, reception conditions are very poor.

1.2. Governmental first reception centres

LD 142/2015 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.³⁵⁴ Moreover, the Minister of the Interior adopts a decree on the call for tender for the supply of services for the functioning of the first reception centres and of temporary accommodation structures (CAS), more than of CPR and CPSA, in order to ensure uniform reception levels in the whole national territory.³⁵⁵

15 first reception centres are established in seven regions in Italy. The breakdown of occupancy is as follows:

Occupancy of first reception centres by region: 24 November 2017	
First reception centres	Occupancy
Friuli-Venezia Giulia	925
Gorizia	663
Udine (Caserma Cavarzerani)	262
Emilia-Romagna	374
Bologna (Mattei centre)	374
Lazio	845
Rome, Castelnuovo di Porto	845
Puglia	2,511
Foggia	1,077
Bari	1,233
Brindisi	201
Calabria	823
Crotone	823
Sicily	3,470
Catania, Mineo	2,635
Caltanissetta	483
Agrigento, Villa Sikanian	153

³⁵³ Hotspot SOPs, para B4.

³⁵⁴ Article 9(2) LD 142/2015.

³⁵⁵ Article 12(1) LD 142/2015.

Messina, ex Caserma Gasparro	199
Veneto	1,790
Padova, Bagnoli di Sopra	464
Treviso, ex Caserma Serena	506
Venezia, Conetta di Cona	820
Total	10,738

Source: Chamber of Deputies, 24 November 2017.

As of 24 November 2017, first reception centres hosted 10,738 asylum seekers. The situation of some of these centres is particularly critical due to overcrowding. This is the case for:

- **Bari**, which can accommodate a maximum of 1,216 persons, but hosts 1,233 asylum seekers;
- **Catania Mineo**, which hosts 2,635 asylum seekers;
- **Gorizia**, with a maximum capacity of 138, which hosted 663 asylum seekers, including places previously reserved for CPR.

1.3. Temporary facilities: CAS

In case of temporary unavailability of places in the first and second reception centres, LD 142/2015 provides the use of emergency centres (*centri di accoglienza straordinaria*), identified and activated by the Prefectures, in cooperation with the Interior Ministry, and notified to the local authority in whose territory the structures will be set up.³⁵⁶

Activation is reserved for emergency cases of substantial arrivals but applies in practice to all situations in which, as it is the case currently, the places in ordinary centres are not sufficient to meet the reception demand.

The CAS are specifically designed not only for the first accommodation phase but also to provide second-line reception for the time “strictly necessary” until the transfer of asylum seekers to a SPRAR structure.³⁵⁷ The services guaranteed are merely essential as in the first reception centres.³⁵⁸

The CAS system, designed as temporary and preparatory to SPRAR, has expanded to the point of being absorbed in the ordinary system, if not entailing a total reorganisation of the reception system. LD 142/2015 missed the opportunity to actually change the system and simply named these centres no longer as extraordinary but as “temporary centres” (*strutture temporanee*).

The number of CAS in Italy had reached 9,150 as of the end of August 2017, of which 77 CAS for unaccompanied children.³⁵⁹

As of 1 December 2017, CAS hosted 151,239 persons i.e. 81% of the total population in the Italian reception system, a slight increase from the end of 2016.³⁶⁰ **Lombardia** is the region hosting the largest number of people in CAS, followed by **Campania**, **Piemonte**, **Lazio** and **Emilia-Romagna**.

The breakdown per region is as follows:

³⁵⁶ Article 11 LD 142/2015.

³⁵⁷ LD 142/2015: Article 11(1) and (3) refers both to Article 9 (first reception centres) and to Article 14 (second reception in SPRAR).

³⁵⁸ Articles 10(1) and 11(2) LD 142/2015.

³⁵⁹ Chamber of Deputies, *Commissione parlamentare di inchiesta sul sistema di accoglienza, di identificazione ed espulsione: Relazione sul sistema di protezione e di accoglienza dei richiedenti asilo*, 21 December 2017, available in Italian at: <http://bit.ly/2tCTOpS>, 349.

³⁶⁰ *Ibid*, 344.

Occupancy of CAS by region: 1 December 2017	
First reception centres	Occupancy
Lombardia	25,128
Campania	15,057
Piemonte	12,453
Lazio	12,382
Emilia-Romagna	12,193
Toscana	11,607
Veneto	11,210
Puglia	7,483
Sicily	6,022
Liguria	5,629
Sardinia	4,942
Marche	4,317
Calabria	4,179
Abruzzo	3,950
Friuli-Venezia Giulia	3,879
Trentino-Alto Adige	3,271
Umbria	2,666
Molise	2,538
Basilicata	2,005
Aosta	328

Source: Chamber of Deputies, 1 December 2017: <http://bit.ly/2tCTOpS>.

1.4. Second-line reception: SPRAR

The structures available to host asylum seekers and refugees mainly consist of flats (83.3% of the total number of facilities), small reception centres (10.3%), and community homes (6.6%). The community homes are mainly addressed to unaccompanied children.³⁶¹

Funding is provided by the Interior Ministry to the municipalities selected among those participating in the national competition. The presentation of the project by the municipalities is purely voluntary .

In order to promote accession to the SPRAR system by a larger number of local authorities, LD 142/2015 has introduced the possibility of derogating from the limit established by law, under which the state funding cannot exceed the quota of 80% of the total cost of each project. Currently, the previously applicable co-funding mechanism has been replaced by full state funding.

On 10 August 2016, the Ministry of Interior issued a Decree to facilitate the accession of municipalities to SPRAR system, making it possible at any time without deadlines. On 11 October 2016, the Ministry has issued a Decree to promote the expansion of the SPRAR system. The Ministry aims to encourage municipalities to host asylum seekers in their territories, inviting Prefectures not to open new CAS or to gradually phase out the existing ones in those territories where the municipalities participate in SPRAR. This is provided by the so-called “safeguard clause” (see [Overview of Reception](#)).

In the last seven years, the SPRAR reception capacity has grown exponentially: from 3,979 places financed in 2011 to 9,356 places between 2012 and 2013, and then to 20,965 places financed for 2014-

³⁶¹ Anci et al., *Rapporto sulla protezione internazionale in Italia*, 2017, available at: <http://bit.ly/2Gly8RI>, 141.

2016. An additional 4,077 places have been activated in July 2016 and another 969 seats related to the new 2017-2019 projects have been activated since February 2017.³⁶²

As of February 2018, SPRAR ran 876 reception projects, with a total of 35,869 funded places.³⁶³ Out of these, 143 reception projects with 3,488 financed places are dedicated to unaccompanied children, while 52 reception projects with 734 financed places are destined to persons with mental disorders and disabilities.

The total capacity of the 775 SPRAR projects financed as of November 2017 amounted to around 31,270 places but only 24,972 were occupied, meaning that 6,302 funded places were vacant.³⁶⁴

Though considerable, the growth of SPRAR continues to be insufficient in meeting accommodation needs, as SPRAR places cover less than the 20% of the effective reception demand in Italy. In Milan, **Lombardia**, for example, the ratio of SPRAR to CAS is 1:10.³⁶⁵

1.5. Private accommodation with families and churches

In addition to the abovementioned reception centres, there is also a network of private accommodation structures 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 in addition to the places available through the SPRAR. Several churches had already accommodated refugees and many others have decided to do so following the Pope's call of 6 September 2015.³⁶⁶

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 SPRAR. Some of these initiatives are ongoing for example in Bologna, **Emilia-Romagna**,³⁶⁷ and Trieste, **Friuli-Venezia Giulia**.³⁶⁸

As of April 2017, over 500 families in Italy were hosting a refugee. Moreover, under the project "**Rifugiato a casa mia**" led by Caritas, 115 migrants were hosted in families, 227 in parishes, 56 in religious institutes and 139 in apartments as of May 2017. Moreover, the network Refugees Welcome ran 35 projects of refugees hosted in families in 2017.³⁶⁹

On the other hand, during 2017, the mayors of some municipalities in **Lombardia**, all members of the Lega Nord party, issued orders they called "anti-reception" on the basis of which individuals would face fines ranging from €2,500 to €15,000 for accommodating migrants without prior notification to the municipality, even if they had an agreement with the Prefecture for a CAS.³⁷⁰ ASGI and other

³⁶² *Ibid*, 146.

³⁶³ SPRAR, *I numeri dello Sprar*, available at: <http://www.sprar.it/i-numeri-dello-sprar>.

³⁶⁴ Chamber of Deputies, *Commissione parlamentare di inchiesta sul sistema di accoglienza, di identificazione ed espulsione: Relazione sul sistema di protezione e di accoglienza dei richiedenti asilo*, 21 December 2017, 510.

³⁶⁵ Naga, *(Stra)ordinaria accoglienza: Indagine sul sistema di accoglienza dei richiedenti asilo a Milano e provincial*, October 2017, available in Italian at: <http://bit.ly/2FttAM2>, 27.

³⁶⁶ Il Fatto Quotidiano, 'Profughi, l'appello di Papa Francesco: "Ogni parrocchia accolga una famiglia"', 6 September 2015, available in Italian at: <http://bit.ly/2GjNpL>.

³⁶⁷ In Bologna, the project is coordinated by the cooperative Camelot, that also created in April 2016 a website to connect the families involved: <http://bit.ly/2lkoEv0>.

³⁶⁸ In Trieste, the project started by the end of 2015 and is coordinated by the NGO Ics-Ufficio Rifugiati.

³⁶⁹ Il Venerdì di Repubblica, 'Ospitare un profugo? In Italia si fa così', 28 April 2017, available in Italian at: <http://bit.ly/2FjMksA>.

³⁷⁰ Repubblica, 'Migranti, ordinanze e multe ai privati: un patto dei sindaci leghisti contro l'accoglienza', 29 August 2017, available in Italian at: <http://bit.ly/2wGsB5J>.

organisations have lodged appeals against these illegal orders, and as of November 2017 almost all mayors have revoked these orders with very little explanation or without any motivation.³⁷¹

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

By law, reception conditions have only to satisfy a basic level in first reception centres and in temporary centres (CAS), while SPRAR projects have to develop so-called "integrated accommodation", centred on the individual paths and aimed at providing the person hosted all the tools to regain individual autonomy. On the other hand, the National Integration Plan of 26 September 2017 states that CAS must adapt their services and activities such as language training, work and services orientation to those offered in the SPRAR system (see [Overview of Reception](#)).

LD 142/2015 clarifies that in the first reception centres and in the temporary ones the respect of private life, gender and age specific concerns, physical and mental health, family unit and the situation of vulnerable persons shall be ensured. Measures to prevent any form of violence and to ensure the safety and security of applicants shall be adopted.³⁷²

SPRAR projects, instead, 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 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.³⁷³

LD 142/2015 also clarifies that asylum applicants are free to exit from the reception centres during the daytime but they have the duty to re-enter during the night time. The applicant can ask the Prefect a temporary permit to leave the centre in different hours for relevant personal reasons or for those related to the asylum procedure.³⁷⁴ Such limits are not provided by law for the SPRAR structures and are eventually applied by the bodies managing the projects.

In practice, reception conditions vary considerably among different accommodation centres and also between the same type of centres. While the services provided are the same, the quality can differ depending on the management bodies running the centres.

While the SPRAR publishes annual report on its reception system, no comprehensive and updated reports on reception conditions in all the Italian territory are available.

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. LD 142/2015 does not provide any timeframe on the reception, since this

³⁷¹ ASGI, 'Accoglienza dei richiedenti asilo: i sindaci revocano le ordinanze, 20 November 2017, available in Italian at: <http://bit.ly/2BxERUw>; ASGI, 'La Prefettura di Milano invita i Comuni milanesi a revocare le ordinanze sindacali anti-richiedenti asilo', 19 September 2017, available in Italian at: <http://bit.ly/2DUAacE>.

³⁷² Article 10(1) LD 142/2015.

³⁷³ Article 30 Ministry of Interior Decree 10 August 2016.

³⁷⁴ Article 10(2) LD 142/2015.

has to be provided since the manifestation of the intention to make an asylum request and during the asylum procedure.

2.1. Conditions in governmental first reception centres

The purpose of these reception centres is to offer hospitality to asylum seekers when justified by needs of identification,³⁷⁵ and of medical tests for the detection of vulnerabilities, to take into account for a later and more focused placement.³⁷⁶

However, the law does not specify any maximum time limit for the stay of asylum seekers in these centres. The whole mechanism of reception designed phases is therefore bypassed through the extensive use of ambiguous wording in the law: applicants stay in such centres for the time “necessary” to carry out the necessary operations, but, once concluded, they may still remain there for the time “strictly necessary” before the transfer into SPRAR structures.³⁷⁷

The designated facilities to accommodate asylum seekers in this stage are collective reception centres, facilities until now connoted by large structures, isolation from urban centres and poor or otherwise difficult contacts with the external world.

Generally speaking, all governmental centres are very often overcrowded. Accordingly, the quality of the accommodation services offered is not equivalent to the SPRAR centres or other 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, for example: overcrowding and limitations in the space available for assistance, legal advice and socialisation; physical inadequacy of the facilities and their remoteness from the community; or difficulties in accessing appropriate information.³⁷⁸

Nevertheless, it must be pointed out that the material conditions also vary from one centre to another depending on the size, the effective number of asylum seekers hosted compared to the actual capacity of the centre, and the level and quality of the services provided by the body managing each centre.

More detailed information on specific centres are provided in the reports published by the NGOs belonging to the campaign [LasciateCIEntrare](#) among others.

Mineo, Catania, Sicily: The Chamber of Deputies’ Commission of inquiry on reception visited the centre twice in 2016 and highlighted conditions incompatible with dignified standards. The Commission emphasised the isolation of the centre from urban centres, as well as the large population hosted in the facility, which constantly creates tensions within and outside the centre and fuels a feeling of physical and moral isolation among residents. People are free to exit the centre but have no means of transport to get to Mineo. Given that all activities must take place within the centre, integration in local communities is impossible. Moreover, the sanitary conditions of the centre were described by the Commission as precarious, in addition to crumbling infrastructure, loss-making services including medical services, and insufficient number of staff. Safety regulations were also described as inappropriate: the Commission referred to an evident presence of black market, exploitation, drug trafficking and prostitution, with law enforcement officials being aware of abuses and violence but preferring to monitor at a distance.³⁷⁹ The centre is also the subject of the “*mafia capitale*” investigation.³⁸⁰

³⁷⁵ Article 9(1) LD 142/2015.

³⁷⁶ Article 9(4) LD 142/2015.

³⁷⁷ Article 9(5) LD 142/2015.

³⁷⁸ 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.

³⁷⁹ Chamber of Deputies, *Relazione sulle vicende concernenti il centro di accoglienza (ex CARA) di Mineo*, 21 June 2017, available in Italian at: <http://bit.ly/2HnXCNA>.

³⁸⁰ See also News Deeply, ‘Living on Mafia Leftovers: Life in Italy’s Biggest Refugee Camp’, 19 February 2018, available at: <http://bit.ly/2HzxlN7>.

Villa Sikania, Agrigento, Sicily: When visiting the centre on 16 January 2017, the Guarantor for the rights of detained persons found that the facility also operated as a hotspot for 379 persons disembarked at Porto Empedocle on 30 December 2016. The centre is divided in two parts: one originally intended as a hotel with 42 rooms, mainly hosting relocation candidates, families and women; and an “outdoor gazebo” with four large dorms. Degrading conditions were noted in bathrooms, as there were no doors, no hot water and many showers were broken.³⁸¹

Cona, Venezia, Veneto: On 2 January 2017, overcrowding and the lack of adequate staff in number have prevented the authorities’ ability to assist an Ivorian woman, who later died.³⁸²

Castelnuovo di Porto, Rome, Lazio: The centre based in Castelnuovo di Porto, 30 km from Rome, is established in the compound of a former multifunctional centre of the Civil Protection Department. It is a huge fenced complex in cement, surrounded by an open area with no services. The centre is one of the 4 relocation hubs for the accommodation of people waiting to be relocated. The staff of the centre was represented by a total of 117 workers. The maximum capacity should be 650 places but at the moment of the visit the persons accommodated were 844, including international protection beneficiaries, asylum seekers and people waiting for relocation. Asylum seekers are separated by gender. The NGOs records that the rooms are generally unadorned, without tents, and with mildew. People do not receive information about their relocation procedure and can be notified about the transfers only a few hours before the travel. Pocket money of €2.50 per day per person is bestowed on goods that can be purchased inside the small store inside the centre. Among the goods purchased there are biscuits, toothpaste, cigarettes, phone cards, as well as train and subway tickets. The average time of stay in the centre is 3-4 months according to the managing body, but the NGOs detected the presence of people staying there for one year and eight months.³⁸³

Cavarzerani, Udine, Friuli-Venezia Giulia: The centre is divided into two buildings and a tent area. In the first building there were six big rooms, with 20/25 beds. In the bathrooms, they found that five showers were broken, the sinks had leaks of water and hot water was continuously interrupted. In the second building there were 9 rooms with about 165 beds. The tent area had more critical conditions. There were 38 tents, with 9-12 persons each. Inside the tents there was no light and no heating, despite critical temperatures in the winter. Bathrooms and showers were too few: about 10 bathrooms and 14 showers for at least 400 persons, with inadequate hygienic conditions. The MEP Elly Schlein, who visited the centre on 29 July 2016 reported that the persons accommodated at the moment of the visit were 789, almost exclusively Pakistani asylum seekers. In January 2017, there were 644 people accommodated, out of whom 400 in the buildings and the rest in the tent area. Most persons were Pakistani nationals. People could make the first access to the centre only from 19:30 to 20:30 every day and could leave the centre during the day but they could return only when the gates were open. In all the centre, there was no access to a legal support service. No form of pocket money was planned for people who were in the centre. The management body explained that the Ministry was in debt of at least €3 million and that the last payment had been made in September 2015. The average duration of stay was reported at 6-8 months, although this fluctuates given that the majority of asylum seekers hosted there are Dublin cases.³⁸⁴

³⁸¹ Guarantor for the rights of detained persons, *Rapporto sulle visite nei CIE e negli hotspot in Italia 2016/2017*, 11 May 2017, available in Italian at: <http://bit.ly/2HtaH8C>, 48-49.

³⁸² Corriere de la Sera, ‘Muore una ragazza, rivolta nel centro di accoglienza di Cona: i migranti assediano per ore 25 operatori’, 3 January 2017, available in Italian at: <http://bit.ly/2hIFbWU>.

³⁸³ Lunaria, *Il mondo di dentro, il sistema di accoglienza per richiedenti asilo e rifugiati a Roma*, October 2016, 13; LasciateCIEntrare, *Report20giugno*, October 2016.

³⁸⁴ LasciateCIEntrare, *Report20giugno*, October 2016; *Report dell’ingresso alla ex caserma Cavarzerani*, 26 January 2017: <http://bit.ly/2jXFSwi>.

2.2. Conditions in CAS

According to LD 142/2015, services guaranteed in temporary centres (CAS) are the same guaranteed in first reception centres.³⁸⁵ As already highlighted, the insufficient expansion of the SPRAR has been at the origin of the creation of a permanent state of emergency and of the proliferation of temporary structures where asylum seekers can spend all of the asylum procedure. With this, they also risk being immediately thrown out of the reception system when receiving a positive decision (see [Content of Protection: Housing](#)).

The chronic emergency has forced the improvisation of interventions and favoured the entry into the accommodation network of bodies lacking the necessary skills and, in the worst cases, only interested in profits.

Reports published throughout 2016 and 2017 by organisations such as Doctors for Human Rights (MEDU),³⁸⁶ Naga,³⁸⁷ Lunaria,³⁸⁸ and LasciateCIEntrare together with Libera and Cittalia,³⁸⁹ clearly show the serious problems and deficiencies of many of such structures: unsuitable structures reception; lack of hygiene and lack of safety conditions minimally adequate for both guests and workers; lack of preparation of the staff and staff shortages. A few recent observations from late 2016 and early 2017 are recounted below by way of example:

Milan, Lombardia: According to a recent report by Naga, the contracts for management of CAS in Milan are awarded by the Prefecture to the tender with the lowest price, without specifying the requisite skills of operators employed in the centres and no longer containing an obligation on centres to guarantee Italian language courses. As many as 3,650 people were housed in CAS in Milan as of the end of July 2017.³⁹⁰

Casotto, Pedemonte, Lombardia: A delegation of LasciateCIEntrare visited the CAS on 2 November 2017. Although the area is isolated from urban areas, asylum seekers are not provided with tickets for public transport. The delegation also noted the absence of qualified personnel and cultural mediators in the facility.³⁹¹

Roggiano Gravina, Cosenza, Calabria: LasciateCIEntrare visited the CAS three times during 2017. Residents stated that they were not issued a health card and that they receive the same medicine for any health condition reported. They also reported that the manager of the centre calls the police in any protest against the quality of services.³⁹²

Cona, Venezia, Veneto: Several organisations, including ASGI, requested Rule 39 interim measures from the ECtHR on 11 January 2017 due to the inhuman and degrading conditions in the centre facing three children and an adult. While the Court has requested information from the Italian authorities, the Prefecture has transferred the children concerned out of the centre, so as to prevent the Court from granting interim measures.³⁹³ The case was communicated later in 2017.³⁹⁴

³⁸⁵ Articles 11(2) and 10(1) LD 142/2015.

³⁸⁶ MEDU, *Asilo Precario*, April 2016, available in Italian at: <http://bit.ly/2ljmxa6>.

³⁸⁷ Naga, *(Ben)venuti! Indagine sul sistema di accoglienza dei richiedenti asilo a Milano e provincia*, April 2016, available in Italian at: <http://bit.ly/2kDbCZT>.

³⁸⁸ Lunaria, *Il mondo di dentro. Il sistema di accoglienza di richiedenti asilo e rifugiati a Roma*, October 2016, available in Italian at: <http://bit.ly/2fy1cac>.

³⁸⁹ LasciateCIEntrare et al., *InCAStrati*, February 2016, available in Italian at: <http://bit.ly/2ljAFQI>.

³⁹⁰ Naga, *(Stra)ordinaria accoglienza*, October 2017, available in Italian at: <http://bit.ly/2FttAM2>.

³⁹¹ LasciateCIEntrare, 'Il CAS pensato per far riflettere i richiedenti asilo, report della visita al CAS Casotto di Pedemonte (VI)', 21 November 2017, available in Italian at: <http://bit.ly/2zWjZtd>.

³⁹² LasciateCIEntrare, 'Straordinaria accoglienza, ordinari emergenza, report al CAS di Roggiano Gravina', 7 November 2017, available in Italian at: <http://bit.ly/2hiixuk>.

³⁹³ ASGI, 'Cona(VE): minorenni nel centro di accoglienza. La CEDU chiede chiarimenti all'Italia', 15 January 2017, available in Italian at: <http://bit.ly/2jY3uWl>.

³⁹⁴ ECtHR, *Darboe and Camara v. Italy*, Application No 5797/17, Communicated on 14 February 2017.

Piano Torre di Isnello, Palermo, Sicily: The centre is located far away from the town of Isnello. During a visit by LasciateCIEntrare on 29 December 2016, the centre hosted 90 persons. Heating is available, although residents reported that it is underused by the management of the centre, and the clothes provided are insufficient for all guests and inadequate for cold weather. Rooms, on average the size of a double room, were reported to be overcrowded, as each room is occupied on average by 6 people, with the exception of a room hosting 10 people.³⁹⁵

Telese, Campania: On 19 November 2016, LasciateCIEntrare activists met some asylum seekers accommodated in the centre for more than six months. They had no knowledge of the Italian language and they had no basic legal information about the asylum procedure they were involved in. They lacked adequate winter clothing and they complained about weak relations with the social operators of the CAS. They also reported they had no interaction with the local community. After some weeks, the situation recorded was even worse because of the intermittent availability of hot water and electricity.³⁹⁶

Montalto Uffugo, Calabria: The centre, located far away from the town, consists of two areas, a two storey house and a smaller house: The first one has 4 large bedrooms, each with 5 beds, but a single toilet and two showers on the floor and two more bathrooms at the lower level. The second one has two bedrooms for seven guests and one bathroom. LasciateCIEntrare visited the centre on 29 August 2016 and found satisfactory formal compliance with standards but difficult relations with the manager of the structure and lack of real paths of inclusion for the residents.³⁹⁷

However, as the functioning of CAS depends on agreements by the management bodies with the Prefectures and on the professionalism of the bodies involved, there are notable cases in which the reception conditions are equal to those of SPRAR, such as the CAS of Trieste, **Friuli-Venezia Giulia**.³⁹⁸

2.3. Conditions in SPRAR centres

The accommodation conditions in the facilities of the SPRAR system differ considerably from those in first reception centres. In bigger facilities of the SPRAR, rooms may accommodate up to 4 persons, while in flats, rooms can accommodate 2 or 3 persons. On average, the SPRAR facilities host about 9 people each.³⁹⁹ In all reception centres, a common space for recreational activities should be guaranteed. SPRAR structures have to provide hygienic services which are adequate and proportionate to the number of asylum seekers hosted, that is 1 bathroom per 6 individuals. With regard to the cleaning service of the facility, asylum seekers are more or less involved depending on the type of SPRAR centre.

In some SPRAR structures, it is possible to cook autonomously, using either pocket money given by the managing entity to buy food – the amount of which varies mainly depending on the typology of beneficiaries, as more is provided to vulnerable individuals – or the products/ingredients provided. In this case the kitchen is shared by the guests. In other structures, meals are provided by an external catering or internal canteen.

The abovementioned criteria are considered the minimum standards foreseen in the SPRAR system. In the case of reception projects hosting categories with particular need or for example unaccompanied children, these services are normally widened (e.g. sport, cultural visits etc).

³⁹⁵ LasciateCIEntrare, *Migranti, visita al CAS di Piano Torre di Isnello (PA): il report*, 10 January 2017, available in Italian at: <http://bit.ly/2lfgQhq>.

³⁹⁶ LasciateCIEntrare, *Migranti, LasciateCIEntrare visita al Centro di Accoglienza Straordinaria di Telese (BN)*, 10 January 2017, available in Italian at: <http://bit.ly/2jY2xsp>.

³⁹⁷ LasciateCIEntrare, *Migranti, LasciateCIEntrare visita il Centro di Accoglienza Straordinaria di Montalto Uffugo (CS)*, 29 December 2016, available in Italian at: <http://bit.ly/2khklua>.

³⁹⁸ ASGI, *Il diritto d'asilo tra accoglienza ed esclusione* (Dell'Asino, 2015).

³⁹⁹ Anci et al., *Rapporto sulla protezione internazionale 2017*, 141.

Each structure is run by different entities, as a consequence the quality of services differ from one to another, even though the minimum standards should be guaranteed in all centres.

Training and adjournment courses are organised by the authority in charge of the management of the entire system (*Servizio centrale del sistema di protezione*) on an annual basis, which are addressed to the personnel who operates in all SPRAR facilities located on the national territory.⁴⁰⁰ SPRAR staff is obliged to attend these training courses. Training provides both basic expertise and refreshment courses. Their content consists in both legislation and integration paths.

2.4. Conditions in makeshift camps

As discussed in [Criteria and Restrictions to Access Reception Conditions](#), at least 10,000 persons are excluded from the reception system, among whom asylum seekers and beneficiaries of international protection.

Informal settlements with limited or no access to essential services are spread across the entire national territory, according to a recent report by MSF:⁴⁰¹

Friuli-Venezia Giulia: Dozens of persons waiting to access the asylum procedure live in disused spaces near the train station of **Trieste**. In **Udine**, small groups are scattered across different locations to avoid apprehension by the authorities. In **Gorizia**, MSF transferred the management of containers established in San Giuseppe to the Prefecture in 2016, which has since transformed them into a first reception centre. From December 2016, the underground rooms of the centre of San Giuseppe have become a refuge for approximately 100 asylum seekers excluded from reception facilities. The space has been renamed the “Bunker” and, for months, the services guaranteed to asylum seekers accommodated inside the containers were denied to those who lived in the Bunker. After two evictions, the people found shelter in the Bombi tunnel, which was closed on 24 November 2017, however. In December 2017, MSF donated to the local Caritas a heated tent, able to guarantee temporary shelter for at least sixty people.

Piemonte: In **Torino**, among the several informal settlements for refugees and asylum seekers, the buildings of the former Olympic village (MOI), occupied in March 2013 from North African refugees, are going to be converted into social housing buildings, where part of the people occupying the spaces will be able to live. MSF recorded other settlements in the Via Madonna de la Salette, in Via Bologna, mainly occupied by Sudanese refugees, and in Corso Chieri, mainly occupied by Somali refugees.

Lazio: In **Rome**, MSF reports a proliferation informal settlements in abandoned buildings far away from the city centre. In the Tor Cervara area, near Tiburtina station, hundreds of migrants and refugees live without water, electricity and gas, often surrounded by areas of illegal dumping, infested with rats. Around 100 settlements in Rome are organised occupations. At least 600 asylum seekers and beneficiaries of international protection are reported to live these places.

Puglia: The “Ferrhotel” in **Bari** has occupied for years by dozens of Somali refugees, without water or light. Among the 500 homeless people registered by the municipality at the end of June 2017, many were asylum seekers.

⁴⁰⁰ SPRAR, *Manual for operators*, 9 and 22.

⁴⁰¹ MSF, *Fuori campo*, February 2018, 2, 36.

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?
❖ If yes, when do asylum seekers have access the labour market? | ☒ Yes ☐ No
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?
❖ If yes, specify which sectors | ☐ Yes ☒ No |
| 4. Does the law limit asylum seekers' employment to a maximum working time?
❖ If yes, specify the number of days per year | ☐ Yes ☒ No |
| 5. Are there restrictions to accessing employment in practice? | ☒ Yes ☐ No |

According to LD 142/2015, an asylum applicant can start to work within 60 days from the moment he or she lodged the asylum application.⁴⁰² Even if they start working, however, their stay permit cannot be converted in a work stay permit.⁴⁰³

In addition, LD 142/2015 states that asylum applicants living in the SPRAR centres may attend vocational training when envisaged in programmes eventually adopted by the public local entities.⁴⁰⁴

The SPRAR has implemented standardised integration programmes. Asylum seekers or beneficiaries of international protection accommodated in the SPRAR system are generally supported in their integration process, by means of individualised projects which include vocational training and internships.⁴⁰⁵

SPRAR is the only integrated system that provides this kind of services to the beneficiaries. Vocational training or other integration programmes can be provided also by the means of National public funds (8xmille) or the Asylum, Migration and Integration Fund (AMIF). In this case, the Ministry of Interior can finance specific projects to NGOs at national level concerning integration and social inclusion. The projects financed under AMIF are, however, very limited in terms of period of activity and in number of beneficiaries.

Municipalities can also finance vocational trainings, internships and specific employment bursaries (*"borse lavoro"*). This fund is available both to Italians and foreigners, including asylum seekers and beneficiaries of international protection. The possibility to attend vocational trainings or internships is considerably limited in the case of those asylum seekers accommodated in governmental centres.

Even though the law makes a generic reference to the right to access to employment without indicating any limitations, and albeit being entitled to enlist into 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 in the registration of their asylum claims, on the basis of which the permit of stay will be consequently issued, or to the delay in the renewal thereof.

Moreover, as reported to ASGI, many Provincial Offices for Labour do not allow asylum seekers under the Dublin procedure to enrol in 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

⁴⁰² Article 22(1) LD 142/2015.

⁴⁰³ Article 22(2) LD 142/2015.

⁴⁰⁴ Article 22(3) LD 142/2015.

⁴⁰⁵ SPRAR, *Manual for operators*, 34-37.

responsible for their asylum application. This happens for examples in the regions of **Veneto** and in **Friuli-Venezia Giulia** region.

In addition, the objective factors affecting the possibility of asylum seekers to find a job are the current financial crisis affecting Italy, language barriers, the remote location of the accommodation and the lack of specific support founded on their needs.

Moreover, it must be pointed out that there is a considerable difference of opportunities in accessing integration programmes depending on the services provided by the reception centres where asylum seekers are accommodated.

The path towards achieving real autonomy and economic independence for asylum seekers has been further slowed down by the provision enabling the use of asylum seekers in volunteering activities under L 46/2017. According to the law, the Prefects, in agreement with the Municipalities, promote any initiative 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.⁴⁰⁶

In practice, what is only an eventuality in the law, is becoming a widespread practice and this has not failed to feed social tension with those categories of weaker workers and with the unemployed who feel replaced by free workers.

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, both Italian and foreigners, have the right and the obligation until the age of 16 to take part in the national education system. Under LD 142/2015, unaccompanied asylum-seeking children and children of asylum seekers exercise these rights and are also admitted to the courses of the Italian language.⁴⁰⁷ LD 142/2015 makes reference to Article 38 of the Consolidated Act on Immigration (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.

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

⁴⁰⁶ Article 22-bis LD 142/2015, as amended by L 46/2017.

⁴⁰⁷ Article 21(2) LD 142/2015.

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.⁴⁰⁸

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 must enrol in the National Health Service.⁴⁰⁹ 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 of the National Health System.

1. Practical obstacles to access to health care

The right to medical assistance is acquired at the moment of the registration of the asylum request but 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 formalising the asylum application. This means that it reflects the delay in proceeding to “C3”, which corresponds to several months in certain regions (see [Registration](#)).

Pending enrollment, asylum seekers only have access to sanitary treatments ensured by Article 35 of the Consolidated Act on Immigration (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 collective health.⁴¹⁰

Asylum seekers have to register with the national sanitary service in the offices of the health board (ASL) competent for the place they declare to have a domicile.⁴¹¹ Once registered, they are provided with the European Health Insurance Card, *tessera sanitaria* (TEAM), whose validity is related to the one of the permit 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 counselling” (“*consultorio familiare*”) to which access is direct and does not require doctors' request; and
- Free hospitalisation in public hospitals and some private subsidised structures.

⁴⁰⁸ 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>.

⁴⁰⁹ Article 34 TUI; Article 16 PD 21/2015; Article 21 LD 142/2015.

⁴¹⁰ Article 21 LD 142/2015; Article 16 PD 21/2015.

⁴¹¹ Article 21(1) LD 142/2015, citing Article 34(1) LD 286/1998; 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”.

Whereas delays in the issuance of health cards had been 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,⁴¹² no such obstacles were reported with regard to access to health cards in 2017. These problems persist with regard to access to other social rights, however.

The right to medical assistance should not expire in the process of the renewal of the permit of stay,⁴¹³ 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.⁴¹⁴

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.⁴¹⁵ 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.⁴¹⁶ 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 the accommodation centres and, as highlighted by MSF in the *Fuori Campo* reports published in March 2016 and February 2018, the informal accommodation in different metropolitan areas.⁴¹⁷

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,⁴¹⁸ 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 submission 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.

For the next period, in some regions such as **Lazio**, **Veneto** and **Toscana**,⁴¹⁹ asylum seekers are no longer exempted from the sanitary ticket because they are considered inactive and not unemployed. In

⁴¹² Mol Circular of 1 September 2016; Revenue Agency Circular n. 8/2016.

⁴¹³ Article 42 PD 394/1999.

⁴¹⁴ Article 22 LD 251/2007.

⁴¹⁵ See M Benvenuti, *La protezione internazionale degli stranieri in Italia*, Jovene Editore, Napoli 2011, 263.

⁴¹⁶ *Ibid.*

⁴¹⁷ MSF, *Fuori Campo: Richiedenti asilo e rifugiati in Italia: insediamenti informali e marginalità sociale*, March 2016, available in Italian at: <http://bit.ly/1S5IHGh>.

⁴¹⁸ Ministry of Health Circular No. 5 of 24 March 2000.

⁴¹⁹ Information provided to ASGI by the Italian Society of Migration Medicine (SIMM), In **Lazio**, the exemption is valid for 6 months, in **Toscana** for 2 months and another 6 in case of unemployment, and in **Veneto** for 2 months.

other regions such as **Piemonte** and **Lombardia**, 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.

On 18 April 2016, ASGI together with other NGOs sent a letter to the Ministry of Health requesting that effect be given to Article 17(4) of the recast Reception Conditions Directive, according to which asylum seekers may be required to contribute to the costs for health care only if they have sufficient resources, for example if they have been working for a reasonable period of time. ASGI also asked to consider that from the approval of LD 150/2015 on granting the right to the exemption from participation in health spending, there can no longer be a distinction between the unemployed and the inactive.⁴²⁰ As of 9 of May 2016, the Ministry of Health replied to have involved the Ministry of Economy and the Ministry of Labour and Social Policy in order to achieve a uniform interpretation of the aforementioned rules.

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 holders 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 (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.⁴²¹ 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.⁴²²

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 LD 142/2015 provides that accommodation is provided taking into account the special needs of the asylum seekers, in particular those of vulnerable persons such as children, unaccompanied minors, disabled persons, elderly people, pregnant women, single parents with children under 18, 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 section on [Identification](#)).

⁴²⁰ Article 19 LD 150/2015 states that "unemployed" are workers who declare, in electronic form, their immediate availability to exercise work activities.

⁴²¹ 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>.

⁴²² MSF, *Fuori campo*, February 2018, 39.

There are no legal provisions on how, when and by whom this assessment should be carried out. LD 142/2015 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 reception needs.⁴²³ The Decree has introduced a more protective norm providing that special services addressed to vulnerable people with special needs shall be ensured in first reception centres and SPRAR structures.⁴²⁴

The law clarifies the need to set up specific spaces within “governmental first reception centres” where services related to the information, legal counseling, psychological support, and receiving visitors are ensured.⁴²⁵ Where possible, adult vulnerable people are placed together with other adult family members already present in the reception centres.⁴²⁶ 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.⁴²⁷

With regard to reception in SPRAR centres, the Minister of Interior shall issue Guidelines for the implementation of services, including those addressed to persons with special needs.⁴²⁸ Also in SPRAR centres, special reception measures should be set up to meet the specific needs of asylum seekers.⁴²⁹ The assessment of special needs is conducted upon placement of asylum seekers at one of the accommodation centres. This assessment is not carried out systematically and it depends upon the existence and the quality of services provided by the centre, the availability of funds and their use by the managers of the centres.

1. Reception of families and children

LD 142/2015 specifies that asylum seekers are accommodated in structures which ensure the protection of family unity comprising of spouses and first-degree relatives.⁴³⁰

Both in SPRAR centres and in first line reception centres, the management body of the accommodation centres should respect the family unity principle.⁴³¹ Therefore they cannot separate children from parents who live in the same wing of the accommodation structure. 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. The centre of Gorizia, **Friuli-Venezia Giulia** is an example where families are usually divided. By contrast, in some other centres, families are accommodated together, for instance in Castelnuovo di Porto in Rome, **Lazio**, Mineo in Catania, **Sicily** and Crotone in **Calabria**.

In some circumstances, it may occur that families accommodated in governmental or temporary centres are subsequently transferred to a SPRAR facility, since it constitutes a more adequate reception centre for the specific situation of the family concerned. This transfer depends on some factors such as the composition of the family, its vulnerability and/or health problems and the number of asylum seekers waiting for a place in the SPRAR system.

⁴²³ Articles 9(4) and 11(1) LD 142/2015.

⁴²⁴ Article 17(3)-(4) LD 142/2015.

⁴²⁵ Article 9(3) PD 21/2015.

⁴²⁶ Article 17(5) LD 142/2015.

⁴²⁷ Article 17(7) LD 142/2015.

⁴²⁸ Article 14(2) LD 142/2015.

⁴²⁹ Article 17 LD 142/2015.

⁴³⁰ Article 10(1) LD 142/2015.

⁴³¹ SPRAR, *Manual for operators*, 7 and 13.

Managers tend to avoid accommodating together people of the same nationality but belonging to different ethnicities, religion, or political groups that may be in conflict in order to prevent the rise of tensions and violence.

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 is 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.

2. Reception of unaccompanied children

LD 142/2015 clarifies 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 development, including social development, in accordance with Article 3 of the Convention on the Rights of the Child.⁴³²

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 III Regulation as long as it corresponds to the best interests.⁴³³

In terms of distribution across the territory, the situation in 2017 remains unchanged in the absence of a distribution mechanism between the regions as provided for adults. The majority of unaccompanied children are accommodated in **Sicily** (43.6%), followed by **Calabria** (7.9%), **Lombardia** (6.6%), **Lazio** (5.7%), **Emilia-Romagna** (5.6%) and **Puglia** (5%).⁴³⁴

3.1. Dedicated facilities for unaccompanied children

SPRAR

According to the law, the accommodation of unaccompanied children should primarily take place in SPRAR facilities.⁴³⁵ However, the places financed for unaccompanied children in SPRAR structures were only 3,110 as of the end of 2017.⁴³⁶ In February 2018, this number rose to 3,488 funded places in 143 SPRAR projects.⁴³⁷

First reception centres for children

In case of lack of available places in the SPRAR system and 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 the Interior in agreement with the local authority in whose territory the structure is located, and managed by the Ministry of the Interior also in agreement with the local authorities.⁴³⁸

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

⁴³² Article 18(1) LD 142/2015.

⁴³³ Article 18(2) LD 142/2015.

⁴³⁴ *Ibid.*

⁴³⁵ Article 19(2) LD 142/2015.

⁴³⁶ Ministry of Labour, *I minori stranieri non accompagnati in Italia*, 31 December 2017, 14.

⁴³⁷ SPRAR, *I numeri dello Sprar*, available at: <http://www.sprar.it/i-numeri-dello-sprar>.

⁴³⁸ Article 19(1) LD 142/2015.

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.⁴³⁹

The Ministry of Interior Decree issued on 1 September 2016 has identified the structural requirements and the services ensured in such centres.⁴⁴⁰ 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.⁴⁴¹

An approximate 60 first reception facilities provide a total capacity of 950 places for unaccompanied children, 839 of which were occupied at the end of 2017. These facilities mostly accommodate children aged 16 or 17.

Out of 3,007 unaccompanied children hosted between 23 August and 31 December 2017 in first reception centres, 829 applied for asylum, 706 absconded, while 1,462 were transferred to other facilities.⁴⁴²

CAS for children

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.⁴⁴³ According to Article 19(3-bis) LD 142/2015, in case of mass arrivals of unaccompanied children and unavailability of the dedicated reception centres, the use of temporary structures (CAS) to accommodate children is permitted.⁴⁴⁴

Similar to the temporary shelters for adults, 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 facilities dedicated to children.⁴⁴⁵ 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.⁴⁴⁶ 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.⁴⁴⁷

Many NGOs including Save the Children and ASGI have raised strong concerns about this provision. In a letter sent to the Senate on 29 July 2016,⁴⁴⁸ ASGI highlighted that the law represents a strong disincentive for municipalities to participate in SPRAR projects and that it strongly discriminates children accommodated in first reception centres and CAS compared to those accommodated in SPRAR and other facilities. According to ASGI, the use of temporary shelters for children should be forbidden and there should be a fair distribution among the Italian regions and municipalities under the ordinary reception system.

⁴³⁹ Article 19(1) LD 142/2015.

⁴⁴⁰ Ministry of Interior Decree of 1 September 2016 on “Establishment of first reception centres dedicated to unaccompanied minors”.

⁴⁴¹ Article 3 Ministry of Interior Decree of 1 September 2016.

⁴⁴² Ministry of Labour, *I minori stranieri non accompagnati in Italia*, 31 December 2017, 16.

⁴⁴³ Article 19(3) LD 142/2015.

⁴⁴⁴ Article 19(3-bis) LD 142/2015. The Article refers to Article 11 LD 142/2015 on CAS.

⁴⁴⁵ Article 19(1) LD 142/2015.

⁴⁴⁶ Article 19(3-bis) LD 142/2015, citing Article 19(2)-(3).

⁴⁴⁷ Article 19(3-bis) LD 142/2015.

⁴⁴⁸ ASGI, *Letter to the Senate: ‘Misure straordinarie di accoglienza per i minori stranieri non accompagnati previste dal disegno di legge di conversione in legge del decreto legge 24 giugno 2016, n. 113’*, 28 July 2016, available in Italian at: <http://bit.ly/2bjh9D0>.

As of the end of August 2017, 77 CAS for unaccompanied children were active across the Italian territory.⁴⁴⁹

In practice, worrying living conditions have been reported in the centres for unaccompanied children located *inter alia* in the region of **Calabria**. LasciateCIEntrare has collected evidence from the centres in the province of Vibo Valentia, specifically Brognaturo, Mongiana, Joppolo and Filadelfia. Testimonies refer to: a lack of hot water and heating; delays or non-payment of pocket money; abuse by social operators; inadequate clothes for the period and cases of children who still wore the clothes they had at the time of disembarkation; poor quality food; and failure to appoint the guardian.⁴⁵⁰ On 3 January 2018, the Children's Ombudsman (*Garante per l'Infanzia e l'Adolescenza*) of the Calabria Region committed to investigating these reports.⁴⁵¹

The reception of unaccompanied children not transferred to the governmental centres or SPRAR facilities remains under the responsibility of the city of arrival.

3.2. Accommodation with adults and destitution

Unaccompanied children cannot be held or detained in governmental reception centres for adults and CPR.⁴⁵² However, throughout 2017, 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, or not accommodated at all.

Liguria: In **Ventimiglia**, construction works for a centre for unaccompanied children were interrupted on 9 August 2017 following protest from several citizens. As a result, as reported by several NGOs including ASGI, many unaccompanied children were accommodated in the **Parco Roja** reception centre for adults for several months or even not accommodated and abandoned to stay on the banks of the Roja river, in makeshift shelters without heating, toilets or access to drinking water and food. As of 11 December 2017, the centre hosted 24 unaccompanied children together with 426 adults, 9 single women and 30 families.

ASGI and other NGOs sent an official letter to the Prefecture of Imperia in December 2017, urging an end to these unlawful practices and the preparation of the necessary measures for these children to be accommodated and placed in appropriate reception centres, possibly on the territory of Ventimiglia or nearby.⁴⁵³

Trentino-Alto Adige: Due to persisting push backs on the Austrian border (see [Access to the Territory](#)), many unaccompanied children remain outside the reception system. Children have been accommodated in several centres for adults such as Casa Aaron, Gorio and Ex Lemayr. In Ex Lemayr, children reside in three rooms separate from the adult dorm. Since the facility is not officially dedicated to children, they did not benefit from counsellors, dedicated legal advice, enrolment at school or the timely appointment of a guardian.⁴⁵⁴ In many cases, police authorities attach children to present adults without confirming the existence of substantial and effective links between them.⁴⁵⁵

⁴⁴⁹ Chamber of Deputies, *Commissione parlamentare di inchiesta sul sistema di accoglienza, di identificazione ed espulsione: Rlazione sul sistema di protezione e di accoglienza dei richiedenti asilo*, 21 December 2017, available in Italian at: <http://bit.ly/2tCTOpS>, 349.

⁴⁵⁰ LasciateCIEntrare, 'Minori non accomoagnati nei centri calabresi, situazione drammatica', 2 January 2018, available in Italian at: <http://bit.ly/2rlCm2l>.

⁴⁵¹ Tirreno News, 'Centri di accoglienza nel vibonese senza riscaldamenti ed acqua calda', 3 January 2018, available in Italian at: <http://bit.ly/2DB6DkT>.

⁴⁵² Article 19(4) LD 142/2015.

⁴⁵³ ASGI, 'Ventimiglia, le organizzazioni: forte preoccupazione per mancata accoglienza minori stranieri', 15 December 2017, available in Italian at: <http://bit.ly/2GoxQJu>.

⁴⁵⁴ ASGI et al., *Lungo la rotta del Brennero*, September 2017, 28.

⁴⁵⁵ *Ibid*, 61.

Veneto: In January 2017, at least 30 minors were reported to be in the CAS of **Cona**, Venice, which is not authorised to host unaccompanied minors. This was the subject of appeals by ASGI and other NGOs to the ECtHR on overcrowding and the degrading conditions in which people are accommodated (see [Conditions in CAS](#)). The CAS of Cona has a capacity of around 500 people but housed around 1,400 people at the time of the disputed facts. The applicants' dormitory was 360 m² and accommodated 250 people in total.

The Strasbourg Court ordered five interim measures pursuant to Rule 39 of the Court's Rules of Procedure, ordering the Italian Government to "transfer the applicants to appropriate structures, ensuring reception conditions that comply with the rules of domestic and international law regarding the protection of unaccompanied minors."⁴⁵⁶ In the case of *Darboe and Camara v. Italy*, the Court decided under Rule 41 to examine the applications by way of priority.

Following the measures ordered by the ECtHR, the Prefecture of Venice activated temporary accommodation facilities for the children in order to guarantee reception in adequate centres and avoid condemnation by the Court against Italy. In the case of *Sadio v. Italy* and two other applications, related to 4 children accommodated in Cona, before the Court could examine the request for interim measures the children had been transferred to centres for unaccompanied children.⁴⁵⁷

Throughout 2017, more appeals were presented to the ECtHR to protect unaccompanied children placed in adult reception centres in Italy, including Rome, **Lazio**,⁴⁵⁸ and Como, **Lombardia**.⁴⁵⁹

These cases follow on from reports of children accommodated in inadequate structures in 2016. This happened in Como, where from 14 July to 23 August 2016, 454 unaccompanied children readmitted in Italy from Switzerland were entrusted by the Italian police to the Head of Caritas in Como and then placed in a structure at the Parish of Rebbio, not authorised for the reception of children. Costs incurred for the reception of these children they were not covered by any institution.⁴⁶⁰

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](#)).⁴⁶¹ The brochure also includes information on health services and on the reception system, and on the modalities to access to these services. In addition, it contains the contact details of UNHCR and other specialised refugee-assisting NGOs. LD 142/2015 contains a provision on the right to information, confirming the obligation to hand over the brochure, as stated above, and states that these information are provided in reception centres within 15 days from the presentation of the asylum application. These information are ensured through the assistance of an interpreter.⁴⁶²

This provision, unlike Article 5 of the recast Reception Conditions Directive, does not explicitly foresee that information shall be provided orally.

⁴⁵⁶ ECtHR, *Darboe and Camara v. Italy*, Application No 5797/17, Communicated on 14 February 2017. See also ECtHR, *Dansu v. Italy*, Application No 16030/17, Communicated on 20 March 2017.

⁴⁵⁷ ECtHR, *Sadio v. Italy*, Application No 3571/17, Communicated on 2 February 2017.

⁴⁵⁸ ECtHR, *Bacary v. Italy*, Application No 36986/17, Communicated on 5 July 2017.

⁴⁵⁹ ECtHR, *M.A. v. Italy*, Application No 70583/17, Communicated on 3 October 2017.

⁴⁶⁰ ASGI, *Le riammissioni di cittadini stranieri alla frontiera di Chiasso: profili di illegittimità*, August 2016, available in Italian at: <http://bit.ly/2bBpAKe>, 8-9.

⁴⁶¹ Article 10(1) LD 25/2008.

⁴⁶² Article 3 LD 142/2015 and Article 10 PD 21/2015.

However, in practice the distribution of these leaflets, written in 10 languages,⁴⁶³ is actually quite rare at the police stations. Although it is not foreseen by law, the information is orally provided by police officers but not in a systematic way mainly due to the shortage of professional interpreters and linguistic mediators. The gaps in providing information is of concerns 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 accommodation 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 LD 142/2015, applicants have the opportunity to communicate with UNHCR, NGOs with experience in the field of asylum, religious entities, lawyers and family members.⁴⁶⁴ 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.⁴⁶⁵ 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.

During 2016 the Prefectures have denied the entry to some centres to the NGOs belonging to the Campaign LasciateCIEntrare. In many cases, they have not even responded to the request for authorisation of access.⁴⁶⁶

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 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 Guarantor for Childhood and Adolescence, 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.⁴⁶⁷

With regard to access to SPRAR centres by virtue of Article 15(5) LD 142/2015, lawyers and legal counsellors indicated by the applicant, UNHCR as well as other entities and NGOs working in the field of asylum and refugees protection have access to these facilities in order to provide assistance to hosted asylum seekers.

⁴⁶³ Italian, English, French, Spanish, Arabic, Somali, Kurdish, Amharic, Farsi and Tigrinya.

⁴⁶⁴ Article 10(3) LD 142/2015.

⁴⁶⁵ Article 10(4) LD 142/2015.

⁴⁶⁶ LasciateCIEntrare, *Report20giugno*, October 2016, 15-17.

⁴⁶⁷ Article 7 Mol Decree of 1 September 2016 on "Establishment of first reception centres dedicated to unaccompanied minors", available at: <http://bit.ly/2cOzpmm>.

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](#)).

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

- | | |
|--|-----|
| 1. Total number of persons detained in CPR in 2017: | : |
| 2. Number of persons in detention in CPR at the end of 2017: | 417 |
| 3. Number of CPR: | 5 |
| 4. Total capacity of CPR: | 700 |

The Procedure Decree prohibits the detention of asylum seekers for the sole purpose of examining their asylum request as reiterated in Article 6(1) of LD 142/2015. Asylum seekers can be detained only under particular and limited conditions (see section on [Grounds for Detention](#)).

The total number of persons detained in 2016 was 2,984. Data for 2017 are not available, although information from the Senate refers to 417 persons in detention on 1 December 2017.⁴⁶⁸

Five pre-removal centres (*Centri di permanenza per il rimpatrio*, CPR) of the existing 9 are currently operational: **Restinco** in Brindisi, **Bari**, **Caltanissetta**, **Ponte Galeria** in Rome, only for women, and **Torino**. The total capacity of the CPR is 486 places.⁴⁶⁹

Persons applying for asylum in CPR are admitted to the [Accelerated Procedure](#). In practice, however, the possibility of accessing the asylum procedure inside the CPR appears to be difficult due to the lack or appropriate legal information and assistance, and to administrative obstacles. In fact, according to LD 142/2015, people are informed about the possibility to seek international protection by the managing body of the centre.⁴⁷⁰

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 the SOPs applying at [Hotspots](#), irregular migrants who have not expressed the intention to seek international protection or who do not intend to apply for international protection may be transferred, in cases where this is possible under the current legislation, to CPR.⁴⁷¹

⁴⁶⁸ Senate, *Rapporto sui centri di identificazione ed espulsione* (hereafter “2017 CPR report”), December 2017, available at: <http://bit.ly/2FwcE3d>.

⁴⁶⁹ *Ibid.*

⁴⁷⁰ Article 6(4) LD 142/2015.

⁴⁷¹ Hotspot SOPs, para C.2.b. “Transfer to CIE”.

Asylum seekers, according to LD 142/2015, shall not be detained for the sole reason of the examination of their application.⁴⁷² An applicant shall be detained in CPR, on the basis of a case by case evaluation, when he or she:⁴⁷³

- (a) Falls under the exclusion clauses laid down in Article 1F of the 1951 Convention;
- (b) Is issued with an expulsion order as a danger to public order or state security,⁴⁷⁴ 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,⁴⁷⁵ including with the intention of committing acts of terrorism;⁴⁷⁶
- (c) May represent a danger for public order and security;
According to the law, to assess such a danger, it is possible to take into account previous convictions, final or non-final, 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,⁴⁷⁷ and also to drug crimes, sexual crimes, facilitation of illegal immigration, recruiting of persons for prostitution, exploitation of prostitution and of minors to be used in illegal activities;
- (d) 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 alternatives to detention, stay in an assigned place of residence determined by the competent authority or report at given times to the competent authority.⁴⁷⁸ Following L 46/2017, repeated refusal to undergo fingerprinting at hotspots or on the national territory also constitutes a criterion indicating a risk of absconding.⁴⁷⁹

The law also covers the case of third-country nationals who apply for asylum when they are already held in CPR awaiting for the enforcement of a refoulement order pursuant to Article 10 TUI or an expulsion order pursuant to Articles 13 and 14 TUI. After the application, they shall remain in such facility when, in addition to the abovementioned 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.⁴⁸⁰

Given that the reasons for the asylum application are not made explicit, the decision to detain the person takes the form of an arbitrary decision.

⁴⁷² Article 6(1) LD 142/2015.

⁴⁷³ Article 6(2) LD 142/2015.

⁴⁷⁴ Article 13(1) TUI.

⁴⁷⁵ Article 13(2)(c) TUI.

⁴⁷⁶ Article 3(1) LD 144/2005, as supplemented by L 155/2005.

⁴⁷⁷ Article 380(1)-(2) Italian 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.

⁴⁷⁸ Article 13(5), (5.2) and (13) and Article 14 TUI. Article 13 TUI, to which Article 6 LD 142/2015 refers, also includes the obligation to surrender a passport but this should not be applied to asylum seekers because of their particular condition.

⁴⁷⁹ Article 10-ter(3) TUI.

⁴⁸⁰ Article 6(3) LD 142/2015.

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) LD 142/2015 makes reference to the alternatives to detention provided in the Consolidated Act on Immigration (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:⁴⁸¹

- ❖ 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.

However, Doctors for Human Rights (MEDU) emphasise that, even though the Return Directive foresees detention only as a last resort where less coercive measures cannot be applied, in transposing the Return Directive, Italian legislation envisages forced return as a rule and voluntary departure as an exception.⁴⁸² According to the latest monitoring report of the Senate, there are no available data to indicate effective recourse to alternatives to detention. In addition, the decree issued by the Questore usually does not indicate the concrete and specific reasons for the detention in a CPR and for the impossibility to resort to less coercive measures.⁴⁸³

During 2017, due to the small number of available places in the operating CPR, in many regions asylum seekers whose stay had become irregular were only notified of the order to leave the country within 7 days, as provided by Article 14(5-bis) TUI.

LD 142/2015 provides that when the detained applicant requests to be repatriated in his or her country of origin or in the country from which he or she came from, the removal order⁴⁸⁴ shall be immediately adopted or executed. The repatriation request corresponds to a withdrawal of the application for international protection.⁴⁸⁵

⁴⁸¹ Articles 13(5.2) and 14-ter TUI.

⁴⁸² MEDU, *ARCIPELAGO CIE: indagine sui centri di identificazione ed espulsione italiani (Archipelgo CIE: survey of Italians identification and expulsion centres)*, May 2013, 32.

⁴⁸³ This has been acknowledged by the Court of Crotone, Decision No 1410, 12 December 2012.

⁴⁸⁴ Pursuant to Article 13(4) and (5-bis) TUI.

⁴⁸⁵ Article 6(9) LD 142/2015.

In case the applicant is the recipient of an expulsion order,⁴⁸⁶ 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.⁴⁸⁷

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 held in CPR.⁴⁸⁸ The Guarantor for the rights of detained persons found 14 unaccompanied children in **Pozzallo** in a visit in January 2017.⁴⁸⁹ During that visit, the Guarantor found that the children were free to enter and exit the centre.

Nevertheless, unaccompanied children may be held in hotspots in practice, in a state of deprivation of liberty. During a visit to **Taranto** in July 2017, ASGI found 80 unaccompanied children detained in the hotspot, some held there since May 2017 and others held for a few days. These children were *de facto* detained together with adults in a single tent surrounded by high metal grids and guarded by army soldiers, without any written detention order or information on the possibility to seek asylum. They were also deprived of the possibility to communicate with the outside world. Appeals were lodged before the ECtHR for 14 children, which the Court has deemed admissible and has requested responses from the Italian government by 14 May 2018.⁴⁹⁰

According to the information gathered by the Senate in 2016, many children transiting from Taranto hotspot have asked to change their age, successfully requesting to be registered as adults just to leave the centre.⁴⁹¹ As discussed in [Hotspots](#), the hotspot of Taranto has been temporarily closed.

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 a Juvenile Court. In practice, very few children are detained.

Following the 2017 reform, the law also prohibits the detention of vulnerable persons.⁴⁹² 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.⁴⁹³

In CPR, however, legal assistance and psychological support is not systematically provided. 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

⁴⁸⁶ The expulsion order to be executed according to the procedures set out in Article 13(5)-(5.2) TUI.

⁴⁸⁷ Article 6(10) LD 142/2015.

⁴⁸⁸ Article 19(4) LD 142/2015.

⁴⁸⁹ Guarantor for the rights of detained persons, *Rapporto sulle visite nei CIE e negli hotspot in Italia 2016/2017*, 11 May 2017, 47.

⁴⁹⁰ ASGI, 'Minori stranieri trattenuti illegalmente nell'hotspot di Taranto: la CEDU chiede chiarimenti al Governo italiano', 11 February 2018, available in Italian at: <http://bit.ly/2pqN4GT>.

⁴⁹¹ Senate, *CIE Report*, January 2017.

⁴⁹² Article 7(5) LD 142/2015, as amended by L 46/2017.

⁴⁹³ Article 7(5) LD 142/2015.

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, LD 142/2015 provides that, where possible, a specific place should be reserved to asylum seekers,⁴⁹⁴ 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.

4. Duration of detention

Indicators: Duration of Detention

- | | |
|--|---------------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 12 months |
| 2. In practice, how long in average are asylum seekers detained? | Not available |

4.1. CPR

The maximum duration of asylum seekers' detention is 12 months.⁴⁹⁵

When detention is already taking place at the time of the submission of the application, the terms provided by Article 14(5) TUI i.e. 90 days, 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.⁴⁹⁶ However, the detention or the extension of the detention shall not last beyond the time necessary for the examination of the asylum application under the accelerated procedure,⁴⁹⁷ unless additional detention grounds subsist 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 valid ground for the extension of the detention.⁴⁹⁸

According to LD 142/2015, the applicant detained in CPR 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,⁴⁹⁹ and also as long as the applicant is authorised to remain in the national territory as a consequence of the lodged appeal: the way the law was worded did not make it clear whether, when the suspensive request was upheld, asylum seekers could leave the CPR, and in practice they did not. The 2017 reform has retained the same ambiguity.⁵⁰⁰

In this respect the Questore shall request the extension of the ongoing detention for additional periods 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 twelve months.⁵⁰¹

According to ASGI, the disproportion between the maximum duration of ordinary detention for third-country nationals (90 days) 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.

Out of 2,984 persons placed in CPR throughout 2016, 216 were released after the expiry of the maximum time limit of detention.⁵⁰²

⁴⁹⁴ Article 6(1) LD 142/2015.

⁴⁹⁵ Article 6(8) LD 142/2015.

⁴⁹⁶ Article 6(5) LD 142/2015.

⁴⁹⁷ Pursuant to Article 28-bis(1) and (3) LD 25/2008.

⁴⁹⁸ Article 6(6) LD 142/2015.

⁴⁹⁹ Articles 5 and 19(5) LD 150/2011.

⁵⁰⁰ Article 6(7) LD 142/2015 as amended by L 46/2017.

⁵⁰¹ Article 6(8) LD 142/2015.

⁵⁰² Senate, 2017 CPR report, December 2017, 15.

4.2. Hotspots

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, compatibly with the national legal framework.⁵⁰³

Several NGOs had reported in 2016 that persons were detained in hotspots for days or weeks,⁵⁰⁴ contrary to the time limits of 48 to 72 hours allowed by law.⁵⁰⁵ According to the Guarantor for the rights of detained persons, however, asylum seekers are allowed to freely exit and enter the centre following the *fotosegnalamento*, while noting that the average duration of stay of unaccompanied children in **Pozzallo** was 15-20 days.⁵⁰⁶ Following a March 2018 visit to **Lampedusa**, however, ASGI and other organisations witnessed obstacles to the *verbalizzazione* of asylum applications and the granting of permits to asylum seekers, thereby confining them in the hotspot for several months.⁵⁰⁷

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. Hotspots

As described in the [Hotspots](#) section, in addition to the existing centres set up in **Lampedusa**, Agrigento and **Pozzallo**, Ragusa, hotspots were set up in the centres in **Taranto** and **Trapani** in 2016. On 30 September 2017, a new hotspot started operations in **Messina** with a capacity of 250 places.⁵⁰⁸

As of 24 November 2017, the hotspots in Italy hosted the following numbers of persons:

Occupancy of hotspots: 24 November 2017	
Hotspot	Occupancy
Agrigento, Lampedusa	272
Taranto	50
Trapani	5
Ragusa, Pozzallo	297
Messina	0
Total	624

⁵⁰³ Hotspot SOPs, para B4.

⁵⁰⁴ MSF, *Report on reception conditions in the CPSA Pozzallo presented to the attention of the Parliamentary Commission of Inquiry on the accommodation system, identification and detention of migrants*, 17 November 2015, available at: <http://bit.ly/1THaK01>; LasciateCIEntrare, *Accogliere: la vera emergenza*, 25 February 2016, available in Italian at: <http://bit.ly/2l7spru>. Redattore Sociale, 'Pozzallo, nell'hotspot quasi tutti minori. "Gravissima violazione"', 13 May 2016, available in Italian at: <http://bit.ly/2moJnls>.

⁵⁰⁵ Article 13 Italian Constitution.

⁵⁰⁶ Guarantor for the rights of detained persons, *Rapporto sulle visite nei CIE e negli hotspot in Italia 2016/2017*, 11 May 2017, 47.

⁵⁰⁷ ASGI, 'Chiuso l'hotspot di Lampedusa-CILD, ASGI e IndieWatch: "Condizioni disumane e violazioni dei diritti umani"', 14 March 2018, available in Italian at: <http://bit.ly/2FUTswm>.

⁵⁰⁸ European Commission, *Progress report on the European Agenda on Migration*, COM(2017) 669, 15 November 2017, 8.

The hotspots of Taranto and Lampedusa have been temporarily closed as of March 2018.

LD 142/2015 does not provide a legal framework to the operations carried out in the 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 legitimated in these places a real detention of asylum seekers carried out without adopting any formal decision or judicial validation.

One exception is **Trapani**, which has introduced a system of free exit and return into the facility as of April 2017, with shuttles transporting residents to the city centre. Prior to this, migrants in Trapani were also deprived of their liberty without a detention order or any possibility to appeal.⁵⁰⁹

In the case of *Khlaifia v. Italy*, the European Court of Human Rights (ECtHR) has strongly condemned Italy for the detention of some Tunisians in **Lampedusa** CPSA in 2011, noting the breach, to them, of various rights protected by ECHR. In particular, the Court found that the 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 and continuous surveillance by law enforcement, lack of information on their legal status and about the duration and the reasons for detention – had determined the violation of Article 3 ECHR, namely the right to freedom from inhuman and degrading treatment, and of Article 5 ECHR, besides the violation of Article 13 ECHR due to the lack of an effective remedy against these violations.⁵¹⁰ The Grand Chamber judgment of 15 December 2016 confirmed the violation of such fundamental rights.⁵¹¹

Particularly as regards **Taranto**, as reported by the Senate, among the 14,576 people transiting through the hotspot from March to October 2016, only 5,048 came from disembarkations while the majority (9,528) were traced on Italian territory, mainly at border places in **Ventimiglia**, **Como** and **Milan**, and forcibly taken to Taranto to be identified. Some of them were asylum seekers accommodated in reception centre in the place they were apprehended and who, after being again identified, were just released out of the hotspot without any ticket or money to go back to their reception centres.

As reported to ASGI, among those people taken to Taranto from the North of Italy, there were also beneficiaries of international protection and unaccompanied children, forced to stand on the bus with no document screening at departure. Some asylum seekers and beneficiaries of protection have lost their accommodation place because they could not justify their absence from the shelter, since they were released without any documentation proving their stay in the Taranto hotspot. In one case, it has been reported that a person was transferred to Taranto five times.

The “tracing” areas would especially be train stations, trains and meeting places in Como and Ventimiglia where, particularly during the summer but still to date thousands of persons pushed back by France and Switzerland were readmitted in Italy. Buses arrive around 8 am, the identification (*fotosegnalamento*) procedures are completed in about two hours and the results are communicated in the afternoon. It is not clear, however, why these people have been taken to Taranto and not identified at Questure *sur place*.

This practice persisted in 2017, with people interviewed by MSF in Ventimiglia confirming that they had been sent back to their points of arrival in Southern Italy before returning to the border, and that the hotspot of Taranto was at the heart of the transfer system.⁵¹²

⁵⁰⁹ Guarantor for the rights of detained persons, *Rapporto sulle visite nei CIE e negli hotspot in Italia 2016/2017*, 11 May 2017, 38 et seq.

⁵¹⁰ ECtHR, *Khlaifia and Others v. Italy*, Application No 16483/12, Judgment of 1 September 2015.

⁵¹¹ ECtHR, *Khlaifia and Others v. Italy*, Grand Chamber, Judgment of 15 December 2016.

⁵¹² MSF, *Mal di frontiera*, February 2018, available in Italian at: <http://bit.ly/2FvfgTj>, 16.

1.2. Pre-removal detention centres (CPR)

Under the Procedure Decree, asylum seekers can be detained in CPR where third-country nationals who have received an expulsion order are generally held. Among them, there are also former detainees previously held in ordinary prisons.

By the end of December 2016, the Ministry of Interior issued a Circular ("Circular Gabrielli") announcing the reopening of the closed CPR, as part of a broader plan aimed at repatriation of irregular foreign nationals, also pursued by concluding new bilateral readmission agreements and reforming the rules on asylum.⁵¹³ Media reported the opening of a number of new CPR in addition to existing centres by the end of July 2017:⁵¹⁴

- Caserma di Montichiari, **Lombardia**;
- Gradisca d'Isonzo, **Friuli-Venezia Giulia**;
- Andolfato barracks of Santa Maria Capua Vetere, **Campania**;
- Palazzo San Gervaso, **Basilicata**;
- The decommissioned prison of Iglesias, **Sardinia**;
- Former CIE of Modena, **Emilia-Romagna**;
- Former CIE of Bari, **Puglia**;
- Mormanno, **Calabria**.

However, by the end of November 2017, in addition to the four structures already operating, only the centre of Bari had been reopened. In the meantime, the Civil Court of Bari upheld the appeal lodged by popular action, condemning the Ministry of the Interior to pay compensation to local authorities and to pay court costs for damages to the prestige and to the image of the local community due the presence of the former CIE in Bari. According to the Court, the former CIE was not suitable for the assistance of foreigners and the full protection of their dignity as human beings. As migrants had suffered inhuman and degrading treatments in the centre, the Court considered a compensation necessary due to the huge damage to the whole local community, historically open to hospitality.⁵¹⁵

5 CPR are currently operational:

Capacity and occupancy of CPR		
CPR	Official capacity	Occupancy at 1 December 2017
Brindisi	48	44
Bari	96	96
Caltanissetta	250	71
Rome	180	108
Torino	126	98
Total	700	417

Source: Senate, 2017 CPR report. The official capacity does not correspond to the actual capacity: in **Rome**, the entire male sector is closed so the real capacity is 125 places, while in **Torino**, the destruction of 9 housing units on 13 November 2017 reduced the actual capacity of the centre to 91 places.

On 26 January 2017, the Ministry of Interior sent to the Questure in **Rome**, **Torino**, **Brindisi** and **Caltanissetta** a telegram requesting them to make available 90 places, 50 for men and 45 for women, inside the currently operating CPR. These places are to be used to identify self-styled Nigerian nationals

⁵¹³ Circular of the Ministry of Interior, 30 December 2016, available at: <http://bit.ly/2InpVCf>.

⁵¹⁴ Corriere della Sera, 'Dove sorgeranno i nuovi centri permanenti per i migranti', 9 May 2017, available in Italian at: <http://bit.ly/2FAAQBI>.

⁵¹⁵ Civil Court of Bari, Decision No 4089, 10 August 2017, available at: <http://bit.ly/2FI5Y5t>. See also ASGI, 'Danni all'immagine di una comunità accogliente: Governo e Ministero condannati per il CIE di Bari', 19 August 2017, available in Italian at: <http://bit.ly/2FIEixj>.

illegally present in the country for their immediate repatriation. The Ministry of Interior has also encouraged the Questure to carry out targeted operations aimed at tracing Nigerian citizens in an irregular situation on the territory. ASGI immediately expressed its strong concern against risks that such repressive operations will lead to the removal of asylum seekers or women victims of trafficking.⁵¹⁶

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, LD 142/2015 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.⁵¹⁷

LD 142/2015 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.⁵¹⁸

Detention conditions are monitored *inter alia* by the [Human Rights Commission](#) of 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](#).

2.1. Overall conditions

Hotspots

Conditions in hotspots vary given that the facilities host different numbers of persons at any given time, while in **Trapani** people are no longer deprived of their liberty as of April 2017.

Lampedusa: The structure consists of prefabricated pavilions, in bad conditions. A visit by ASGI, CILD and IndieWatch in March 2018 found worrying conditions, including mattresses in poor condition, without bed linen or paper sheets changed only every couple of weeks, as well as toilets and showers not equipped with doors to guarantee basic privacy.⁵¹⁹ LasciateCIEntrare visited the hotspot on 21 July 2016 and reported that the pavillons were not thermally insulated and not supplied with an adequate ventilation system. The facility lacked an eating hall so asylum seekers had to take their meals in bed or outdoors, and it also lacked an adequate cleaning service. Among those present there were people detained for almost a month, but, as reported to the delegation by the operators, some had been detained for up to three and a half months. Unaccompanied minors were reported to remain in the centre for 25 days on average and in conditions of promiscuity with adults. The pocket money of €2.50 per person per day was often not provided and replaced by a packet of biscuits.⁵²⁰

⁵¹⁶ ASGI, 'Salto di qualità nelle politiche repressive', 2 February 2017, available in Italian at: <http://bit.ly/2leDgOQ>.

⁵¹⁷ Article 7(1) LD 142/2015.

⁵¹⁸ Article 6(4) LD 142/2015.

⁵¹⁹ ASGI, 'Chiuso l'hotspot di Lampedusa-CILD, ASGI e IndieWatch: "Condizioni disumane e violazioni dei diritti umani"', 14 March 2018, available in Italian at: <http://bit.ly/2FUTswm>.

⁵²⁰ LasciateCIEntrare, *Report20giugno*, October 2016, 24.

Taranto: As of July 2017, all residents were accommodated and slept in a large tent. The hotspot was surrounded by high metal wires and was consistently guarded by law enforcement personnel and armed soldiers both inside and outside.⁵²¹

CPR

Persons held in CPR vary significantly in terms of social origin, psychological condition, health condition, legal status. According to the law, asylum seekers detained in CPR should be placed in a dedicated space.⁵²² However, as reported by the Guarantor for the rights of detained persons in his report of visits to CPR in 2016 and 2017, detained persons in all structures were in a precarious state without any consideration of legal status, not even that of asylum seekers.⁵²³

On 7 March 2017, the Ministry of the Interior adopted the Ministerial Decree containing the new specifications (*capitolato*) for the supply of goods and services related to the management and functioning of reception facilities for migrants, including CPR. According to the decree, tenders should be awarded on the basis of 'value for money'. The decree also provides for the strengthening of inspection and monitoring activities of the Ministry of the Interior on the quality standards of services rendered, establishing a monitoring mechanism within the Prefectures. The control and monitoring activities are carried out through: checking the regularity of the documentation produced to demonstrate the services rendered; controls in the centres, to be carried out periodically and without prior notice, by persons specifically appointed by the Prefecture, and possibly also third parties; and through the acquisition of information directly from the persons detained.⁵²⁴

Restinco, Brindisi: The centre is divided into three lots, each equipped with an external courtyard surrounded by wire.⁵²⁵ LasciateCIEntrare visited the centre on 29 June 2016 and reported that, inside the centre, taking pictures and filming was forbidden.⁵²⁶

Torino: According to a visit of the Guarantor for the rights of detained persons on 19 January 2017, the centre has seven housing sectors, separated by high iron railings. Within each area, detainees are free to move between the various rooms and the outdoor area but there are no tables, chairs, or equipment. The Guarantor also noted that the contacts with the operators were critical and sporadic and took place exclusively through the bars. He criticised this approach as disrespectful of the human dignity of the persons detained.⁵²⁷

Caltanissetta: The centre consists of three residential pavilions, two hosting 36 persons each and one hosting 24. The latter is equipped with built-in beds and foam mattresses. The spaces appear overcrowded, poorly ventilated, cold and without access to natural light, while bathrooms are also in critical condition.⁵²⁸ The centre is also equipped with an indoor canteen.

Ponte Galeria, Rome: The Guarantor for the rights of detained persons found severe insalubrity in the interior areas of the centre, infested with mosquitoes and insects. In particular, mosquitoes literally carpeted the wall in one toilet.⁵²⁹ According to three visits by the Senate in 2017, the occupancy of the centre never exceeded 100 people. Women detained in the CPR could eat in the hall, they could use the

⁵²¹ ASGI, 'Minori stranieri trattenuti illegalmente nell'hotspot di Taranto: la CEDU chiede chiarimenti al Governo italiano', 11 February 2018, available in Italian at: <http://bit.ly/2pqN4GT>.

⁵²² Article 6(2) LD 142/2015.

⁵²³ Guarantor for the rights of detained persons, *Rapporto sulle visite nei CIE e negli hotspot in Italia 2016/2017*, 11 May 2017, 29.

⁵²⁴ Article 23 Capitolato d'appalto, available at: <http://bit.ly/2p3o2NN>.

⁵²⁵ Guarantor for the rights of detained persons, *Rapporto sulle visite nei CIE e negli hotspot in Italia 2016/2017*, 11 May 2017, 11.

⁵²⁶ LasciateCIEntrare, *Report20giugno*, October 2016, 29.

⁵²⁷ Guarantor for the rights of detained persons, *Rapporto sulle visite nei CIE e negli hotspot in Italia 2016/2017*, 11 May 2017, 20.

⁵²⁸ *Ibid*, 15.

⁵²⁹ *Ibid*, 21.

library and they had access to health assistance. In one of the visits on 6 May 2017, a woman with evident psychiatric problems was identified in the centre.⁵³⁰

2.2. Activities

According to Article 4(h) of the CIE Regulation, social, recreational and religious activities shall be organised in the centres. However, 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.

Torino: People spend their time in the centre without doing any activity. Within each area, they are free to move between the various rooms and the outdoor area but there are no tables, chairs, or equipment for doing sports.⁵³¹

Caltanissetta: The centre is equipped with a field for outdoor sports.⁵³²

Brindisi: The centre is equipped with a soccer field, but it was not used at the time of the visit of the Guarantor for the rights of detained persons due to security reasons related to the escape of five people. The courtyards in each of the three lots of the facility have no cover for rain or sun and are not equipped in any way for recreational or sporting activities. There are no green areas or walking areas. There is a barbeque service 4 times a week. There was no organisation of recreational, social or religious activities.⁵³³

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.⁵³⁴ The law further states that the fundamental rights of detained persons must be guaranteed, and that inside detention centres essential health services are provided.⁵³⁵

Moreover, LD 142/2015 provides that asylum seekers with health problems incompatible with the detention conditions cannot be detained and, after the amendment made by Law 46/2017, it also establishes the incompatibility of detention for vulnerable people, as defined by art. 17 of the 142/2015. Within the socio-health services provided in the CPR, a periodical assessment of the conditions of vulnerability requiring special reception measures must be ensured.⁵³⁶ In this regard, Article 3 of the CIE Regulation describes in details the health services provided to detainees and the possibility for the Prefecture to stipulate specific agreements with the public health units.

The CPR of **Caltanissetta** is equipped with a separate area dedicated to medical care.⁵³⁷

⁵³⁰ Senate, 2017 CPR report, December 2017, 30.

⁵³¹ Guarantor for the rights of detained persons, *Rapporto sulle visite nei CIE e negli hotspot in Italia 2016/2017*, 11 May 2017, 20.

⁵³² *Ibid*, 15.

⁵³³ *Ibid*, 11.

⁵³⁴ Article 14(2) TUI.

⁵³⁵ Article 21(1) and (2) PD 394/1999.

⁵³⁶ Article 7(5) LD 142/2015.

⁵³⁷ Guarantor for the rights of detained persons, *Rapporto sulle visite nei CIE e negli hotspot in Italia 2016/2017*, 11 May 2017, 15.

3. 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

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, among other official bodies, has unrestricted access to CPR.

UNHCR or organisations working on its behalf, by 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.⁵³⁸ However, an authorisation from the competent Prefecture is necessary for family members, NGOs, representatives of religious entities, journalists and any other person who make the request to enter CPR. Access can be limited for public order and security reasons or for reasons related to the administrative management of CPR but not fully impeded.⁵³⁹

Access to CPR for journalists is 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.

In order to inform and raise awareness on the effective situation and conditions of migrants inside Italian administrative detention centres, the *LasciateCIEntrare* campaign organizes visits inside CPR with journalists, lawyers, members of Parliament and NGOs.

The Senate highlighted in its December 2017 report that it has often welcomed in its delegations visiting CPR the mayors or the municipal and provincial counsellors of the cities that host CPR. They are unable to enter themselves in those facilities unless authorised by the Prefectures but, as highlighted in the report, easier access could establish closer links to the concerned local populations.⁵⁴⁰

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

Asylum seekers could 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.⁵⁴¹

In this case they are subject to the procedure for irregular migrants provided by the Consolidated Act on Immigration (TUI). The detention decision must be validated within 48 hours by the competent judge of peace (*guidice di pace*). After the initial period of detention of 30 days, the judge, upon the request by the

⁵³⁸ Article 7(2) LD 142/2015.

⁵³⁹ Article 7(3) LD 142/2015.

⁵⁴⁰ Senate, *CPR Report*, December 2017, 24

⁵⁴¹ As highlighted in [Registration](#) and according to the information recorded by ASGI, this has happened to Nigerian nationals and to migrants from Maghreb area.

Chief of the Questura, may prolong the detention in CPR for an additional 30 days.⁵⁴² After this first extension, the Questore may request one or more extensions to a lower civil court, where it is decided by a judge of the peace, 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 judge of the peace 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.⁵⁴³

If, after they have been sent to CPR, third-country nationals apply for asylum, they will be subject to the procedure provided by Article 6 LD 142/2015.

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.⁵⁴⁴

According to the law, 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.⁵⁴⁵ As stressed during the discussion of the provision in the Senate, the lawyer is then forced to choose between being present next to the client or next to the judge at the validation hearing.⁵⁴⁶

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.⁵⁴⁷ 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,⁵⁴⁸ 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, do not constitute valid ground for the extension of the detention.⁵⁴⁹

In case the applicant detained in CPR appeals against the rejection decision issued by the Territorial Commission he or she remains in the detention facility until the adoption of the decision on the suspension of the order by the judge,⁵⁵⁰ and also as long as the applicant is authorised to remain in the national territory as a consequence of the lodged appeal. In this respect the *Questore* shall request the extension of the ongoing detention for additional periods no longer than 60 days, which can be extended by the judicial authority from time to time, until the above conditions persist.

The same procedure applies to asylum seekers sent to CPR occurring one of the reasons provided by the Article 6(2) LD 142/2015 (see [Grounds for Detention](#)).

On 6 October 2016, in the case *Richmond Yaw and others v. Italy*, the European Court of Human Rights condemned Italy for a violation of Article 5 ECHR regarding the detention in CPR of some Ghanese

⁵⁴² Article 14(5) TUI.

⁵⁴³ Article 14(6) TUI.

⁵⁴⁴ Article 6(5) LD 142/2015, 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.

⁵⁴⁵ Article 6(5) LD 142/2015, as amended by L 46/2017.

⁵⁴⁶ Senate, 2017 CPR report, December 2017.

⁵⁴⁷ Article 6(5) LD 142/2015.

⁵⁴⁸ Pursuant to Article 28-bis(1) and (3) LD 25/2008.

⁵⁴⁹ Article 6(6) LD 142/2015.

⁵⁵⁰ Articles 5 and 19(5) LD 150/2011.

asylum seekers, whose detention had been extended without a validation hearing as to ensure a debate between the parties.⁵⁵¹

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 in entering these detention structures.⁵⁵²

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.⁵⁵³

Free legal aid is 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 due to lack of interest in preparing the case. 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.⁵⁵⁴

Some Bar Councils such as those in **Torino** and **Bari** set up specific lists of court-appointed lawyers specialised in immigration law.

As for legal assistance inside the CPR, it should be provided by the body managing the centre, which however does not often guarantee this service and usually provides low-quality legal counselling. In this regard, it emerges that there is a lack of sufficient and qualified legal assistance inside CPR.⁵⁵⁵

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 **Brindisi**, for example, a visit by LasciateCIEntrare on 29 June 2016 reported that there were lists with names and phone numbers of some lawyers in the building, which seemed to be the only lawyers people could contact.⁵⁵⁶

E. Differential treatment of specific nationalities in detention

Following the Circular of January 2017, encouraging Questure to trace **Nigerians**, and in light of the readmission agreements signed by Italy with countries such as Sudan, Libya or Egypt, practice indicates that this nationality is particularly targeted by detention. During three visits of Senator Manconi to the CPR of Ponte Galeria in 2017, the main nationality of detained persons was Nigeria.⁵⁵⁷ In Torino, on the other

⁵⁵¹ ECtHR, *Richmond Yaw and others v. Italy*, Application No 3342/11, Judgment of 6 October 2016.

⁵⁵² LasciateCIEntrare, *Mai più CIE*, 2013, 7.

⁵⁵³ Article 13(5-bis) TUI.

⁵⁵⁴ S Iyengar et al., *A Legal Guide to Immigration Detention in Italy: an English overview of the Italian, European and international legal framework that governs immigration detention in Italy*.

⁵⁵⁵ Senate, *CIE Report*, September 2014, 30.

⁵⁵⁶ LasciateCIEntrare, *Report20giugno*, October 2016, 29.

⁵⁵⁷ Senate, *2017 CPR Report*, December 2017, 29.

hand, the Guarantor for the rights of detained persons found Nigerians, **Moroccans** and **Tunisians** as the main nationalities in detention.

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 |
| ❖ Humanitarian protection | 2 years |

International protection permits (refugee status and subsidiary protection) are both granted for 5 years.⁵⁵⁸ Humanitarian protection permits are granted for 2 years.⁵⁵⁹

The application is submitted to the territorially competent Questura of the place where the person resides. The main problem in the issuance of these permits is, often, the lack of a domicile (registered address) to provide 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. Even if it is possible to have a registered address at organisations' address – a legal and not real domicile – the organisations not always allow beneficiaries of protection to use their address.

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.⁵⁶⁰ The application is sent back to the administrative Territorial Commission that decided on the original asylum application and the Commission uses information provided by the police station, about any crimes committed during the person's stay in Italy, to deal with the case. In practice, these permits are usually renewed and the main reason why renewal may not happen is the commission of serious crimes. For humanitarian protection beneficiaries, even the commission of 'light' crimes can affect the renewal of the permit.

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 for a short period. Sometimes, on this basis, the non-renewal procedure has been initiated on this basis even for **subsidiary protection** beneficiaries but thanks to the legal defence the refusal has been cancelled.

2. Civil registration

LD 142/2015 requires the registration of all asylum seekers in reception facilities.⁵⁶¹ However, following its amendment by L 46/2017, it also states that, in case accommodation is revoked or in case of unjustified departure from the centre, the applicant or beneficiary of international protection is immediately deleted from the registry, after due notification from the manager of the centre.⁵⁶²

The law provides for this special procedure for registration of asylum seekers and international protection holders as an alternative to individual registration. The first procedure, applied to cohabitation, must take place on the initiative of the manager of the centre where the person is accommodated; the second

⁵⁵⁸ Article 23(1) and (2) LD 251/2007.

⁵⁵⁹ Article 14(4) PD 21/2015.

⁵⁶⁰ Article 23(2) LD 251/2007.

⁵⁶¹ Article 5-bis(1) LD 142/2015.

⁵⁶² Article 5-bis(3) LD 142/2015, as amended by L 46/2017.

procedure can also take place on the initiative of the person, subject to the consent of the institution that manages the centre. However, many reception facilities, *inter alia* due to pressure from municipalities, are moving towards the first type of registration procedure so as to allow immediate deletion from the registry in the cases referred to by Article 5-bis(3) LD 142/2015.

Moreover, this provision is interpreted by many registry offices as also applicable to the case of the simple cessation of accommodation measures upon the granting of international protection. As a result, in case of negligence or default by the managers of the centres, an asylum seeker who later obtains international protection may leave the reception centre and be deleted from the registry altogether.

Some provisions of social welfare are conditioned upon registration at the registry office.

1.3. Registration of child birth

The child birth can be registered at hospital within 3 days from the birth, or later at the municipality, with the presentation of a valid identification document.

1.4. 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.⁵⁶³ **Refugees** can 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 authorisation for the marriage, refugees must 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.

The law does not provide a solution for beneficiaries of **subsidiary protection** who cannot request the *nulla osta* from their embassy with a view to registering a marriage. In this case, they can follow the procedure set out in the 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.

With a decree issued on February 2012, the Civil Court of Bari has authorised the marriage between a subsidiary protection holder and an asylum seeker even in the absence of authorisation from their country of origin. The Court observed that in relation to the certification needed for contracting a marriage, “refugees and subsidiary protection beneficiaries appear to have similar positions, but unjustifiably treated in a non-homogeneous way...”⁵⁶⁴

⁵⁶³ Article 116 Civil Code.

⁵⁶⁴ Civil Court of Bari, Decree of 7 February 2012, available in Italian at: <http://bit.ly/2GU5JAR>.

3. Long-term residence

Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2017: Not available

According to Article 9(1-bis) of the Consolidated Act on Immigration (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.⁵⁶⁵

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.⁵⁶⁶

The application to obtain the long term residence permit is submitted to *Questura* and must be issued within 90 days.⁵⁶⁷ The contribution of 200 € previously required in the TUI is no longer due as a result of a judgment of the Council of State of 26 of October 2016.⁵⁶⁸

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 2017: Not available

Italian citizenship can be granted to **refugees** legally resident in Italy for at least 5 years.⁵⁶⁹ **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.⁵⁷⁰

In both cases, the beneficiary's registration at the registry office must be uninterrupted. This is particularly challenging for beneficiaries of international protection, as the law does not ensure to them an accommodation after getting a protection status and, due to the precarious situation they come to face, they will be hardly able to maintain a residence.

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 in the country of origin and duly translated and legalised. The originals are submitted to the Prefecture of the place of residence.

⁵⁶⁵ Article 9(5-bis) TUI.

⁵⁶⁶ Article 9(1-ter) and (2-ter) TUI.

⁵⁶⁷ Article 9(2) TUI.

⁵⁶⁸ Council of State, Decision 04487/2016REG.PROV.COLL and N.07047/2016REG.RIC, 26 October 2016, available at: <http://bit.ly/2jk4IGj>. See also ASGI, 'Il Consiglio di Stato cancella definitivamente la "supertassa" per i cittadini extra UE per il rilascio e il rinnovo del permesso di soggiorno', 1 November 2016, available in Italian at: <http://bit.ly/2kH7map>.

⁵⁶⁹ Articles 9 and 16 L 91/1992 (Citizenship Act).

⁵⁷⁰ Article 9(1)(f) Citizenship Act.

Refugees can replace the documentation requested to prove their exact personal data and their legal position in the country of origin with a declaration (affidavit), signed before the Court and certified by two witnesses. This possibility is not provided for beneficiaries of **subsidiary protection**.

The application is subject to the payment of a 200 € contribution.

The evaluation of the citizenship application is largely discretionary. As consistently confirmed by the case law of the Administrative Courts,⁵⁷¹ the denial may be motivated by the lack of knowledge of Italian language and insufficient social inclusion in the national context. Even if not provided by law, as evidence of social inclusion, it is usually requested that the income of the last 3 years be equal or higher than the minimum income guaranteed by the State.

The time limit for the completion of the procedure is 730 days (2 years) from the date of application,⁵⁷² but this is a non-mandatory time limit and is almost never respected.

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

1.1. 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;
- (e) Can no longer, because the circumstances in connection with which he 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.

⁵⁷¹ See e.g. Administrative Court of Lazio, Section II- Quater, Decision No 8967, 2 August 2016.
⁵⁷² Article 3 PD 362/1994.

The change of circumstances which led to the recognition of protection is also a reason for the cessation of **subsidiary protection**.⁵⁷³

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.⁵⁷⁴ Although the law provides that protection may cease in these cases, this does not happen in practice. 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.⁵⁷⁵

1.2. Cessation procedure

The National Commission for the Right of Asylum (CNDA) is responsible for deciding on cessation.⁵⁷⁶ According to the law, cessation cases of **refugees** have to be dealt individually.⁵⁷⁷ No specific groups of beneficiaries in Italy specifically face cessation of international protection.

However, several cases of cessation of **subsidiary protection** have been started by the CNDA in 2017 regarding people who were found at airports or borders with stamps on their passports attesting they had returned to their country of origin.

The person concerned must be informed in writing of the specific reasons why the Commission considers whether to review of his or her legal status. The person has the right to take part in the proceedings, to request to be heard and to produce written documentation, but has not access to free legal assistance. The CNDA sets a hearing only if it is deemed as necessary. If the person, duly notified, fails to appear, the decision is made on the basis of the available documentation.

The Commission should decide within 30 days after the interview or after the expiration of time allowed for sending documents.

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](#).⁵⁷⁸

The person who has lost refugee status status or subsidiary protection may be granted a residence permit on other grounds, according to the TUI. The CNDA can approve an international protection status different from the status ceased or, if it considers that there are serious humanitarian reasons, it can transmit the documents to the *Questura* for the issuance of a residence permit of humanitarian protection. If the permit of stay for refugee status or subsidiary protection expires in the course of proceedings before the CNDA, it is renewed until the Commission's decision.⁵⁷⁹

⁵⁷³ Article 15(1) LD 251/2007.

⁵⁷⁴ Articles 9(2) and 15(2) LD 251/2007.

⁵⁷⁵ Articles 9(2-bis) and 15(2-bis) 251/2007.

⁵⁷⁶ Article 5 Procedure Decree; Article 13 PD 21/2015.

⁵⁷⁷ Article 9(1) LD 251/2007.

⁵⁷⁸ Article 35-bis(3) LD 25/2008.

⁵⁷⁹ Article 33 LD 25/2008; Article 14 PD 21/2015.

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.

Withdrawal is also imposed 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;
- (b) There are reasonable grounds for regarding him or her as a danger to the security of Italy or, having been convicted by a final judgment of a particularly serious crime, he or she constitutes a danger for the public order and public security.

The withdrawal of a protection status,⁵⁸⁰ and the appeals against it,⁵⁸¹ are subject to the same procedure foreseen for **Cessation** decisions. A total 50 protection statuses were withdrawn in 2017, down from 180 in 2016.⁵⁸²

B. Family reunification

1. Criteria and conditions

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 issued only for refugees, is applied to both **refugees** and beneficiaries of **subsidiary protection**.

Beneficiaries can apply as soon as they obtain the electronic **Residence Permit** – that means several months in some regions – and there is no maximum time limit for applying for family reunification.

⁵⁸⁰ *Ibid.*

⁵⁸¹ Article 19(2) LD 150/2011.

⁵⁸² Eurostat, migr_asywifsta.

Contrary to what is provided for other third-country nationals,⁵⁸³ beneficiaries of international protection do not need to demonstrate the availability of adequate accommodation and a minimum income. They are also exempted from subscribing a health insurance for parents aged 65 and over.

Beneficiaries may apply for reunification with:⁵⁸⁴

- (a) Spouses aged 18 or over, that are not legally separated;
- (b) Minor children, including unmarried children of the spouse or born out of wedlock, provided that the other parent has given his or her consent;
- (c) Adult dependent children, if on the basis of objective reasons, they are not able to provide for their health or essential needs due to health condition or complete disability;
- (d) Dependent parents, if they have no other children in the country of origin, or parents over the age of 60 if other children are unable to support them for serious health reasons.

Where a beneficiary cannot provide official documentary evidence of the family relationship, the necessary documents are issued by the Italian diplomatic or consular representations in his or her country of origin, which makes the necessary checks at the expense of the person concerned. The family relationship can also be proved by other means and through UNHCR involvement. The application cannot be rejected solely for lack of documentation.

2. Status and rights of family members

According to the law,⁵⁸⁵ family members who do not have an individual right to international protection, have the same rights recognised to the sponsor. Once in Italy, they get a residence permit for family reasons,⁵⁸⁶ notwithstanding whether they were previously irregularly present.⁵⁸⁷ These provisions do not apply to family members who should be excluded from the international protection.⁵⁸⁸

Minor children, present with the parent at the moment of the asylum application, also obtain the same status recognised to the parent.⁵⁸⁹

C. Movement and mobility

1. Freedom of movement

Refugees and beneficiaries of subsidiary protection, like asylum seekers, can freely circulate within the Italian territory, without prejudice to the limits established by Article 6(6) TUI, for the stay in municipalities or localities affecting the military defence of the State. They can also settle in any city if they can provide for themselves.

If accommodated in a government reception centre (see [Overview of the Reception System](#)), they could be requested to return to the structure by a certain time, in the early evening. More generally, in order not to lose their accommodation place, they are not allowed to spend days out of the structures without authorisation.

In some areas, during 2016, asylum seekers and beneficiaries of international protection had to be moved due to the discontent of the local population. In some cases, the protest of the inhabitants entirely prevented their reception as it happened in **Gorino**, Ferrara where, on 24 October 2016, 20 asylum

⁵⁸³ Article 29-bis TUI, citing Article 29(3) TUI.

⁵⁸⁴ Article 29(1) TUI.

⁵⁸⁵ Article 22 LD 251/2007.

⁵⁸⁶ Article 30 TUI.

⁵⁸⁷ Article 30 TUI.

⁵⁸⁸ Occurring cases governed by Articles 10 and 16 LD 251/2007.

⁵⁸⁹ Article 6(2) LD 25/2008; Article 31 TUI.

seekers, including 12 women and 8 children, were blocked on arrival, obliging the Prefecture to find an emergency accommodation in a nearby town.

Once obtained a place in a SPRAR project, beneficiaries have to accept it even if it implies to be moved to a different city. If they refuse the transfer, they have to leave the reception system definitively.

2. Travel documents

Travel documents for beneficiaries of international protection are governed 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 for refugees are valid for 5 years, renewable. They could be refused for serious reasons related to public order and national security. These are usually automatically given to refugees.

Beneficiaries of subsidiary protection can get a “travel permit” (*titolo di viaggio*), as opposed to a travel document (*document di viaggio*), explaining in a note to the *Questura* the reasons why they cannot ask or obtain a passport from their country's embassy. They can get a travel document if they have no representative authorities of their country in Italy.

Therefore, they can invoke reasons linked to their status and to their asylum stories. However, the Council of State has clarified in a case on travel permits for **beneficiaries of humanitarian protection** that the reasons to be adduced are not implicit in the reasons why the protection has been recognised and that it is not enough to generally declare that, because of the problems faced in the country of origin, it is impossible to contact the diplomatic authorities of that country in Italy.⁵⁹⁰

Beneficiaries can also invoke reasons linked to the procedures applied by their embassies or to the lack of documentation requested, such as original identity cards or birth certificates. The *Questura* verifies whether the person in fact is not in possession of these documents, looking at the documents he or she provided during the asylum procedure. In some cases, immigration offices contact the embassies asking confirmation of the reported procedure.

The applicant assumes responsibility, under criminal law, for his or her statements. Evidence, such as a written note from the embassy refusing a passport, is not required but helpful if provided.

The *Questura* can reject the application if the reasons adduced are deemed unfounded or not confirmed by embassies. According to the law, rejection can also be decided in case of doubts on the person's identity, but administrative case law has affirmed that it is contradictory to deny, on this basis, the travel document to someone who has obtained a residence permit on international protection grounds.⁵⁹¹

In case of rejection, the beneficiary concerned can appeal to the Administrative Court.

Acting against the widespread practice of some *Questure* not to respond to applications for travel documents submitted by holders of subsidiary protection, ASGI has lodged an appeal against the administrative silence of the *Questura* of **Torino**. The case concerned a Senegalese holder of humanitarian protection but the rules applied and referred to by the Administrative Court of Piemonte which upheld the appeal are the same as for subsidiary protection holders.⁵⁹² The Court accepted the appeal and ordered the *Questura* to adopt a reasoned decision on the request within 30 days.⁵⁹³

⁵⁹⁰ Council of State, Section III, Decision No 451, 4 February 2016, available at: <http://bit.ly/2k5xcFS>.

⁵⁹¹ Administrative Court of Lazio, Decision 11465/2015, 30 September 2015, available at: <http://bit.ly/2kgkOFB>.

⁵⁹² Article 24(2) LD 251/2007.

⁵⁹³ Administrative Court of Piemonte, Decision 34/2018, 8 January 2018.

Italian law does not prohibit beneficiaries of **subsidiary protection** from using the Italian travel permit to go back to their country of origin.

D. Housing

Indicators: Housing

- | | |
|--|---------------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | Not regulated |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2017 | Not available |

In Italy, beneficiaries of international protection face a severe lack of protection concerning accommodation.

1. Stay in reception centres

LD 142/2015 ensures accommodation for asylum seekers for all the asylum procedure, and, in case of appeal, during the judicial procedure (see chapter on [Reception Conditions](#)), but does not expressly provide rules on the accommodation of beneficiaries of international protection.

On the basis of a strictly literal interpretation of this Decree and the related Ministry of Interior Circular,⁵⁹⁴ some public administration offices consider that material conditions may immediately cease after the status recognition for those beneficiaries accommodated in government centres or in emergency reception centres (CAS), and that only beneficiaries of international protection who are accommodated in SPRAR or those who, immediately after being notified of the protection, get a place in a SPRAR project, can benefit from an additional accommodation period.

According to the SPRAR guidelines, as amended by the Ministry of Interior Decree of 10 August 2016, beneficiaries of international protection accommodated in SPRAR keep their right to accommodation for 6 additional months after the notification of the protection status and, if they move to a SPRAR project after obtaining protection, for 6 months from the entry into that project. A further extension can be authorised by Mol for another 6 months or more, based on duly motivated health problems or specific integration targets.⁵⁹⁵

Unaccompanied minors are, in any case, accommodated for 6 months after their coming of age.

However, as already underlined in the section on [Types of Accommodation](#), SPRAR represents only a small part of the accommodation system and, even if the law provides that asylum seekers be moved to it as soon as possible, the majority of asylum seekers spend all the asylum procedure in government centres or CAS.

In practice, beneficiaries notified of a protection status in CAS are strongly discriminated against compared to those who obtain or who have already obtained a place in SPRAR. Depending on the discretionary decisions of the responsible Prefectures and on bureaucratic delays, they could be allowed to stay in the reception centre a few months, a few days, or even just one day after the notification. Examples of this divergent practice have been reported across different regions:

Marche: The Prefecture of **Macerata** informed CAS operators on 19 December 2017 of its decision not to extend accommodation to beneficiaries of international protection until they find a place in SPRAR.

⁵⁹⁴ Ministry of Interior Circular n. 2255 of 30 October 2015.

⁵⁹⁵ Article 35 SPRAR Guidelines, included in the Ministry of Interior Decree of 10 August 2016.

Reception therefore stops as soon as beneficiaries obtain their residence permit. In **Ancona**, the Prefecture gave instructions to CAS operators on 28 September 2016 to immediately communicate the names of accommodated persons who have been granted protection, in order to place them out of the centre.

Lombardia: A similar situation to Macerata occurred in **Lecco** during 2017. In **Milan**, on the other hand, the Prefecture allows beneficiaries to stay in the centres for 5 days after notification of a positive decision on their asylum application.

Veneto: As of 25 of January 2016, the Prefecture of **Padova** has instructed CAS operators to allow persons obtaining international or humanitarian protection to remain in the reception centre only for the next 24 hours after the notification of the decision. It has been reported that across the entire Veneto region, the cessation of reception measures in CAS is imposed immediately after the recognition of one of the forms of protection.

Campania: CAS in **Salerno** allow people to wait for the receipt of the electronic residence permit before requesting them to leave the centre.

Friuli-Venezia Giulia: In **Trieste**, after a meeting with the organisations involved in managing accommodation centres, the Prefecture accepted to conform to the policy of the SPRAR system, ensuring an additional 6 months of accommodation after the status notification. In any case, unlike SPRAR, the 6-month period is not extendable.

These situations lead beneficiaries of international protection to face risks of destitution and homelessness. In Bari, **Puglia**, dozens of Somali refugees live in an occupied building in the heart of the city – “Ferrhotel” – without water or electricity.⁵⁹⁶

In order to offer the same prospects to beneficiaries of international protection, the Ministry of Interior issued a Circular on 5 May 2016, informing that the responsible national authority for SPRAR should give priority for the admission in SPRAR projects to beneficiaries of international protection rather than to asylum seekers. Given the limited number of persons hosted in SPRAR, however, according to ASGI, the measure will not solve the lack of protection of beneficiaries of international protection.

2. Access to public housing

Following the amendment of the Qualification Decree by LD 18/2014, refugees and beneficiaries of subsidiary protection have a right to access public housing units under the same conditions as nationals.⁵⁹⁷

While 800 refugees, mainly Eritreans and Ethiopians, were evicted in the early hours of 19 August 2017 by the police without warning from a building occupied in **Rome** since 2013, after the tragic shipwreck off Lampedusa on 3 October 2013,⁵⁹⁸ on 8 September 2017, the Ministry of Interior published the National plan for the integration of beneficiaries of international protection on 8 September 2017.⁵⁹⁹

The plan focuses on accompaniment towards housing solutions for both those who leave CAS and those who leave SPRAR centres, and highlights the importance of starting measures for residence in time in order for beneficiaries to access public housing within the limits of availability in each region.

⁵⁹⁶ MSF, *Fuori campo*, February 2018, 30.

⁵⁹⁷ Article 29 LD 251/2007; Article 40(6) LD TUI.

⁵⁹⁸ Internazionale, ‘A Roma i rifugiati eritrei finiscono per strada’, 21 August 2017, available in Italian at: <http://bit.ly/2ENamNA>.

⁵⁹⁹ Ministry of Interior, *National plan for the integration of holders of international protection*, available in Italian at: <http://bit.ly/2k4QjUd>.

In any case, the Ministry of Interior entrusts the realisation of the integration plan to the hope that cooperation agreements with African countries will significantly reduce the numbers of arrivals of asylum seekers and refugees in Italy, bearing mind of the structural limits of the reception system and the public housing system.

E. Employment and education

1. Access to the labour market

The residence permit issued to refugees and to subsidiary protection beneficiaries allows access to work and even to public employment, with the only permissible limit of positions involving the exercise of public authority or responsibility for safeguarding the general interests of the State.⁶⁰⁰

Beneficiaries are entitled to the same treatment as Italian citizens in matters of employment, self-employment, subscription to professional bodies, vocational training, including refresher courses, for training in the workplace and for services rendered by employment centres.

With an amendment introduced to the budget law in December 2017, tax incentives are provided for social cooperatives which will recruit beneficiaries of international protection with a permanent contract in 2018.⁶⁰¹

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. The enrollment can be requested at any time of the school year.⁶⁰²

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.⁶⁰³
- 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.⁶⁰⁴

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%.

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 on February 2014, special attention should be paid to Italian language labs. The Ministry observes that an effective intervention should provide about

⁶⁰⁰ Article 25 LD 251/2007.

⁶⁰¹ Redattore Sociale, 'Rifugiati equiparati a categorie protette: incentivi a cooperative che li assumono', 19 January 2018, available in Italian at: <http://bit.ly/2FSIZ5o>.

⁶⁰² Article 38 TUI; Article 45 PD 394/1999.

⁶⁰³ Article 45(2) PD 394/1999.

⁶⁰⁴ Article 192(3) LD 297/1994.

8-10 hours per week dedicated to Italian language labs (about 2 hours per day) for a duration of 3-4 months.⁶⁰⁵

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,⁶⁰⁶ 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.

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.⁶⁰⁷

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. In those cases where social assistance is subject to a residence requirement. This is namely the case for income support (*Reddito di inclusione*, Rel), which is subject to uninterrupted residence for at least 2 years on the national territory.⁶⁰⁸ This can entail serious obstacles for beneficiaries of international protection in practice (see [Civil Registration](#)).

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.⁶⁰⁹ 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.⁶¹⁰ 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.⁶¹¹

⁶⁰⁵ 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>.

⁶⁰⁶ Article 26 LD 251/2007.

⁶⁰⁷ Article 27 LD 251/2007.

⁶⁰⁸ Article 3(2) LD 147/2017 of 15 September 2017 on the introduction of national measures to combat poverty, available in Italian at: <http://bit.ly/2E7AJ3R>.

⁶⁰⁹ Article 34 LD TUI; Article 16 PD 21/2015; Article 21 LD 142/2015.

⁶¹⁰ Article 42 PD 394/1999.

⁶¹¹ MSF, *Fuori campo: Richiedenti asilo e rifugiati in Italia: insediamenti informali e marginalità sociale*, March 2016, available in Italian at: <http://bit.ly/1S5IHGh>.

1. Contribution to health spending

Similar to asylum seekers after their right to work is provided, in some regions – such as **Lazio** and **Toscana**, beneficiaries of international protection are no longer exempted from contribution to health spending (*partecipazione alla spesa sanitaria*), also known as “sanitary ticket”, because they are considered inactive and not unemployed. In other regions such as **Piemonte** and **Lombardia**,⁶¹² the exemption is extended until asylum seekers do actually find a job. However, only a few regions such as **Friuli-Venezia Giulia** and **Puglia** apply the same principle to beneficiaries.

On 18 April 2016, ASGI and other NGOs sent a letter to the Ministry of Health, asking it to give effect to Article 17(4) of the recast Reception Conditions Directive, according to which asylum seekers may be required to contribute to the costs for health care only if they have sufficient resources, for example if they have been working for a reasonable period of time. ASGI also asked the Ministry to consider that, following the adoption of the LD 150/2015 for granting the right to exemption from participation in health spending, distinctions can no longer be drawn between unemployed and inactive persons.⁶¹³ On 9 May 2016, the Ministry of Health replied to have involved the Ministry of Economy and the Ministry of Labour and Social Policy in order to achieve a uniform interpretation of the aforementioned rules.

While waiting for the Government to take an official position on the matter, ASGI lawyers have lodged an appeal against the refusal to exempt an Iraqi female refugee from contribution to health spending on the ground that she was inactive and not unemployed, since she was entitled to access the labour market. The Civil Court of **Rome** upheld the appeal and stated that, after the entry into force of the LD 150/2015, the distinction between unemployed and inactive persons is no longer valid. Therefore even beneficiaries of international protection are entitled to the aforementioned exemption.⁶¹⁴

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.⁶¹⁵ The Guidelines, adopted by the Ministry of Health by a Decree issued on 3 April 2017, specify that they also apply to asylum seekers.

The Guidelines highlight the importance of early detection of such vulnerable cases in order to provide probative support for the asylum 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, without expressing any judgment on the veracity of the individual's narrative but only being limited to an assessment of the consistency of the person's statements with the verified outcomes. The Guidelines also propose templates of health certificates to be adopted in cases of

⁶¹² See Note of Piemonte Region, Health Office, 4 March 2016.

⁶¹³ Article 19 LD 150/2015 states that “unemployed” are workers who declare, in electronic form, their immediate availability to exercise work activities.

⁶¹⁴ Civil Court of Rome, Decision No 33627/16, 17 February 2017, available in Italian at: <http://bit.ly/2nIvOHF>.

⁶¹⁵ 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>.

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.

The organisation of a network collaboration as required by the Guidelines has not yet started in all the health care institutions across the national territory. At the moment, the guidelines seem to be applied in **Rome** and **Parma**, while an operating protocol is about to be signed in **Trieste** and **Brescia**.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	21 February 2014	Decreto Legislativo 21 febbraio 2014, n. 18 “Attuazione della direttiva 2011/95/UE recante norme sull'attribuzione, a cittadini di paesi terzi o apolidi, della qualifica di beneficiario di protezione internazionale, su uno status uniforme per i rifugiati o per le persone aventi titolo a beneficiare della protezione sussidiaria, nonché sul contenuto della protezione riconosciuta”	http://bit.ly/1LEIVBj (IT)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	15 September 2015	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”	http://bit.ly/1Mn6i1M (IT)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	15 September 2015	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”	http://bit.ly/1Mn6i1M (IT)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013		N/A	