

Italy: the Deadliest Route to Fortress Europe



CEA(R)

Comisión Española
de Ayuda al Refugiado

This report has been drawn up by the advocacy area of the Spanish Refugee Aid Commission (CEAR in Spanish) in the context of the “*Observatory on the right to asylum, forced migrations and borders*” project funded by the Extremadura Agency for International Development Cooperation (AEXCID).

In the context of this investigation and in an aim to diagnose the current situation in Italy and the EU, the CEAR team held interviews with UNHCR, ASGI, Baobab Experience, Centro Astalli, CIR, CPR Roma, EASO, Emergency, Instituto Pedro Arrupe de Palermo, LasciateCIEntrare, Mediterranean Hope, MSF, OXFAM Italia, Save the Children, SJR, Terre des Hommes, UNICEF, Doctor Juan Federico Jiménez Carrascosa and migrant people, asylum applicants and refugees who have given a voice to their experience and real situation.

Front page image: “è il cimitero dell’indifferenza”. By: Francesco Piobbichi

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The Spanish Refugee Aid Commission (CEAR) is a non-profit organisation founded in 1979 that is engaged in voluntary, humanitarian, independent and joint action. Our objective is to work with citizens to defend the right to asylum. Our mission is also to defend and promote human rights and comprehensive development for asylum applicants, refugees, stateless people and migrants in vulnerable situations or at risk of social exclusion. Our work has a comprehensive approach based on temporary accommodation; legal, psychological and social assistance; training and employment; and social advocacy and participation.

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ACRONYMS

UNHCR: United Nations High Commissioner for Refugees

ASGI: Associazione per gli Studi Giuridici sull'Immigrazione
(Association for Legal Studies on Immigration).

CARA: Centro Per I Richiedenti Asilo (Centre for asylum applicants)

CAS: Centro Accoglienza Straordinaria (Special Reception Centre)

CEAR: Spanish Refugee Aid Commission

CIE: Identification and Expulsion Centre

CNDA: Commissione Nazionale per il Diritto d'Asilo
(National Commission for the Right to Asylum)

CPR: Centro per il Rimpatrio (Centre for Repatriation)

EASO: European Asylum Support Office

EURODAC: European Dactyloscopy

EUROPOL: European Police Office

FRONTEX: European Border and Coast Guard Agency

IMRCC: Italian Maritime Rescue Coordination Center

MEDU: Medici per i Diritti Umani (Doctors for Human Rights)

MSF: Médecins Sans Frontières (Doctors without Borders)

IOM: International Organization for Migration

SPRAR: Servizio per Richiedenti Asilo e Rifugiati
(Service for asylum applicants and refugees)

EU: European Union

1. Introduction

Throughout 2016, hundreds of thousands of migrants and refugees took to the sea, fleeing conflicts and persecution, mostly arriving in Greece and Italy. So far this year, 101,674 people¹ have arrived in Europe by crossing the Mediterranean Sea, 84% of whom (85,674²) have used the central Mediterranean route, arriving on Italian shores. In 2016, the greatest number of deaths³ (5,098⁴) attempting to cross the Mediterranean Sea were recorded since records began, making this route the deadliest in the world. So far in 2017, 2,357⁵ people have died attempting to cross the Mediterranean Sea, meaning 73% of all deaths at sea in the world⁶.

In May 2017, in this context and in keeping with its objectives in defence of human rights and the right to asylum, CEAR went to Italy in order to find out and assess the level of compliance with international treaties and access to asylum for people arriving there in search of protection. The work is being carried out by direct observation on the ground and different interviews with organisations who work in this context, as well as with asylum applicants, refugees and migrants.

2. Context

From the end of the 19th century to the mid-20th century, Italy was characteristic for being a country of emigrants to America and northern Europe. This situation changed in the mid-20th century, especially during the 50s and 60s, when the country underwent an “economic miracle”⁷ in which Italy went from being a poor agricultural country to one of the biggest industrial powers in the world. This change in economic structure had a direct influence on the country’s traditional migration flows. Italy became a country receiving migrants, asylum applicants and refugees⁸.

The Italian Republic forms part of the European Union (EU) and is in the south of the continent. It is bordered to the north by the Alps, which create a natural frontier with France, Austria and Slovenia (member states of the EU) and Switzerland⁹. All of these states form part of the Schengen Treaty¹⁰ of free movement for people¹¹. The rest of the Italian peninsula is surrounded by the Mediterranean Sea, lying just opposite the coasts of Libya, Egypt and Tunisia. Italy also has the biggest islands in the Mediterranean (Sicily and Sardinia) as well as other smaller ones very near to Africa (Lampedusa, Lampione and Pantelleria).

1 UNHCR Mediterranean Situation, sea arrivals in 2017. Last updated 11 Jul 2017”

At: <http://data2.unhcr.org/en/situations/mediterranean>

2 *Idem*

3 El Diario, “Record of deaths in 2016 in the Mediterranean with the complicity of Europe”.

See: http://www.eldiario.es/tribunaabierta/record-muertes-Mediterraneo-complicidad-Europa_6_597450261.html

4 IOM Missing Migrants, “Recorded deaths in the Mediterranean sea by route in 2016” at: <https://missingmigrants.iom.int/mediterranean>.

5 IOM Missing Migrants at: <https://missingmigrants.iom.int/latest-global-figures>.

6 The total number of deaths at sea in the world being 3,228 at the time of publishing the report.

7 “Miracolo economico” in Italian.

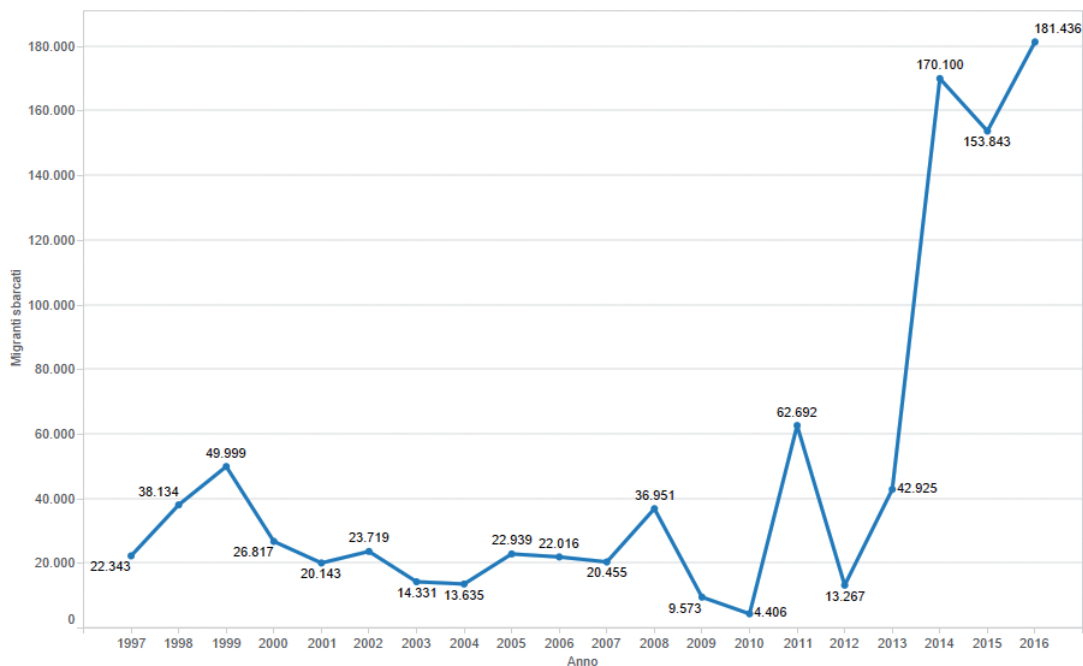
8 For an in-depth analysis for the change in net migration, consult: Domingo Valls, A. 2002, “Reflexiones demográficas sobre la inmigración internacional en los países del Sur de la Unión Europea” (“Demographic reflections on international immigration in the countries in the south of the European Union”). Población y migraciones en Cataluña. Population and migrations in Catalonia. Estudio territorial, histórico y prospectivo. Territorial, historic and prospective study. Presentation published in the minutes of the 3rd Congress on Immigration in Spain, Vol 2, Granada. 2002, pp. 197-212. See: https://www.researchgate.net/publication/254401937_REFLEXIONES_DEMOGRAFICAS_SOBRE_LA_INMIGRACION_INTERNACIONAL_EN_LOS_PAISES_DEL_SUR_DE_LA_UNION_EUROPEA

9 Switzerland is not a member country of the EU but has been a signatory to the Schengen Treaty on free movement for people since 2002. In 2014, following a vote, Switzerland approved (with a 50.3% majority) restrictions to the Schengen Treaty, thereby creating tensions in relations with the EU. For more information, see El País: “Suiza da un portazo a la UE” (“Switzerland slams the door to the EU”) at: http://internacional.elpais.com/internacional/2014/02/09/actualidad/1391942183_207520.html

10 European Commission: “Europe without Borders. The Schengen area”, at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/docs/schengen_brochure/schengen_brochure_dr3111126_en.pdf

11 Switzerland signed the free movement of agreements in 2002 and removed border controls in 2008. In 2014, it introduced restrictions on this, establishing migration quotas and restrictions, thereby making relations with the European Commission more tense. For more information about Switzerland and the free movement agreement, see “The European Economic Area (EEA), Switzerland and the North” at: http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuid=FTU_6.5.3.html

Italy's location opposite the coasts of the Maghreb has made it one of the most important arrival points in Europe within what is known as the central Mediterranean route, which goes from Egypt, Tunisia and Libya to Italian shores. After the EU-Turkey agreement came into force, which meant the closure of the eastern Mediterranean route, it has become the route most used by people attempting to reach Europe. The following graph shows the gradual increase in arrivals from 1997 to 2016:



Number of landings in Italy, 1997-2016. Italian Interior Ministry¹²

The peaks in the number of arrivals correspond to the crisis in Albania and the conflict in Kosovo (1999), as well as the conflicts and shortages in Somalia, Eritrea and Nigeria (2008). In 2009 and 2010 there was a drastic fall¹³ in arrivals to Italy, mainly caused by the agreement¹⁴ between Italy and Libya¹⁵ and the entry into force of the so-called “*pacchetto sicurezza*”¹⁶ approved by the Italian government in July 2008. These two measures were designed to intensify control over migration flows and to carry out illegal pushbacks at sea to Libya, which led to the state of Italy being condemned in the European Court of Human Rights in the *Hisri Jamaa* case¹⁷ in 2012¹⁸ for a breach of the prohibition of collective expulsions and for having exposed the migrant population to inhumane and degrading treatment. Furthermore, it was demonstrated that there were risks of deportation from Libya to these people's countries of origin, violating the principle of non-refoulement stipulated in the Geneva Convention of 1951. As of 2011, the number of landings grew significantly, with 62,692 people reaching Italy, 45% of whom came from Tunisia¹⁹. This increase was mainly due to the breakout of the Arab Springs, above all in Tunisia, Egypt

12 Info from the Italian Interior Ministry at: http://www.libertacivilimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_31_dicembre.pdf

13 From 9,573 arrivals in 2009 to 4,406 in 2010.

14 Treaty of friendship, partnership and cooperation (“Trattato di amicizia, partenariato e cooperazione”) at: http://www.camera.it/_dati/leg16/lavori/schede-la/apritelecomando_wai.asp?codice=16pd10017390

15 For an in-depth analysis of the consequences of the agreement between Italy and Libya, see Human Rights Watch, “Pushed Back, Pushed Around. Libya’s Mistreatment of Migrants and asylum seekers” (2009), at: http://reliefweb.int/sites/reliefweb.int/files/resources/E71CDEF418E3DDB6492576AD00239415-Full_Report.pdf

16 Security package. Decree made into Law 24/07/2008, no. 125, by which clandestine nature is introduced as an aggravating factor and the new name of the Identification and Expulsion Centres known as CIE. See: <http://www.altalex.com/documents/leggi/2011/03/11/pacchetto-sicurezza-il-decreto-legge-pubblica-to-in-gazzetta>

17 European Court of Human Rights, “Case of Hisri Jamaa and Others v. Italy” (Application no. 27765/09), at: <file:///C:/Users/USUARIO/Downloads/001-139041.pdf>

18 The sentence can be seen at: <http://www.penalecontemporaneo.it/d/1305-la-corte-europea-dei-diritti-dell-uomo-ha-dichiarato-i-respingimenti-collettivi-verso-la-libia-oper>

19 ISMU Fondazione e Studi sulla Multietnicità “Sbarchi, richiedenti asilo e presenze irregolari” February 2015.

See: <http://www.ismu.org/wp-content/uploads/2015/05/Sbarchi-richiedenti-asilo.pdf>

and Libya. In these events, the citizens of many countries in the Arab world took to the streets in the hope of transforming the country in which they lived, with protests beginning to demand reforms in the Middle East and North Africa. These uprisings spread in a matter of weeks to Egypt, Yemen, Bahrain, Libya and Syria. Six years later²⁰, thousands of people have died in armed conflicts that continue to break out in Syria, Libya and Yemen, which has created an unprecedented situation of forced displacements.

So far this year, 85,197 people²¹ have landed in Italy, of whom 17.8% are Nigerian, followed by nationals from Bangladesh (10.4%), Guinea (9.8%), Ivory Coast (9.3%), Gambia (6.2%), Senegal (6.1%), Mali (6%), Eritrea (5.7%), Morocco (5.1%), Sudan (5%), Ghana (3.6%), Pakistan (2.8%), Somalia (2.6%), Cameroon (2.1%) and Syria (2%)²². Nearly all of the people²³ who arrive on Italian shores set off from Libya. This is directly related to the situation of chaos, lack of political stability and breach of human rights in the country²⁴.

As has already been mentioned, the central Mediterranean route is the one most used to enter Europe. It is also the route that has accumulated the most deaths. In order to put a stop to deaths on the high seas²⁵, in 2013 the Italian government launched the operation Mare Nostrum, a military operation concentrating on rescues at sea whose aim was to respond to the arrival of embarkations in Sicily. This operation helped save thousands of lives²⁶. However, Mare Nostrum stopped operating in December 2014, among other reasons because it was considered by many member states of the EU to be a pull factor and because it did not have enough funds (it was financed exclusively by the Italian government). As a result, Mare Nostrum was replaced by a joint operation between Italy and the EU called Tritón²⁷ headed by FRONTEX²⁸, the EU border agency. Tritón is an operation with fewer resources²⁹, focused on controlling borders with a more limited mandate for rescues³⁰. Financed completely with EU funds, its activity at sea is reduced from 75 to 30 miles and it has fewer material means and fewer people in the teams that work on missions. As a result of all of this, the number of people rescued at sea has fallen notably, specifically from the 150,810 rescued in operation Mare Nostrum to 22,300 with Tritón³¹.

As we can see in the graph below, the number of people dying on attempting to cross the sea in search of protection continues to grow due to the lack of sufficient means for rescue and safe, legal means to achieve a place in which to live without danger. People who cross the sea do so regardless of the level of danger on the routes due to the situations they are experiencing in their places of origin or transit. This is why, when Mare Nostrum was stopped in 2015, far from reducing the arrivals to European shores, they rose to 1,015,078³², of

20 Amnistía Internacional, "North Africa: Human Rights Developments in five years since Arab Spring uprisings".

See: <https://www.amnesty.org/es/documents/mde03/3096/2015/en/>

21 UNHCR, Mediterranean Situation Sea Arrivals in 2017, last update 11 Jul 2017,

at: <https://data2.unhcr.org/en/situations/mediterranean>

22 UNHCR, Most Common Nationalities of Sea Arrivals in 2017, Italy, last updated 30 Jun.

See: <http://data2.unhcr.org/en/situations/mediterranean/location/520523>

23 According to the interviews to which CEAR has had access on its mission, 99% of the people who arrive in Italy do so from Libya regardless of their places of origin.

24 Amnesty International published a communiqué condemning the attitude of the EU as regards the situation of atrocious abuses faced by refugees and migrants in Libya, denouncing the fact that European governments continue to place priority on keeping these people outside of Europe at all costs. Amnesty International also denounces the steps announced by the EU as regards cooperation with the Libyan coast guard in a matter of returns, since there is a risk of torture, rape and detentions in deplorable conditions.

See: <https://www.amnesty.org/en/latest/news/2017/03/libya-mass-drowning-highlights-european-governments-shameful-failure-to-protect-refugees-and-migrants/>

25 The Italian government's decision to launch Mare Nostrum came following the terrible sinking of a craft on 3rd October 2013, in which 366 people died near the shores of Lampedusa. For more information on the sinking, see El País, "Más de 200 fallecidos en el incendio de un barco con inmigrantes en Lampedusa" ("More than 200 deaths in a fire on a boat of immigrants in Lampedusa"), at: http://internacional.elpais.com/internacional/2013/10/03/actualidad/1380791363_913633.html

26 The Italian government estimates that 100,250 people were rescued by Mare Nostrum. Italian Interior Ministry, "Si conclude Mare Nostrum, al via Tritón".

See: <http://www.interno.gov.it/it/notizie/conclude-mare-nostrum-triton>

27 Italian Interior Ministry, "Si conclude Mare Nostrum, al via Tritón", at: <http://www.interno.gov.it/it/notizie/conclude-mare-nostrum-triton>

28 FRONTEX "Frontex launches Joint operation Tritón",

at: <http://frontex.europa.eu/news/frontex-launches-joint-operation-triton-JSYpL7>

29 The joint operation Tritón has a budget of €2.9 million compared to Mare Nostrum's €114 million; i.e. nearly 40 times smaller than the latter's budget. Data about Tritón available at Frontex: <http://frontex.europa.eu/news/frontex-launches-joint-operation-triton-JSYpL7> and about Mare Nostrum at <http://www.interno.gov.it/it/notizie/conclude-mare-nostrum-triton>.

30 UNHCR: "The sea route to Europe: the Mediterranean passage in the age of refugees. Chapter 2. Rescue at Sea: tragedy and response", pag.8.

See: <http://www.unhcr.org/protection/operations/5592bd059/sea-route-europe-mediterranean-passage-age-refugees.html>

31 El Diario: "Mare Nostrum y Tritón, dos años de operaciones en el Mediterráneo" ("Mare Nostrum and Tritón, two years of operations in the Mediterranean").

See: http://www.eldiario.es/desalambre/Triton-UE-recursos-rescates-Mediterraneo_0_379713138.html

32 UNHCR, "Mediterranean situation". See: <http://data.unhcr.org/medportalviz/dist/>

whom 153,842 went to Italian shores and 54% requested international protection. In 2016, the number of arrivals continued to rise to 181,436³³, of whom 68% requested international protection.

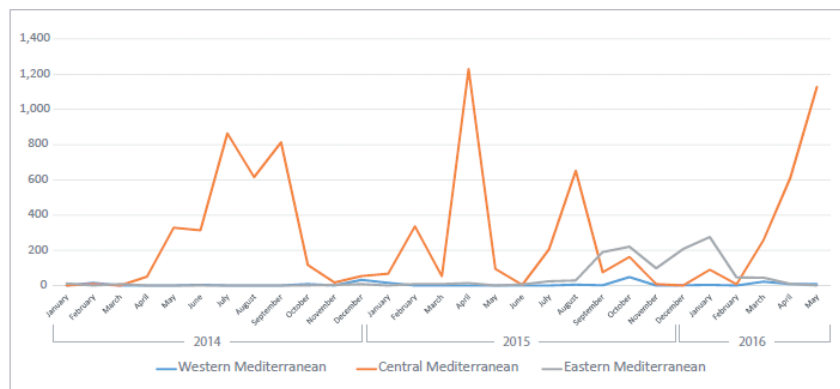
Year	Arrivals by sea to European shores ³⁴	Arrivals by sea to Italy ³⁵	Asylum applications in Italy ³⁶	% of applications out of total arrivals in Italy
2015	1.015.078	153.842	83.970	54,5%
2016	362.753	181.436	123.600	68,1%
2017 ³⁷	102.578	85.197	13.165	15,4%

Source: The authors with data from UNHCR and the Italian Interior Ministry

We are facing the highest numbers in European history, caused by the worsening conflicts and serious violations of human rights in the Maghreb, the Middle East³⁸ and other countries from which migrants are fleeing such as Eritrea, Nigeria and Somalia—and not due to the supposed pull factor of the rescue operations.

The alarming number of deaths³⁹ in the Mediterranean⁴⁰ and the growing number of people who merit international protection that are attempting to reach European shores have all generated significant reactions in recent years from European leaders. These have been seen in different statements from the European Council⁴¹ and subsequently in the European Migration Agenda⁴² adopted in May 2015, which launched the different management mechanisms for the migration policies that have had a clear impact in practice and in the legislation of the countries that represent the European Union's exterior border, especially in Greece and Italy.

Figure 11: Recorded dead and missing migrants in the Mediterranean by route, 1 January 2014–31 May 2016



Source: IOM: "Fatal Journeys and Tracing of Dead and Missing Migrants"⁴³

33 UNHCR, "Mediterranean situation, Sea Arrivals" at: <https://data2.unhcr.org/en/situations/mediterranean> and CANUR Regional Bureau Europe-Monthly data update, June 2016, "Refugee and Migrants Sea Arrivals in Europe", at: <https://data2.unhcr.org/en/documents/download/49921>

34 *Idem*

35 *Idem*

36 Italian Interior Ministry Data on asylum applications by years, "I numeri dell' asilo". See: <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/i-numeri-dell-asilo>

37 Data up to July 2017.

38 Amnesty International: "Hotspot Italy: How EU's flagship approach leads to violations of refugees and migrants rights". See: [file:///C:/Users/USUARIO/Downloads/EUR3050042016ENGLISH%20\(2\).PDF](file:///C:/Users/USUARIO/Downloads/EUR3050042016ENGLISH%20(2).PDF)

39 *Idem*

40 One of the most significant sinkings in this vein was the one that occurred near the Libyan coast on 18th April 2015, when a fishing boat with 700 people on board sank. El Diario, "Naufraga un pesquero con 700 personas a bordo al Norte de Libia" ("Fishing boat sinks with 700 people on board in Northern Libya"). See: http://www.eldiario.es/desalambre/Cerca-inmigrantes-desaparecidos-Mediterraneo-naufrago_0_379012127.html

41 In the special meeting of 23rd April 2015, the Council states the need to strengthen European presence on the sea, combat the traffickers, and the need to prevent 'illegal' immigration flows via cooperation with regional partners. European Council: "Special Meeting of the European Council, 23 April 2015 - statement". See: <http://www.consilium.europa.eu/en/press/press-releases/2015/04/23-special-euco-statement/>

42 European Commission European Agenda on Migration.

See: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf

43 IOM, Fatal Journeys and Tracing of Dead and Missing Migrants 2016, pag. 23.

See: <http://publications.iom.int/es/books/fatal-journeys-volume-2-identification-and-tracing-dead-and-missing-migrants>

3. Impact of the European Agenda on Migration in Italy

The European Agenda on Migration⁴⁴, adopted in May 2015, among other aspects puts forward the creation of hotspots⁴⁵, defining them as “mechanisms of emergency support for states” facing greater pressure from migration. These coordination points will be vital in European handling of migratory flows. The hotspots⁴⁶ are intended as places to support registration tasks, take fingerprints and identify people applying for asylum and to determine what people are considered susceptible for expulsion. Frontex, the European Police Office⁴⁷ (better known as Europol) and the European Asylum Support Office⁴⁸ (EASO) are the main European agencies providing support for the States where the hotspots are set up. In these points, the European agencies are contemplating the work by the two EU states that today receive the greatest number of arrivals: Greece and Italy.

The European Agenda on Migration also launched the programmes to relocate and resettle⁴⁹ people in need of international protection, appealing for solidarity and shared responsibility among the states. The relocations are intended to share responsibility among the states for receiving asylum applicants who are in Greece and Italy so as to alleviate the reception systems in these countries where they first arrive. However, at the same time they stipulate that only people of nationalities with an average refugee status recognition of over 75% in the EU may opt for relocation procedures⁵⁰. This criterion is discriminatory as it is based exclusively on nationality and not on the individual's situation, thereby clashing head-on with the principle of non-discrimination and the spirit of the Geneva Convention. The resettlements refer to reception of people who are in countries outside the EU. In this context, in July and September 2015 the EU agreed to relocate 160,000 asylum applicants from Italy and Greece, as well as to resettle 22,504 refugees from countries outside the European Union, and to do all of this within two years. By 13th July 2017, only 24,092⁵¹ had been relocated (16,477 from Greece and 7,615 from Italy), while 16,419 had been resettled, of whom 6,254 had been resettled from Turkey⁵² out of the total of 22,504⁵³ that the EU member states had agreed to within the EU resettlement programme as of July 2015.

The implementation of the agenda has had a direct impact on legislation and practices in EU countries and more heavily in the countries that receive the greatest number of arrivals, such as Italy. Indeed, in Italy the application of the agenda has resulted in the creation of hotspots (3.1) and a change in the asylum procedures (3.2). At the same time, as of 2015 the humanitarian corridors have begun to work (3.3) and the reception system has been adapted to the European Agenda on Migration (3.4). It is also important to highlight the situation as regards deportations in Italy (3.4), the failure of the resettlement and relocation model at a European level (3.5) and the vulnerable situation of unaccompanied foreign minors (3.6) and women (3.7).

44 *Idem*

45 An area at the EU's external border which faces disproportionate migratory pressure.

46 ECRE, 'The implementation of the hotspots in Italy and Greece'. <https://www.ecre.org/ecre-the-implementation-of-the-hotspots-in-italy-and-greece/>

47 Europol: European Police Office. For more information, go to Europol at <https://www.europol.europa.eu/>

48 EASO: European Asylum Support Office. For more information, go to EASO at: <https://www.easo.europa.eu/>

49 European Commission, 'Managing migration better in all aspects: A European Agenda on Migration'. In the European Agenda on Migration, for the first time the European Commission proposes activating the emergency system (by virtue of Article 78 (3) of the TFUE) to help member states that face sudden influxes of migrants. At the end of May, the Commission will put forward a temporary distribution mechanism for people clearly in need of international protection within the EU.

See: http://europa.eu/rapid/press-release_IP-15-4956_es.htm

50 It will be applied to applicants of nationalities with an average rate of recognition in the EU equal to or above 75%. According to current data, the measure would be applied to asylum applicants from Eritrea, Bahamas, Bahrain, Bhutan, Qatar, Syria, the United Arab Emirates and Yemen. More information at: <https://www.easo.europa.eu/questions-and-answers-relocation>

51 European Commission: "State of Play Relocation".

See: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_relocation_en.pdf

52 European Commission: "Relocation and Resettlement, 13 June 2017".

See: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170613_factsheet_relocation_and_resettlement_en.pdf

53 European Commission: "13th report on resettlement and relocation". See: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170613_thirteenth_report_on_relocation_and_resettlement_en.pdf

3.1. Creation of hotspots in Italy

Following the approval of the European Agenda on Migration, in 2015 the Italian government published a roadmap⁵⁴. According to this roadmap, hotspots were planned to channel the landings, in which there would be a health screening⁵⁵, pre-identification, registration of entry into Italy, fingerprinting and a photograph taken of the person to identify them. Four permanent⁵⁶ hotspots⁵⁷ have been set up in Italy: two in Sicily (Trapani and Pozzallo), one in the region of Apulia (Taranto), and another on the island of Lampedusa. Due to the high number of arrivals and the matter of availability, many of the disembarkations are being carried out in other ports with the support of mobile hotspots, mainly in the port of Augusta (Sicilia). The mobile points are coordination teams from the agencies involved in supporting the states, but as their very name indicates they work dynamically; i.e. they can move to the place of the landing and carry out their tasks in coordination with the state in question. Today, Italy has over 1,600 places⁵⁸ in permanent hotspots and in points where the perspective hotspot works in a mobile fashion generally in the port of Augusta and in Porto Empédocle, as we can see in the following map:

Source: European Commission ⁵⁹

As has been previously explained, hotspots were created as a result of decisions by the European Council⁶⁰, although no national or EU regulations regulate them⁶¹. In its report on hotspots, Amnesty International⁶² denounces the lack of regulation for these places, where people arriving have no legal basis upon which to defend themselves from possible breaches of rights that may occur⁶³. The hotspots still operate without regulation despite the recent reform in Italian legislation as regards asylum via the Minniti Decree Law⁶⁴, which does not provide a legal base to run them. By merely mentioning hotspots within Italian legislation as “crisis points” (literal translation), they are not regulated in terms of their nature, type or



54 Italian Interior Ministry: “ROADMAP ITALIANA”, 28 September 2015. See: <http://www.meltingpot.org/IMG/pdf/roadmap-2015.pdf>

55 Here, screening refers to preliminary health check-ups.

56 As we have mentioned above, the permanent hotspots are located in Pozzallo, Taranto, Trapani and Lampedusa. However, the perspective of support hotspots from European agencies for the Italian authorities is applied in all the ports of arrival via mobile hotspots. For updated information about hotspots, see the following report from the European Commission: “Hotspot State of Play”, last update on 29 May 2017, at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_hotspots_en.pdf

57 *Idem*

58 Italian Interior Ministry: “ROADMAP ITALIANA”, 28 September 2015, at: <http://www.meltingpot.org/IMG/pdf/roadmap-2015.pdf>. The number of places in the hotspots in Italy can be seen in the following link from the European Commission, updated on 14/08/2017: “Hotspot State of Play”, last update on 14 August 2017, at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_hotspots_en.pdf

59 For more information, see the following report from the European Commission: “Managing the refugee crisis. Italy: state of play report”, at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/italy_state_of_play_report_en.pdf

60 For more information on the implementation of hotspots, see the following report from the European Parliament: “Implementation of the 2015 Council Decision Establishing Provisional Measures in the Area of International Protection for the benefit of Italy and Greece” at [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583132/IPOL_STU\(2017\)583132_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583132/IPOL_STU(2017)583132_EN.pdf)

61 For more information on how hotspots work in Italy, see page 10 of the following report by ECRE: “The implementation of the hotspots in Italy and Greece” at: <https://www.ecre.org/wp-content/uploads/2016/12/HOTSPOTS-Report-5.12.2016.pdf>

62 Amnesty International: “Hotspot Italy: How EU’s Flagship approach leads to violations of refugees and migrants rights”. See: [file:///C:/Users/USUARIO/Downloads/EUR3050042016ENGLISH%20\(2\).PDF](file:///C:/Users/USUARIO/Downloads/EUR3050042016ENGLISH%20(2).PDF)

63 *Idem*

64 The entire text of the law can be seen in the following link: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13!vig=>

duration⁶⁵. This shows once again how the policies that have been set up to address this dramatic situation help “exceptional spaces” to be generated that get around international legal contracts as regards human rights.

Due to the heterogeneity of the activities carried out in the hotspots, the Italian state wished to lend some coherence to the practices being carried out in them. To do so, in March 2016 the Interior Ministry issued an internal circular with the so-called Standard Operating Procedures⁶⁶. These procedures revolve around two crucial matters: taking fingerprints of everybody who arrives in Italy, and dividing up the people after the pre-identification process as economic migrants or international protection applicants.

The SOPs became a compulsory procedure for taking fingerprints in which, where necessary, proportionate force would be used with people in order to take their fingerprints to identify them⁶⁷. Although Italian legislation provides for the need to take the fingerprints of all people who disembark on their shores without a valid document or ticket for their journey, it does not stipulate the use of force to carry out the identification⁶⁸ as laid down by the SOPs. The problem in applying the SOPs is that they do not have legal scope⁶⁹ since they are an internal circular of guidelines⁷⁰. This makes it difficult for the identified people to officially report breaches of rights, placing them in a clearly defenceless position.

This situation is particularly worrying when one takes into account that, as Amnesty International has indicated, there have been documented cases of excessive use of force, including aggression against people who have refused to have their fingerprints taken, using electric batons⁷¹.

By recurring in some cases to disproportionate use of force and breach of rights, Italy has achieved what has been defined as one of the great successes of the European Agenda on Migration: to increase the number of people who have been identified after arrival, up from 36% to 87% between 2015 and 2016⁷².

The following graph shows that particularly in 2015 and 2016 there was an increase in the number of international protection applications, from 59,165⁷³ applications in 2015 to 123,370⁷⁴ in 2016 (when they rose 47%⁷⁵ to 123,370 international protection applications⁷⁶ from people mainly from Nigeria⁷⁷, Pakistan, Senegal and Ivory Coast⁷⁸).

65 ASGI: Il DL 13/2017: Le principali ragioni di illegittimità.

See: https://www.asgi.it/wp-content/uploads/2017/03/2017_3_17_ASGI_DL_13_17_analisi.pdf

66 For more information, see the entire text of the SOPs at this link: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/hotspots_sops_-_english_version.pdf

67 For more information, see Interior Ministry, Standard Operating Procedures applicable to Italian hotspots, at: <http://bit.ly/2kt9JBX>.

68 The use of force in Italian legislation is limited to taking saliva and hair samples when the person is being investigated for an alleged crime as stipulated in Article 349, 3 bis of the Italian Criminal Procedure Act. For more information, see the following report by ASGI: “L’identificazione dei cittadini stranieri da parte delle forze di polizia e il divieto dell’uso della forza per i rilievi foto-dattiloscopici”, at: <http://www.asgi.it/wp-content/uploads/2014/12/IDENTIFICAZIONE.-OBBLIGHI-E-FACOLTA2.pdf>

69 “If a person refuses to have their fingerprints taken, the authorities must inform the person via our cultural mediator in order to convince them to have their fingerprints taken. If necessary, the use of force proportionate to overcoming the objection, with full respect for the physical integrity and dignity of the person, is appropriate.” Circular from the Interior Ministry from 25th September. SOP.

See: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/hotspots_sops_-_english_version.pdf

70 For more information, see the report by OXFAM Italia: “Hotspot, Il diritto negato. Un sistema privo di cornice giuridica sta minacciando i diritti dei migranti che arrivano sulle coste italiane. Le richieste di Oxfam”, at: https://www.oxfamitalia.org/wp-content/uploads/2016/05/Rapporto_Hotspots_Il-diritto-negato_Oxfam_19mag16.pdf

71 Amnesty International: “Hotspot Italy: How EU’s Flagship approach leads to violations of refugees’ and migrants’ rights” at: <https://www.amnesty.org/en/documents/eur30/5004/2016/en/>

72 For more information, see European Commission, State of Play of Implementation of the Priority Actions under the European Agenda on Migration, COM(2016) 85, 10 February 2016, 5. See: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/managing_the_refugee_crisis_state_of_play_20160210_en.pdf

73 Asylum Information Database. Country Report: Italy 2016. See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

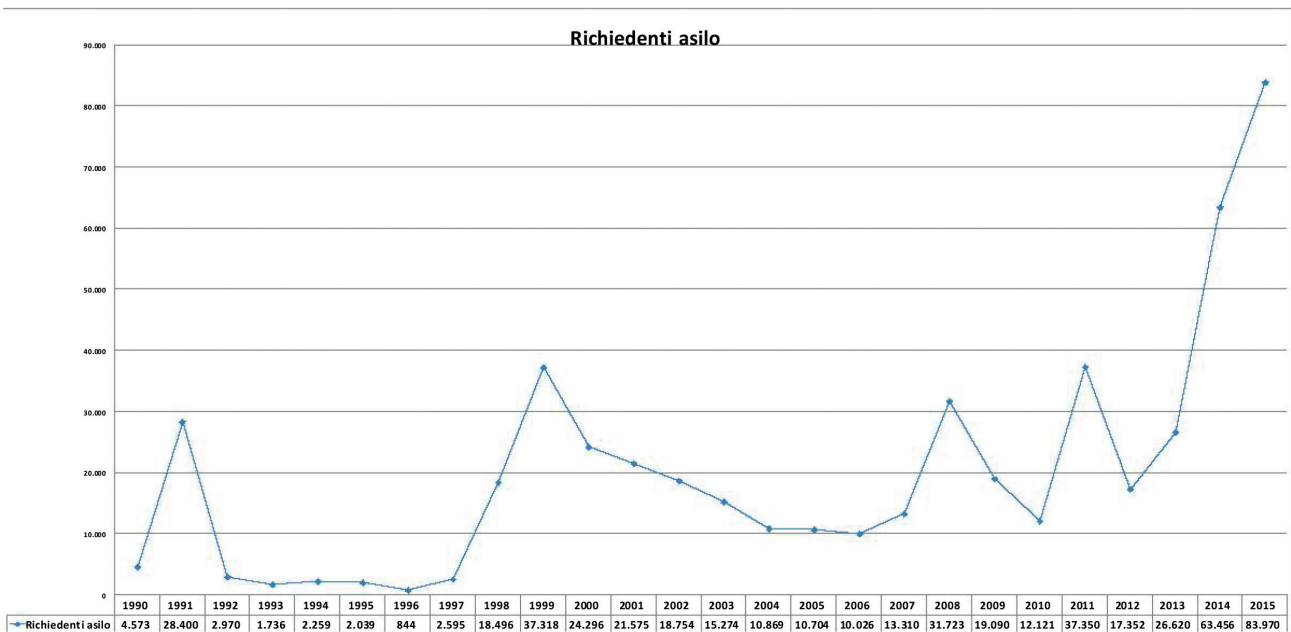
74 *Idem*

75 About 150,000 of the people applying for international protection were men, compared to 18,594 women. Most of them came from Nigeria and 11,656 were minors.

76 Asylum Information Database. Country Report, Italy. See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

77 Approximately 27,000.

78 European Commission, “Background information for the LIBE Delegation on Migration and Asylum in Italy-April 2017”, at: [http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_IDA\(2017\)583136](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_IDA(2017)583136)



Source: Italian Interior Ministry⁷⁹: Evolution of international protection applications (2000-2015)

Richieste di asilo (persone)	
Anni	Richiedenti asilo
1990	4.573
1991	28.400
1992	2.970
1993	1.736
1994	2.259
1995	2.039
1996	844
1997	2.595
1998	18.496
1999	37.318
2000	24.296
2001	21.575
2002	18.754
2003	15.274
2004	10.869
2005	10.704
2006	10.026
2007	13.310
2008	31.723
2009	19.090
2010	12.121
2011	37.350
2012	17.352
2013	26.620
2014	63.456
2015	83.970
Totale	517.720

Fonte S.I. Vestanet C3

Although in recent years there had been a rise in the number of landings in Italy, the number of international protection applications had not increased proportionally. The explanation for the rise in asylum applications in Italy over the last year is given by the implementation of the new identification parameters in the hotspots, using force. The people who arrive know that on being identified they will inevitably be bound to Italy. The rise in applications is thus directly related to the identification process and the inclusion of the information in the EURODAC databases⁸⁰, which will determine if Italy is the first European country of arrival for people and therefore the country responsible for granting the international protection application. This has led to many of those who wish to continue their journey to other European countries deciding to apply for international protection in Italy instead of continuing their journey in search of protection. The asylum applicants know that on being identified in EURODAC there is a risk of being returned to Italy if they apply for asylum in other European countries, on application of the Dublin Convention⁸¹.

With these strategies, the European migration policies are clearly attempting to tighten the EU's external borders and also to create internal walls by applying the Dublin Regulation, which continues to mean that the countries making up the EU's external borders take on a disproportionate number of asylum applications while the people arriving in these countries have no other option but to apply for protection within them.

⁷⁹ Interior Ministry. "Quaderni statistici per gli anni 2000-2015", page 28.

⁸⁰ For more information on EURODAC, see the following link: https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/identification-of-applicants_en

⁸¹ See Dublin III regulations at this link from the European Commission: https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/examination-of-applicants_en

3.2. The asylum procedure in Italy and changes in legislation

The European Agenda on Migration has had a significant effect on asylum legislation in Italy, as well as in Greece. The organisations that work with the refugee population in Italy have been demanding reform for the Italian asylum law for years to ensure refugees' rights are defended. However, the Italian state did not begin to change it until 2017, when it materialised in Decree Law 13/2017, more commonly known as the Minniti Decree⁸² (published on 17 April 2017)⁸³, which far from basing its reform on guaranteeing the rights of asylum applicants and refugees, concentrates on adapting the restrictive measures as regards access to the right to asylum indicated by the EU. As a result, some organisations have denounced that Decree Law 13/2017 is aimed at deporting people who arrive in Italy without taking into account their fundamental rights or precarious conditions.⁸⁴

It should be noted that the Minniti Decree's rules are not planned to be applied until 180 days after it comes into force, so that at the moment no analysis can be made of it in practice.

The diagram below shows how the asylum process works in Italy.

Diagram of the asylum procedure in Italy

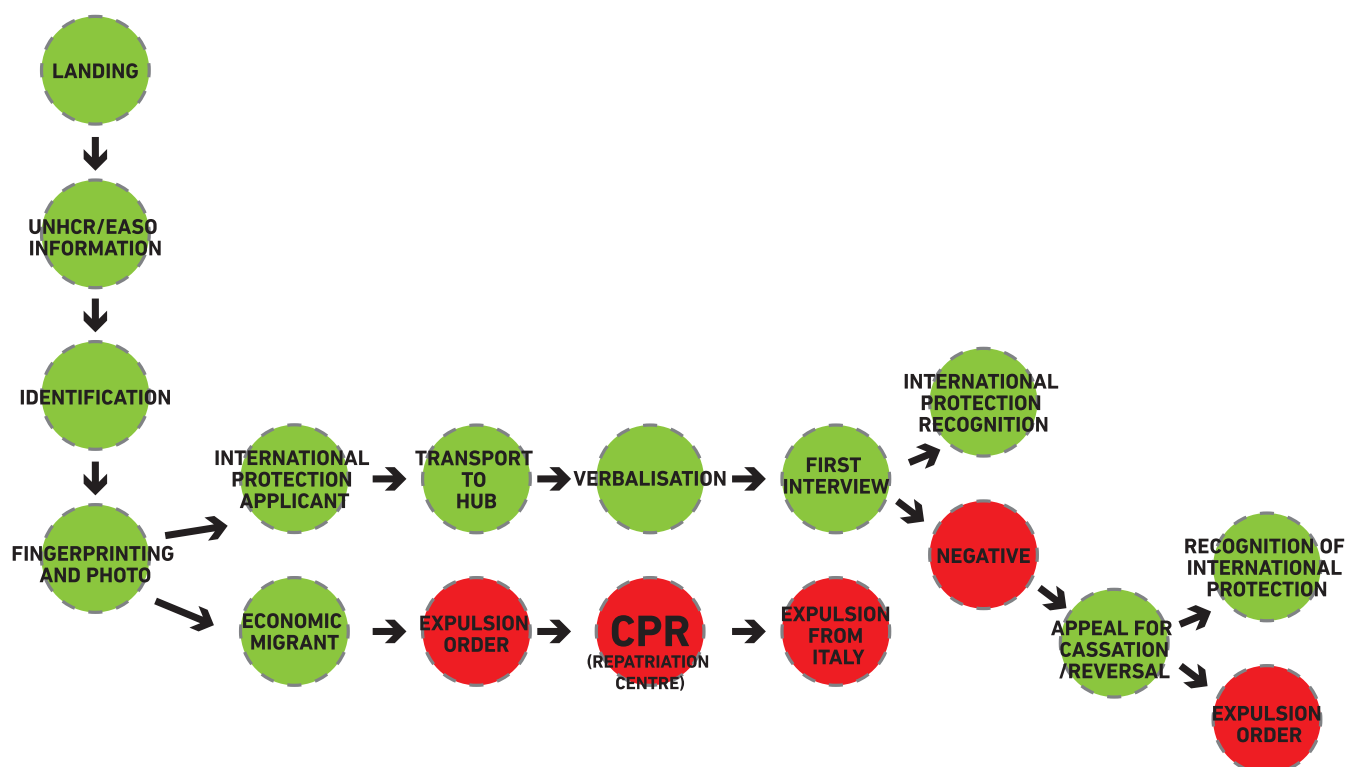


Diagram by the authors

⁸² Marco Minniti is currently the Italian Interior Minister.

⁸³ The entire text of the law can be seen in the following link: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13!vig=>

⁸⁴ Page 8, ASGI, "Il D.L. 13/2017: le principali ragioni di illegittimità".

See: https://www.asgi.it/wp-content/uploads/2017/03/2017_ASGI_d113-17-analisi.pdf

Disembarking in the hotspots

Craft that have been rescued on the high seas are guided to the ports of southern Italy. Most of the arrivals are currently dealt with via hotspots, where fingerprints and photos are taken of those who have disembarked, identifying and differentiating between international protection applicants and those considered economic migrants according to the practices established in the roadmap and the SOPs laid down by the Italian Interior Ministry. Sometimes disembarking takes place gradually and other times it is done at once, depending on the number of people who have to disembark. This means that after being rescued and after the voyage on the high seas, sometimes people spend hours on the craft before being identified⁸⁵.

When a person arrives on land and disembarks in a port, UNHCR gives them an information sheet about international protection so that they are aware of the possibility of applying for protection in the country. EASO also gives them information about the possibility of entering relocation programmes⁸⁶. Subsequently, the state of health in which people have arrived is assessed. This procedure is performed by a medical team from the Red Cross or the Italian NGO Emergency, who attend each person who disembarks for a few minutes⁸⁷, evaluate their general state of health and refer those who need specialised assistance to hospitals⁸⁸.

Once the medical examination has been carried out, the people are identified⁸⁹ via an interview that sometimes lasts a few minutes⁹⁰ by the Italian police, who with the support of FRONTEX and together with cultural mediators answerable to the Italian state⁹¹ fill-in the *foglio-notizie*⁹², a form that includes several general questions with a manipulative strategy, among which they are asked if they wish to apply for international protection in the country and if they wish to work. Many organisations⁹³ denounce the way the questions are written. They can clearly lead to confusion, given that if the person replies that they wish to work in Italy they will be automatically considered an economic migrant, so the person will be excluded from the international protection procedure.

Furthermore, although both UNHCR and EASO are present, giving information regarding international protection, the NGOs have pointed out that most of the people are not in a suitable state to fill in the forms.

The complaints reported by the organisations are based on the fact that the identification procedure is carried out hours after the people have been rescued at sea, so they are still in a state of shock given their experience in Libya and the arduous journey. There is no lawyer present to guarantee the identification is carried out in ideal conditions.

Given these facts, the organisations warn that for the people arriving it is very difficult to understand this process, and more so taking into account that the cultural mediators in the hotspots only speak some languages.⁹⁴ Once the interview has been carried out and the *foglio-notizie* filled in, the Italian scientific police carry out the *fotosegnalamento*⁹⁵: taking fingerprints and a photograph that will both be included in the EURODAC database.

85 The number of people from each agency and NGO in the hotspots varies according to the number of people who have disembarked. Information obtained by CEAR during interviews on the ground.

86 *Idem*

87 *Idem*

88 *Idem*

89 AIDA, Country Report: Italy. See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

90 For more information, see following report by OXFAM Italia: "Hotspot, Il diritto negato. Un sistema privo di cornice giuridica sta minacciando i diritti dei migranti che arrivano sulle coste italiane. Le richieste di Oxfam" at https://www.oxfamitalia.org/wp-content/uploads/2016/05/Rapporto_Hotspots_Il-diritto-negato_Oxfam_19mag16.pdf

91 For more information, see the Standard Operating Procedures that lay down Frontex's functions in the hotspots in Italy, via the following link:

http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/hotspots_sops_-_english_version.pdf

92 An example of the *foglio-notizie* can be seen on page 20 of the OXFAM Italia report: "Hotspot, Il diritto negato. Un sistema privo di cornice giuridica sta minacciando i diritti dei migranti che arrivano sulle coste italiane. Le richieste di Oxfam".

93 Information obtained by the CEAR team during interviews on the ground.

94 For more information, see Senate, Special Commission for the protection and promotion of human rights; Report on identification and expulsion centres in Italy.

95 Term used in Italian to refer to the authorities taking fingerprints and photos for identification purposes.

In addition to ensuring that people who arrive without a ticket or document for their journey to Italy are identified, the fotosegnalamento determines if the Italian state is competent or not to study the international protection application presented, detecting whether the person has passed through another EU country before.

After the fingerprinting and identification, during which an interview has been held about the reasons for which the person has decided to travel to Italy and their intention or not to apply for international protection, a decision is then taken as to whether the person is potentially an international protection applicant or if they must be considered an economic migrant. The organisations express their concern about the fact that the classification of economic migrants or international protection applicants is often carried out simply based on the question of nationality. For example, nationals from Nigeria, Gambia, Senegal, Algeria and Tunisia are usually classified as economic immigrants, while those from Syria, Iraq and Eritrea are considered people in need of international protection.⁹⁶

Based on this decision, the people are transported from hotspots to the regional hubs⁹⁷, from where they are sent all over Italy or else notified of the order for rejection or expulsion from Italy. If there are no vacancies, they are sent to the permanent repatriations centres (CPR in Italian), where they are deprived of freedom, similar to the Spanish CIEs, where there are fewer guarantees when making an international protection application.⁹⁸

The beginning of the international protection application procedure

In Italy, the international protection access procedure is regulated by Legislative Decree 25/2008⁹⁹, although Decree Law 13/2017¹⁰⁰ (otherwise known as the Minniti Decree), changes some central aspects of the procedure. The international protection application procedure begins with the so-called 'verbalisation'¹⁰¹, which is a formal registration of the international protection application, which must necessarily be carried out in a police station¹⁰². The application is officially registered on an order form called C3. This form is filled in with basic information concerning the life history of the person in question, their journey and the reasons that have led them to leave their country of origin.

The application is sent to the Territorial Commissions and Sub-commissions¹⁰³, which are the bodies responsible for deciding on international protection requests. There are currently 20 Territorial Commissions distributed around Italy, which can be extended up to 40 if there is a greater number of arrivals. The Territorial Commissions are made up of four members: two representatives from the Interior Ministry, one of whom is a police officer¹⁰⁴, a representative from the town council, province or region, and a representative from UNHCR. All the members of the commission must be knowledgeable about migration, asylum and human rights¹⁰⁵. However, according to some organisations the requirements as regards knowledge about international protection are not always met by the members of the Territorial Commissions¹⁰⁶.

⁹⁶ Asylum Information Database. Country Report: Italy. Pages 20 and 21.

See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

⁹⁷ These places are first reception centres answerable to the state, which may be managed by local authorities or public or private bodies.

⁹⁸ These CPRs were based on the reform to Decree Law 13/2017, which transformed the Identification and Expulsion centres (CIE in Spanish).

⁹⁹ The entire text of the law can be seen in the following link: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2008-01-28;25!vig=>

¹⁰⁰ The entire text of the law can be seen in the following link: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13!vig=>

¹⁰¹ Verbalizzazione in Italian.

¹⁰² Questura in Italian.

¹⁰³ For more information on the Territorial Commissions in Italy, see the following link: <http://www.interno.gov.it/it/temi/immigrazione-e-asilo/protezione-internazionale/commissioni-territoriali-riconoscimento-protezione-internazionale>

¹⁰⁴ Article 4(3) of Decree Law 25/2008

¹⁰⁵ For more information on the composition of the territorial commissions, see this link: <http://www.interno.gov.it/it/ministero/dipartimenti/dipartimento-liberta-civili-e-immigrazione/commissione-nazionale-diritto-asilo>

¹⁰⁶ Asylum Information Database: "Country Report Italy".

See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

A third entity in addition to the police and the Territorial Commissions working in the asylum procedure is the National Commission for the Right to Asylum¹⁰⁷ (CNDA with its Italian initials), which coordinates and guides the activity of the Territorial Commissions and gathers information about the country of origin. It is also responsible for withdrawing and ceasing international protection¹⁰⁸.

The asylum interview

After receiving the formal application for asylum, the Territorial Commission has 30 days as of receipt of the application¹⁰⁹ to give a date for the first interview regarding international protection. However, according to the organisation ASGI¹¹⁰, as a result of the great many international protection applications received in recent times it has been seen that the time limit of 30 days to carry out the first interview has not been observed in practice. The international protection applicants do not know the reasons for the delay in their procedure.

Once they have been notified of the date for carrying out the personal interview, it is then held by all of the members of the Territorial Commission. However, based on a reform established in August 2014¹¹¹, there is the possibility that only one member of the Territorial Commission may carry out the interview and present the case to the other members of the Territorial Commission, though the legislation does not specify which member of the four who make up the commission is to carry out the interview.

Following the reform of Decree Law 13/2017, this interview may be recorded. The interview is carried out in a language known by the international protection applicant via an interpreter who is answerable directly to the Italian state¹¹². On the other hand, the Italian state does not guarantee free legal assistance from a court-appointed lawyer during the first instance of the international protection application procedure, but it does so in the second instance¹¹³. Thus, if the international protection applicant wishes a lawyer to be present in the first instance, they must pay for this with their own economic means. However, in practice many international protection applicants benefit from legal advisers or lawyers from NGOs in their personal interviews¹¹⁴.

Decision and notifications

Once the interview has been held, the Territorial Commission must take a decision within three working days at most¹¹⁵, and then notify the international protection applicant of the decision. They must give priority to applications from people considered to be in a vulnerable situation, people under administrative detention, or those whose international protection application clearly has grounds. However, some organisations have denounced that generally priority is not given to these cases¹¹⁶.

107 For more information on the National Commission for the Right of Asylum, see: <http://www.interno.gov.it/ministero/dipartimenti/dipartimento-libertacivili-e-limmigrazione/commissione-nazionale-diritto-asilo>

108 Asylum Information Database. Country Report: Italy. See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

109 The legislation does not stipulate if these are calendar or working days. Page 25 of the Asylum Information Database, Country Report: Italy. See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

110 For more information on the Association for Legal Studies on Immigration (ASGI), see: <http://www.asgi.it/>.

111 Article 12(1) LD 25/2008, modified by Article 5(1)(b)(2) of Decree Law 119/2014.

112 The Italian Translators and Interpreters Consortium (ITC) has drawn up a code of conduct in order to ensure the conditions in which the interpreting for the international protection interviews must be carried out. Page 29 of the Asylum Information Database, Country Report: Italy.

See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

113 For more information on access to legal consultancy in the second instance, see the heading "Appeal" in this report. In the first instance, the different NGOs present in Italian territory are in the first and second reception centres in order to give legal advice to people applying for international protection. This information has been obtained via interviews carried out with different NGOs during the mission on the ground. The following link also gives some of the organisations that provide free legal advice for international protection applicants: <http://www.refugeelegalaidinformation.org/italy-pro-bono-directory>. Nevertheless, some police stations in which the international protection application is being formalised using the C3 form have denied the international protection applicants access to lawyers, for example in Milan. Page 24 of the Asylum Information Database, Country Report: Italy. See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

114 *Idem*

115 Page 25 of the Asylum Information Database's Country Report: Italy.

See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

116 Asylum Information Database, Country Report: Italy. See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

In practice the period of three working days that the Territorial Commission has to decide and notify of the decision on asylum following the international protection interview is seldom met. In reality, the procedure usually lasts several months depending on the Territorial Commission that takes the decision. For example, in the case of the Territorial Commission of Rome, the first instance procedure usually lasts from 6 to 12 months, though the average time for the decision can be between two and nine months¹¹⁷. Furthermore, under the aegis of the Territorial Commission Law, this period of time can only be increased with justifiable reasons and up to a total of 18 months¹¹⁸.

Based on the reform to the legislation via Legislative Decree 13/2017, notification must be made by the reception centres' directors and by the CPRs¹¹⁹ of the decisions by the Territorial Commissions during the first instance after carrying out the international protection interview. In its decisions, The Territorial Commissions can decide to grant refugee status, subsidiary protection, a humanitarian visa or reject the application¹²⁰.

Appeal

If the decision about the person's international protection application is negative, Italian legislation allows for the possibility of presenting an appeal via ordinary law within 30 calendar days as of notification of the decision. It must be presented by a lawyer¹²¹. In reality, it can be seen that the short space of time to be able to lodge an appeal against a negative decision as regards an international protection application means that there is often no time to request a court-appointed lawyer and to prepare the hearing suitably, taking into account that sometimes court-appointed lawyers do not have in-depth knowledge of the legislation regarding international protection and that there are language barriers between them and the international protection applicants¹²².

Nevertheless, this procedure will soon change due to the legislative reform via Decree Law 13/2017, which provides for the creation of 14 sections specialised in international protection matters.

Apart from creating these sections, as regards the procedure it is expected that the international protection applicant should only go to make statements before the judge when the latter believes this to be appropriate if, after seeing the recording of the interview, he/she believes there are elements lacking in order to be able take a decision regarding the international protection application¹²³.

Until 2017 it was possible to lodge an appeal against the decision in the first instance. This possibility has been removed with Decree Law 13/2017, giving rise to a single appeal that may be presented to the Court of Cassation (Supreme Court). This would necessarily involve an increase in the appeals presented to the Court of Cassation, given that since it is impossible for international protection applicants who have been given a negative decision on their procedure for international protection application to lodge an appeal in the first instance, they will then defend their rights in the Court of Cassation. It should also be taken into account that the Court of Cassation only decides upon breaches of law, without going into details to evaluate the merits of the international protection application¹²⁴.

117 Information obtained via interviews carried out during the CEAR team's visit on the ground.

118 *Idem*

119 European Commission, "Background information for the LIBE Delegation on Migration and Asylum in Italy-April 2017", at: [http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_IDA\(2017\)583136](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_IDA(2017)583136)

120 European Commission, "Background information for the LIBE Delegation on Migration and Asylum in Italy-April 2017", at: [http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_IDA\(2017\)583136](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_IDA(2017)583136)

121 Article 35 of Decree Law 25/2008. Information at: Asylum Information Database, Country Report: Italy. See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

122 Asylum Information Database, Country Report: Italy, at: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

123 ASGI: Il DL 13/2017, Le principali ragioni di illegittimità.

See: https://www.asgi.it/wp-content/uploads/2017/03/2017_3_17_ASGI_DL_13_17_analisi.pdf

124 European Commission, "Background information for the LIBE Delegation on Migration and Asylum in Italy-April 2017", at: [http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_IDA\(2017\)583136](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_IDA(2017)583136)

3.3. The humanitarian corridor

Over the last two years, an alternative way of arriving in Italy safely and legally has been developed, known as the humanitarian corridor. Italy is one of the few countries in the EU with a specific residence permit for humanitarian reasons, which is regulated by Article 20 of Legislative Decree 286/1998¹²⁵. This legal entity has been used in Italy to foster access to international protection for people in third countries by means of a visa for humanitarian reasons¹²⁶. This is a pilot project in the EU that intends to prevent deaths in the Mediterranean and human trafficking by granting people in special situations of vulnerability a legal residence in Italy as well as the possibility of applying for international protection after arrival¹²⁷.

Three organisations from civil society (the San Egidio Catholic Community¹²⁸, the Federation of Evangelical Churches¹²⁹ and the Valdese Church¹³⁰) began this project with backing from the Italian Interior and Foreign Ministries. The process begins on the ground by identifying people who may potentially benefit from the programme through local NGOs, churches and associations. After identifying the people, the San Egidio Catholic Community, The Federation of Evangelical Churches and the Valdese Church inform the Interior Ministry about the people they propose as beneficiaries of the humanitarian visas. The Italian Interior Ministry then contacts the Foreign Ministry, which in turn informs the Italian consulates in the countries where the people are located. The Italian consulates in the countries of residence are responsible for granting visas with Limited Territorial Validity in keeping with Article 25 of the Visa Regulations¹³¹, which provides for the possibility of issuing visas for humanitarian reasons. When the process is complete, the people can travel to Italy and apply for international protection. The organisations involved in the project pay for the costs of the person's journey, legal assistance to present the international protection application and their subsequent integration in Italy¹³².

Out of the 1,000 people the project has agreed to take in, 850 have already arrived in Italy from Lebanon (most of them originally come from Syria). The intention is to continue with the humanitarian corridor project and take in people from Morocco (where most of them originally come from Sub-Saharan Africa and Sudan)¹³³.

3.4. The reception system in Italy

The European Agenda on Migration has had an impact on the Italian reception system with the implementation of hotspots and changes in the asylum procedure. People who are identified as international protection applicants after arrival go on to form part of the official reception system, which in Italy is managed by multiple parties, including the Italian state itself, regional bodies, town councils, NGOs, associations and cooperatives. Legislative Decree 142/2015¹³⁴ regulates the primary and secondary reception centres in compliance with European directives. The centres are distributed around Italy in order to spread the responsibility for receiving the refugee population. Italy currently has 1,600 places for first reception in hotspots, while in the regional

125 The entire text of this decree law can be seen at: <http://www.camera.it/parlam/leggi/deleghe/98286dl.htm>

126 El diario: "The Italian human corridor; a hope for those seeking refuge in Europe" ("El corredor humanitario italiano, una esperanza para quienes buscan refugio en Europa"). See: http://www.eldiario.es/desalambre/corredor-humanitario-italiano-esperanza-Europa_0_650235894.html

127 Federation of Evangelical Churches, "Come funzionano i corridoi umanitari? Dall'Italia un progetto ecumenico segnale di speranza per l'Europa", at: http://www.fedevangelica.it/images/MH/Scheda_Corridoi_Umanitari_-_16_giugno_2016.pdf

128 For more information on the San Egidio Catholic Community, see: <http://www.santegidio.org/pagelD/11676/Corridoi-umanitari.html>

129 For more information on the Federation of Evangelical Churches, see <http://www.fedevangelica.it/index.php?lang=it>

130 For more information on the Valdese Church, see <https://www.chiesavaldese.org>

131 The complete text of the community regulation on visas 810/2009 can be seen here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:243:0001:0058:en:PDF>

132 For more information on how the Humanitarian Corridor works, see the San Egidio Community website, "Partono i corridoi umanitari. Dall'Italia un segnale di speranza per l'Europa" at: <http://www.santegidio.org/pagelD/1165/langID/it/itemID/756/SCHEDA-Cosa-sono-i-corridoi-umanitari.html>

133 Evangelical Federation of Churches, "Come funzionano i corridoi umanitari? Dall'Italia un progetto ecumenico segnale di speranza per l'Europa", at: http://www.fedevangelica.it/images/MH/Scheda_Corridoi_Umanitari_-_16_giugno_2016.pdf

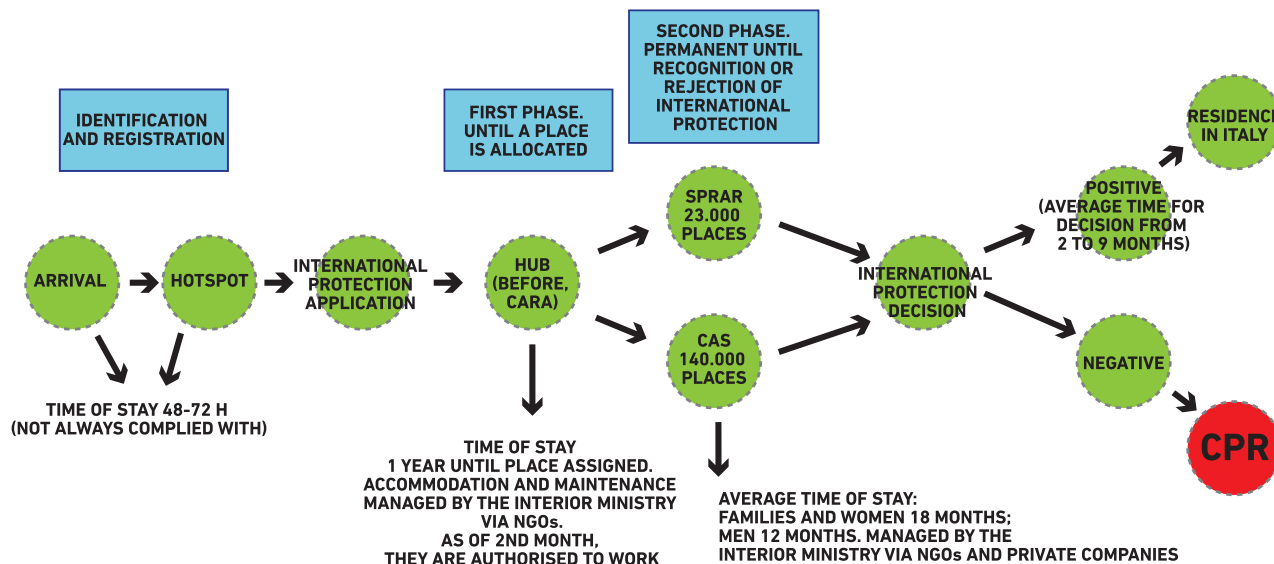
134 The entire text of the law can be seen here: <http://www.gazzettaufficiale.it/eli/id/2015/09/15/15G00158/sg>

hubs there are 14,388 people who have been received and accommodated¹³⁵. The second reception phase has 163,000 places (23,802 in the Ordinary Reception Centres (SPRAR in Italian) and 136,978 in the Special Centres (CAS in Italian))¹³⁶.

If the person applying for international protection has disembarked via one of the hotspots, they will be accommodated in the hotspots themselves, understood as “very first” accommodation in which humanitarian assistance is given to the people who have just landed and who have not yet formalised their international protection application, providing services such as water, food, medicine and a place to rest. After staying in the hotspots, the people are transported to the regional hubs (hitherto known as first reception centres¹³⁷ and CARAs¹³⁸).

The second reception is carried out via the protection system for asylum applicants and refugees (SPRAR¹³⁹ in Italian). Access to the secondary reception system is restricted to people who have applied for international protection. It is intended to be the starting point for integrating the person into the country by learning the language, job-seeking and social inclusion. Nevertheless, faced with the lack of places in the SPRAR, the Interior Ministry opened special reception centres (CAS¹⁴⁰ in Italian) by means of Legislative Decree 14/2015. According to data from the Interior Ministry, at the end of January 2017, there were 362 people accommodated in the hotspots, 14,388 in the regional hubs, 23,822 in the SPRARs and 136,978 in the CAS¹⁴¹. The diagram below shows how the reception system in Italy works, together with the length of time that international protection applicants may spend within it.

Diagram of the reception procedure in Italy



By the authors¹⁴²

135 The data are from January 2017 because the Italian Interior Ministry has withdrawn the pages with the data on reception broken down into types of centres. Information on the withdrawal of data retroactively at: “Cruscotto statistico giornaliero del Ministero dell’ interno dell’ interno: la scomparsa dei dati sull’ accoglienza” <http://www.piuculture.it/2017/05/cruscotto-statistico-ministero-interno-interno-accoglienza/>

136 Camera dei Deputati. Commissione Parlamentare d’ inchiesta sul sistema d’ accoglienza, di identificazione e di espulsione nonché sulle condizioni di trattamento dei migranti sulle risorse pubbliche impagnate. “Dossier a cura degli ispettori della Guardia di Finanza addetti all’ archivio della commissione” Presenze regionali e distribuzione. Page 23. And the Italian Interior Ministry at: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_31_marzo_2017.pdf

137 Regulated in Article 9 of Legislative Decree 142/2015.

138 CARA: Reception centre for asylum applicants (Centri di Accoglienza per i Richiedenti Asilo in Italian).

139 Sistema di Protezione per Richiedenti Asilo e Rifugiati, regulated by Article 14 of Legislative Decree 14/2015.

140 Centri di Accoglienza Straordinaria. Regulated by Article 11 of Legislative Decree 142/2015.

141 Camera dei Deputati. Commissione Parlamentare d’ inchiesta sul sistema d’ accoglienza, di identificazione e di espulsione nonché sulle condizioni di trattamento dei migranti sulle risorse pubbliche impagnate. “Dossier a cura degli ispettori della Guardia di Finanza addetti all’ archivio della commissione”. Presenze regionali e distribuzione. Page 23.

142 The CAS are funded by the Interior Ministry and managed by the municipality via NGOs or private entities.

Reception in the hotspots

Apart from the hotspots' purpose of identification, they have also been planned as the very first centres for accommodation because they are transit centres, due partly to their very structure, in order to transport people who have just arrived within the maximum limit of 48 to 72 hours according to EURODAC Regulation 604/2013¹⁴³, which in practice is not met. For example, the average waiting time in the Trapani hotspot is 5 to 6 days¹⁴⁴.

The problems denounced by many organisations include, among others, a lack of water and space. These problems are aggravated because sometimes there are more people received than places available in these centres, which are mostly army infrastructures that were used as barracks and suchlike. Despite the complaints about the conditions and lack of capacity, there are no plans to open new centres to alleviate the situation, nor improvements in the existing conditions¹⁴⁵.

Regional Hubs

After the very first stage in the hotspots, the people are transported to the regional hubs, which are distributed all over Italy and in which in January 2017¹⁴⁶ there were 14,388 people accommodated¹⁴⁷. These are centres answerable to the state, which may be managed by local authorities or public or private bodies. In these centres, the international protection applicants identified can formalise their international protection application. Their medical state is also assessed and they receive authorisation to work as of the second month after their international protection application.

Although these centres are planned as first reception centres, Legislative Decree 142/2015 does not stipulate a maximum period of time for which an international protection applicant can stay there. The legislation only states that international protection applicants shall stay in the first reception centres for "the time necessary" for their subsequent transport to second reception centres (SPRAR or CAS) once they have been assigned a place. This has meant that sometimes there have been people who have had to stay for up to a year in the hubs. This uncertainty about the time leads to great problems if we take into account that in the hubs there are often more people than places available and they are located in areas almost isolated from towns¹⁴⁸. Complaints have been made¹⁴⁹ that the accommodation conditions in these centres are inadequate, that the areas for assistance are limited, and that there is a lack of legal assistance¹⁵⁰. Even so, the conditions vary greatly depending on the region, the centre and the management of it.

143 The entire text of EURODAC Regulation 604/2013 can be seen in the following link: <https://www.easo.europa.eu/sites/default/files/public/Reg-603-2013-Eurodac.pdf>

144 *Idem*

145 European Commission, "Background information for the LIBE Delegation on Migration and Asylum in Italy-April 2017", at: [http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_IDA\(2017\)583136](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_IDA(2017)583136)

146 The data are from January 2017 because the Italian Interior Ministry has withdrawn the pages with the data on reception broken down into types of centres. Information on the withdrawal of data retrospectively at: "Cruscotto statistico giornaliero del Ministero dell'interno dell'interno: la scomparsa dei dati sull'accoglienza", <http://www.piuiculture.it/2017/05/cruscotto-statistico-ministero-interno-accoglienza/>

147 Camera dei Deputati. Commissione Parlamentare d'inchiesta sul sistema d'accoglienza, di identificazione e di espulsione nonché sulle condizioni di trattamento dei migranti sulle risorse pubbliche impagnate. "Dossier a cura degli ispettori della Guardia di Finanza addetti all'archivio della commissione" Presenze regionali e distribuzione. Page 23.

148 One example is the hub of Mineo in Sicily, 50 km from the city, where there are 4,000 asylum applicants living without transport to the city centre and only one weekly bus to Catania from the hub. El Diario: "Isolated, with no money and nothing to do: life in the biggest refugee camp in Italy." ("Aislados, sin dinero y sin nada que hacer: la vida en el campo de refugiados más grande de Italia".)

See: http://www.eldiario.es/desalambre/refugiados-sicilia-aislados-campo_0_549795482.html. And in Giornale Radio Sociale: "A day in Mineo" ("Un Giorno a Mineo"), and: <http://www.giornaleradiosociale.it/editoriali/un-giorno-a-mineo/>

149 LasciateCIEntrare, "Accogliere la vera emergenza", at: <http://www.lasciatecientrare.it/j25/italia/news-italia/193-scaricabile-il-rapporto-di-lasciatecientrare-accogliere-la-vera-emergenza>

150 For complaints about the hubs, see for example Open Migration, "La (mala) accoglienza in Italia di Migranti e Rifugiati" at <http://openmigration.org/analisi/la-malaaccoglienza-di-migranti-e-rifugiati/> and Medici per i Diritti Umani: "Rapporto sulle Condizioni di accoglienza CARA Mineo" at http://www.mediciperidirittiumani.org/pdf/REPORT_ACCOGLIENZA_MINEO_Giugno_2015.pdf, as well as page 27 of the report "Reception conditions in Italy: Swiss Refugee Council" at <https://www.refugeecouncil.ch/assets/news/2016/161031-final-englisch-sfh-bericht-italien-aufnahmebedingungen.pdf> and page 73 of the Asylum Information Database's Country Report: Italy at http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

Second reception phase: SPRAR and CAS

After the people have been through the regional hubs, they are transported to secondary reception centres, SPRAR or CAS, where men can stay up to a maximum of 12 months, and women and families up to 18 months. It should be taken into account that not all international protection applicants have access to SPRARs or CAS. The SPRARs only accept people who do not have sufficient means of subsistence, giving priority to people with special needs.

The SPRARs are ordinary reception centres, installed in the territory by order of town councils, although they must be based on guidelines given by the Interior Ministry and financed by the latter. The SPRARs include cultural and linguistic mediators, language classes, school access for minors, legal advice, medical services and projects for people's social integration. However, faced with a lack of vacancies in the SPRARs, which currently hold 23,822 people¹⁵¹, the CAS were created with 140,000 places. These special emergency centres are implemented by the Interior Ministry (with no prior coordination with town councils) and managed by NGOs, associations and private companies. Of the international protection applicants in Italy, 80%¹⁵² are accommodated in these, whereas the ordinary SPRAR system takes in only 20% (approximately 23,822 places)¹⁵³. The CAS do not always have adequate reception conditions since they are located in military barracks, hostels, hotels and public buildings that are often not suited to the minimum conditions for reception. Although the SPRAR centres are established and sometimes managed in coordination with town councils¹⁵⁴, the CAS on the other hand are centres directly established by the Interior Ministry and managed by NGOs or private companies, which has sometimes caused problems with the locals who rejected the imposition of a special reception centre in their towns¹⁵⁵.

The lack of vacancies has meant the Italian government via the Interior Ministry has been obliged to foster projects to increase the number of centres and with them the vacancies to receive international protection applicants. Inexperienced private companies with exclusively economic motives have taken advantage of this fact, as have mafia organisations, leading to serious breaches of asylum applicants' rights in Italy¹⁵⁶. In fact, some sources point to infiltration by the Italian mafia, above all in the south, which has turned the reception of refugees into a business¹⁵⁷.

Repatriation centres (CPR)

The people identified in the hotspots as economic migrants, those whose asylum application has been rejected and those who commit a crime when in the reception system can be arrested and transported to the repatriation centres (CPR in Italian¹⁵⁸). The CPRs are defined as detention structures for foreigners with irregular status in Italy, in order to expel such people from the country. It is possible to apply for international protection within the CPRs, though the process is far more complicated, mainly due to the lack of access to legal advice. The international protection application procedure in the CPRs is established as an accelerated

151 Camera dei Deputati. Commissione Parlamentare d'inchiesta sul sistema d'accoglienza, di identificazione e di espulsione nonché sulle condizioni di trattamento dei migranti sulle risorse pubbliche impagnate. "Dossier a cura degli ispettori della Guardia di Finanza addetti all'archivio della commissione". Presenze regionali e distribuzione. Page 23.

152 Interior Ministry. See: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_28_febbraio_2017.pdf

153 Data from the SPRAR website at http://www.sprar.it/progetti-territoriali?sort_order=id+asc

154 Data from the SPRAR website, "Progetti territoriali". See: http://www.sprar.it/progettiterritoriali?sort_order=id+asc

155 The following link shows a news item about the townspeople's rejection of the creation of a CAS in an Italian town: http://www.ansa.it/emiliaromagna/notizie/2016/10/24/barricate-contro-profughi-nel-ferrarese_e3a5f4af-588f-4433-9e69-092f4295f559.html

156 For more information, see this news item: <http://www.20minutos.es/noticia/3037558/0/detenidos-saquear-centro-refugiados/>

157 L'Espresso: "Ndrangheta, arrestati i ras dell'accoglienza migranti".

See: <http://espresso.repubblica.it/attualita/2017/05/15/news/ndrangheta-arrestati-i-ras-dell'accoglienza-migranti-1.301446>

158 Previously known as CIE, regulated and controlled by the Law of 6th March called the Turco-Neopolitan Law, whose complete text can be seen at: <http://www.camera.it/parlam/leggi/980401.htm>

process in keeping with the provisions of Article 28 of Decree Law 25/2008¹⁵⁹, where the main difference is in the time limits stipulated. When somebody has applied for international protection, the documentation is sent to the police¹⁶⁰, who within seven days must send the application to the Territorial Commission, who in turn within 48 hours must carry out an interview regarding international protection¹⁶¹. In this case, a decision must be taken on the procedure within six months.

If the international protection application is rejected, the person has 15 days to present an appeal, which in any case does not have the effect of suspending the process¹⁶². The situation of appeals in the CPRs is particularly worrying, given that the short time to make the appeal makes it difficult to access a court-appointed lawyer with whom to prepare the hearing, as well as to access the courts given the remote geographical location of the CPRs¹⁶³.

Pressure from the EU as regards migration control over people not considered refugees has led the Italian government to take the decision to open up new repatriation centres¹⁶⁴ which private bodies are involved in managing¹⁶⁵. According to official declarations in February 2017 by the Interior Minister, Marco Minniti, the number of vacancies will be extended¹⁶⁶ from four CPR in the whole of Italy to twenty, adding 1,100¹⁶⁷ places to the current 688¹⁶⁸. Italian legislation thus reaffirms itself in its repressive point of view as regards people who remain in Italy with an irregular status by creating new repatriation centres¹⁶⁹, given that there is expected to be a rise in the number of people transported to the new CPRs, after which they will be expelled from the EU.

3.5. The failure of the relocation and resettlement model

Although the European Agenda on Migration stipulates the relocation and resettlement system as the way to alleviate the pressure from migration flows in Italy and Greece, the truth is that the system has failed terribly. To access the relocation procedure, the person must have applied for international protection in the country as well as being a national from a state whose asylum recognition ratio in the member states is 75% or above. According to the latest report from the European Commission in June 2017, only nationals from Eritrea, the Bahamas, Bahrain, Bhutan, Qatar, Syria, the UAE and Yemen have access to relocation programmes.

The process to access relocation from Italy is carried out mainly in the hotspots by the EASOs in collaboration with the Italian police unit responsible for fingerprinting and including these data in the EURODAC, and with the UNHCR team which is responsible for reporting. Thus, after arrival in Italy, people who have expressed their

159 Asylum Information Database, page 41: "Country Report:Italy".

See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

160 Questura in Italian.

161 Asylum Information Database, page 41: "Country Report:Italy".

See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

162 Asylum Information Database, page 41: "Country Report:Italy".

See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

163 Asylum Information Database, page 41: "Country Report:Italy".

See: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf

164 Il Corriere della Sera: "Ecco i nuovi centri per i rimpatri identificare gli equipaggi delle ONG", at: http://www.corriere.it/cronache/17_maggio_09/migranti-nuovi-centri-clandestini-identificare-equipaggi-ong-f21d0876-3422-11e7-8367-3ab733a34736.shtml

165 Internazionale, "Chi guadagna con i centri di detenzioni per i migranti in Europa", at: <https://www.internazionale.it/notizie/annalisa-camilli/2017/06/13/centri-detenzione-migranti-europa>

166 Decree Law 17 February 2017, no. 13: "Disposizioni vigenti per l' accelerazione dei procedimenti in materia di protezione internazionale, nonche' per il contrasto dell'immigrazione illegale".

See: <http://www.dottrinalavoro.it/wp-content/uploads/2017/02/13-2017-DL-stranieri.pdf>

167 Europolibera: "Immigrazione, tutti i dettagli del piano de Gentiloni e Minniti e un commento".

See: <https://associazioneeuropolibera.wordpress.com/2017/02/12/959-immigrazione-tutti-i-dettagli-del-tosto-piano-di-gentiloni-e-minniti/>

168 For more information, see the report from the Special Commission to protect and foster human rights, "Rapporto sui Centri di Identificazione ed Espulsione in Italia", at:

See: http://www.asylumineurope.org/sites/default/files/resources/cie_rapporto_aggiornato_2_gennaio_2017.pdf

169 Known in Italian as "Centro per il Rimpatrio" (CPR), literally "centres for repatriation". These are the old identification and expulsion centres (CIE).

intention to apply for international protection are transported to the regional hubs¹⁷⁰, of which four¹⁷¹ currently have specific EASO teams and cultural mediators whose intention is to facilitate the relocation process. The *matchmaking*¹⁷² is carried out by the experts from the EASO, who compare the profiles of all the people who are going to be relocated with the countries potentially receiving them. In principle, after holding the relevant interviews and having begun the matchmaking process for the international protection applicant, he/she may be transported to the reception country within a period of between two and three months.

In theory, this process should allow people to be relocated as soon as possible, but in Italy the relocations have been slowed up and the international protection applicants who wish to join the programme must wait at least two months before beginning their relocation process application¹⁷³. Although EASO is providing training in relocation for the Italian police, many police stations are unaware that the relocation programmes even exist. A recent study on the implementation of provisional measures in the area of international protection in Italy¹⁷⁴ makes it clear that in addition to a lack of information among civil servants in the Italian state, there is also clearly a lack of coordination among the different agencies responsible for carrying out the relocation. This often generates confusion and overlapping activities. The most worrying point is that the study stresses that the people who are going to be relocated often lack information about their relocation procedure. In fact, the organisation ASGI has observed that there are people who have been waiting a year to be relocated to other European countries, which sometimes leads to many deciding to abandon the process given the lack of guarantees of success, the uncertainty and lack of information about their situation.

The truth is that the intention put forward by the European Commission (to relocate 160,000 people, of whom 39,600 should be relocated from Italy and another 22,504 resettled¹⁷⁵), is far from being reached. To date, only 7,615 have been relocated from Italy¹⁷⁶, meaning 16% of the relocations to which the EU had agreed. On the other hand, a total of 16,419 people have been resettled¹⁷⁷, mainly from Jordan, Lebanon and Turkey¹⁷⁸ to the 21 member states (Germany, Austria, Belgium, Czech Republic, Denmark, Spain, Estonia, Finland, France, Ireland, Iceland, Italy, Latvia, Lichtenstein, Lithuania, Norway, the Netherlands, Portugal, the United Kingdom, Sweden and Switzerland). Sweden, the United Kingdom, Finland and the Netherlands, as well as the associated states Switzerland, Lichtenstein and Iceland, have already met their commitments. The relocation and resettlement programmes have not worked due to a clear lack of will from the EU member states to solve this situation.

5 keys to the failure to comply with the European agreements on refugees.

Why are they not arriving?

1. Member states' lack of **political will**.
2. **Lack of coordination** among the authorities involved.
3. Multiplication of bureaucratic and logistical **obstacles**.
4. Lack of **effective mechanisms to apply sanctions** to the states.
5. Stoppage in European institutions due to the rise of **anti-immigration parties**.

170 For more information on the SOPs in the hotspots in Italy, see:

http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/hotspots_sops_-_english_version.pdf

171 The EASO has teams operating in the hubs in Bari, Crotone, Villa Sikanian and Mineo, in the police stations in Rome, Milan, Turin and Monza, and in the Trapani hotspot.

172 Allocating people to countries.

173 For more information, see the report from the European Parliament's Policies Department concerning the implementation of the European Council's decisions regarding international protection for Italy and Greece, at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583132/IPOL_STU\(2017\)583132_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583132/IPOL_STU(2017)583132_EN.pdf)

174 *Idem*

175 European Commission, "13th report on resettlement and relocation", at: http://eur-lex.europa.eu/resource.html?uri=cellar:3688a7a5-50fe-11e7-a5ca-01aa75ed71a1.0019.02/DOC_1&format=PDF

176 European Commission, "State of Play. Relocation." at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_relocation_en.pdf

177 European Commission, "13th report on resettlement and relocation", at: http://eur-lex.europa.eu/resource.html?uri=cellar:3688a7a5-50fe-11e7-a5ca-01aa75ed71a1.0019.02/DOC_1&format=PDF

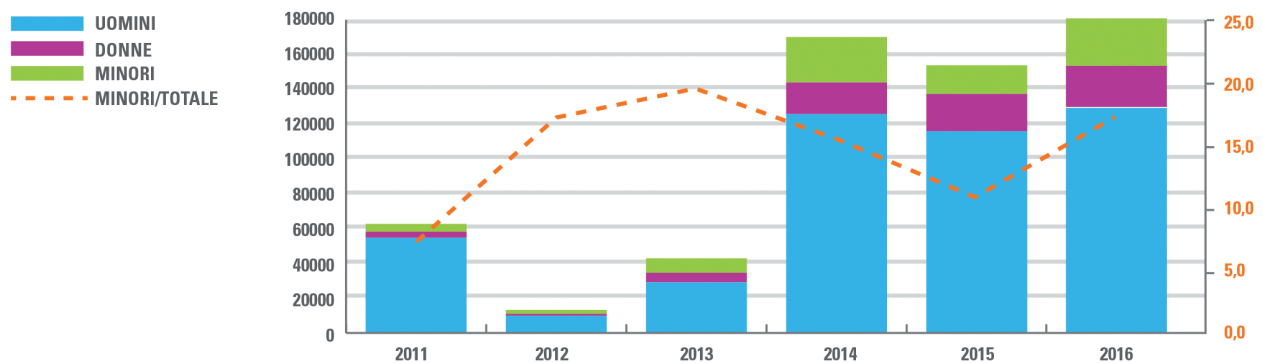
178 European Commission, "12th report from the European Commission on relocation and resettlement", at: http://europa.eu/rapid/press-release_IP-17-1302_en.htm

3.6. Unaccompanied children

The situation of unaccompanied children deserves special attention, when one considers that in 2016 the number arriving on Italian shores doubled (in 2015 there were 12,360 minors, whereas in 2016 there were 25,800¹⁷⁹). So far in 2017, according to UNHCR 11,406¹⁸⁰ unaccompanied minors have disembarked in Italy, meaning that 92% of the minors who reached Italy do so unaccompanied by an adult responsible for them¹⁸¹. International bodies such as UNICEF forecast a rise in the number of unaccompanied minors arriving in Italy. It should also be underlined that since 2012 the number of girls arriving in Italy has quadrupled (from 440 in 2012 to 1,832 in 2016¹⁸²), accounting for 7.6% of unaccompanied minors so far in 2017. These girls are at high risk of falling into human trafficking networks, especially for sexual exploitation, if they do not already form part of them. This happens above all with minors from Nigeria. Nearly all of these girls state they have been victims of gender violence¹⁸³.

GRAFICO 5

Uomini, donne e minorenni sbarcati in Italia. Valori assoluti e percentuale di minori sul totale. Anni 2011-2016.



Fonte: elaborazioni Irpps-CNR su dati Ministero dell'Interno (anni dal 2011 al 2015) e UNHCR (anno 2016).

Source: UNICEF¹⁸⁴

Most of these unaccompanied children come from Gambia, Somalia, Egypt, Eritrea, Afghanistan and Nigeria¹⁸⁵, their final destination being countries in northern Europe where they have families and/or social networks. Out of all the minors (accompanied or not), only 48.3% applied for asylum on arriving in Italy¹⁸⁶. Once they have applied for international protection, they access the reception system and go directly to the specific SPRAR for unaccompanied minors from the entrance points, provided there are places available. Different organisations have denounced that minors often spend more time with adults in the hotspots, sometimes waiting even months, due to the lack of places for unaccompanied minors in the SPRARs. Sometimes, due to the lack of places in the SPRARs, they must stay in the CAS centres¹⁸⁷, which are completely unsuitable

179 In other words, 75% of the minors who disembarked in Italy in 2016 were not accompanied by an adult responsible for them. UNICEF, "Minori stranieri non accompagnati, nel 2016 raddoppiano gli arrivi in Italia" at: <https://www.unicef.it/doc/7305/minori-stranieri-non-accompagnati-arrivi-raddoppiati-nel-2016.htm>

180 UNHCR: "Italy - Unaccompanied and Separated Children Dashboard", updated in June 2017.

See: <http://reliefweb.int/sites/reliefweb.int/files/resources/58490.pdf>

181 UNHCR: "REFUGEE AND MIGRANTS SEA ARRIVALS IN EUROPE"; monthly data update, December 2016.

See: <https://data2.unhcr.org/ar/documents/download/53447>

182 UNICEF, "Minori stranieri non accompagnati, nel 2016 raddoppiano gli arrivi in Italia", at: <https://www.unicef.it/doc/7305/minori-stranieri-non-accompagnati-arrivi-raddoppiati-nel-2016.htm>

183 Save the Children, "Minori stranieri non accompagnati tra 2012 e 2016", at: <https://www.savethechildren.it/press/minori-stranieri-non-accompagnati-tra-2012-e-2016-triplicato-il-numero-di-under-14-e>

184 UNICEF, "Sperduti. Storie di Minorenni arrivati soli in Italia", at: http://www.unicef.it/Allegati/Bambini_Sperduti.pdf

185 *Idem*

186 *Idem*

187 European Parliament, "Background Information for the LIBE Delegation on Migration and Asylum in Italy-April 2017", at: <http://www.europeanmigrationlaw.eu/documents/Background%20Information-Italy.pdf>

for minors, where they live alongside adults in huge centres lacking specialised professionals, exposed to greater risks and lack of protection.

After arrival in Italy, the minors often appear lost and listless as result of the endless waits caused by bureaucracy, suffering from uncertainty and the bad conditions¹⁸⁸ in the centres. All of this drives them to leave the reception centres, meaning they leave the protection system. This is one of the greatest difficulties in the procedures for these minors, since they become exposed to vulnerable situations and exploitation¹⁸⁹. Since the borders in northern Italy were closed, the number of minors outside the protection system has increased¹⁹⁰. They are now living on the streets. One example of this can be seen in the informal camp where about 60 unaccompanied minors have settled in the bus park of Rome's Tiburtina station because they are outside the protection system. These minors live in tents with the support of volunteers¹⁹¹ in completely precarious conditions¹⁹².

The Zampa Law

Following pressure from international associations and organisations to tackle the rising number of children arriving on Italy's shores and the problems as regards protection, the Zampa Law¹⁹³ was approved in May 2017¹⁹⁴. This law is intended to adapt to the rise in the number of unaccompanied migrant minors arriving in Italy in recent years, paying special attention to the most vulnerable minors: victims of abuse and trafficking. UNICEF¹⁹⁵ states that the main provisions of the new law are coherent with the Convention on the Rights of the Child and Adolescents and with the stipulations in Italian legislation on protection measures for unaccompanied migrant minors¹⁹⁶. The Zampa Law forbids pushing back minors on the border without exceptions, while reducing the maximum time for holding them in the first reception structures from 60 to 30 days. For the first time, a legal base has been established to regulate the procedures for identification and determining age, guaranteeing uniformity throughout the state. The identification procedure for minors¹⁹⁷ includes an interview to be held by qualified staff with the minor, taking into account the documents with personal data (if there are any) and eventually or if in doubt a social and health examination after consent from the minor, guaranteeing methods that are as non-invasive as possible. Finally, if there are still doubts after the examination, the person is recognised as a legal minor. Before approving this law, there was no procedure to determine their age, which will now be communicated to the minor involved and the guardian, ensuring the possibility of an appeal. The new law also guarantees greater assistance, introducing cultural mediators throughout the procedure.

Relocation of unaccompanied children

The situation regarding relocation of unaccompanied minors is especially worrying. Despite the very significant numbers of unaccompanied minors landing, only five minors have been relocated from Italy, specifically two in Holland and three in Norway¹⁹⁸. This number is insignificant and unacceptable for each

188 European Parliament, "Background Information for the LIBE Delegation on Migration and Asylum in Italy-April 2017", at: <http://www.europeanmigrationlaw.eu/documents/Background%20Information-Italy.pdf>

189 OpenMigration, "The long wait of young unaccompanied migrants in Italy", at: <http://openmigration.org/en/analyses/the-long-wait-of-young-unaccompanied-migrants-in-italy/>

190 Save the Children, "Minori stranieri non accompagnati tra 2012 e 2016", at: <https://www.savethechildren.it/press/minori-stranieri-non-accompagnati-tra-2012-e-2016-triplicato-il-numero-di-under-14-e>

191 Baobab Experience. See: <https://baobabexperience.org/>

192 Makeshift camp visited during a field trip by the CEAR team.

193 Legge 7 aprile 2017 n°47 Disposizioni in Materia di protezione dei minori stranieri non accompagnati (17G0062). See: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017;47>

194 The 'Zampa' Law is named after Sandra Zampa, the first MP who signed it.

195 UNICEF, "Approvata la legge Zampa: più tutele e inclusione per i minori stranieri non accompagnati", at: <https://www.unicef.it/doc/7324/approvata-la-legge-zampa-per-minori-stranieri-non-accompagnati.htm>

196 Legge 7 aprile 2017 n°47 Disposizioni in Materia di protezione dei minori stranieri non accompagnati (17G0062). See: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017;47>

197 Concerning the identification of minors, in Italian: Identificazione dei minori stranieri non accompagnati.

198 Italian Interior Ministry, "Cruscotto Statistico Giornaliero", 30 Jun 2017, at: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_del_30_giugno_2017.pdf

and every one of the EU member states. It represents a lack of responsibility that is especially serious when dealing with unaccompanied minors. The extreme slowness of the relocation procedures is also a result of the bureaucratic difficulties arising from the legal age, not only in Italy but also in other European countries. This is a significant fact when one takes into account that 3,806 minors arrived in Italy in 2016 from Eritrea, 218 from Syria, 394 from Iraq and 13 from Yemen, all of them nationals from countries eligible for relocation. In 2017, there have been 250 minors of nationalities eligible for relocation¹⁹⁹. One of the big problems is that Italy does not have a specific procedure for relocation of unaccompanied minors, so that there is no clarity about how to proceed in relocating these minors and about who is responsible for transporting them to their destination country. The fact that there are hardly any unaccompanied minors being relocated sometimes leads them to be declared adults²⁰⁰, which indicates that rather than protecting these minors, they are being forced into situations of greater vulnerability.

3.7. Women and borders

Borders, coupled with migration policies, have a different, greater impact on women's experiences and bodies. This situation is not only apparent in Europe, but is present all along the route from the countries of origin to the destination. Breaches of women's human rights are especially worrying. Many women, through their testimonies, have denounced rape, aggression, trafficking for sexual exploitation, slavery and other kinds of violence perpetrated by many parties²⁰¹.

Approximately 12% of all people who landed in Italy in 2016 were women²⁰², and this trend has remained in 2017²⁰³, with Nigerian women being the largest nationality arriving in Italy²⁰⁴. Between 2015 and 2016 the number of Nigerian women arriving in Italy almost doubled from 5,633 to 11,009²⁰⁵. According to different reports²⁰⁶ on human trafficking for sexual exploitation, Nigeria is a country of origin and transit for women to Europe. According to the IOM, 70%²⁰⁷ of Nigerian women landing in Italy do so within trafficking networks for sexual exploitation²⁰⁸, which shows the magnitude of the problem and the big challenge as regards protection.

Despite some institutions getting involved in quickly identifying women who are victims of trafficking²⁰⁹, they often do not have real, effective protection in Italy. Many of them fear reporting their traffickers and it is difficult to identify them upon landing, given the means available and the established time limits. As a result, they do not always access the protection system, or if they do they may lose the protection once the time limits set down by law elapse. This happens, for example, when people with a profile of being trafficked receive other forms of international protection

199 European Commission, "Twelfth report on relocation and resettlement" at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170516_twelfth_report_on_relocation_and_resettlement_en.pdf

200 European Parliament, "Background Information for the LIBE Delegation on Migration and Asylum in Italy-April 2017", at: <http://www.europeanmigrationlaw.eu/documents/Background%20Information-Italy.pdf>

201 Amnistía Internacional, "Libia: Atroces abusos impulsan a migrantes a poner en peligro su vida en travesía por el Mediterráneo" ("Libya: Atrocious abuses drive migrants to put their lives at risk by crossing the Mediterranean"), at: <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/libia-atroces-abusos-impulsan-a-migrantes-a-poner-en-peligro-su-vida-en-travesias-por-el-mediterr>

202 UNHCR, "REFUGEE AND MIGRANTS SEA ARRIVALS IN EUROPE", monthly data update December 2016, at: <https://data2.unhcr.org/ar/documents/download/53447>

203 UNHCR, Mediterranean Situation, Italy. Last updated 21 June 2017, at: <http://data2.unhcr.org/en/situations/mediterranean?id=1111>

204 OpenMigration: "Comparison between women asylum seekers in the UE and in Italy".

See: <https://openmigration.org/en/analyses/the-number-of-women-seeking-asylum-in-italy-and-who-they-are/>

205 GRETA "Group of Experts on Actions against trafficking in human beings Report on Italy" (2016)29, at: <https://rm.coe.int/16806edf35>

206 US Department of State, "Trafficking in persons Report 2016", the case of Nigeria, at: <https://www.state.gov/documents/organization/258881.pdf> and Women's Link Worldwide, "La trata de mujeres y niñas nigerianas: esclavitud entre fronteras y prejuicios" ("Trafficking in Nigerian women and girls: slavery between borders and prejudices") at: <http://www.womenslinkworldwide.org/en>

207 Council of Europe. GRETA, Group of Experts on Action against trafficking in human beings, Report on Italy, (2016)29, page 6, at: http://www.italy.iom.int/sites/default/files/news-documents/RAPPORTO_OIM_Vittime_di_tratta_0.pdf

208 IOM: "Rapporto sulle vittime di tratta nell'ambito dei flussi migratori misti in arrivo via mare" (2014-2015) at: <http://www.italy.iom.int/sites/default/files/news-documents/RapportoAntitratta.pdf>

209 For more information on progress in protecting women who are victims of trafficking in Italy, see the Council of Europe, GRETA, Group of Experts on Action against trafficking in human beings, Report on Italy, (2016)29, page 6, at: <https://rm.coe.int/16806edf35>

with limited deadlines (subsidiary or humanitarian protection with time limits of five and two years respectively²¹⁰). When the protection period ends, they may fall into an irregular situation if it is not renewed and thus have no other option for residence²¹¹. Thus, many women find themselves obliged to stay in irregular occupational situations (such as sexual exploitation or very female-dominated, precarious services like home help or care services²¹²) where they will never have job contracts and therefore it will be difficult to obtain residence permits. This situation may even lead to confinement in CPRs due to their irregular situation. The situation of administrative irregularity into which women migrants and people who merit international protection often fall is directly related to the type of activity they do. This creates an even greater situation of breach of rights and makes it more likely for them to be held in the CPRs and later forcibly deported. Taking all of this into account, it can be stated that the administrative structures and migration policies punish women much more, especially those who are most vulnerable such as victims of violence and trafficking.

During a mission on the ground, the CEAR team visited the CPR in Rome, the only one in the whole of Italy with a section for women, from which it has been confirmed that deportations have been carried out without the necessary safeguards²¹³. The CPR in Pontegaleria (Rome) has 125 places for women. At the time of the visit there were 60 women of different nationalities being detained in the centre. In the interview, the director of the CPR affirmed that 60% of the people in the centre are Nigerian women, which shows the system's shortcomings, clearly evidencing the relationship between women in especially vulnerable situations apt for international protection and their exposure to penalty measures of detainment and expulsion.

As mentioned above, international protection in the CPRs is regulated by the Minniti Decree, which introduces a notification from the director of the CPR (handled by a private entity²¹⁴) about the decisions on the asylum procedures. During the mission, CEAR had access to the information given to women in different languages in the CPR in Pontegaleria. The document explains the asylum procedure via a bad translation which at times makes the information about the rights to apply for international protection in the CPR itself incomprehensible. According to a report by Doctors for Human Rights (MEDU in its Italian initials), 80% of the human trafficking victims in this CPR are held along with the very same people responsible for exploiting them²¹⁵. Associations such as *LasciateCIEEntrare*²¹⁶ and *Be Free*²¹⁷ work in the CPR in Pontegaleria to denounce the breach of rights, the illegal deportations of women who are potentially victims of trafficking²¹⁸ and the lack of safeguards as regards the right to asylum and other human rights. Despite the difficulties for NGOs, groups and associations as regards access in the CPRs, in August 2015 following a visit to the Pontegaleria CPR, *LasciateCIEEntrare* was able to report the attempted deportation of 20 Nigerian women victims of violence and human trafficking.²¹⁹ *LasciateCIEEntrare* affirmed that this case came to light thanks to the organisation's intervention in the CPR, denouncing that the entry permits are not obtained easily, making it difficult to spot breaches of fundamental rights.

210 Asylum Information Database, Country Report: Italy 2016, at: http://www.asylumineurope.org/sites/default/files/report-download/aida_it_2016update.pdf
211 Italian Interior Ministry, "Vademecum richiedenti asilo" at: http://www1.interno.gov.it/mininterno/export/sites/default/it/assets/files/16/0728_vademecum_richiedenti_asilo.pdf

212 Soleterre, "Lavoratrici domestiche in Italia si prendono cura di milione di anziani ma 2 su 3 senza tutela", at: <http://www.soleterre.org/it/info-center/comunicato/lavoratrici-domestiche-migranti-italia-si-prendono-cura-di-un-milione-di>

213 For an analysis into the lack of safeguards, see previous sections about CPR reception and procedures; among others: unsuitable information or lack of access to information, complexity and short deadlines.

214 For private management of the migrant detention centres, see Internazionale, "Chi guadagna con i centri di detenzioni per migranti in Europa", at: <https://www.internazionale.it/notizie/annalisa-camilli/2017/06/13/centri-detenzione-migranti-europa>

215 MEDU, Medici per i Diritti Umani, "Arcipelago CIE", at: <http://www.mediciperidirittiumani.org/pdf/ARCIPELAGOCIEsintesi.pdf>

216 *LasciateCIEEntrare*, "Accogliere la vera emergenza. Rapporto di monitoraggio della campagna lasciatecienrare su accoglienza, detenzione amministrativa e rimpatri forzati", at: <http://www.lasciatecienrare.it/j25/attachments/article/193/lasciateCIEEntrare%20rapporto%202016-2.pdf>

217 The Be Free cooperative at: <http://www.befreecooperativa.org/wordpress/>

218 *Be Free*, "Anche le donne nigeriane deportate come le studentesse di #bringbackourgirls, a rischio di essere vendute o amazzate", at: <http://www.befreecooperativa.org/wordpress/2014/05/anche-le-donne-nigeriane-deportate-come-le-studentesse-di-bringbackourgirls-a-rischio-di-essere-vendute-o-ammazzate/>

219 *Il Corriere Della Sera*, "Ragazze nigeriane vittime di tratta a rischio di rimpatrio dal CIE Romano", at: http://roma.corriere.it/notizie/cronaca/15_settembre_17/ragazze-nigeriane-vittime-tratta-rischio-rimpatrio-cie-romano-999cfc3c-5d47-11e5-ae5-7e436a53f873.shtml

4. Border control

It is necessary to dedicate a specific section of this report to the border control that has been carried out in recent years in Italy, the launching of which has direct consequences on the lives of refugees and migrants.

Specifically, in this section we shall talk about the rescue and salvage operations that have been set up in the Mediterranean Sea near Italy (4.1), the current situation in Libya from where most migrants and refugees come to Italy (4.2), and the border controls being carried out in northern Italy (4.3).

4.1 Rescue and salvage operations: the arrival of FRONTEX in Italy and the criminalisation of NGOs engaged in rescues

The situation in the Mediterranean has aroused a reaction from the EU, but also from organisations in civil society that have begun to work on rescuing crafts on the Mediterranean. Indeed, different NGOs²²⁰ are currently working in rescue operations in the SAR²²¹ rescue zone of the central Mediterranean route, including Doctors Without Borders²²² (MSF, *Médicins Sans Frontières*), ProemAid, Save the Children²²³, Proactiva Open Arms²²⁴, SOS Mediterrane²²⁵, MOAS²²⁶, Sea Watch²²⁷ and Jugend Rette²²⁸.

On the institutional level, driven by the number of avoidable deaths in the Mediterranean and following the special meeting on 23 April 2015, the European Council²²⁹ stated²³⁰ the need to redouble the EU's efforts in cooperation with the countries of origin and transit countries to tackle the traffickers and smugglers. In the context of this statement, in May of the same year the Council of the European Union published the decision²³¹ to set up a military operation in the central Mediterranean called EUNavForMED or Sophia²³², in which the member states of the EU participate²³³. The aim of this operation is to handle the situation in the central Mediterranean militarily, helping to dismantle trafficking networks by identifying and capturing the suspects in keeping with international law. It should also be understood as part of the EU's broader response to the situation in the Mediterranean, which concentrates on security and control aspects rather than humanitarian and rescue matters²³⁴.

The following map shows the distribution at sea of the areas where the NGOs operate and the boats contributed by the different countries for EUNAVFORMED/Sophia.

220 For more information on rescue and salvage activities by NGOs in the central Mediterranean, see Open Migration, "How the Humanitarian NGOs operate at sea", at: <http://openmigration.org/en/analyses/how-the-humanitarian-ngos-operate-at-sea/>

221 Search And Rescue (SAR).

222 Medics Sans Frontières, "Rescue Operations", at: <http://www.medicisenzafrofrontiere.it/notizie/news/le-operazioni-msf-di-soccorso-mare>

223 Save the Children, "La nostra posizione sui salvaataggi in mare", at: <https://www.savethechildren.it/blog-notizie/la-nostra-posizione-sui-salvataggi-mare>

224 Proactiva Open Arms. See: <https://mediterraneo.proactivaopenarms.org/>

225 SOS Mediterrane at: <http://sosmediterrane.org/?lang=en>

226 MOAS Central Mediterranean Mission, based in Malta. See: <https://www.moas.eu/central-mediterranean/>

227 Sea Watch at: <https://sea-watch.org/en/>

228 Jugenddrettet at: <https://jugendrettet.org/en/>

229 European Council, "Special Meeting of the European Council, 23 April 2015 – statement",

at: <http://www.consilium.europa.eu/en/press/press-releases/2015/04/23-special-euco-statement/>

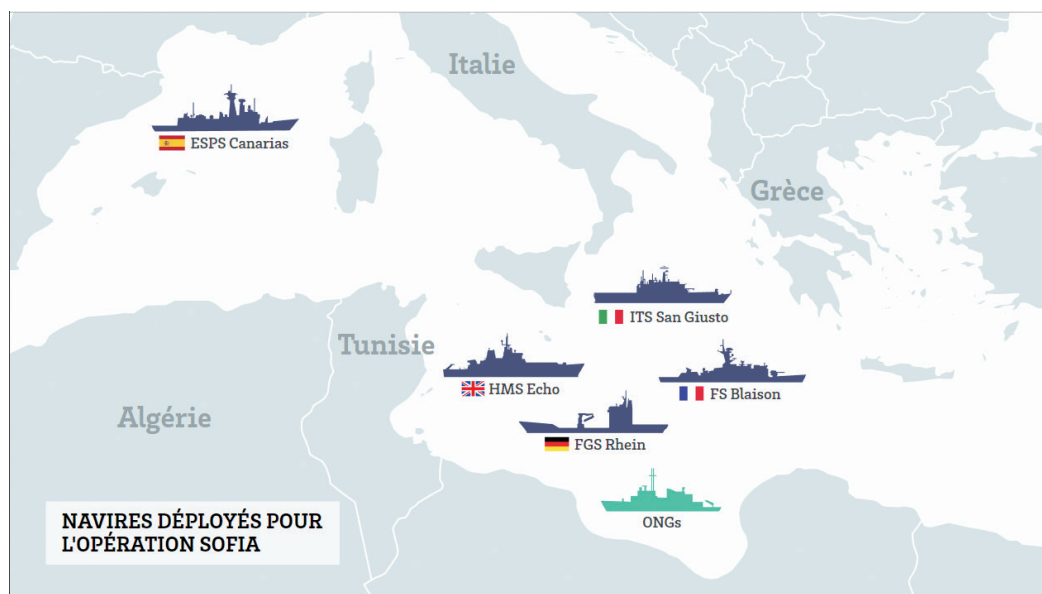
230 The statement came five days after a fishing boat with 700 people on board sank near the coast of Libya on 19th April 2015. La Repubblica: "Strage al largo della Libia: morti in mare tra 700 e 900 migranti, solo 28 superstiti. È la tragedia più grande di sempre", at: http://palermo.repubblica.it/cronaca/2015/04/19/news/almeni_700_migranti_morti_in_un_naufragio_a_nord_della_libia_solo_28_superstiti-112315076/?ref=HREA-1

231 Council Decision (CFSP) 2015/778 on a European Union Military Operation in the Southern Mediterranean (EUNAVFORMED), at: https://eeas.europa.eu/sites/eeas/files/celex_32015d0778_en_txt.pdf

232 The acronym for: European Naval Force Mediterranean (the European Union's military operation in the southern central Mediterranean).

233 For information about the participation of the Spanish state in the EUNAVFORMED / Sophia operation, consult the Ministry of Defence at: http://www.defensa.gob.es/misiones/en_exterior/actuales/listado/eunavformed.html

234 Amnesty International: "Triton does not replace Mare Nostrum when it comes to saving lives." ("Triton no sustituye a Mare Nostrum a la hora de salvar vidas"), at: <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/triton-no-sustituye-a-mare-nostrum-a-la-hora-de-salvar-vidas/>



All boats, whether military or NGOs, work in coordination with the Italian Coast Guard²³⁶, which orients the different craft via the IMRCC²³⁷. The IMRCC receives the emergency calls corresponding to the SAR²³⁸ zone for Italy²³⁹ set out in the International Convention on Maritime Search and Rescue²⁴⁰. The NGO boats often do not have the capability to cross the entire Mediterranean, so they must make transfers to bigger boats on the high sea, by which the people are transported to the ports available in Sicily or on the peninsula.

According to various sources consulted²⁴¹, Frontex insinuated in a report²⁴² that the NGOs collaborate with human trafficking networks that cross the central Mediterranean. The NGOs have firmly and repeatedly denied this²⁴³. In February, 2017, an investigation was launched²⁴⁴ in Catania into the NGOs that carry out their rescue operations in the Strait of Sicily. However, in May the public prosecutor had to recognise that there was not enough evidence²⁴⁵. The NGOs are facing a process of criminalisation that aims to hinder the work of independent organisations that may denounce what is happening in Libya and the Mediterranean, above all after the memorandum²⁴⁶ signed by Italy and Libya with EU backing, which provides for intercepting, blocking and returning people to Libya with the support of Libya's coast guard²⁴⁷, as well as steps related to its prisons and detention centres. This agreement breaches international and European legality as it does not observe the principle of non-refoulement²⁴⁸, leaving migrants and refugees severely unprotected.

235 See: <https://inkyfada.com/2017/06/sar-zone-sauvetage-migrants-mediterranee/>

236 Guardia Costiera Italiana, Ricerca e Soccorso, at: <http://www.guardiacostiera.gov.it/attivita/Pages/Ricerca.aspx>

237 Italian Marine Rescue Coordination Center

238 Search and Rescue

239 For an in-depth explanation about the layout of the Italian SAR zone, see Bertoluzzi, G., "SAR ZONE: A la recherche de vies à sauver en méditerranée", at: <https://inkyfada.com/2017/06/sar-zone-sauvetage-migrants-mediterranee/>

240 International Maritime Organization, "International Convention on Maritime Search and Rescue" (SAR: Search and Rescue) (1979), at: <http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-%28SAR%29.aspx>

241 El Diario: "Frontex acusa de colaborar con los traficantes a las ONG que rescatan a migrantes" ("Frontex accuses the NGOs that rescue immigrants of collaborating with traffickers"), at: http://www.eldiario.es/desalambre/Frontex-colaborar-traficantes-ONG-refugiados_0_591091229.html

242 FRONTEX Risk Analysis 2017 at: http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2017.pdf

243 El Diario: "NGOs reply to Frontex that if rescuing people at sea is a crime, they should arrest them." ("Las ONG responden a Frontex: 'Si rescatar a personas en el mar es un delito, que nos detengan'") at: http://www.eldiario.es/desalambre/rescatar-salvamento-naufragan-ONG-Frontex_0_591441012.html

244 Internazionale: "Perché le ONG che salvano i migranti nel mediterraneo sono sotto accusa" at: <https://www.internazionale.it/video/2017/03/15/ong-sotto-accusa>

245 Expansión: "El fiscal que acusa a las ONG de ser cómplices de tráfico reconoce que no tiene pruebas" ("The public prosecutor accusing the the NGOs of being accomplices recognises there is not enough evidence"), at: <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/triton-no-sustituye-a-mare-nostrum-a-la-hora-de-salvar-vidas/>

246 La Repubblica: "Migranti: accordo Italia-Libia: il testo del memorandum", at: http://www.repubblica.it/esteri/2017/02/02/news/migranti_accordo_italia-libia_ecco_cosa_contiene_in_memorandum-157464439/

247 European Council, "Provision of training, equipment and support to the Libyan coastguard", at: <http://www.statewatch.org/news/2017/jun/eu-council-draft-reply-mep-question-libyan-coastguard-10302-17.pdf>

248 Internazionale, "Perché l'accordo tra l'italia e la Libia sui migranti potrebbe essere illegale",

at: <https://www.internazionale.it/notizie/annalisa-camilli/2017/02/20/italia-libia-migranti-accordo-illegale>

In July 2017, the European Commission published a plan of action with steps to support Italy and reduce the number of people arriving, in which it mentions the need to improve coordination among those working in the central Mediterranean and to take action to help the Libyan authorities to be capable of border control. The plan also mentions the need to reach goals as regards returning people and to speed up relocations²⁴⁹. Within this context, the Italian government is working to draw up a code of conduct²⁵⁰ aimed at the rescue NGOs that work in the Mediterranean. Different human rights organisations²⁵¹ have denounced that this code would imply a greater risk of deaths in the Mediterranean as well as criminalising the rescue organisations.

4.2. Agreements with third countries. The case of Libya

In recent years the EU has encouraged member states to sign bilateral agreements with third countries in order to increase repatriations²⁵². It has also attempted to generate procedures not only in order to control borders but to externalise them²⁵³. For its part, the European Agenda on Migration²⁵⁴ made a clear call for cooperation with third states.

Italy²⁵⁵ has signed readmission agreements with Egypt (in 2007)²⁵⁶, Pakistan (2010)²⁵⁷, Tunisia (2011)²⁵⁸, Nigeria (2016)²⁵⁹ and Morocco (2013)²⁶⁰.

Furthermore, Italy has signed police agreements²⁶¹ with Niger (2011)²⁶² and Egypt (2007)²⁶³. The agreement signed between the Italian Interior Ministry and the Sudanese police in August 2016²⁶⁴ is particularly worrying. Many organisations such as UNHCR have voiced their concern²⁶⁵ about potential violations of human rights faced by people from Sudan when they have returned to their country. The case that arose in August 2016, when Italy deported about 40 people who had fled Sudan, is particularly interesting. In February 2017, five of them lodged an

249 European Commission, "Action plan on measures to support Italy reduce pressure on Central Mediterranean route and increase solidarity", at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170704_action_plan_on_the_central_mediterranean_route_en.pdf

250 El Periódico, "Varias oenegés denuncian que el código de conducta que prepara Italia restringe los rescates de inmigrantes" ("Several NGOs denounce that the code of conduct being prepared by Italy restricts rescuing immigrants"), at: <http://www.elperiodico.com/es/noticias/internacional/hrw-denuncian-que-codigo-conducta-que-prepara-italia-restringe-los-rescates-inmigrantes-6164123>

251 Organisations such as CEAR, Amnesty International and Human Rights Watch. See: <https://www.amnesty.ie/eu-draft-code-sea-rescues-threatens-lives/> and <https://www.hrw.org/news/2017/07/12/eu-draft-code-sea-rescues-threatens-lives>

252 European Directive 115/2008 for returning third country nationals, at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en:PDF>

253 For more information about externalisation of borders, see the following link by CEAR Euskadi: <http://cear-euskadi.org/diccionario/externalizacion-de-fronteras/>

254 European Agenda on Migration (page 11) at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0240&rid=1>

255 Italy has signed different agreements and documents dealing with the matter of readmission of nationals (bilateral agreements, memorandums on cooperation and agreements signed by the Interior Ministry with the police as in the case of Sudan).

256 Readmission agreement between Egypt and Italy: "Accordo di Cooperazione fra il governo della Repubblica italiana araba di Egitto in materia di riammissione", at: <https://therightsangle.files.wordpress.com/2014/03/20070109-italy-egypt-readmission-agreement-ita.pdf>

257 In March 2010, the EU signed an agreement with Pakistan. For more information, see the following link by Melting Pot: <http://www.meltingpot.org/La-mappa-degli-accordi-contro-i-migranti.html#.WWU2pFFLflU>, and the European Commission, "Agreement with Pakistan on Readmission", at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSEM:jl0057>

258 Technical Agreement between Italy and Tunisia, at: http://www1.interno.gov.it/mininterno/export/sites/default/it/sezioni/sala_stamp/immigrazione/000073_2011_04_06_accordo_Italia-Tunisia.html

259 Memorandum on cooperation in combating human trafficking. Agreement between Italy and Nigeria. For more information, see Il Messaggero at: http://www.ilmessaggero.it/primopiano/esteri/migranti_accordo_italia_nigeria_traffico_esseri_umani-1521754.html

260 This is an agreement on cooperation and readmission between the EU states and Morocco. European Commission, "Joint Declaration establishing a Mobility Partnership between the Kingdom of Morocco and the EU and its Member States", at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/news/2013/docs/20130607_declaration_conjointe-maroc_eu_version_3_6_13_en.pdf

261 European Migration Network, "Practical responses to irregular migration: The Italian case", at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/irregular-migration/it_20120105_practicalmeasuresoirregularmigration_en_version_final_en.pdf

262 An agreement was signed with Niger in 2011. For more information, see Polizia di Stato, "Immigrazione e terrorismo: accordo bilaterale in Niger" at: <http://poliziadistato.it/articolo/18194>

263 An agreement was signed in 2000 with Egypt that came into force in January 2007. For more information, see the following link from Polizia di Stato: "Accordo di cooperazione con l'Egitto" at: http://poliziadistato.it/articolo/19012-Immigrazione_clandestina_accordo_di_cooperazione_con_l_Egitto

264 See the Memorandum on the Signing of the Bilateral Agreement on Foreigners in Italy at: <http://www.stranieriinitalia.it/attualita/attualita/attualita-sp-754/firmato-memorandum-di-intesa-tra-italia-e-sudan-su-migrazione.html>

265 Amnesty International, "Hotspot Italy: How EU's flagship approach leads to violations of refugee and migrant rights" at: <http://www.statewatch.org/news/2016/nov/ai-hotspot-Italy.pdf>

appeal at the European Court of Human Rights²⁶⁶. This kind of action is a breach of international law, specifically the principle of non-refoulement in Article 33 of the Geneva Convention, which forbids returning anyone to their country of origin who may run the risk of suffering human rights violations.

The Italian interior ministry has set up formulas for cooperation mainly via bilateral agreements on readmission with the authorities of Gambia²⁶⁷, Ivory Coast (in process)²⁶⁸, Ghana (2010)²⁶⁹ and Senegal (2010)²⁷⁰.

These agreements, regardless of their nature, have led to thousands of people being deported in recent years, some of them a few hours after landing in Italy. This raises doubts as to whether such people who have landed in Italy received adequate information about their status, legal possibilities and the option of applying for international protection in the country²⁷¹. Such concerns have risen with the implementation of the hotspots in Italy, which have consolidated the system of deportations. With all of this, we see that nationals from countries with whom the Italian state has bilateral agreements go through the hotspots, but are identified as subjects susceptible for expulsion and are deported in a couple of days, depending on the flights available or whether they are detained in the CPRs if it is not possible to deport them sooner.

In recent years, Italy has signed different agreements with Libya in the matter of migration control. In 2008, the so-called friendship agreement was signed between Gaddafi and the Italian government, which was denounced by Human Rights Watch for not observing human rights²⁷². In 2012, another secret agreement was signed between the Interior Ministry and the leader of the National Transitional Council in Libya in an aim to stop the migration flows²⁷³. Lastly, in February 2017 an agreement was signed²⁷⁴ between the President of the Italian Government and the Prime Minister of the Libyan Government of National Accord in Rome, whose main aim is to control borders. In March, an appeal was lodged against the agreement in the Libyan Appeals Court in Tripoli, which has accepted the appeal, blocking application of the agreement until the court takes a decision about it²⁷⁵.

It is especially important in this section to refer to the current situation in Libya, when one takes into account that 90%²⁷⁶ of the arrivals in Italy come from this country.

266 ASGI, "Conferenza Stampa: Rimpatriati in Sudan presentano ricorso contro l'Italia",

at: <http://www.asgi.it/asilo-e-protezione-internazionale/conferenza-stampa-sudan-rimpatri/>

267 The agreement was signed with Gambia in May 2016. European Commission (page 36),

at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/irregular-migration/it_20120105_practicalmeasuresoirregularmigration_en_version_final_en.pdf

and for more information, see: European Migration Network "Practical responses to irregular migration: The Italian case"

at: <http://www.emnitaly.cnr.it/eng/wp-content/uploads/2015/02/Practical-responses-to-irregular-migration-the-Italian-case-2012-.pdf>, and the Italian Senate:

at: <http://www.senato.it/japp/bgt/showdoc/showText?tipodoc=Sindisp&leg=17&id=937953el>

268 In June 2017, the news was published of the intention to sign a repatriation agreement between Ivory Coast and Italy. For more information,

see ANSAMED: "Migranti: pres. Costa Avorio, lavoriamo a accordo con Italia"

at: http://www.ansamed.info/ansamed/it/notizie/rubriche/politica/2017/06/14/migranti-pres.-costa-avorio-lavoriamo-a-accordo-con-italia_076f482b-d70b-48a0-a401-54a9dcdc11fc.html

269 In February 2010, the agreement with Ghana was signed. For more information, see "Polizia di Stato Ghana: un accordo per bloccare i flussi irregolari" at: <http://poliziadistato.it/articolo/18188>

270 In June 2010, an agreement (Memorandum) was signed with Senegal. For more information, see the following link by Melting Pot: <http://www.meltingpot.org/La-mappa-degli-accordi-contro-i-migranti.html#.WWU2pPFLfIU>

271 Amnesty International, "Hotspot Italy: How EU's Flagship approach leads to violations of refugee and migrant rights",

at: <http://www.statewatch.org/news/2016/nov/ai-hotspot-Italy.pdf>, and the report by OXFAM Italia, "HOTSPOT, IL DIRITTO NEGATO. Un sistema privo di cornice giuridica sta minacciando i diritti dei migranti che arrivano sulle coste italiane. Le richieste di Oxfam", at: https://www.oxfamitalia.org/wp-content/uploads/2016/05/Rapporto_Hotspots_Il-diritto-negato_Oxfam_19mag16.pdf

272 Human Rights Watch. For an in-depth analysis of the consequences of the agreement between Italy and Libya, see Human Rights Watch, "Pushed Back, Pushed Around... Libya's Mistreatment of Migrants and Asylum Seekers" (2009), at:

http://reliefweb.int/sites/reliefweb.int/files/resources/E71CDEF418E3DDB6492576AD00239415-Full_Report.pdf

273 Il Corriere della Sera, "Il patto segreto tra Italia e Libia per Fermare i migranti", at: <http://lepersonneladignita.corriere.it/2012/06/13/il-patto-segreto-tra-italia-e-libia-per-fermare-i-migranti/>

274 La Repubblica: "Migranti: accordo Italia-Libia: il testo del memorandum", at: http://www.repubblica.it/esteri/2017/02/02/news/migranti_accordo_italia-libia_ecco_cosa_contiene_in_memorandum-157464439/

275 Internazionale, "L'avvocata libica che ha portato in tribunale l' accordo con l'italia sui Migranti", at: <https://www.internazionale.it/opinione/annalisa-cami-lli/2017/03/30/azza-maghur-libia-italia-migranti>

276 UNHCR, "EXPANDED RESPONSE IN LIBYA", at: <http://reporting.unhcr.org/sites/default/files/UNHCR%20Expanded%20Response%20in%20Libya%20Supplementary%20Appeal%20-%20Jan-Dec%202017%20-%20May%202017.pdf>

A lack of government and institutions, coupled with generalised chaos in the country, has meant that Libya has not developed the controls demanded by the EU to control its borders, leading to a proliferation of trafficking organisations.

The conflict in Libya has clearly affected the civilian population²⁷⁷. According to numbers from UNHCR, there are currently 294,436 internally displaced people²⁷⁸. Data from the IOM indicates that there are 351,382 people moving in Libya²⁷⁹. They come from different cultures, but most of them are from Nigeria (63,139), Egypt (41,259), Chad (28,256) and Sudan (22,155).

Most of the migrants in the country have been obliged to leave it due to the war and the abuses they suffer in it.

In a report in 2015²⁸⁰, its annual report in 2016²⁸¹, and other subsequent documents in 2017²⁸², Amnesty International denounces that migrants and refugees in Libya are facing detention and violation of their rights, most notably arrest and detention by the Libyan coast guard and militias that operate in the country. Many people have also been kidnapped and tortured in Libya, with their families in their countries of origin facing extortion for them to be freed.

During its mission on the ground, the CEAR team confirmed that the medical aid NGOs working with landings in Italy witnessed terrible torture suffered by migrants and refugees in the country. As stated by a representative of a medical organisation: "Many people arrive with digits cut off during torture suffered in detention centres in Libya"²⁸³. Religious minorities are being persecuted largely due to the increase in power of ISIS in Libya, which has led these people to be threatened and at greater risk of suffering violations of their rights. The situation of Christians is particularly worrying, since they have reported abuse, physical and psychological torture, and even slaughter by armed groups²⁸⁴.

As a result of the armed conflicts that have been raging in Libya since 2014, the already inadequate conditions have worsened in detention centres²⁸⁵ for migrants, who suffer degrading and inhuman treatment. In a recent study by the IOM, 13 centres in Libya were studied in which it was determined that in most of them the living conditions were not adequate, since there was a lack of access to drinking water, inadequate diet, and the people detained in the centres did not have access to natural light or the outdoors²⁸⁶.

Due to the growing conflicts, nationals from third countries and especially those from Sub-Saharan Africa are being exploited for work by their employers in conditions of slavery²⁸⁷, as explained by many of the people who manage to reach Italian shores²⁸⁸, who work on farms or in construction and suffer constant physical and psychological abuse.

During the mission, the CEAR team heard testimonies from sub-Saharan people who had worked as slaves

277 In Libya in the context of the Arab Springs (2011), some of the Libyan population demonstrated against the regime of Muammar Gaddafi whereas the other population segment backed him. A Civil War began in 2014 that has raged until today.

278 ACNUR, "EXPANDED RESPONSE IN LIBYA", at: <http://reporting.unhcr.org/sites/default/files/UNHCR%20Expanded%20Response%20in%20Libya%20Supplementary%20Appeal%20-%20Jan-Dec%202017%20--%20May%202017.pdf>

279 IOM, "Libya's Migrant Report, March-April 2017", at: <http://reliefweb.int/sites/reliefweb.int/files/resources/DTM%20Libya%20Round%209%20Mi-grant%20Report%20March%20-%20April%202017%20%28web%29.pdf>

280 Amnesty International, "Libya is full of cruelty", at: http://www.amnesty.eu/content/assets/Reports_and_Briefings_2015/Libya_is_full_of_cruelty.pdf

281 "Amnesty International Report 2016/2017" at: http://amnistia.pt/images/Revista/Relat%C3%B3rio_2017/POL1048002017ENGLISH.PDF

282 Libya 2016 and 2017, at: <https://www.amnesty.org/en/countries/middle-east-and-north-africa/libya/report-libya/>

283 Interview by the CEAR team with a medical aid NGO.

284 Amnesty International, "LIBYA: COLD-BLOODED MURDER OF COPTS IN LIBYA A WAR CRIME", at: <https://www.amnesty.org/en/documents/mde19/0002/2015/en/>

285 For more information about the conditions in the detention centres in Libya, see Amnesty International, "SCAPEGOATS OF FEAR: RIGHTS OF REFUGEES, ASYLUM-SEEKERS AND MIGRANTS ABUSED IN LIBYA", at: <https://www.amnesty.org/en/documents/mde19/007/2013/en/>

286 International Organization for Migration (IOM), "UN Migration Agency Launches Detention Centre Mapping in Libya", at: <http://www.iom.int/news/un-migration-agency-launches-detention-centre-mapping-libya>

287 Público, "El mundo cierra los ojos ante el mercado de esclavos en Libia" ("The world shuts its eyes to the slave market in Libya"), at: <http://www.publico.es/internacional/mundo-cierra-ojos-mercado-esclavos.html>

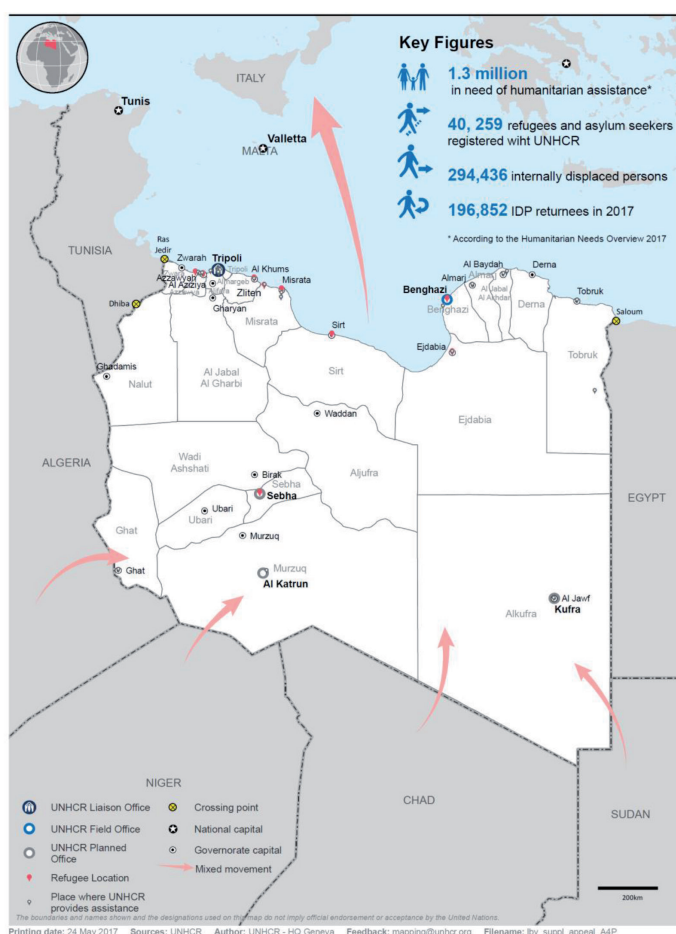
288 Interviews carried out by CEAR with international protection applicants in Italy.

for an “owner” for an undefined period until they were freed in exchange for a single payment: a voyage on a raft to Europe in terrible conditions.

Xenophobia and racism have grown among Libyan nationals, accusing migrants of the increase in trafficking networks, crime and violence, with a generalised presence seen of arms and use of violence with impunity.

Those who wish to flee their country face the added difficulty of being able to go to countries near Libya without being able to return to their country of origin. As a result of the violent situation, nearby countries including Algeria, Tunisia and Egypt have established much stricter border controls than before. This leads to many migrants and refugees not being able to get a visa to reach them, leaving them no alternative other than embarking on the dangerous route to Europe. According to several people, the conditions they are in until beginning the voyage are extreme, suffering physical aggression and robbery of their documents and belongings.

When the moment for the voyage arrives, the migrants continue to be victims of abuse. The traffickers sometimes use rubber boats which they overload with people with no life vests, while the craft mostly travel without captains. Information is given to a couple of people about the route they must follow²⁸⁹.



Below is a map of the routes followed by migrants and refugees to reach Libya, as well as how to reach Europe.

Source: UNHCR, “Expanded Response in Libya”.²⁹⁰

The people who manage to make the crossing until they are rescued arrive in a state of shock on Italian shores. After their time in Libya and the extremely dangerous voyage over the high seas, medical organisations have denounced that most of them suffer from trauma, inexplicable physical symptoms, gastrointestinal problems and hypothermia. The main causes of the visible injuries are burns from boat fuel, bruises and wounds. Some injuries have been inflicted while in Libya, such as bullet wounds. A third of the people assisted by the NGO *Médicins du Monde*²⁹¹ denounced having suffered different kinds of violence. The main problem for the organisations lies in determining psychological trauma, given that in general the medical screening given after people arrive makes it difficult to determine if there is any kind of mental illness, since the assessment of the state of health after arrival in Italy is brief and

²⁸⁹ For more information on the human rights abuses and violations suffered by migrants and refugees in Libya, see Amnesty International, “Libya is full of cruelty”,

at: http://www.amnesty.eu/content/assets/Reports_and_Briefings_2015/Libya_is_full_of_cruelty.pdf

²⁹⁰ UNHCR, “Expanded Response in Libya”, at: <http://reporting.unhcr.org/sites/default/files/UNHCR%20Expanded%20Response%20in%20Libya%20Supplementary%20Appeal%20-%20Jan-Dec%202017%20--%20May%202017.pdf>

²⁹¹ The report “Rescue medical activities in the Mediterranean migrant crisis” drawn up by *Médicins du Monde* is at: <https://conflictandhealth.biomedcentral.com/articles/10.1186/s13031-017-0105-1>

the people land in Italy with traumas that are difficult to detect²⁹². The only organisation that has decided to provide long-term psychological and psychiatric help for migrants and refugees is *Médicins Sans Frontières*, which has developed a programme not only to treat traumas arising from the migration route, the time in Libya and the sea voyage, but also those arising from being far from their countries of origin and in Italy with complete uncertainty as to their situation.²⁹³

4.3 Border control in northern Italy

The current control being carried out in northern Italy on the borders with France, Austria and Switzerland is an unknown situation. In keeping with the Schengen agreements²⁹⁴, exceptional border controls are allowed within the European area²⁹⁵. Nevertheless, these controls must be restricted to short periods of time and must be legitimised by the possibility of a serious threat to public order or interior security, or elsewhere when a border external to the Schengen area is not duly secured due to exceptional circumstances. The European Commission must be notified of the intention to control the borders.²⁹⁶

Italy, France, Austria and Switzerland have increased their border controls²⁹⁷ with the result that the migrant population that merits international protection is beginning to accumulate in the border town of Ventimiglia while waiting to be able to cross the border with France, as in the Italian town of Como bordering Switzerland²⁹⁸ and the town of Brennero bordering Austria.

The transformation of these small border towns into crossing zones for migrants and refugees has led to an increase in the solidarity networks with people waiting at the borders. For their part, the authorities have responded to this situation by forcibly containing movement, obstructing passage to other European countries²⁹⁹ and criminalising solidarity³⁰⁰.

In order to avoid detection, migrants and refugees have begun to use the paths once used by Jews and communists to escape during the Second World War (there are even remains of barbed wire from those times). This is a very dangerous route on which several people have died. French people have shown solidarity with the migrants and refugees, offering them their homes despite the police repression suffered by residents of the area for giving help³⁰¹.

Given the increase in the number of people arriving in these areas, the Italian police prefectures have been reinforced and the Red Cross opened a centre with capacity to take in about 500 people³⁰². As opposed to the images of people arriving on Italian shores, little is told about these border areas where the French, Austrian

292 See *Médicins Sans Frontières'* report on the illnesses suffered by the migrant and refugee population in "The illness of migration" at: <https://www.aerzte-ohne-grenzen.de/sites/germany/files/attachments/msf-the-illness-of-migration-2013.pdf>

293 *Médicins Sans Frontières*, "Traumi ignorati", at: <http://www.medicisenzafrontiere.it/notizie/news/traumi-ignorati-rapporto>

294 More information on the Schengen area can be found from the European Commission at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/docs/schengen_brochure/schengen_brochure_dr3111126_en.pdf

295 For more information on internal controls in the Schengen area, see the European Commission, "Temporary Reintroduction of Border Control", at: https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en

296 The Community Code of the European Parliament on the Schengen Borders can be seen at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32006R0562>.

297 For more information on border control between France and Italy, see the following link from I24: <https://www.i24news.tv/fr/actu/international/120034-160715-attentat-de-nice-retour-des-controles-aux-frontieres-francaises>

298 For more information on Como and Ventimiglia, see La Repubblica at: <http://www.repubblica.it/solidarieta/immigrazione/2016/12/18/news/migrazioni-ventimiglia-e-come-le-lampedusa-del-nord-154347816/>

299 For more information, see the following article from the Oxford Faculty of Law by Martina Tazzioli, "Containment through mobility at the internal Frontiers of Europe" at: <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2017/03/containment>

300 Internazionale, "Perché chi aiuta ai migranti rischia di essere processato", at: <https://www.internazionale.it/notizie/2017/01/10/migranti-solidarieta-cedric-herrou>

301 Midi Libe, "Nice: un agriculteur jugé pour avoir aidé des migrants" at: <http://www.midilibre.fr/2017/01/04/nice-un-agriculteur-juge-pour-avoir-aide-des-migrants.1448630.php>

302 The Red Cross centre is currently closed, but the organisation continues to carry out activities in the area. For more information, see the Italian Red Cross, "Emergenza migranti: chiuso il centro di Ventimiglia. Continuano le attività di assistenza e accoglienza della Croce Rossa Italiana" at: <https://www.cri.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/8218>

and Swiss police return the migrant population. The returns to Italy take place at night with no notification and without informing the people what their status is in Italy, which clearly creates a situation of vulnerability and a breach of migrant and refugee rights³⁰³.

The authorities also attempt to divide up the migrants and refugees so that they do not form groups. With this dissuasive technique, a generalised lack of information develops, including the possibility of knowing that they may apply for international protection in Switzerland, France or Austria when they have not been previously identified in Italy, while at the same time discouraging help from citizens who act in solidarity with them³⁰⁴. Particularly worrying decisions by the Austrian government have gone further in controlling migration by deploying troops on the border between Italy and Austria, with 750 soldiers ready to close off crossings to Italy³⁰⁵.

Since July 2016, the migrants and refugees have been transported 1,200 km away from Ventimiglia to the hotspot in Taranto in the south of the country, without letting them stay very long in the area³⁰⁶. Thus, using forced movement, the migrant and refugee population is incapacitated in terms of taking decisions and continuing their migratory route. This normalised practice aims to discourage the migrant and refugee population from attempting to cross the border again, leaving them in completely vulnerable conditions without offering them accommodation options, legal advice or psychological support, since by not applying for international protection in the country they are automatically excluded from the system³⁰⁷. People who have decided not to apply for international protection in Italy for different reasons then find themselves trapped in the country without the possibility of accessing any kind of resources. On the other hand, people who have been identified and who manage to cross the border run the risk of being returned to Italy in keeping with the Dublin Convention, since Italy is their first country of entry to the EU.

Internal control of the Schengen borders is an uncomfortable matter for the EU itself that most of the media do not address, either. Closure of the EU's external borders is easily justifiable to avoid "threats from outside", but justifying an internal closure of borders in the Schengen area would require greater consideration. However, the increase in support for extreme right political parties will continue with these dynamics of closing borders to migrants and refugees who are fleeing their countries; it will be the European countries on Mediterranean shores alone that continue to take in the refugee population that may continue to arrive.

303 ASGI, "Le riammissioni di cittadini stranieri alla frontiera di Chiasso: profili di illegittimità", at: http://www.asgi.it/wp-content/uploads/2016/08/Report-Riammissioni-Chiasso_ASGI_31.8.16_def.pdf

304 For more information on repression against French and Italian people who individually help the refugee and migrant population, see the following link by the NPR at: <http://www.npr.org/sections/parallels/2017/02/10/514544078/at-risk-of-arrest-villagers-aid-migrants-crossing-french-italian-border>

305 El País, "Austria se prepara para blindar con el ejército su frontera frente a la migración" ("Austria prepares to shield its border against migration with the army") at: https://internacional.elpais.com/internacional/2017/07/04/actualidad/1499192375_578872.html

306 For more information, see the following article from the Oxford Faculty of Law, "Containment through mobility at the internal Frontiers of Europe" at: <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2017/03/containment> and One World, "Diritti Confinati. Le Lampedusa del Nord. Ventimiglia e Como", at: https://www.weworld.it/wp-content/uploads/2016/12/Brief-Report-1_2016-20161130.pdf

307 Médecins Sans Frontières, "Fuori Campo", at: <http://fuoricampo.medicisenzafrontiere.it/Fuoricampo.pdf>

5. Conclusions

The increase in the number of arrivals by sea to the EU and in deaths on the Mediterranean, especially in 2014 and 2015, has provoked political reactions in the EU member states. These reactions have materialised in the European Agenda on Migration, adopted in 2015, which has had an impact on the management of Europe's external borders, concentrating on externalising borders with the clear intention of preventing migrants and refugees from arriving in Europe while identifying everybody who arrives on Italian shores in order to prevent secondary movements, and returning and pushing back all those who are not deemed worthy of international protection.

Some of the main impacts arising from the European Agenda on Migration on the migration routes to Italy and on the Italian asylum system are mentioned below:

- **The steps taken in the European Agenda on Migration adopted in May 2015 have not led to a drop in deaths on the Mediterranean.** The central Mediterranean route is the most deadly in the world, yet since the eastern Mediterranean route was closed after the EU-Turkey Agreement was signed, it is the one most used by people trying to reach Europe.

- **The European Agenda on Migration has led to the creation of “exceptional spaces” such as hotspots** which in Italy have no regulatory standards to operate. In these places, practices have been identified such as the disproportionate use of force to take fingerprints, overcrowding, people staying too long, inadequate structures and a lack of water.

- **The identification procedure is carried out hours after the people have been rescued at sea**, so they are still in a state of shock after their experience in Libya and the harsh journey. After they arrive, in addition to fingerprinting they must undergo an interview (with no lawyer present) and fill in a form that includes several questions which, depending on how they are written, may clearly lead to confusion because if somebody replies that they wish to work in Italy they may automatically be considered an economic migrant and thereby excluded from the international protection procedures. After the interview, the people are classified as economic migrants or international protection applicants. This is often based solely on nationality. This practice, which affects their access to the international protection procedure, is discriminatory and goes against the spirit of the Geneva Convention of 1951.

- By **bolstering the tasks of fingerprinting and in some cases the disproportionate use of force**, one of the big successes of the Migration Agenda has been achieved: an increase in the number of people identified after arriving, rising from 36% to 87% between 2015 and 2016. This has also led to an increase in international protection applications. With these strategies, the European migration policies are clearly attempting to tighten the UE's external borders and also create internal walls by applying the Dublin Regulation, which continues to mean that the countries that represent the EU's external borders take on a disproportionate number of asylum applications while the people arriving in these countries have no other option but to apply for protection within these countries.

- **The Minniti Decree (Decree Law 13/2017), which modifies the Italian Law of Asylum, far from including greater guarantees for refugees' rights, introduces restrictive**. On the one hand, the decree eliminates the possibility of a double appeal and on the other it provides for an increase in the number of places in the Repatriations Centres to respond to the premise set out by the European Agenda of strengthening expulsions and returns to the countries of origin.

- **In practice, delays have been detected in carrying out the first asylum interview** interviews as a result of the great many international protection applications, without the international protection applicants knowing the reasons for the delay.

-There are very diverse parties responsible for managing the reception centres (the state, local and regional administrations, private companies) and they do not act in a homogenous way under common parameters.

This has led to unequal treatment given to the asylum applicants in terms of receiving them and providing services.

- The lack of reception places has led to overstaying in the first reception centres (hubs), which in some cases are overcrowded. This has led to new centres being opened urgently that are often managed by non-specialised parties

parties and inexperienced private companies whose motives are exclusively economic, and by Mafia organisations. In fact, some sources point to infiltration by the Italian mafia, above all in the south, which has turned the reception of refugees into a business.

- The European Agenda on Migration has fostered the externalisation of borders.

The agreement signed in August 2016 between the Italian government and Sudanese police is especially worrying. The signing of this agreement has raised concerns from many organisations as a result of potential violations of human rights faced by people from Sudan once they have returned to their country. The new agreements between Libya and the EU also give cause for concern. They show that European governments continue to give priority to preventing people in need from arriving in Europe at all costs, ignoring the risk of torture, rape, pushbacks and deplorable conditions.

- The relocation process has been carried out slowly and inefficiently.

To date, only 6,458 people have been relocated from Italy, meaning 16% of the relocations to which the EU member states had agreed. The case of unaccompanied minors is particularly alarming. Despite the very significant numbers of unaccompanied minors landing, (25,800 in 2016 and 8,132 in 2017), only five minors have been relocated from Italy, specifically two in Holland and three in Norway.

- The lack of places for unaccompanied minors in the secondary reception centres known as SPRAR

has led to them spending much more time than adults in the hotspots, according to different organisations. Sometimes, due to the lack of places, they must stay in the CAS centres, which are completely unsuitable for minors, living alongside adults with a lack of specialised professionals, and exposed to greater risks and lack of protection.

- The violations of women's human rights are particularly worrying.

Many women through their testimonies have denounced rape, aggression, trafficking for sexual exploitation, slavery and other kinds of violence perpetrated by many parties during their migration journey. According to the IOM, 70% of Nigerian women landing in Italy do so within trafficking networks for sexual exploitation, which shows the magnitude of the problem and the big challenge as regards protection. Although some institutions get involved in quickly identifying women who are victims of trafficking, they often do not have real, effective protection in Italy.

- The rescue NGOs face a process of criminalisation whose

aim is to hinder the work of independent organisations that save lives and who may denounce what is happening in the Mediterranean.

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