

# Asylum procedure and reception conditions in Italy

## Report on the situation of asylum seekers, refugees, and persons under subsidiary or humanitarian protection, with focus on Dublin returnees

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Berne and Oslo, May 2011

Information on the organizations involved:

**Juss-Buss:** Juss-Buss is a student run legal aid clinic at the Faculty of law, University of Oslo. Juss-Buss was established in 1971, and is providing legal aid to persons without adequate access to legal aid. Annually Juss-Buss is providing legal aid in 5000 cases. In addition, Juss-Buss is doing law reform work, research and education.


**SFH/OSAR:** The Swiss Refugee Council (SFH/OSAR) is a politically and religiously independent non-profit organization that supports the rights of asylum seekers and refugees. The SFH/OSAR is the umbrella association of the Swiss refugee relief organizations Caritas, Swiss Interchurch Aid (HEKS), Swiss Labour Assistance (SAH), the Association of Swiss Jewish Welfare (VSJF), and the Swiss section of Amnesty International. As an expert organization, the SFH/OSAR participates in the political consultation process regarding asylum and immigration legislation. The SFH also provides legal advice and coordinates the Swiss consultancy network. Furthermore, it trains and coordinates the representatives of the refugee relief organizations who participate in the asylum hearings as neutral observers. The SFH/OSAR systematically observes the asylum law and practice, provides country of origin information reports, and is active in education and public awareness-raising.

**Special thanks:** We would like to express our gratitude to all the experts and officials working for Italian asylum authorities, representatives of UNHCR, Italian NGOs, and asylum seekers who all generously shared some of their precious time with us during our visit in Italy. We thank them for the warm welcome with which we were received and their willingness to share information on the situation in Italy. Felicina Proserpio has been an inestimable resource to us both in Italy and when the report was written. Thank you!

We are grateful for the contribution of Susanne Bolz, head of the protection section of the SFH/OSAR, for the legal analysis and her support during the writing of the report. We would like to express our gratitude for the prosperous cooperation with Ingvald Bertelsen of the Norwegian Organisation for Asylum Seekers (NOAS), with regards to our visit to Italy and the valuable advice we received in the writing process. Juss-Buss thanks the Norwegian lawyer association for financially supporting their trip to Italy.

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English, German, French

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# 1 Introduction

## 1.1 Project partners

A mixed delegation of three NGOs (SFH/OSAR from Switzerland, Juss-Buss and NOAS from Norway) visited Italy from 15 to 24 September 2010 to examine the procedure and reception conditions for asylum seekers. The visit focused on the conditions of those asylum seekers returned through the Dublin II Regulation. The delegation was accompanied by Felicina Proserpio, an Italian lawyer working in Basel, Switzerland for the Scalabrini Center for Migration Research CSERPE, who also assisted as interpreter. The delegation visited the cities of Rome, Milan, and Turin. A second visit was undertaken by NOAS from 2 to 13 December 2010 to perform additional research in Turin and Rome. The report has been written by Juss-Buss and SFH/OSAR in close cooperation with NOAS regarding exchange of information and input and comments on the report. NOAS published its own report in April 2011.<sup>1</sup>

## 1.2 Purpose: Why the need for an assessment?

Both Norway and Switzerland are associated members to the EU agreements of Schengen and Dublin. Norway became a member of the Dublin cooperation in 2001, when the Dublin II Regulation was adopted, replacing the Dublin Convention. For Switzerland, the Dublin II Regulation became operational as of 12 December 2008.

By far the greatest number of asylum seekers arriving both in Norway and Switzerland have travelled through Italy or lodged an application there. Italy is therefore the most important country of the so called Dublin-Out-Procedure for Switzerland and one of the major countries for Norway.

Almost half of all requests for take-back or take-charge of asylum seekers under the Dublin II Regulation that Switzerland had reported in the years 2009 and 2010 were addressed to Italy: 5048 requests (equal to 42 %). In both years, a total of 2237 persons were transferred back to Italy, which means that 48 % of all foreigners who had to leave Switzerland under the Dublin system were sent back to Italy.

Many of the applicants claim to have lived under unbearable reception conditions in Italy, especially regarding shelter and social assistance. Based on these matching testimonials by many clients, legal advisors assisting applicants facing a transfer to Italy under the Dublin procedure became more and more concerned that those returned would once more find themselves in a deplorable situation. Furthermore, clients contacted their legal representatives after the transfers to Italy to inform them that they indeed lacked sufficient support and were living on the street.

Due to this information, the three organizations involved shared the opinion that there might be reason to believe that the human rights of asylum seekers have been violated due to insufficient reception conditions, health care, and integration assis-

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<sup>1</sup> The Norwegian Organization for Asylum Seekers, The Italian approach to asylum: System and core problems, April 2011: [www.noas.org/](http://www.noas.org/).

tance in Italy. The aim of the fact-finding visit to Italy was therefore to understand the Italian situation better and to shed a light on the problems alleged by asylum seekers having passed through Italy.

### 1.3 Interview and cooperation partners

The delegation specially thanks the following organizations and authorities for their precious information and cooperation during the visits in Italy:

#### In Rome:

- Caritas Rome, Via delle Zoccolette 19, Ngô Lê Quyên, leader, Caterina Boca, legal advisor, 15 September 2010 (Caritas Rome)
- Asinitas organization, Casa della Memoria e della Storia, Via di San Francesco di Sales 5, Alesandro Triulzi, leader, and various, 15 September 2010 (Asinitas)
- Meeting at the Centro Enea, Via di Boccea 530, Present: Prefecture of Rome, Paola Varvazzo / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome, Valentina Tortorella, legal counsellor / Centro Enea, Rosa Perrotta, leader reception center / Dublin Unit of Norway, Siv Jacobsen, advisor, 16 September 2010 (Centro Enea)
- Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome, 320 Via dell'Aeroporto di Fiumicino, Rome, Valentina Tortorella, legal counsellor, Salilh Haj, interpretor, December 2010 (Arciconfraternità)
- Association of Juridical Studies on Immigration, Via Valadier 39, Salvatore Fachile, lawyer, December 2010 (ASGI)
- Servizio Centrale SPRAR, Via dell'Arco di Travertino 11, Lucia Iuzzolini and various, 16 September 2010, December 2010 (SPRAR)
- Cittadini del Mondo, Ambulatorio, Donatella D'Angelo, doctor, 16 September 2010 (Cittadini del Mondo)
- Doctors Without Borders Italy, Via Volturmo 58, Rolando Magnano, head of mission Italy, December 2010 (Doctors Without Borders Italy)
- ROMANINA, visit to the squat with doctors of Cittadini del Mondo, exchange with various asylum seekers, refugees, among them vulnerable people, 16 September 2010 (Cittadini del Mondo)
- Embassy of Norway, Via Roma 121, Arne Gjermundsen, minister counsellor, September 2010, December 2010 (Embassy of Norway)
- Save the Children Italy, Via Volturmo 58, Lara Olivetti, legal counsellor, legal department program, and Stefania De Nicolais, field worker and attorney, 16 September 2010, December 2010 (Save the Children)

- Associazione Virtus Italia Onlus, Via Donato Menichella 146, visit of the Reception Center of Bassa soglia for unaccompanied minors and a «Casa Famiglia» for unaccompanied minors Comunità Kairos, Viviana Violante, psychological therapist for minors including unaccompanied asylum seekers, 17 September 2010 (Virtus Italia Onlus)
- Sant'Egidio, Piazza Sant'Egidio 3/a, Cecilia Pani, 18 September 2010, (Sant'Egidio)
- CIR, Consiglio Italiano per i Rifugiati, Via del Velabro 5/A, Maria de Donato, leader, Daniela Di Rado, legal counsellor, 20 September 2010 (CIR)
- Questura of Rome, Ufficio Immigrazione, Via T. Patini, Franca Zappacosta, chief inspector, 20 September 2010 (Questura of Rome)
- Associazione Centro Astalli (Jesuit Refugee Service), Via del Collegio Romano 1, Donatella Parisi, communication advisor, 20 September 2010 (Centro Astalli)
- UNHCR Italy, Via A. Caroncini 19, Jürgen Humburg, senior protection assistant, 21 September 2010 (UNHCR)
- MEDU, medici per i diritti umani, Via dei Zeno 10, Rosely Petri, coordinator, 21 September 2010 (MEDU)
- Meeting with asylum seekers, refugees, and unaccompanied minors on the street together with representatives of MEDU, within the project «un camper per i diritti», 21 September 2010
- Accompany representatives of Sant'Egidio during the distribution of food for refugees and asylum seekers in front of a train station in a suburb of Rome, 21 September 2010

#### **In Milan:**

- SAI, Servizio Accoglienza Immigrati di Milan, Caritas Ambrosiana, Via Galvani 16, Luca Bettinelli, lawyer, Daniela Varisco, counsellor, and Giuditta Oppizzi, lawyer, 22 September 2010 (Caritas Milan)
- Caritas Milan Ambrosiana, Milan Malpensa Airport Varese, Daniela Varisco, counsellor, December 2010
- Maria Cristina Romano, member of Association of Juridical Studies on Immigration (ASGI) and European Legal Network on Asylum (ELENA) coordinator for Italy, lawyer, 22 September 2010 (Elena Coordinator)
- Naga-har, meeting point for asylum seekers and refugees, Via Grigna 24, Elisa Morellini, 23 September 2010 (Naga-har)
- Municipality of Milan, Servizi dell'ufficio Stranieri, Via Edolo 19, Giancarla Boreatti, person in charge Ufficio Stranieri, Angeli Patrizia and others, 23 September 2010 (Municipality of Milan)

## In Turin:

- Municipality of Turin, Corso Novara 96, Roberto Samperi, head of the foreigners' office, 22 September 2010 (Municipality of Turin)
- Ufficio Pastorale Migranti, Via Ceresole 42, Cristina Molfetta, cultural anthropologist, 22 September 2010 (UPM)
- Prefecture of Turin, Marita Bevilacqua, vice-prefect in charge of immigration policies, 23 September 2010 (Prefecture of Turin)
- Mosaico and various NGO-coordinated projects, Via S. Secondo 31, Berthin Nzonza, president, cultural mediator, Zahra Osman Ali, cultural mediator, Kibeida Yagoub, cultural mediator, Edwin Ogiesoba, cultural mediator, Michelle Manocchi, assistant, Elena Evangelisti, assistant, Magda Bolzoni, assistant, 23 September 2010, December 2010 (Mosaico)
- Il Punto di Domande, Refugee Guidance Center, UPM project, Via Riberi 2, Mirtha Sozzi, counsellor, Laura Braga, counsellor, Silvia Pescivolo, counsellor, 24 September 2010 (Il Punto di Domande)
- Questura of Turin, Corso Vinzaglio 10, Raffaella Fassone, responsible for expulsion procedures, 6 December 2010 (Questura of Turin)
- Regione Piemonte, Immigration Department, Corso Stati Uniti 1, Carla Martoglio, police maker, 6 December 2010 (Regione Piemonte, Immigration Department)
- Associazione di animazione intercultural (ASAI), Via Sant'Anselmo 27/e, Sergio Durando, president, Elena Rossetto, project leader, Danila Lusso, project leader and various, 6 December 2010 (ASAI)
- Cooperativa Orso, Via Morgari 14, Simona Sartori, 6 December 2010 (Cooperativa Orso)
- Meeting with Afghan refugees and interpreter, September 2010, December 2010

## 1.4 Key issues in brief

Italy has in the last years been overwhelmed by a great number of asylum seekers arriving on its territory. Since the Italian authorities have made an effort to implement the Dublin-System better than in previous years,<sup>2</sup> Italy remains responsible for

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<sup>2</sup> In the EU-Commissions first annual report on EURODAC, it was found that between 20 and 23 days elapsed before Italian authorities were reporting the fingerprints to the EURODAC-Database. The Commission is concerned that such «a delay in the transmission of fingerprints may indeed have legal consequences for the proper application of EURODAC and the Dublin II Regulation». : Commission of the European Communities, Commission Staff Working Paper, First annual report to the Council and the European Parliament on the activities of the EURODAC Central Unit, SEC (2004) 557, 5 May 2004, p. 13:  
[www.europarl.europa.eu/registre/docs\\_autres\\_institutions/commission\\_europeenne/sec/2004/0557/COM\\_SEC\(2004\)0557\\_EN.pdf](http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/sec/2004/0557/COM_SEC(2004)0557_EN.pdf).



a large number of cases, even if persons who have claimed asylum have left the country again. Especially since Switzerland has begun to participate in the Dublin procedure, Italy has been faced with an enormous amount of asylum seekers and foreigners for whom take-back or take-charge requests have been made. The Italian Dublin Office openly admits that it lacks the capacity to process all requests in due time<sup>3</sup> and works under great pressure.

It is a fact that Italy until today is still struggling to provide facilities to receive all applicants properly as prescribed by the Reception Conditions Directive. Applicants run the risk of being denied access to the rights secured by the EU Asylum Acquis during all stages of the asylum procedure and in the integration system.

Consequently, a larger number of asylum seekers leave Italy after having applied for asylum. Arriving in other European countries, they describe how they have not been properly received in Italy after they filed their asylum request. Another group leaving are those who have already been granted protection status as refugees or given subsidiary protection or received a permit on humanitarian grounds. The fact that these still chose to leave Italy appears to be caused to a large extent by the difficulties in receiving sufficient support and integration assistance.

The major problems of the Italian system are due to the fact that the reception system is not commensurate to the number of applicants. In theory, after a shorter stay in a reception and registration center (CARAs<sup>4</sup> are designed for an identification period and housing up to 1000 applicants; in total around 2000 places are available), asylum seekers should be transferred to other, smaller centers for the procedure that offer integration measures and better reception conditions (SPRAR<sup>5</sup> centers, around 3000 places available<sup>6</sup>). In theory, asylum seekers who have been granted a status should be able to support themselves after the stay in such a center (which lasts normally up to six months). Italian law enables asylum seekers to work after six months.

As the system does by far not provide enough places in total, the authorities are not able to provide appropriate accommodation for all asylum seekers according to the system described above. As social support (food, shelter, integration, etc.) for the asylum sector is linked to the sojourn in a center, this causes severe problems for those who do not get a place there. Secondly, the sojourn in a center is granted only for a limited period. Consequently, after this time has expired, asylum seekers find themselves receiving no further assistance by the authorities. These problems concern all persons in the asylum regime – not only those during the procedure phase, but also those who were granted refugee status, subsidiary or humanitarian protection.

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<sup>3</sup> Statement by Vice-Prefect Dr. Antonella Dinacci, Head of the Italian Dublin-Office at the Italian Ministry of Interior, at a conference organized by the Consiglio Italiano per i Rifugiati (CIR) in Rome on 27 April 2010.

<sup>4</sup> CARA (Centro di accoglienza per richiedenti asilo / Accommodation Center for asylum seekers).

<sup>5</sup> Sistema di Protezione per Richiedenti Asilo e Rifugiati (SPRAR).

<sup>6</sup> SPRAR Protection System for Asylum Seekers and Refugees, Summary of the 2008–2009 Report, SPRAR Statistic for 2007, 2008 and 2009–2010, p. 7: [www.anci.it/Contenuti/Allegati/Abstract%202008\\_2009%20SPRAR%20report.pdf](http://www.anci.it/Contenuti/Allegati/Abstract%202008_2009%20SPRAR%20report.pdf).

This was the situation that the delegation encountered in the year 2010, when the very recent developments in Northern Africa were still unforeseeable. It is obvious that the recent influx of refugees is aggravating the situation even further.

### *1. No access to accommodation and assistance at the initial stage of procedure*

In theory, every asylum seeker should be assigned to a reception and registration center after he or she issues the claim. This first phase of accommodation should last for 20 or 35 days after registration, depending on how they arrived in the country. Various sources have confirmed that in many cases, there is no access to accommodation for the period between the first contact with Italian authorities and the formal registration of the asylum claim. This period can vary from a few weeks up to, in the worst cases, several months, depending on the capacity of the authorities. In 2010, the delay could last up to two months in major cities, during this period many asylum seekers have no shelter and live on the street.

### *2. Accommodation not for all asylum seekers*

When registered, asylum seekers who fail to support themselves and their relatives economically have at least – according to Italian law – the right to accommodation until the first instance decision is taken. But the main problem is that there are only approximately 3000 places available in SPRAR centers. These centers should also provide for integration measures. As the system is not sufficient, authorities are not able to secure a place in such a center. Therefore, most asylum seekers do not benefit from integration measures during their procedure, with the consequence that they are not – as anticipated under the system – prepared to pursue their lives independently, when they have to leave the SPRAR center after six months. This situation is aggravated by the current economic situation that led to a high unemployment quota in Italy.<sup>7</sup> Refugees and asylum seekers are the last candidates to be considered for any job; many low-paid jobs previously open to them are now reoccupied by Italian nationals and other foreigners.<sup>8</sup>

If no space is available in SPRAR centers, asylum seekers may be accommodated in a CARA, normally hosting only asylum seekers who have been temporarily arrested for illegal entry or stay. As there is only space for approximately 2000 persons in such centers, not all asylum seekers have access to accommodation. Without accommodation, access to basic needs like food and personal hygiene is also hard to achieve. Financial support is not provided under any circumstances.

### *3. Lack of appropriate accommodation and support after granting of status*

The most severe problems arise for those who have qualified for a status of international protection. As soon as asylum seekers have been granted a protection status

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<sup>7</sup> Unemployment Rate 2010: 8.4 %: European Commission Directorate General ECFIN Economic and Financial Affairs, Statistical Annex of European Economy, autumn 2010, p. 193: [http://ec.europa.eu/economy\\_finance/publications/european\\_economy/2010/pdf/statistical\\_annex\\_autumn2010\\_en.pdf](http://ec.europa.eu/economy_finance/publications/european_economy/2010/pdf/statistical_annex_autumn2010_en.pdf).

<sup>8</sup> Economic analysis from the European Commission's Directorate-General for Economic and Financial Affairs, ECFIN Country Focus, Italy's employment gap: the role of taxation, 4 February 2010: [http://ec.europa.eu/economy\\_finance/publications/country\\_focus/2010/pdf/cf-7-01\\_en.pdf](http://ec.europa.eu/economy_finance/publications/country_focus/2010/pdf/cf-7-01_en.pdf); Doctors Without Borders, Violence in Southern Italy Exposes Extreme Neglect and Exploitation of Seasonal Migrant Workers, 12 January 2010: [www.doctorswithoutborders.org/press/release.cfm?id=4146&cat=press-release](http://www.doctorswithoutborders.org/press/release.cfm?id=4146&cat=press-release).

(refugee status or subsidiary protection) linked to a residence permit, they are considered to be able to support themselves independently. Consequently, there are only very limited accommodation facilities offered by the authorities. In practice, allocation to a center is often extended for some additional months for vulnerable cases. Most people, however, are put on the streets with a work permit that is useless as they are not able to find work. Also, vulnerable persons are put on the streets once the extended period has expired.

Without accommodation, access to basic needs like food and personal hygiene is also hard to achieve. Financial support is not provided under any circumstances. As the state does not give them money, individuals who are not being accommodated by the government have to depend on themselves or on welfare organizations and NGOs for everything they need to survive.

#### *4. Insufficient access to health care due to lack of information*

There are serious communication and information problems with regards to access to health care during the procedure and after recognition. The authorities fail to inform the applicants about their rights. Consequently, although asylum seekers are entitled to benefit from the public health care system, they fail to do so because they are not informed. This is a very poor implementation of Article 5 of the Reception Conditions Directive, which stipulates that Member States have to inform asylum seekers about their rights within 15 days after they have filed the claim.

Many interviewed stakeholders have pointed out that treatment and social assistance of traumatized refugees or persons with mental diseases is by no means sufficient or satisfactory.

#### *5. Integration lottery – only local concepts*

Unlike in most European countries, integration programs in Italy are generally only offered while the asylum seeker is still in the procedure and in some cases for a short time after their recognition. Integration programs should be offered in the accommodation centers of the SPRAR system. However, as most asylum seekers are not given a place in the SPRAR Center, the CARA facilities also offer some language teaching. The offer comprises Italian courses (very often in huge classes) and some training in how to find a job. Apart from this, individuals depend on themselves.

In Italy, the responsibility for the integration of recognized asylum seekers is decentralized, which leaves much to the will and means of local authorities. This causes regional discrepancies in the services offered, which implies unpredictability for the individual. Thanks to the work of NGOs, asylum seekers in many places get further help in addition to the assistance the authorities can offer. However, this support is based mainly on voluntary engagements and is therefore neither reliable nor predictable.

## 1.5 Facts and figures

### 1.5.1 Immigration to Italy before the Dublin cooperation

Due to its geographical situation, Italy has for a long time been a transit country for a large part of the immigrants heading for Europe from Africa, the Middle East, and Asia.<sup>9</sup> Until 1990, Italy was, with a few exceptions, only open to European asylum seekers and some refugees that arrived via the UNHCR. During the 1990s, the country started to accept non-European asylum seekers, but their situation was not a crucial concern for the authorities during these years. The asylum procedure was disorganized, and the social conditions were poor. Therefore, most of the asylum seekers travelled onwards to other European countries, and Italy remained a transit territory for this group.<sup>10</sup> The number of registered asylum applications was modest; in the years 1992–1997, it varied between 680 and 2590 per year.

### 1.5.2 Asylum seekers in Italy under the Dublin Convention / Dublin II Regulation

The Dublin Convention became operational on 1 September 1997, causing a radical increase in the number of asylum applications lodged in Italy and putting an end to the situation of Italy being a mere transit country. From 1997 to 1998, the number of applications increased from 1890 to 13'100.<sup>11</sup> The following years saw numbers increased to around 15'000 applications, before temporarily dropping to around 10'000. In 2007, the numbers started to rise again, and in the following year, more than 30'000 were registered.

After the initiation of the deal with Libya (see pt. 2.1) in the summer of 2009, the numbers sank dramatically again: During the third quarter of that year, the number went down to 2777, compared to 10'166 in the same period of the previous year. In 2009, the total number of applicants was 17'603.<sup>12</sup>

In 2009, the total number of applicants *returned to Italy* was 2658.<sup>13</sup> This is more than twice as many as in 2008. This increase can be attributed to the rise of the total number of applications in Italy in the years 2007/2008, but also to the fact that Switzerland was included in the statistics for the first time in 2009, as the country that submitted the most requests by far (2266), and actually returned 869 applicants.<sup>14</sup>

The combination of the impact of the European legal framework and the increased number of applications to be assessed and applicants to be accommodated changed

<sup>9</sup> Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010.

<sup>10</sup> Interview with Cristina Molfetta, Ufficio Pastorale Migranti, Turin, 22 September 2010.

<sup>11</sup> UNHCR, 2005 UNHCR Statistical Yearbook, Italy, 5 August 2007: [www.unhcr.org/4641be5d11.html](http://www.unhcr.org/4641be5d11.html).

<sup>12</sup> Annual number of asylum applications in select countries, 2004–2009: <http://migrantsatsea.wordpress.com/2011/02/28/annual-number-of-asylum-applications-in-select-countries-2004-2009/>.

<sup>13</sup> Dublin Transnational Project: [www.dublin-project.eu/dublin/Italy](http://www.dublin-project.eu/dublin/Italy). For more information to Dublin see: Consiglio Italiano per i Rifugiati, Hungarian Helsinki Committee, Comisión Española de Ayuda al Refugiado, Pro Asyl, Greek Council for Refugees, Caritas Sweden, Dubliners Project Report, April 2010: <http://helsinki.hu/dokumentum/dublinerCORRETTO%20definitivo.pdf>.

<sup>14</sup> Federal Office for Migration, Statistics December 2009: [www.bfm.admin.ch/content/dam/data/migration/statistik/asylstatistik/monat/2009/stat-mt-200912-d.pdf](http://www.bfm.admin.ch/content/dam/data/migration/statistik/asylstatistik/monat/2009/stat-mt-200912-d.pdf).

the situation radically within a few years. It led to the recognition of the need to establish an appropriate national asylum system. A variety of solutions have been tried concerning the legal procedure, accommodation, welfare, and integration of asylum seekers. However, stakeholders confirm that there are still many areas that need to be improved before compliance with EU standards is achieved.

## 2 The Italian Asylum Procedure

### 2.1 Access to territory

In May 2009, Italy started transferring third-country nationals intercepted in international waters to Libya. The agreement prevented asylum seekers from applying for asylum and has put into question the Italian authorities' general willingness to provide access to the asylum procedure.

The transfers have taken place without taking into consideration the potential necessity of protecting the people onboard the boats.<sup>15</sup> The UNHCR considers that the interception may be at variance with the principle of non-refoulement and a possible violation of Article 3 of the ECHR.<sup>16</sup> The agreement between Italy and Libya affects all of Europe insofar as it causes the total number of asylum seekers in Europe to decrease. From an ethical point of view, this is questionable, due to the conditions the asylum seekers are confronted with in Libya.

At present – due to the unforeseen very recent developments in Northern Africa – this deal with Libya has come to an end. The consequences are not yet predictable, but the latest unrest will certainly have a heavy impact on the situation for asylum seekers in Italy. It is very likely that the number of asylum claims, which has decreased in the last two years will rise again dramatically.<sup>17</sup>

### 2.2 Filing an application – access to the procedure

#### 2.2.1 How to apply for asylum in Italy

The intention to apply for asylum can be stated to the border police or at headquarters of the territorial state police, the Questura. The Questura is an administrative body that is found in every province, which provides passports for Italian citizens and permits for foreigners. It is the responsibility of the Questura to receive and formally register asylum applications. Applicants may also state their intention to apply for asylum in every police station in Italy; they will then be sent to the Questura, where they are registered. Usually, applicants have to visit the Questura several

<sup>15</sup> Amnesty International: Libya/Italy: Bilateral cooperation should not be at the price of human rights, 27 August 2010: [www.amnesty.org/en/library/asset/MDE19/017/2010/en/633d2326-1192-4d16-960c-d767928fe718/mde190172010en.html](http://www.amnesty.org/en/library/asset/MDE19/017/2010/en/633d2326-1192-4d16-960c-d767928fe718/mde190172010en.html).

<sup>16</sup> Interview with Jürgen Humburg, UNHCR Italy, Rome, 21 September 2010.

<sup>17</sup> ECRE Weekly Bulletin, 22 April 2011: «Since mid-January, 26'980 people from North Africa have arrived in Italy, among them 22'953 Tunisians and 4018 from other countries, mainly Eritrea, Ethiopia, Ivory Coast and Somalia.»: [www.ecre.org/files/ECRE\\_Weekly\\_Bulletin\\_22\\_April\\_2011.pdf](http://www.ecre.org/files/ECRE_Weekly_Bulletin_22_April_2011.pdf).

times before being able to register at all.<sup>18</sup> Asylum seekers do not receive any financial support during this period. They face many difficulties in daily life, have to find food and shelter and are amongst other issues forced to use public transportation without valid ticket, which forces them into humiliating situations.

The general impression gained from persons interviewed is that asylum seekers are usually not prevented from applying for asylum when they have reached Italian territory. However, asylum seekers and their legal representatives have reported incidents where there had been difficulties with the submission of applications. In the larger cities, there have been difficulties with physically accessing Questura offices due to police guards outside the buildings who usually only speak Italian. The problem of communication also occurs inside the buildings: In the South, there are examples of people who have been told to take the train further North. In some places, asylum seekers have been given a paper that told them to leave the country.<sup>19</sup>

There have also been reported incidents from the airport about people not being given the opportunity to submit an asylum application or getting an appointment with the Questura. For example, one Eritrean who had been sent back from Norway told Juss-Buss he had been advised to leave after giving fingerprints. According to the Immigration Lawyers Association in Italy (ASGI), this is a reoccurring problem.<sup>20</sup> Improved access to interpreters could perhaps solve these problems.

Lack of capacity might be one of the reasons for these problems. The capacity problems limit both the education of the officers and the reception possibilities. It is a constant problem that far more people present themselves than the authorities are able to register. In the period when the numbers peaked, in 2008 and 2009, the Questura of Rome, which is responsible for a large number of asylum seekers, was addressed by up to several hundred claimants a day.<sup>21</sup> Consequently, the period between first contact and formal registration of the asylum claim lasted up to six months meanwhile most asylum seekers remained without shelter (see pt. 2.2.2).

## 2.2.2 Procedure for claiming asylum

Before the Questura will register the applicant formally, the identity and the nationality of the asylum seeker have to be verified. Upon application for asylum, fingerprints and photographs are taken, and an application containing all relevant personal information is completed.

After the first registration, the fingerprints are checked for matches in EURODAC and the national database AFIS. Subsequently, the asylum seeker will be invited to a new appointment for the formal registration (see pt. 2.2.3) and receives a document confirming the first registration, called a «cedolino». The period between the first and the formal registration can vary from a few weeks up to two months, depending on the capacity of the Questura. In 2008 and 2009, the waiting time could be up to six months.

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<sup>18</sup> Interview with Franca Zappacosta, Questura of Rome, Rome, 21 September 2010.

<sup>19</sup> Interview with members of Mosaico and various NGO-coordinated projects, Turin, 23 September 2010.

<sup>20</sup> Interview with Salvatore Fachile, Association of Juridical Studies on Immigration, Rome, December 2010.

<sup>21</sup> Interview with Franca Zappacosta, Questura of Rome, Rome, 21 September 2010.

If the asylum seeker is in possession of a national passport, this document has to be delivered to the Questura, which will give the asylum seeker a copy with an official stamp, proving that the original has been withdrawn by the police. In most cases, asylum seekers do not have the necessary identification papers. The Questura of Rome estimated that most of those who apply lack proper identification papers.<sup>22</sup> This can be different in other regions, especially places where the asylum seekers arrive by regular transport, for example by plane or boat. We have been informed that many of the applicants in Turin possess identification documents.<sup>23</sup> Asylum seekers who arrive without papers are normally taken to a CARA, where they stay while they are identified.

Asylum seekers who are illegally present on the Italian territory or passed the borders without being checked by the authorities are normally taken to a CARA or into a First Reception Center. The CARA Centers are normally hosting asylum seekers who have been temporarily arrested for illegal entry or stay (see pt. 3.3.1.2).

In general, the capacity at the Questura is limited. In consequence, it is very often not possible to receive asylum seekers the first time they show up. In most cases, they will get an appointment to return later for their formal registration, which can last several weeks up to two months in big cities these days. It is not possible for the asylum seeker to reach the Questura offices by telephone. In addition, the Questura usually needs time after the first registration to check the fingerprints and see whether the person is entitled to a place in a center before it can invite them to go there.<sup>24</sup> As already mentioned, during this period most of them remain without shelter and live on the street.

### 2.2.3 Formal registration: the verbalization

The Questura will perform the formal registration, called the «verbalization», some time after the initial registration. The applicant will be interviewed mainly in order to complete a form known as «C3». The questions are asked in cooperation with an interpreter. There are interpreters for the most important languages.<sup>25</sup> If the applicant is able to make himself understood in English, the interview will be realized in English.<sup>26</sup> It is possible to bring a lawyer, at the applicant's own expense, to the verbalization, but he is not allowed to speak.<sup>27</sup> Applicants have to deliver a written resume of their story, in whatever language they choose.<sup>28</sup> If they are illiterate, they have to find a private person at their own expense, who is willing to assist them to deliver a written resume of their life story.<sup>29</sup> However, this might be delicate, as many suffer from traumatic experiences that are not easily shared with other

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<sup>22</sup> Ibidem.

<sup>23</sup> Interview with Prefecture of Rome / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome / Centro Enea / Dublin Unit of Norway, Rome, 16 September 2010.

<sup>24</sup> Interview with Franca Zappacosta, Questura of Rome, Rome, 21 September 2010.

<sup>25</sup> Ibidem.

<sup>26</sup> Interview with Elisa Morellini, Naga-har, Milan, 23 September 2010.

<sup>27</sup> Interview with Maria Cristina Romano, member of ASGI and ELENA coordinator for Italy, Milan, 22 September 2010.

<sup>28</sup> Interview with Franca Zappacosta, Questura of Rome, Rome, 21 September 2010.

<sup>29</sup> Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010.

people.<sup>30</sup> After the verbalization, they receive a paper confirming their status as an asylum seeker. From the authorities' perspective, from this point on the asylum procedure has started and the applicants have the right to be accommodated and assisted.

The conditions for the interviews held at the Questura are very often unfavorable for the applicants. In Rome, two teams, each consisting of a police officer and an interpreter, work on verbalizations sharing the same room. In practice, there are at least six persons in a room, and in some cases, there have been up to eight persons present.<sup>31</sup> Not only can it be disturbing to have another asylum interview going on in the same room, but also it can be problematic due to the lack of respect for the applicant's privacy. This situation creates a special hardship for traumatized applicants and is problematic with respect to gender-related issues.

An additional problem reported in Rome is the fact that every verbalization team handles about 20 cases per day, for a total of 40 verbalizations a day. In periods when the number of asylum seekers waiting for their verbalization is particularly high, this leads to long waiting times. This is especially problematic as asylum seekers are not entitled to accommodation and support by the government before they have completed the verbalization process.

Regarding interpreters, further problems arise due to a lack of resources. In some places, the Questura offices do not provide interpreters at all.<sup>32</sup> In Turin, the Questura is considering the possibility of skipping the interview altogether and having the applicants fill out written forms.<sup>33</sup> There have also been complaints about how the police records information. Applicants have claimed that their statements have not been correctly reproduced, which causes problems later when they are interviewed by the Commission (see pt. 2.3.1).<sup>34</sup>

## 2.3 Assessment and decisions

### 2.3.1 Interview with the Territorial Commission

Previously, the Italian asylum procedure was centralized, and all the interviews took place in Rome. A reform that delegated the responsibility to Territorial Commissions, installed in 2002, has improved the efficiency. Since 2008, ten Territorial Commissions have been in charge of processing the asylum applications. Each commission consists of four members: A representative of the Prefecture (the Prefecture is the government's representative in the province) who presides over the Commission, a higher functionary of the state police, a representative from the local municipality, and one member elected by the UNHCR. The Commissions are assisted by a Na-

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<sup>30</sup> Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010; Interview with Elisa Morellini, Naga-har, Milan, 23 September 2010.

<sup>31</sup> Interview with Franca Zappacosta, Questura of Rome, Rome, 21 September 2010.

<sup>32</sup> Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010.

<sup>33</sup> Interview with Raffaella Fassone, Questura of Turin, Turin, 6 December 2010.

<sup>34</sup> Interview with members of Mosaico and various NGO-coordinated projects, Turin, 23 September 2010.



tional Commission in Rome, which provides assistance on harmonizing the practice of the territorial bodies, in cooperation with the UNHCR.<sup>35</sup>

After the verbalization, the case is handed over to the Commission responsible for the territory where the application has been submitted, where an interview is appointed. The Questura communicates the date of the interview with the Territorial Commission to the asylum seeker. If the asylum seeker is living in a CARA, he or she will be informed about the appointed interview there. If they don't have a place to stay, applicants will be given a new appointment with the Questura at the verbalization where they are informed about the date for the interview. The period from application until the date of the interview at the Commission should not be more than 30 days,<sup>36</sup> but in practice it can take several months – waits of up to eight months have been reported. After the decrease in the number of asylum seekers 2009/2010, the waiting time in general was shortened.<sup>37</sup>

The asylum seeker will normally be interviewed by one or two commission members, depending on the complexity of the case.<sup>38</sup> Usually, an interpreter will be present. Sometimes, telephone interpreters are used if the person being interviewed speaks a rare language. The asylum seekers can bring a lawyer at their own expense. The lawyer is allowed to make comments and suggest questions. It is not permitted for other persons or organizations to assist during the interview, although exceptions are reported for unaccompanied minors and persons with health problems.<sup>39</sup>

### 2.3.2 The decision of the Commission

The Commission decides whether it will recognize the applicant as a refugee or granted subsidiary protection. This decision is communicated to the Questura, which issues the permit. If the Commission finds that the person should not be recognized as a refugee or be given subsidiary protection, it will decide whether or not it will recommend to the Questura that the applicant should be given a permit on humanitarian grounds. Until recently, the Questura has usually followed the Commission's recommendation, but in principle, it was not bound to do so. However, according to a court decision of 19 May 2009, the Questura is bound by the Commission's recommendation unless it can assure that the applicant will receive a similar protection in the country to which he or she will be returned.<sup>40</sup>

The reform with several commissions is regarded as having brought a major improvement to the quality of the decisions. Today, most of the reasons for the decisions are given in the decision. Still, the decisions are criticized for not expressing the reasons for rejection clearly, which makes it difficult for the asylum seeker to appeal.<sup>41</sup> The UNHCR is concerned about the decisions not being clear about time limits and where to appeal, or stating whether the applicant needs to ask for sus-

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<sup>35</sup> Interview with Jürgen Humburg, UNHCR Italy, Rome, 21 September 2010.

<sup>36</sup> Decreto legislativo 28 gennaio 2008, n. 25 art. 27: <http://gazzette.comune.jesi.an.it/2008/40/2.htm>.

<sup>37</sup> Interview with Daniela Di Rado, CIR, Rome, 20 September 2010.

<sup>38</sup> Interview with Roberto Samperi, Municipality of Turin, Turin, 22 September 2010.

<sup>39</sup> Interview with Jürgen Humburg, UNHCR Italy, Rome, 21 September 2010.

<sup>40</sup> Cassazione Sezioni unite Civili, ordinanza no. 11535/09, registered in the chancellery on 19 May 2009; Interview with Jürgen Humburg, UNHCR Italy, Rome, 21 September 2010.

<sup>41</sup> Interview with Maria Cristina Romano, member of ASGI and ELENA coordinator for Italy, Milan, 22 September 2010.

pensive effect. Even lawyers have difficulties with this flaw, which has led to a practice where suspensive effect, as a precaution, is being requested in all appeals, even when it is not necessary. There is then the risk of being denied suspensive effect, even though it should have been given automatically (see pt. 2.4.2).<sup>42</sup>

The reform has shortened the periods between the Commission interview and the first decision. Today, the average is two months. Previously, when the asylum seekers had to travel to the Central Commission in Rome at their own expense, it could take between one and one and a half years before the first decision was handed down.

## 2.4 Appeals

### 2.4.1 Deadlines

If the application for asylum is rejected, the applicant receives a notification ordering him or her to leave the country. If the applicant enjoys unrestricted mobility on the Italian territory, the appeal must be presented within 30 days. If the person is in a CARA or CIE<sup>43</sup>, this must happen within 15 days.<sup>44</sup> The appeal has to be presented by a lawyer to the Civil Court (Tribunale – Sezione Civile). If the applicant is unable to pay the legal fees due to insufficient money or lack of income, the applicant has the option of getting free legal aid by a lawyer who is paid by the state. After an appeal, the Civil Court re-examines the case.

An appeal against the decision of the Civil Court can be lodged with the Court of Appeal within ten days. This appeal stage is considered to be very strict. Also, an appeal against the verdict of the Court of Appeal can be lodged with the Court of Cassation within 30 days. In practice, it is very difficult to obtain legal aid for an onward appeal after the decision of the second level of jurisdiction.<sup>45</sup>

### 2.4.2 Suspensive effect and expulsion

Suspensive effect will put the enforceability of the decision regarding departure to a halt and gives the asylum seeker the right to stay in Italy while awaiting the decision of the second instance. In most cases, the person will have to ask for, and be granted, suspensive effect in order to remain in Italy legally while awaiting the final decision in his or her case. This applies to those who lodged their application after illegally crossing the border as well as those who were illegally present on the territory of Italy when the intention of claiming asylum was stated. If suspensive effect is denied, it is possible to request it again of the Court on an individual basis. The ap-

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<sup>42</sup> Interview with Jürgen Humburg, UNHCR Italy, Rome, 21 September 2010.

<sup>43</sup> CIE (Centro di identificazione ed espulsione / Center of identification and expulsion) are closed detention centers.

<sup>44</sup> Interview with Jürgen Humburg, UNHCR Italy, Rome, 21 September 2010.

<sup>45</sup> Survey on Legal Aid for Asylum Seekers in Europe, European Council on Refugees and Exiles ECRE, October 2010, p. 32, 41, 42:  
[www.ecre.org/files/ECRE\\_ELENA\\_Survey\\_on\\_Legal\\_Aid\\_for\\_Asylum\\_Seekers\\_in\\_Europe\\_October\\_2010.pdf](http://www.ecre.org/files/ECRE_ELENA_Survey_on_Legal_Aid_for_Asylum_Seekers_in_Europe_October_2010.pdf).

plicant cannot be expelled before the judge has decided whether or not to give suspensive effect.<sup>46</sup>

If the asylum seekers travelled legally to Italy before applying for asylum, they should be granted suspensive effect automatically if they decide to appeal the first-level decision (see pt. 2.3.2 on why this can be problematic).

If suspensive effect is not granted and the time limit to submit an appeal against the decision has expired, the rejected asylum seeker will receive an expulsion decision unless he or she has already left the country. It is unusual for the expulsion to be effectuated before the second-level decision is made. There have been exceptional cases where police stations have given temporary permits to asylum seekers during this period even though they were not granted suspensive effect.<sup>47</sup>

An expulsion decision implies that the asylum seeker has to leave the country within five days. Those who do not leave after the time limit has expired risk being sent to a CIE. They can be held there for a maximum duration of six months.<sup>48</sup> If the police does not succeed in sending them back to their home country during this time, they must be released from detention. Vulnerable people are usually not detained; in these cases, a different solution is sought.<sup>49</sup>

## 2.5 Renewal of permits

If a person is recognized as a refugee, he or she is given a permit that is valid for five years and is renewable upon expiration. If there are changes in conditions in the country of origin or one of the conditions listed in Article 1 C of the Geneva Convention applies, the permit can be withdrawn.<sup>50</sup> Subsidiary protection status will provide a permit valid for three years, and a permit on humanitarian grounds is valid for one year. These permits are renewable, but only upon verification of the requirements that led to their release.

A precondition for renewing a permit is an application to the responsible Questura. It is important to provide the original permit paper. If the person no longer possesses this paper, the reissue of a new copy is intrinsically connected to difficulties. If it turns out that the permit is actually stolen or lost, the applicant is likely to receive a new one. But in general, the authorities have a distinctly restrictive approach in respect to missing permits, in order to prevent abusive behavior of permit holders, especially by passing on and trading permits.<sup>51</sup> This can be a severe problem for Dublin returnees, who usually no longer have the permit in their possession when they are transferred to Italy.

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<sup>46</sup> Interview with Jürgen Humburg, UNHCR Italy, Rome, 21 September 2010.

<sup>47</sup> Interview with Daniela Di Rado, CIR, Rome, 20 September 2010.

<sup>48</sup> Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010.

<sup>49</sup> Interview with Prefecture of Rome / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome / Centro Enea / Dublin Unit of Norway, Rome, 16 September 2010

<sup>50</sup> Interview with Roberto Samperi, Municipality of Turin, Turin, 22 September 2010.

<sup>51</sup> Interview with Prefecture of Rome / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome / Centro Enea / Dublin Unit of Norway, Rome, 16 September 2010.

## 2.6 Legal aid

Those asylum seekers who are considered unable to afford counsel are offered free legal aid if the first-level decision is negative. The assistance is granted by a body of the lawyers' association that operates at the local court level. The rejected asylum seeker can apply for free legal aid to the local legal aid office, or alternatively directly to the Civil Court if already assisted by a lawyer.<sup>52</sup> Interpreter services between lawyers and their clients and translation of documents, which is often a fundamental premise for legal aid in asylum cases, is not covered by the free legal aid system.<sup>53</sup>

## 2.7 Dublin returnees

Persons who are returned to Italy through the Dublin II Regulation arrive by plane at international airports. The majority is sent to Fiumicino in Rome, but Malpensa (district Varese) near Milan also receives Dublin returnees. Dublin returnees in general will be reinstated in their previous asylum procedure at the stage when they left. The police at the airport identifies the responsible Questura, and the returnee will be asked to go there. Travel expenses are covered by the Ministry of Interior.<sup>54</sup> Returnees must present themselves to the responsible Questura within five days upon arrival.<sup>55</sup>

There are various scenarios for a person returned under the Dublin procedure:

1. Those who left Italy *without having applied* for asylum can now do so at the airport police stations.<sup>56</sup> At the airport, they will also receive information and advice from an independent organization appointed by the authorities (who also finance this service), working in close contact with the police. In Rome, this service is performed by Arciconfraternità, in Malpensa by Caritas.
2. If a person left Italy after having applied for asylum but *before the interview* with the Commission and *returned before a decision* has been made, the person will again get access to the procedure and will receive an invitation to the interview with the Territorial Commission.
3. An asylum seeker leaves Italy for another European country *before the interview* with the Commission and later returns to be notified that a *negative decision* has been made in his case. If a decision is made without an interview of the asylum seeker, the decision will not be based on the merits of the case, and such decisions are mostly negative. In this situation, the asylum

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<sup>52</sup> Interview with Cecilia Pani, Sant'Egidio, Rome, 18 September 2010.

<sup>53</sup> Survey on Legal Aid for Asylum Seekers in Europe, European Council on Refugees and Exiles ECRE, October 2010, p. 51 and 97: [www.ecre.org/files/ECRE\\_ELENA\\_Survey\\_on\\_Legal\\_Aid\\_for\\_Asylum\\_Seekers\\_in\\_Europe\\_October\\_2010.pdf](http://www.ecre.org/files/ECRE_ELENA_Survey_on_Legal_Aid_for_Asylum_Seekers_in_Europe_October_2010.pdf).

<sup>54</sup> Interview with Prefecture of Rome / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome / Centro Enea / Dublin Unit of Norway, Rome, 16 September 2010.

<sup>55</sup> Interview with Jürgen Humburg, UNHCR Italy, Rome, 21 September 2010.

<sup>56</sup> Interview with Prefecture of Rome / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome / Centro Enea / Dublin Unit of Norway, Rome, 16 September 2010.

seeker can either ask for a reopening of the case or submit an appeal against the decision.<sup>57</sup>

- a. In order to reopen the case and get a new appointment for an interview with the Commission, the asylum seeker has to give a reason for not showing up to the first appointment.<sup>58</sup> It is usually not problematic to get a new interview.
  - b. However, it is possible under Italian law to reject a request for reopening. A rejection could increase the risk of refoulement. If the case is not reopened, an appeal will reach the second level directly, and there will be no interview with the Commission on the first level. The practical result is that the asylum application is decided without contradiction.
4. The person *left Italy after the interview* with the Commission, but before a decision was made. The applicant later comes back and is informed that there has been a *negative decision* in his or her case. Then he or she will have the opportunity to submit an appeal against the decision within the same time limits as mentioned in pt. 2.4.1.
  5. If the person *left after a negative decision* and the time limit for appealing has expired, the person will, after having returned, receive an expulsion order. The person risks being sent to a CIE. It was mentioned that access to adequate legal representation from a CIE is a major problem.<sup>59</sup> The same situation applies to a Dublin returnee who is notified about the negative decision after having returned (see situation 4), but doesn't submit an appeal against the decision or leaves the country within the time limits.
  6. If the person already *received an expulsion order before leaving Italy*, he or she will, when returned, be sent directly to a CIE and will not be assisted by or receive advice from Arciconfraternità or Caritas (see situation 1).<sup>60</sup>
  7. If the person received a *positive decision* while absent, the person will, when returned, receive a permit to stay in Italy. In these cases, only vulnerable people will be assisted by Arciconfraternità or Caritas.

The majority of the applicants who have left Italy for other European countries had already received a permit in Italy. Apart from applicants that have been granted refugee status, these cases do not fall under the Dublin II Regulation.<sup>61</sup> However, Italy often does not change the Eurodac data after granting a permit. Therefore, no distinction can be made in the system between those who were already granted a status and those who are still in the procedure. This is regarded as a problem for the

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<sup>57</sup> Interview with Jürgen Humberg, UNHCR Italy, Rome, 21 September 2010.

<sup>58</sup> Ibidem.

<sup>59</sup> Interview with Cecilia Pani, Sant'Egidio, Rome, 18 September 2010.

<sup>60</sup> Interview with Prefecture of Rome / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome / Centro Enea / Dublin Unit of Norway, Rome, 16 September 2010.

<sup>61</sup> Ibidem.

Dublin Units, who often take a lot of time to find out whether a case should be treated according to the Dublin procedures or not.<sup>62</sup>

Italy's Dublin Unit is overwhelmed with responding to take-back requests. The delegation was informed by the Questura in Rome that many take-back cases concern vulnerable persons where the Dublin Unit is informed what sort of medical treatment, medicine or psychiatric support is needed. They have by far not enough resources to deal with these cases. The delegation was told by the Prefecture of Rome that they would therefore appreciate very much if other European countries would not send vulnerable persons back to Italy.<sup>63</sup>

## **3 Reception and integration during the procedure**

### **3.1 Introduction**

Even though European legislation obviously has had an impact on the Italian approach to asylum seekers in recent years, especially through the implementation of the Directives in the national legislation, the national asylum system is still relatively new and far from being fully developed. The situation is therefore still dominated by insufficient capacity and a lack of measures for promoting integration, creating very difficult living conditions for many refugees and asylum seekers.

Chapter 3 and 4 provide an overview of the reception and integration programs offered by Italian authorities, during the procedure and after getting recognized, before drawing a picture of the situation and challenges that most refugees face after acquiring a residence permit.

The current system of accommodation offered by the Italian government is very diverse, with shared financial and organizational responsibilities. Some centers (CARA and CIE) are financed by the central government, while the SPRAR system is the result of cooperation between the Ministry of the Interior, local municipalities, and NGOs. Some centers are a result of a special agreement dating from 2007 between the Ministry of the Interior and the municipalities of Rome, Milan, Turin, and Florence (Centri polifunzionali, Progetto Morcone). In Rome, some centers are financed by the municipality and run by NGOs. The following description will refer to these three different categories of centers with respect to the different stages of the procedure. Those centers will be referred to as first-, second-, and third-stage centers. It is important to keep in mind that each category of center can provide accommodation for asylum seekers in different stages and refugees.

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<sup>62</sup> Ibidem.

<sup>63</sup> Ibidem.

## 3.2 The period before the verbalization

### 3.2.1 Accommodation

After having filed the asylum request, applicants should be housed in a CARA center. Most of the units are located in Southern Italy. In April 2011, according to the Ministry of Interior's website<sup>64</sup>, there were ten CARA centers in operation with approximately 2000 places.

Beside the CARA centers CDA centers<sup>65</sup> have been reopened. During the visit of the delegation in September and December 2010 most of the CDA centers had been closed.<sup>66</sup> The CDA centers are designed for the initial reception of asylum seekers arriving by boat in the South. For the reception of the applicants arriving from North Africa some of these centers have been reopened. In Italy in April 2011 there was a total capacity of approximately 4000<sup>67</sup> places in the CDA. Asylum seekers arriving by boat from North Africa are first housed in these centers before transferred to CARA centers.

After having filed the asylum request, applicants should be housed in a CARA center if they are illegally present on Italian territory. Otherwise, they should be sent directly to a SPRAR center. The Italian legislation guarantees – at least on paper – reception to all asylum seekers. However, in many cases, no accommodation is provided by the government; the situation is especially tense in major cities. The interval between the initial demand for protection at the Questura and the time when an applicant will obtain the position where accommodation is offered – with verbalization – is reported to last from a few days, up to, in worst cases, several months. A large number of asylum seekers are then left without any service and will need to find shelter on their own. Most end up living on the street. Stakeholders have confirmed this to be the case for Milan, Turin, and Rome.<sup>68</sup> The social services of the municipalities, local NGOs, or church organizations may offer emergency places in dormitories as a part of a general service for homeless, but capacities are very limited.<sup>69</sup> In fact most of the applicants only get accommodation after the verbalization, if the Questura finds a place for them in a CARA center. The CARA center will be informed by the Prefecture about the arrival of the applicant.<sup>70</sup>

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<sup>64</sup> Ministero dell'Interno; Centri Accoglienza Richiedenti Asilo (CARA), accessed 11 April 2011: [www1.interno.it/mininterno/export/sites/default/it/temi/immigrazione/sottotema006.html](http://www1.interno.it/mininterno/export/sites/default/it/temi/immigrazione/sottotema006.html).

<sup>65</sup> CDA (Centro di Accoglienza / Accommodation Center).

<sup>66</sup> Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010.

<sup>67</sup> Ministero dell'Interno, Dipartimento per le libertà civili e l'immigrazione, accessed 11 April 2011: [www1.interno.it/mininterno/export/sites/default/it/assets/files/17/0888\\_Cartina\\_aggiornata\\_CDA\\_CA\\_RA\\_per\\_sito.pdf](http://www1.interno.it/mininterno/export/sites/default/it/assets/files/17/0888_Cartina_aggiornata_CDA_CA_RA_per_sito.pdf).

<sup>68</sup> Interview with Maria Cristina Romano, member of ASGI and ELENA coordinator for Italy, Milan, 22 September 2010; Interview with Cecilia Pani, Sant'Egidio, Rome, 18 September 2010; Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010; Interview with Donatella Parisi, Associazione Centro Astalli, Jesuit Refugee Service, Rome, 20 September 2010.

<sup>69</sup> Interview with members of Mosaico and various NGO-coordinated projects, Turin, 23 September 2010.

<sup>70</sup> Interview with Franca Zappacosta, Questura of Rome, Rome, 21 September 2010.

### 3.2.2 Social welfare

During the above-mentioned period, the asylum seekers will not receive financial support and basic needs, such as nutrition and clothes, unless they have accommodation in a center. The only service guaranteed to all is access to minimal medical assistance. For other support, those applicants depend on services from overloaded NGOs. Most of them are completely left to fend for themselves.

## 3.3 The period after the verbalization

### 3.3.1 Accommodation

#### 3.3.1.1 Reception centers, statistics

According to the EU Reception Conditions Directive, asylum seekers have the right to accommodation until they have received a final decision on their claim.<sup>71</sup> In theory, Italian law follows this scheme; however, because of shortcomings in the accommodation system, many asylum seekers are accommodated only until the first-instance decision on their claim. It normally takes two months from the verbalization to a first instance decision. Women with children or other vulnerable groups are allowed to stay a little longer depending on the capacity in the centers at the time. All others like single women and men, families with both parents in most cases lose their stay and therefore their material support with their first-instance decision.<sup>72</sup>

In the entire country, the CARAs have approximately 2000 places, and the SPRAR system consist of 3000 places. In addition, the municipalities offer a few places through other projects, like the Centri polifunzionali of the Progetto Morcone (see pt. 3.3.1.2). It is important to note that none of these centers are exclusively reserved for asylum seekers in the procedure.

#### 3.3.1.2 First stage accommodation centers

After the verbalization, the Questura sends a request to the Prefecture to see whether there is a free place in a CARA.<sup>73</sup> The CARA network consists of government-run centers. They are found all over the country, but most of them are situated in the South, especially in the regions of Sicily, Puglia, and Calabria. In total, the centers provide 2000 places in centers ranging from 100 to 1000 places.<sup>74</sup>

The centers are primarily constructed for housing asylum seekers during the first part of the procedure, while the process of identification and the asylum request are completed. The original intention was that the asylum seekers should stay in the CARA for a maximum of 35 days. After this, they should in theory be offered a place

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<sup>71</sup> Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seeker, 6 February 2003, L 31/18:  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:031:0018:0025:EN:PDF>.

<sup>72</sup> Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010; Interview with Cecilia Pani, Sant'Egidio, Rome, 18 September 2010; Interview with Alessandro Triulzi and various, Asinitas, Rome, 15 September 2010.

<sup>73</sup> Interview with Franca Zappacosta, Questura of Rome, Rome, 21 September 2010.

<sup>74</sup> Ministero dell'Interno; Centri dell'immigrazione, accessed 11 April 2011:  
[www1.interno.it/mininterno/export/sites/default/it/temi/immigrazione/sottotema006.html](http://www1.interno.it/mininterno/export/sites/default/it/temi/immigrazione/sottotema006.html).



in the SPRAR system (see pt. 3.3.1.3), but because of the de facto limited capacities in the SPRAR, a law<sup>75</sup> has permitted stays in the CARA to be extended until the issue of a first level decision. Our informants report that it depends on the discretion and practice of the Prefecture whether applicants are allowed to wait for their place in the SPRAR and can remain in the CARA during this period. As reported by stakeholders, vulnerable asylum seekers have better chances of being granted an extension for the CARA. In general, the maximum length of stay in the CARA is limited to six months – with exceptions reported for vulnerable individuals.<sup>76</sup> The delegation witnessed that single men in particular are supposed to leave the center after their decision of first instance, which is after approximately two months for Eritrean and Somali men. For other asylum seekers it takes approximately two to six months to receive their first instance decision.<sup>77</sup>

Even if the asylum procedure is not terminated after six months, asylum seekers have the right to work and can obtain a permit that allows them to apply for work.<sup>78</sup> The system envisages that most asylum seekers – unless vulnerable – will be expelled from the center and expected to find a job and to maintain themselves. In practice, only few asylum seekers manage to find a job that secures their livelihood. The delegation met many asylum seekers in Rome and Milan who were trying to sustain themselves by selling items like umbrellas, sunglasses and paper handkerchiefs on the street.

CARAs are structured as «half open» centers: Asylum seekers can leave during daytime, but have to return at night if they want to keep their bed. Exceptions are made if the person is pre-excused. If a person leaves the center without permission, the place is lost, and will not be offered again, not even during the first six months.<sup>79</sup> This causes Dubliners who have left to another country – for example, to find family members – to end up on the street when they return to Italy.

There are differences between the regions in Italy. Milan, for instance, does not have any CARAs, but will instead as an option offer accommodation through the Centri Polifunzionali (Progetto Morcone) (see pt. 3.1). 400 places are financed partly by the Ministry of the Interior and partly by the municipality. These places are offered to asylum seekers before and after recognition. Stakeholders stated that the waiting time for a place in these centers is three to four months. During this period asylum seekers receive no help from the government. If they do not find any support from local NGOs or church organizations that offer few emergency places in dormitories, they live on the street. In Milan, a person may be enlisted for an accommodation place through the Centri Polifunzionali as soon as the claim is registered, and not only after the verbalization.<sup>80</sup> If applicants manage to secure a place, they are allowed to stay there for as long as ten months, as compared to the maximum of six months in a CARAs. The Municipality of Turin has received two million Euros for a period of three years from the Progetto Morcone. This enables them to finance 200

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<sup>75</sup> Decreto Legislativo 30 maggio 2005, n. 140: [www.stranieriinitalia.it/briguglio/immigrazione-e-asilo/2011/gennaio/sinottico-normativa-24.html](http://www.stranieriinitalia.it/briguglio/immigrazione-e-asilo/2011/gennaio/sinottico-normativa-24.html).

<sup>76</sup> Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010.

<sup>77</sup> Interview with Maria Cristina Romano, member of ASGI and ELENA coordinator for Italy, Milan, 22 September 2010; Information by phone, Daniela Di Rado, CIR, 10 March 2011.

<sup>78</sup> Interview with Cristina Molfetta, Ufficio Pastorale Migranti, Turin, 22 September 2010.

<sup>79</sup> Interview with Franca Zappacosta, Questura of Rome, Rome, 21 September 2010.

<sup>80</sup> Interview with Elisa Morellini, Naga-har, Milan, 23 September 2010.

places for asylum seekers, both those still in the procedure as well as those that have already been recognized.<sup>81</sup>

Dublin returnees are supposed to be offered accommodation like others, unless they previously left a center and therefore lost their right to accommodation during the procedure.<sup>82</sup> With increased capacities in the CARAs, there is room for the Dublin returnees with pending cases who have never been accommodated in a CARA before. This group, however, constitutes a minority of the people who have returned to Italy under the Dublin II Regulation.<sup>83</sup> Also, according to reports, Dublin returnees arriving at Malpensa airport (near Milan) are usually given a place to stay if their case is still pending for a limited time.<sup>84</sup> For Dublin returnees arriving in Fiumicino (Rome) see pt. 4.3.2.2.

CIE are closed facilities/detention camps. Asylum seekers are sent there if they are supposed to be sent back to their home country or are suspected of using false identification. Illegal migrants and asylum seekers with a negative decision and/or expulsion order (see pt. 2.7) also risk being sent to a CIE.

### *3.3.1.3 Second-stage accommodation centers*

As stated above, the Italian reception system anticipates a change of accommodation during the procedure. After the initial registration phase, it is envisaged that the applicant will be transferred into another type of center that is more focused on integration. These centers are part of the SPRAR system.

The system of protection for asylum seekers and refugees (SPRAR) was implemented by law in 2002. It is a network based on cooperation between the government (Ministry of the Interior), the association of municipalities (ANCI), and various NGOs. The ministry is in charge, while ANCI is responsible for the administration. The individual centers are for the most part run by NGOs. As of December 2010, 103 out of 8094 municipalities participated in the network, with a total of 138 projects. Out of these, 31 are dedicated to vulnerable persons.<sup>85</sup> Municipalities participate in this program on a voluntary basis, which may be a reason why so few of the total number of municipalities participate. The projects are co-financed by local authorities and the National Fund for Asylum Policies and Services.

Italian stakeholders agree that the system does not work, due to a lack of capacities. 3000 places have been created under this scheme. The number is by no means sufficient, but there is a lack of political will to upgrade the system in order to meet the actual demands. Regardless of the number of asylum claims in the future, no budgetary changes are planned until 2013.<sup>86</sup> The already insufficient capacities will remain the same.

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<sup>81</sup> Interview with Roberto Samperi, Municipality of Turin, Turin, 22 September 2010.

<sup>82</sup> Interview with Franca Zappacosta, Questura of Rome, Rome, 21 September 2010.

<sup>83</sup> Interview with Prefecture of Rome / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome / Centro Enea / Dublin Unit of Norway, Rome, 16 September 2010.

<sup>84</sup> Interview with Daniela Varisco, Giuditta Oppizzi and Luca Bettinelli, Caritas Milan, Milan, 22 September 2010.

<sup>85</sup> Interview with Lucia Iuzzolini, Servizio Centrale SPRAR, Rome, 16 September 2010.

<sup>86</sup> Interview with Lucia Iuzzolini, Servizio Centrale SPRAR, Rome, 16 September 2010; Sistema di protezione per richiedenti asilo e rifugiati, Rapporto annuale del Sistema di protezione per richiedenti asilo e rifugiati, Anno 2009/2010, December 2010:

Consequently, asylum seekers only have very limited access to SPRAR centers. In reality, these centers are usually occupied by persons who already received a positive decision and have been granted refugee status, given subsidiary protection, or been issued a permit on humanitarian grounds.

In addition to SPRAR, the municipalities in some places also offer accommodation. In Rome there are 22 centers and 1300 places. They are partly run by NGOs. The NGOs receive some financial support from the municipality to run the centers. The waiting time to get a place in such a center is about three to four months.<sup>87</sup> In November 2009 there were 3426 refugees in Rome waiting for a place in one of these centers.<sup>88</sup>

### 3.3.1.4 Vulnerable groups

Italian law identifies vulnerable groups in accordance with the specification in the EU Reception Conditions Directive, Article 17: «Minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.»<sup>89</sup> Families with minors and single women are not considered vulnerable. For the budgetary period of 2011–2013, 500 places in the SPRAR system are reserved for vulnerable groups. In reality, many more places are allocated to this group, especially to pregnant women.

The time in a center can be extended only for persons who are considered vulnerable. Once the extended period has expired, they have to leave the center regardless whether they are still in the procedure or have already been granted a protection status. Particularly vulnerable persons are often unable to sustain themselves. Some find accommodation in a squat, others live on the street. All of them live in extreme poverty under inhuman conditions with no perspective to improve their personal living situation.

Unaccompanied minors are not supposed to stay in CARAs for a longer period. They will be transferred to a special center for minors, usually within 24 hours: In SPRAR centers, only a total of 134 places are dedicated to unaccompanied minors, so the majorities are cared for by the local social service.<sup>90</sup> They provide accommodation in different houses for minors, connected to different local projects, which usually are not specialized on refugees.<sup>91</sup> The unaccompanied minors may live in houses together with all kinds of children, including victims of violence, Italians, and foreign minors who are not asylum seekers. The «Casa Famiglia», which consists of small family-like centers, also belongs to these structures.

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[www.serviziocentrale.it/file/server/file/Rapporto%20annuale%20dello%20SPRAR%20Anno%202009-2010.pdf](http://www.serviziocentrale.it/file/server/file/Rapporto%20annuale%20dello%20SPRAR%20Anno%202009-2010.pdf).

<sup>87</sup> Interview with Donatella Parisi, Associazione Centro Astalli, Jesuit Refugee Service, Rome, 20 September 2010.

<sup>88</sup> La Repubblica, Rifugiati, più di tremila senza un tetto, 11 November 2009: <http://roma.repubblica.it/dettaglio/rifugiati-piu-di-tremila-senza-un-tetto/1775869>.

<sup>89</sup> Interview with Daniela Di Rado, CIR, Rome, 20 September 2010.

<sup>90</sup> Interview with Lara Olivetti and Stefania De Nicolais, Save the Children Italy, Rome, 16 September 2010 and December 2010.

<sup>91</sup> Interview with Viviana Violante, Associazione Virtus Italia Onlus, Rome, 17 September 2010.

Italian law is considered to ensure the rights of the minors, and in general, minors who are registered by the authorities are given priority and guaranteed a place to stay. But at the same time, the quality of the services depends on the economic situation of the local administration. The government only finances the first step before the minors have a guardian, but from then on, responsibility is handed over to local authorities. The situation is not monitored, and there is no way of guaranteeing equal standards across all institutions in the various regions.<sup>92</sup> And even if there are many good projects, it is not always possible to finance them.<sup>93</sup> Minors have to leave these centers when they have reached the age of 18 years and three or six months.<sup>94</sup>

According to the law, every minor must have an appointed guardian. In Italy, guardians are recruited as unpaid volunteers, which contributes to the current lack of personnel. The difficulty of recruiting guardians often causes minors to be dependent on the help they get from the staff in the houses where they are put, who often are not trained for dealing with the specific problems they might have as refugees.<sup>95</sup>

The quality of the institutions is important for reducing the risk of minors leaving the houses without notice in order to fend for themselves in an unsafe environment in the big cities. The statistics show that many newly arrived minors landing in the South, especially Afghans, did run away after being registered and assigned to a facility for minors.<sup>96</sup> In Sicily, the organization Save the Children found that around 70 % of unaccompanied minors had left.

In fact, many unaccompanied minors arriving in Italy tend to declare themselves to be of age, because they hope to find work to support their family. They consider regular schooling to be a waste of time. Many of them try their luck in securing irregular work in the big cities in order to earn some money.<sup>97</sup> Some of these may, after a while, approach the social services and ask for protection. But in many cases, it is difficult for social workers to convince them to decide in favor of a regular status.<sup>98</sup> Save the Children estimates there are several thousands of irregular minors on the streets in the big cities, and more than 1000 in Rome alone. Very often, they become victims of all sorts of exploitation, mostly controlled by adults.<sup>99</sup> Another motivation for declaring themselves adults is the fact that some minors are afraid of being separated from their ethnic group. Another reason is the wish to travel further and ask for asylum in other European countries.

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<sup>92</sup> Interview with Lara Olivetti and Stefania De Nicolais, Save the Children Italy, Rome, 16 September 2010 and December 2010.

<sup>93</sup> Ibidem.

<sup>94</sup> Interview with Viviana Violante, Associazione Virtus Italia Onlus, Rome, 17 September 2010.

<sup>95</sup> Interview with Lara Olivetti and Stefania De Nicolais, Save the Children Italy, Rome, 16 September 2010 and December 2010.

<sup>96</sup> Ibidem.

<sup>97</sup> Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010.

<sup>98</sup> Interview with Lara Olivetti and Stefania De Nicolais, Save the Children Italy, Rome, 16 September 2010 and December 2010.

<sup>99</sup> Ibidem.

### 3.3.2 Health care

#### 3.3.2.1 Psychological assistance in the centers

The availability of health services offered inside the CARAs has been severely criticized. The organization Doctors Without Borders has focused on the lack of service given to the large group of asylum seekers with mental diseases or traumatic disorders.<sup>100</sup>

One problem is that there is no screening in place to identify people with mental diseases. Theoretically, applicants should receive social assistance in the centers, so that people with traumatizations could be identified. But there are no appropriate guidelines on how to proceed. This fact, combined with the lack of competent staff in the centers, results in the unacceptable situation that people who are mentally ill are rarely identified. This is further aggravated by the fact that there are not enough translation services available to facilitate access to health care.<sup>101</sup>

For a long time, the reception system did not tackle the issue of traumatized asylum seekers. In the meantime, authorities have realized that the numbers of persons with mental problems have increased. But it was only recently that the SPRAR system reserved 50 places for asylum seekers and refugees that are mentally ill or traumatized (for the period of 2011–2013). This number is completely insufficient. As a consequence, many traumatized applicants are living in the CARA centers, institutions that are by no means prepared for such problematic cases. However, the worst problem is that of mentally ill or traumatized persons forced to live on the street or in squats. SPRAR regularly receives calls about mentally ill people in the CARAs, but they are rarely able to offer support, as reception capacities are limited.<sup>102</sup>

#### 3.3.2.2 Health care outside the centers

Asylum seekers that have received a confirmation of their initial registration as applicants (cedolino, see pt. 2.2.2) have the right to free health care during the procedure period. Access is granted with an insurance card and inscription in the National Health Service. Applicants will then be given a *Tesserino Sanitario* («Personal Healthcare Card», «little card») providing free or semi-free health services, and in theory the right to choose a general practitioner, who has to exercise in the same district.<sup>103</sup> In practice, asylum seekers have a hard time finding a general practitioner in their district who is prepared to accept them as their patient. Especially in bigger cities, this is a real problem. However, a general practitioner is needed for referrals to more advanced and specialist medical treatment.<sup>104</sup>

In order to be registered in the city of Rome, one must contact the Local Health Unit (*Azienda Sanitaria Locale – ASL*) and deliver a document confirming the registration

<sup>100</sup> Doctors Without Borders, On the other side of the wall, A tour of Italy's migrant Centers, January 2010, p. 6f: [www.doctorswithoutborders.org/press/2010/MSF-On-the-Other-Side-of-the-Wall-report-summary.pdf](http://www.doctorswithoutborders.org/press/2010/MSF-On-the-Other-Side-of-the-Wall-report-summary.pdf).

<sup>101</sup> Medici Senza Frontiere – Missione Italia, I di là del muro – summary, January 2010: [www.medicisenzafrontiere.it/Immagini/file/pubblicazioni/ITA\\_sommario\\_aldila\\_muro.pdf](http://www.medicisenzafrontiere.it/Immagini/file/pubblicazioni/ITA_sommario_aldila_muro.pdf).

<sup>102</sup> Interview with Lucia Iuzzolini, Servizio Centrale SPRAR, Rome, 16 September 2010.

<sup>103</sup> Interview with Donatella D'Angelo, Cittadini del Mondo, Rome, 16 September 2010.

<sup>104</sup> Ibidem.

of an address of domicile in the municipality. This provision is not in line with Italian law and considered illegal; however, the Roman authorities persist in this requirement.<sup>105</sup> Clearly, this practice causes problems, as asylum seekers who have recently arrived in the country and are not housed in state run centers right away will not be able to meet this precondition. In fact, the majority of the applicants do not have an address of domicile at the time of application. As a pragmatic solution, some NGOs in Rome have been given permission to let asylum seekers be registered under the organizations' address. Sant'Egidio provides the address of 8000 asylum seekers, and Centro Astalli provides the address of 10'000 asylum seekers.<sup>106</sup> If an asylum seeker does not manage to receive a fictitious address from an NGO, he or she can also be given a virtual address, one that does not exist. However, many asylum seekers are not aware of this possibility. Even though there are several «creative solutions» to circumvent the requirement of having an address, this demand can easily frighten off asylum seekers who do not have one.<sup>107</sup> The practice of giving a fictitious or virtual address can also create problems for asylum seekers after recognition in regards to access to kindergarten, access to health care, and access to social welfare (see pt. 4.3.3 and 4.3.4).

Local authorities have the possibility to accept provisional, fictitious addresses of domicile for people that are staying in the community without a proper address there, in order to provide them with health services. However, the practice differs from region to region. If a provisional registration (fictitious address) is not available, and if asylum seekers and refugees are not in a position to be duly registered in the municipality, only emergency centers are available to them. As this is the case in many places, NGOs maintain their own offices offering medical assistance for immigrants.

For more advanced medical examinations – for example, radiography or dialysis – a *Tessera Sanitaria* (a magnetic health card) is needed, and this is only available to «official» residents. In some cities, special organizations offer examinations without demanding this card in order to assist homeless people. Although there are legally binding rules, the system varies significantly from region to region. In some areas, hospitals are privatized. For example, no hospital in Milan will treat persons without the *Tessera Sanitaria*, except for first aid assistance.<sup>108</sup>

In addition to these obstacles, there is a general lack of information: Most asylum seekers and refugees are not aware of their rights, of the services that are available to them, and of how they can access them. NGOs criticize this lack of information by local public offices and social services, where interpreters and translated brochures are seldom available.

Stakeholders told, that at present, there are only three projects in Rome assisting traumatized asylum seekers in and after the procedure. In the hospital of San Giovanni, one psychiatrist cooperates with CIR. Patients have to address to CIR first. The second project is «Samifo», run by the Jesuits of the Centro Astalli. They oper-

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<sup>105</sup> Information by phone, Daniela Di Rado, CIR, 10 March 2011.

<sup>106</sup> Interview with Cecilia Pani, Sant'Egidio, Rome, 18 September 2010; Interview with Donatella Parisi, Associazione Centro Astalli, Jesuit Refugee Service, Rome, 20 September 2010.

<sup>107</sup> Interview with Donatella D'Angelo, Cittadini del Mondo, Rome, 16 September 2010; Interview with Petri Rosely, MEDU, Rome, 21 September 2010.

<sup>108</sup> Interview with Petri Rosely, MEDU, Rome, 21 September 2010.

ate an ambulatory in cooperation with a big health insurance where two psychiatrists (one paid, one on voluntary basis) receive traumatized refugees and asylum seekers.<sup>109</sup> The third project «Ferite Invisibili» (invisible injuries) is run by Caritas Diocesana of Rome. Three psychiatrists, two psychologists and one psychiatrist supervisor offer psychotherapy for victims of torture and violence.<sup>110</sup> These capacities are by no means sufficient.

### 3.3.3 Work

Asylum seekers are able to receive a work permit after six months, even if their case has not been decided yet. The issuance of such a permit is linked to the maximum length of stay in the accommodation facilities. Theoretically, after six months, applicants are considered to be integrated enough to find a job and to be independent of social assistance. This scheme is by no means realistic, as Italy is undergoing a period of high unemployment, and it is difficult even for Italian citizens to find a job. The unemployment rate is 8.7 %, not including involuntary part-time work.<sup>111</sup> Due to all these factors, asylum seekers have almost no chance of finding regular work. Official agencies only manage to find jobs for a very small number of people. Most Italians find work through their network of family and friends. Asylum seekers cannot benefit from such networks, and their chances of securing employment on the labor market are very slim indeed.<sup>112</sup>

The lack of opportunities and constant struggle for survival that asylum seekers face in Italian society expose them also to the threat of entering criminal activities and prostitution. Trafficking is a huge problem in Italian cities, and an increasing number of female asylum seekers arriving in Norway and Switzerland from Italy are trafficking victims threatened by criminal organizations in Italy. An increasing number of these women arrive either pregnant or with children.<sup>113</sup>

The SPRAR projects are involved in promoting job placement and access to housing services. In 2008, 3519 people left SPRAR programs. Of these, 47.5 % had achieved a situation of self-reliance both in regards to work and accommodation.<sup>114</sup> But as illustrated in pt. 3.3.4 and 4.3, this situation of self-reliance is not of a sustainable nature.

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<sup>109</sup> Information by email from Donatella D'Angelo, Cittadini del Mondo, 10 December 2010.

<sup>110</sup> Information by email from Caritas Diocesana of Rome, 7 March 2011.

<sup>111</sup> OECD, Employment Outlook 2010 – How does ITALY compare?, 27 July 2010: [www.oecd.org/dataoecd/14/22/45603888.pdf](http://www.oecd.org/dataoecd/14/22/45603888.pdf).

<sup>112</sup> Interview with Jürgen Humburg, UNHCR Italy, Rome, 21 September 2010.

<sup>113</sup> United States Department of State, Trafficking in Persons Report 2010 – Italy, 14 June 2010, accessed 9 May 2011: [www.unhcr.org/refworld/docid/4c1883e92d.html](http://www.unhcr.org/refworld/docid/4c1883e92d.html). See to the problem of women being forced to prostitution and the application of Article 3 of the Dublin II Regulation (sovereignty clause): Decision Federal Administrative Court, no. E-6323/2010, 30 November 2010: [www.bvger.ch/publiws/download?decisionId=331004a3-e938-487c-9647-72d270ef35d7](http://www.bvger.ch/publiws/download?decisionId=331004a3-e938-487c-9647-72d270ef35d7).

<sup>114</sup> Interview with Lucia Iuzzolini, Servizio Centrale SPRAR, Rome, 16 September 2010.

### 3.3.4 Education and integration programs

#### 3.3.4.1 In CARA Centers

Asylum seekers can attend Italian language classes and receive basic information as a first step towards integration.<sup>115</sup> With regard to integration measures, CARA centers are criticized for several reasons. The main problem is that they were initially not at all designed for a longer stay and provide no suitable structures to facilitate the integration process. CARA centers are typically big facilities located outside the cities; the government uses former airports and military camps. They are located near small communities where the asylum seekers outnumber the local population. Since the asylum seekers do not receive any money from the government, they cannot legally use public transportation. This environment is by no means appropriate for preparing a person to gain integration in Italian society. The quality of language courses and information offered has also been criticized as insufficient.<sup>116</sup>

#### 3.3.4.2 In SPRAR Centers

The SPRAR system is based on the idea of maintaining small, decentralized units. On average, there are between 15 to 30 persons in each center.<sup>117</sup> The aim is to improve the individual's integration process. At the end, a person should manage to achieve socio-economic inclusion and independence. Among the important activities offered in the SPRAR centers are social assistance to gain a better knowledge of the region and access to local services, language tuition, educational and vocational training, and legal support. Although this offer is more appropriate to the demands of asylum seekers and refugees, the fact that access to these services is limited to six months (as it is linked to the stay in the SPRAR center) questions remain regarding the sustainability of the achievements made. Many people who leave the SPRAR center after six months have no place to go and no job to sustain themselves and end up living on the streets.

## 4 Integration and governmental support after recognition

### 4.1 Introduction

As pointed out, the majority of people leaving Italy and seeking asylum in other European countries have already received a permit in Italy that either grants them refugee status or subsidiary protection or admission on humanitarian grounds. Only a minority decides to leave during the asylum procedure or before applying for asylum. The living conditions for the persons with protection status in Italy should therefore be of great concern for the Norwegian and Swiss immigration authorities. In Rome,

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<sup>115</sup> Interview with Ngô Lê Quyên and Caterina Boca, Caritas Rome, Rome, 15 September 2010.

<sup>116</sup> Interview with Alessandro Triulzi and various, Asinitas, Rome, 15 September 2010.

<sup>117</sup> Interview with Lucia Iuzzolini, Servizio Centrale SPRAR, Rome, 16 September 2010.



there are approximately 7000 persons with protection status, the majority of them without a home.<sup>118</sup>

The Italian welfare system relies to a large extent on informal structures, such as family and other social networks or charity institutions. As new arrivals in society, asylum seekers cannot rely on such organic social links. Insufficient knowledge of the language as well as different cultural backgrounds make it difficult for them to integrate and to sustain themselves. Compared to other European countries that offer a comprehensive system of integration support measures, the Italian system must be regarded as insufficient.

## 4.2 Rights related to different forms of international protection

### 4.2.1 Forms of international protection

Italian law acknowledges three different forms of international protection: Refugee status, subsidiary protection, or permit on humanitarian grounds. Until 2008, only refugee status or permits on humanitarian grounds were granted, but after the implementation of the EU qualification directive, the status of subsidiary protection became integrated in the legislation.<sup>119</sup> Holders of permits for humanitarian reasons issued prior to the new procedure can have these converted into permits for subsidiary protection.<sup>120</sup>

### 4.2.2 Refugee status

Refugee status implies a residence permit valid for five years, renewable upon expiration. Refugees are issued a travel document allowing them to travel outside the territory of Italy. They will receive the same treatment as Italian citizens with regard to employment, admittance to profession registers, vocational and school training, apprenticeships, access to public employment, healthcare, and social assistance. A refugee can also achieve family reunification with spouses, children, and parents, without having to meet any income or housing requirements.<sup>121</sup>

### 4.2.3 Subsidiary protection

The beneficiary of subsidiary protection is granted a residence permit valid for three years. It is renewable, but only upon verification of the requirements that led to its release. Holders are allowed to receive a travel document, but only when there are reasons to assume that the person in question is unable to make a request for a

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<sup>118</sup> La Repubblica, Rifugiati, più di tremila senza un tetto, 11 November 2009: <http://roma.repubblica.it/dettaglio/rifugiati-piu-di-tremila-senza-un-tetto/1775869>.

<sup>119</sup> Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, 30 September 2004, L 304/12: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:304:0012:0023:EN:PDF>.

<sup>120</sup> EMN European Migration Network, Italian National Contact Point, The practices in Italy concerning the granting of non-EU harmonized protection statuses, 2009, p. 25: [www.emnitaly.it/down/rs-01-02.pdf](http://www.emnitaly.it/down/rs-01-02.pdf).

<sup>121</sup> Ibidem, p. 24.

passport to the diplomatic authorities of his country of origin. Beneficiaries will receive the same treatment as Italian citizens with regard to employment, education, healthcare, and social assistance. They have the right to family reunification, but only if they meet necessary income and housing requirements.<sup>122</sup>

#### 4.2.4 Humanitarian grounds

The beneficiary of a permit on humanitarian grounds is granted a residence permit valid for one year. It is renewable, but only upon verification of the requirements that led to its release. The recipient may apply for travel documents, but the application will most likely be rejected, and applicants will be told to turn to the diplomatic authorities of their country of origin with a request for travel documents. It is not possible to apply for family reunification. The permit is not considered a status, but a «simple residence authorization».<sup>123</sup> The conditions that caused this permit to be issued cannot persist indefinitely, placing the permit holder in an uncertain situation.

### 4.3 Integration

Italy – unlike Norway and Switzerland – follows the concept that integration support is offered during the asylum procedure. As soon as a person has received a permit and has to leave a center, there are no further official programs designed to help the individual integrate into society. It is recognized that six months in SPRAR are not sufficient to get properly integrated. Statistics show that the number of people that are regarded as integrated has not increased since 2007.

As described above under pt. 3.3.1.3, the number of places in SPRAR centers are limited; there are 3000 places available in all Italy. However, the SPRAR centers are the place where integration measures are offered. The fact that most asylum seekers never manage to enter such a center during their procedures has brought about the present situation where many persons with an asylum background living in Italy have never had access to any integration program. Consequently, there is a large group of people in need of assistance in order to achieve work, accommodation, and residency.

After a person has received recognition, responsibility for providing services is transferred to local authorities.<sup>124</sup> In Italy, there are tremendous differences between the regions, with obvious impacts on the situation of persons with refugee status. The Northern regions are the wealthiest, and the situation there is in general better than in the rest of the country. Turin is regarded to be in the forefront concerning social services in Italy. Rome, due to the high number of asylum seekers it has to receive, is at the bottom end of the scale, together with the economically weaker Southern regions.<sup>125</sup> The situation can vary from town to town. As there are no fixed models or binding guidelines, it depends on the engagement of the local authorities

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<sup>122</sup> Ibidem, p. 24.

<sup>123</sup> Ibidem, p. 3.

<sup>124</sup> Interview with Jürgen Humburg, UNHCR Italy, Rome, 21 September 2010.

<sup>125</sup> Interview with Lara Olivetti and Stefania De Nicolais, Save the Children Italy, Rome, 16 September 2010 and December 2010.

whether asylum seekers and persons under protection are supported or not.<sup>126</sup> Stakeholders interviewed agreed that the system is highly diverse and complex.

#### 4.3.1 Work

The available workplaces consist to a large extent of temporary manual labor. Many refugees find seasonal work during summer in the South in the agriculture sector (picking tomatoes, etc.). It is well known how the refugees, together with persons with irregular stay, are exploited and accommodated under inhuman conditions (see also 3.3.3).<sup>127</sup>

Most people are laid off in wintertime and return to the North, thus increasing the accommodation problems there. The lack of accommodation is worst during the cold wintertime.<sup>128</sup> Many refugees attempt to travel to other countries just to get shelter for the winter season.

The types of jobs available to refugees are usually in the healthcare sector for the elderly. When they work for elderly people, they are also accommodated in the same house as their patient. The disadvantage is that the employee completely depends on the job, and the temporary character of the job causes unpredictability. In addition, these jobs are almost exclusively available to women.

#### 4.3.2 Accommodation

##### 4.3.2.1 Second-stage accommodation centers

As discussed above (see pt. 3.3.1.3), refugees and persons with other protection status usually reside in SPRAR centers for a limited period of time. Additionally, some local projects managed by local authorities and/or NGOs provide shelter. As described above, the SPRAR system was intended from the beginning to house asylum seekers in the procedure, but after the new procedure in 2008, which shortened the time period for processing the cases, more people with status have received a place.

65 % of the residents in the SPRAR centers received their place after being granted a status. Out of these, 74 % are considered to be vulnerable. Many of them are returnees from other European countries. A major category is single women with children. There are also a number of persons suffering from traumatic disorders. Still, the majority cannot enter the SPRAR system even if they are considered vulnerable.

Although the maximum period of stay in SPRAR centers is limited to six months, vulnerable individuals can apply for an additional six months (see pt. 3.3.1.4). These applicants block the places needed for people on the waiting list.

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<sup>126</sup> Interview with Marita Bevilacqua, Prefecture of Turin, Turin, 23 September 2010.

<sup>127</sup> Doctors Without Borders, Violence in Southern Italy Exposes Extreme Neglect and Exploitation of Seasonal Migrant Workers, 12 January 2010: [www.doctorswithoutborders.org/press/release.cfm?id=4146&cat=press-release](http://www.doctorswithoutborders.org/press/release.cfm?id=4146&cat=press-release).

<sup>128</sup> Interview with Donatella D'Angelo, Cittadini del Mondo, Rome, 16 September 2010.

#### 4.3.2.2 Third-stage accommodation centers

Bigger cities face grave accommodation problems. As asylum seekers in Italy are free to choose in what part of the country they want to stay during their procedure, many gravitate towards Rome and Milan in hope to find work to sustain themselves.<sup>129</sup> In previous years, the Ministry of the Interior has initiated some large-scale projects (Centro polifunzionali, Progetto Morcone) in some of the metropolitan areas in order to provide necessary supplements to the existing facilities and reduce some of the pressure on the local authorities there.

In Rome, the Centro Enea was founded in October 2007. It is regarded as a «third-level» accommodation center.<sup>130</sup> This center is not open to people that have been admitted into the SPRAR system. The center has 320 regular places. A precondition for getting access is that applicants must first have been in a local center in Rome. The center focuses on integration programs like language courses to make the immigrants more independent.

In Rome only the Centro Enea has 80 places reserved for Dublin returnees arriving at Fiumicino airport in Rome.<sup>131</sup> Vulnerable individuals are given priority. Vulnerable Dublin returnees who have to present themselves to the responsible Questura elsewhere in the country may stay two to three days in Centro Enea, before they have to travel to the responsible Questura.<sup>132</sup>

The Centro Enea is supposed to be a short-term solution (two weeks at most) for returnees for whom the Questura of Rome is responsible. If places are available in the Centro Enea, returnees can wait there for this short period until they might receive a place in a CARA center while their case is pending,<sup>133</sup> or in the SPRAR system if they are given a positive decision. Refugees who have already been in a SPRAR center for the foreseen time limit of six to twelve months are not supposed to receive a place again.

#### 4.3.2.3 Squats

In general, Italians are reluctant to let immigrants rent apartments.<sup>134</sup> As a result of people not having many social rights and not being capable of finding a place to live, squatting in abandoned houses has become common in the larger cities.<sup>135</sup> Occupied houses are huge buildings with many floors, for example abandoned school build-

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<sup>129</sup> Interview with Alesandro Triulzi and various, Asinitas, Rome, 15 September 2010; Meeting with asylum seekers, refugees, and unaccompanied minors on the street together with representatives of MEDU, within the project «un camper per i diritti», 21 September 2010.

<sup>130</sup> Interview with Prefecture of Rome / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome / Centro Enea / Dublin Unit of Norway, Rome, 16 September 2010.

<sup>131</sup> In 2009, the total number of applicants returned to Italy was 2658 (see pt. 1.5.2), most of whom were sent back to Rome. Compared to the very limited capacities existing in Italy, it is obvious that there is by far not enough accommodation for returnees.

<sup>132</sup> Interview with Prefecture of Rome / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome / Centro Enea / Dublin Unit of Norway, Rome, 16 September 2010.

<sup>133</sup> The place in a CARA is lost and will not be offered again, if a person left the center without permission (see pt. 3.3.1.2).

<sup>134</sup> Interview with Carla Martoglio, Regione Piemonte, Immigration Department, Turin, September 2010.

<sup>135</sup> Regarding the situation for asylum seekers and refugees in Italy see also: Maria Bethke & Dominik Bender, Zur Situation von Flüchtlingen in Italien, 28 February 2011: [www.proasyl.de/fileadmin/fm-dam/q\\_PUBLIKATIONEN/2011/Italienbericht\\_FINAL\\_15MAERZ2011.pdf](http://www.proasyl.de/fileadmin/fm-dam/q_PUBLIKATIONEN/2011/Italienbericht_FINAL_15MAERZ2011.pdf).

ings, and are generally not suitable for habitation. They are home to 300–400 and at times up to 700 people, mainly with a permit and no other accommodation offer. People who share the same regional background usually live together; for example, Eritreans, Ethiopians, and people from Somalia and Sudan may share the same building.

Although people choose to live in squats rather than on the street, the conditions are inhuman. Particularly women and adolescents report that they have been victims of sexual harassment.<sup>136</sup> Access to drinking water is limited, and several hundred people share the same toilet. Squatting is usually illegal, so that rent and electricity are not paid. The electricity may be cut off for months, even during wintertime. There have been times when the flats have been flooded, and there have also been fires. The primitive conditions, combined with the large number of people living in the same building, creates an unbearable tension that from time to time results in violent episodes that resolve the power structure in the buildings. Visiting one of the buildings, the delegation was told that an episode like this had resulted into a person being thrown out the window from the fourth floor. The police watched from outside without interfering.<sup>137</sup>

#### 4.3.3 Access to health care

In principle, refugees and people with subsidiary protection have the same right as Italian citizens. The challenges are the same as for asylum seekers in the procedure: they are not well informed about their rights (see also pt. 3.3.2.2).<sup>138</sup>

#### 4.3.4 Social assistance

Even if applicants are given a residence permit in Italy, this does not guarantee their access to services. A central aspect of the difficulties concerning integration is the separation of permit and residency: The residence permit that enables asylum seekers to stay legally on the national territory does not imply a right to reside in a specific municipality. The residence permit gives the same rights as any Italian citizen has; but in order to exercise them and benefit from the services of the municipality, it is necessary to be a resident in a municipality, which applies to Italian citizens as well.<sup>139</sup>

Applicants who have been granted a permit come under the responsibility of the municipality where they first submitted their asylum application. The individual usually stays in a center in another place during the procedure, but afterwards, he or she is considered administratively to belong to the community where the asylum procedure started. This means people are stuck in the region where they have applied and face difficulties when trying to settle elsewhere in the country, because they do not receive any help from the authorities there.<sup>140</sup>

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<sup>136</sup> Interview with Donatella D'Angelo, Cittadini del Mondo, Rome, 16 September 2010.

<sup>137</sup> Ibidem.

<sup>138</sup> Interview with Petri Rosely, MEDU, Rome, 21 September 2010.

<sup>139</sup> Interview with Roberto Samperi, Municipality of Turin, Turin, 22 September 2010.

<sup>140</sup> Interview with members of Mosaico and various NGO-coordinated projects, Turin, 23 September 2010.

## 5 Rejected asylum seekers

Rejected asylum seekers are supposed to leave the country and are not entitled to support and assistance. The government provides neither accommodation nor basic needs, such as nutrition and clothing. In comparison, both the Swiss and the Norwegian governments offer rejected asylum seekers accommodation and meet their basic needs, even if they are obliged to leave the country.

Rejected asylum seekers who for various reasons stay in Italy will receive an expulsion order. They then risk being sent to a CIE. If the government cannot make arrangements to send the person back to the country of origin, the applicant must be released after six months.

## 6 Italian asylum procedure and reception conditions in the light of European and International Refugee Law

Italy is bound by the legal framework of the EU Asylum Acquis and has to respect at least the minimum standards laid down in the relevant Directives (Directive 2003/9, «the Reception Conditions Directive»; Directive 2005/85 the «Procedures Directive» as well as Directive 2004/83, «the Qualification Directive»). Italy has also signed and ratified the European Convention of Human Rights as well as the 1951 Convention on the Status of Refugees and has to guarantee the rights of these treaties.

The European Commission concluded that the Dublin system can only function adequately if all Member States provide harmonized and adequate standards of protection.<sup>141</sup> With regard to this normative link between the Dublin System and the Asylum Acquis Dublin-Member States should feel obliged to fulfill their obligations laid down in the directives.<sup>142</sup> The situation described by delegation after having visited major Italian cities and talking to stakeholders *sur place* illustrates that Italian standards range well below the standards of the Asylum Acquis in many respects. There are serious doubts that Italy is fulfilling the tasks of the Refugee Convention to support and protect refugees and to enable them to settle down in a decent and sustainable way. A state considering to send back an asylum seeker under the Dublin-system is therefore obliged to carefully assess the conditions that the asylum seeker will meet after being transferred. The following analysis is by no means exhaustive but tries to mirror the main observation against the legal protection framework.

### *1. Limited access to accommodation and assistance at the initial stage of procedure*

First problems arise from the fact that many asylum seekers are not able to access accommodation for the period between the first contact with Italian authorities and the formal registration of their asylum claim (verbalization). This period can vary from a few weeks to, in the worst cases, several months, depending on the capacity

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<sup>141</sup> European Commission, SEC (2008) 2962, 15.

<sup>142</sup> Francesco Maiani, Fitting EU asylum standards in the Dublin equation: recent case law, legislative reforms, and the position of Dublin «associates», in ASYL 2/10, p. 9.

of the authorities. In 2010, the process could take up to two months in major cities. Many people already leave the country during this period because of the shortcomings in housing and assistance. This could lead to the assumption that the Italian authorities do not apply the provisions of the Reception Conditions Directive properly as they do not offer assistance from the moment when asylum seekers present themselves to the authorities, but put several procedural intermediate steps between this moment and the formal registration and the official beginning of the procedure. The Directive itself is not completely clear on this point, but the scope of application in Article 3 para 1 talks about «all third country nationals and stateless persons *who make an application for asylum at the border or in the territory of a Member State*». Consequently, Article 13 para 1 of the Directive states that «Member States shall ensure that material reception conditions are available to applicants *when they make their application for asylum*». One could argue that the presentation of a person at an official authority is sufficient for such an application to be made.

Given this, the adaptation of this article in Italian law is, if not wrong, then at least very complicated and confusing, and is not in the least guided by the aim of the directive to provide appropriate reception conditions during the procedure.

#### *2. Obstacles in the Access to Health Care due to a Lack of Information*

There are serious communication and information problems regarding access to healthcare during the procedure and after recognition. The authorities fail to duly inform the applicants about their rights. So although asylum seekers are in theory entitled to benefit from the public healthcare system, they do not, because they are not informed by the authorities. This practice fails to fulfill Article 5 of the Reception Conditions Directive, stipulating that Member States have to inform asylum seekers about their rights within 15 days after having filed the claim.

#### *3. No sufficient treatment for persons suffering from mental illness and trauma*

It has been pointed out by many interviewed stakeholders that treatment and social assistance of traumatized refugees or persons with mental diseases is by no means sufficient or satisfactory. The Reception Conditions Directive however stipulates in Art. 15 para. 2 that asylum seekers with special need should receive the necessary assistance.

#### *4. Lack of accommodation facilities during the asylum procedure*

In theory, all asylum seekers have the right to accommodation until the first instance decision has been handed down.<sup>143</sup> However, in practice, the Italian authorities have not been able to secure a place for everybody in the past, so many asylum seekers ended up homeless during the procedure – with grave consequences not only for their basic human rights, but also for their procedure. As it is by no means sure that a person will have access to proper accommodation and will be benefitting from reception conditions and support once returned to Italy, any member state planning to transfer a person back to Italy is under the obligation to ensure that this person will be properly received – if the procedure has not been terminated – otherwise there is

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<sup>143</sup> This is provided by the Decreto Legislativo 30 maggio 2005, n. 140:  
[www.stranieriinitalia.it/briguglio/immigrazione-e-asilo/2011/gennaio/sinottico-normativa-24.html](http://www.stranieriinitalia.it/briguglio/immigrazione-e-asilo/2011/gennaio/sinottico-normativa-24.html).

a risk not only of violating EU law, but also of Article 3 of the ECHR.<sup>144</sup> The insecure living conditions with a lack of sufficient housing for asylum seekers during the procedure as well as the inappropriate distribution of places throughout the country, which do not correspond to the numbers of asylum claims that are to be dealt with by one Questura, could violate the provisions of the Reception Conditions Directive, according to which all asylum seekers should be properly accommodated (Art. 14 para.1). The Commission already raised the issue in its 2007 report on reception conditions, where it stated that «some Member States, however, still have shortages of available places for their asylum seekers (i.e. CY, IT, FR)».<sup>145</sup>

As a consequence of these shortages, during the research trip the delegation saw many applicants queuing for food that was distributed by church organizations and NGOs at railway stations and in other places. Among these persons were old and sick asylum seekers as well as minors. Many of them had to sleep on pieces of cardboard without covers in and around the railway station or in other unattended places, hoping not to be chased away by the police. They had no access to toilet facilities and water. They were carrying their belongings with them in plastic bags and feared that they would be robbed or raped during the night.<sup>146</sup>

As this situation also affects persons who are returned under the Dublin procedure, the sending state is obliged to ensure that persons transferred to Italy under the Dublin system whose claims have not been decided according to Italian law will receive all the rights stipulated in the Reception Conditions Directive.

##### *5. Accommodation in practice only during first-instance procedure*

Italian law respects the provision of the Reception Conditions Directive that states in Article 2 lit. c that «'applicant' or 'asylum seeker' shall mean a third country national or a stateless person who has made an application for asylum in respect of *which a final decision has not yet been taken*». However, in practice – due to lack of facilities – accommodation and assistance are only provided until the first-instance decision is taken. This practice is not in line with the Reception Conditions Directive and its intention – to secure reception conditions during the whole procedure. This should be taken into account especially if another state is returning a person under the Dublin system.

##### *6. Severe hardships for persons with protection status*

The most severe problems arise for those who have qualified for a status of international protection. The Italian system does not properly support these persons who regularly are forced to leave a center after six months. Persons with protection sta-

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<sup>144</sup> See European Court of Human Rights, Grand Chamber judgment in the case M.S.S. vs. Belgium and Greece, application no. 30696/09, 21 January 2011: [www.statewatch.org/news/2011/jan/echr-judgment-mss-v-belgium-greece.pdf](http://www.statewatch.org/news/2011/jan/echr-judgment-mss-v-belgium-greece.pdf).

<sup>145</sup> Report from the Commission to the Council and to the European Parliament on the application of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, Brussels, 26 November 2007, COM/2007/0745 final, p. 5, 6: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0745:FIN:EN:PDF>.

<sup>146</sup> Meeting with asylum seekers, refugees, and unaccompanied minors on the street together with representatives of MEDU, within the project «un camper per i diritti», 21 September 2010; Participating representatives of Sant'Egidio distributing food for refugees and asylum seekers in front of a train station in a suburb of Rome, 21 September 2010. See also Maria Bethke & Dominik Bender, Zur Situation von Flüchtlingen in Italien, 28 February 2011, p. 19.



tus that fall out of the system cannot benefit from sufficient social assistance and help schemes for integration.

People are turned out into the streets with a work permit that is useless for many of them, as they are not able to find work. This phenomenon is by far the biggest problem of the Italian system and it is rooted in the fact that the Italian social system as such is very poorly endowed and in no way capable of providing sustainable support for persons who have to find a place in a new society after an experience of trauma and persecution. Many are left out on the streets without a real perspective to improve this situation.

As most of the people with protection status have no place to sleep and thus no possibilities to satisfy their basic needs like food, shower, hygiene and doing laundry, they cannot look for a job but have to roam the streets the whole day, queuing up for food and looking for an overnight solution which is hard to find. Some church organizations and NGOs distribute food and offer other support like washing machines in different places in bigger towns. As shown, people in need have to spend their whole day moving around, catering for their most basic needs. Attending Italian lessons, sometimes offered by church organizations and NGOs in bigger towns, and looking for a job to become self-dependent is nearly impossible under these precarious circumstances.

Especially for vulnerable persons, this situation carries a real risk of inhuman or degrading treatment. It is very obvious that Italy cannot live up to the standards related to the status of refugees and persons under subsidiary protection as prescribed in the Qualification Directive. Protection as envisaged by the Refugee Convention and the Qualification Directive comprises more than mere safety from Refoulement. It obliges the host state to enable a refugee on its territory to a decent and safe life and give him or her the possibility to settle and integrate. Especially for children and other vulnerable refugees the Qualification Directive includes rules for their support and a clear commitment, that these persons need special attention and support (Art. 20 para. 3, 4, 5 Qualification Directive).

Nevertheless, Dublin-States do return persons with protection status to Italy – mostly in the framework of bilateral readmission agreements. This practice touches not only serious legal issues related to the Schengen-Acquis (as persons with a residence permit of a Member State are in principles entitled to freely circulate at least for a certain time in other Member States) but is highly problematic also from a human rights perspective. Every state authority considering to return a refugee or a person in need of international protection to Italy should be aware of the fact that this could lead to a situation where the person's human rights are violated.

The obligation to take such issues into consideration is not only codified in the EU's Asylum Acquis but also in the jurisdiction of the European Court of Human Rights. This has been illustrated most clearly in the recent judgment *M.S.S. vs. Belgium and Greece*.<sup>147</sup> Although the case concerned the situation of an asylum seeker in Greece, the following fundamental deliberations made by the Court are also relevant in the Italian context.

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<sup>147</sup> See FN 144.

Even if the Court states at first that Article 3 of the ECHR cannot be interpreted as obliging the High Contracting Parties to provide everyone within their jurisdiction with a home, nor does it entail any general obligation to give refugees financial assistance to enable them to maintain a certain standard of living<sup>148</sup>, it observed that the situation in which the applicant M.S.S. had found himself was particularly serious. He allegedly spent months living in a state of the most extreme poverty, unable to cater for his most basic needs: food, hygiene and a place to live. Added to that was the ever-present fear of being attacked and robbed and the total lack of any likelihood of his situation improving. It was to escape from that situation of insecurity and of material and psychological want that he tried several times to leave Greece.<sup>149</sup>

Consequently, the Court considered that the applicant M.S.S. had been the victim of humiliating treatment showing a lack of respect for his dignity and that this situation had, without doubt, aroused in him feelings of fear, anguish or inferiority capable of inducing desperation. It considered that such living conditions, combined with the prolonged uncertainty in which he has remained and the total lack of any prospects of his situation improving, have attained the level of severity required to fall within the scope of Article 3 of the Convention.<sup>150</sup>

The situation described above is very similar to the testimonials that the delegation received from refugees and persons under protection status encountered during the visit; the poor social scheme for those persons was also confirmed by various stakeholders. As long as persons with protection status are not having access to sufficient support to help them leading a decent life, they run the risk to end up in misery and destitution – without a real perspective of a change to the better. As the Italian authorities are not really working on the improvement of this situation, it is quite likely that their extremely fragile situation will remain ongoing and under such circumstances cause a violation of Art. 3 of the ECHR.

### *7. Integration Lottery – Only local concepts*

Italy knows a decentralized responsibility for the integration of recognized asylum seekers. Much is left to the will and means of local authorities. This causes regional discrepancies in the services offered, which implies unpredictability for the individual. Thanks to the work of NGOs, asylum seekers in many places get further help in addition to the assistance the authorities can offer. However, this support is based mainly on voluntary engagement and is therefore neither reliable nor predictable. Unlike in most European countries, integration programs in Italy are generally only offered while the asylum seeker is in the procedure, and in some cases for a short time after their recognition. Integration programs are offered in the accommodation centers. They consist of some Italian language teaching in huge classes; some places run counseling projects on how to find a job. Apart from this, individuals are left to their own resources to find their place and make a living in Italian society.

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<sup>148</sup> See M.S.S. vs. Belgium and Greece, § 249, including a reference to the case *Muslim v. Turkey*, no. 53566/99, § 85, 26 April 2005.

<sup>149</sup> *Ibidem*, § 254.

<sup>150</sup> *Ibidem*, § 263.

## 7 Conclusion

The Dublin II Regulation stipulates joint responsibility for the two countries involved in a Dublin return to secure the wellbeing of the individual asylum seeker. The returning part is therefore obliged to assure that the returned individual will receive adequate care and assistance.

The Dublin cooperation was also intended to secure the rights of each individual asylum seeker to have a fair and proper assessment of his or her protection needs, regardless of the member state where the application was lodged. Until all Member States have reached sufficient common standards with regard to procedure and reception conditions, they should not continue to blindly send asylum seekers back to countries that are not meeting those standards.

The experiences gained during the visit show that even though Italy has made eminent progress in designing a functioning asylum system from scratch during the last twenty years, there are still major deficiencies. These are certainly but not entirely resulting from its geographical location at the external borders of the Schengen territory. Italy is one of the EU's more prominent countries of first arrival – not only since early spring 2011. Due to this constantly stretched situation Italy is among those countries that at present cannot guarantee the fulfillment of the rights and safeguards laid down in the minimum directives of the European Union for all persons concerned. Especially in cases of traumatized, psychiatrically challenged, or otherwise ill persons and those needing additional assistance, Italy is not able to meet their requirements.

This should be of great concern to the Norwegian and Swiss (and all other European) governments when they consider returning asylum seekers to Italy through the Dublin II Regulation or persons with refugee status through a readmission agreement. Especially in the light of the high influx of new arrivals from Northern Africa, other Dublin-partner countries should carefully consider the individual situation before returning a person to Italy under the Dublin Regulation or a readmission agreement.

In reality, neither sending states (as Switzerland or Norway) are investigating properly *before* sending a person, nor are the receiving Italian authorities able to ensure that Dublin returnees find dignified living conditions *after return*. The Italian Dublin unit has been overloaded by the large number of incoming Dublin requests. This is also mirrored by the low number of cases that were directly accepted by the Italian authorities. For the larger part, Italy becomes responsible for a Dublin case due to the fact that the two-month period for answering the request has elapsed: The authorities are not able to process the requests within the allotted time. This leads to a situation where many Dublin returnees arrive at the airport without the border police being informed about their arrival – not to mention any specific need. Such practice has a very negative effect on the reception of vulnerable persons, because Italian authorities will not be prepared to meet the special needs of these persons upon arrival.<sup>151</sup>

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<sup>151</sup> Interview with Franca Zappacosta, Questura of Rome, Rome, 21 September 2010; Interview with Prefecture of Rome / Arciconfraternità del SS. Sacramento e di S. Trifone, Fiumicino Airport Rome / Centro Enea / Dublin Unit of Norway, Rome, 16 September 2010.

The fact finding has shown that the pledge to other Member States to refrain from returning vulnerable applicants to Italy is voiced not only by NGOs, but also by the officials encountered during the visit.

A further peculiarity is the fact that many applicants ending in the Dublin system are persons who received a status of protection in Italy already. In 2010, 38 % of all asylum seekers in Italy were granted international protection at first instance, among them 14.26 % were granted refugee status.<sup>152</sup> But statistics show that most of the asylum seekers leaving Italy do so after having received a residence permit. They choose to do so due to the under-endowed accommodation and integration capacities in Italy. In reality, a large number of recognized refugees are left outside of Italian society with very limited chances of achieving a normal life situation and end up living on the streets or in squats under unsustainable living conditions. During the visits to Rome, Milan and Turin, the delegation met many persons who desperately struggled every day finding a decent life in Italy.

The Dublin II Regulation so far only protects individuals from chain refoulement to the country of persecution, and not from living degrading lives in the other Member States. However, the European Court of Human Rights in its recent judgment in the case *M.S.S. vs. Belgium and Greece*<sup>153</sup> states that although there is no general obligation for the states to provide a certain standard of living for refugees, there is an obligation – also with regard to the EU Asylum Acquis – for the receiving state to ensure that the individual is not exposed to constant hardship and insecurity regarding his or her living conditions and security. The findings of the delegation laid down in this report are at least raising serious doubts that Italy is fulfilling its obligations under international and European law.

In the same judgment, the European Court also stipulates an obligation for the sending state to inquire on the situation and living conditions of asylum seekers before transferring them. Having reported on the serious gaps in reception and social conditions, the delegation therefore recommends refraining from transfers to Italy as returnees face a real risk of ending up in unbearable living conditions sooner or later after being expelled from the Italian asylum structures. If states continue transferring asylum seekers and refugees to Italy, there is a danger of a violation of fundamental human rights as stated in Article 3 of the ECHR.

Based on the findings from the investigations and interviews with Italian partner-organizations and representatives of authorities, the Norwegian-Swiss delegation recommends the following:

- As long as it is common practice that **asylum seekers** face difficulties being received properly in the first phase of the procedure (until the verbalization of their claim) and are forced to live in squats or on the streets under inhuman conditions until they get access to the Italian reception system, Member States should before transferring them carefully assess their situation and make sure to receive a reliable commitment by their Italian counterparts that they are able to support them upon arrival.

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<sup>152</sup> Eurostat News Release, Asylum in the EU27, 29 March 2011: [www.cir-onlus.org/eurostat%202010-newsrelease.pdf](http://www.cir-onlus.org/eurostat%202010-newsrelease.pdf).

<sup>153</sup> See FN 144.

- Regarding **vulnerable persons, authorities should refrain from sending them back to uncertain and unworthy conditions**. As long as the sending authority cannot ascertain that the needs of vulnerable asylum seekers, families with minors and single women<sup>154</sup> are sufficiently met in Italy, and there is no formal procedure to identify them,<sup>155</sup> Member States should refrain from sending them back to uncertain and unworthy conditions. Member States are urged to apply Article 3 of the Dublin II Regulation (sovereignty clause) in order not to violate Article 3 of the ECHR.
- **Asylum seekers who prima-facie qualify for refugee protection status or subsidiary protection should not be transferred at all**, as the protection they might gain in Italy after being awarded their status is not sufficient to secure them a decent life. The sovereignty clause of the Dublin II Regulation should be applied in a manner similar to the still valid exception clause of Swiss asylum law with regard to the third country rule of Art. 34 para. 3 lit. b Asylum Law. This provision is excluding asylum seekers with clear cut protection needs who are «obvious refugees» from being sent to a third country. In a very early stage of the Dublin-implementation process in 2006, this exception was meant to build a frame for the application of Art. 3 para. 2 of the Dublin II Regulation – a scheme the legislator did not pursue in the end. However in the Italian context this idea could help preventing the risk of being responsible for serious human rights violations according to Art. 3 of the European Convention of Human Rights.
- As long as most **persons after being awarded refugee status or another protection status** are after a certain time forced to live in squats or on the streets under inhuman conditions without the necessary support and assistance from the government, Member States should take responsibility for this group and **refrain from sending them back** to uncertain and unworthy conditions in order not to violate Article 3 of the ECHR. Such removals might not only be problematic under the Schengen visa scheme, they are first and foremost illicit as Italy cannot guarantee that the persons concerned will not face a real risk of ending up in destitution and misery.
- States participating in the Dublin system should more actively promote decent harmonized standards for refugee protection throughout the Dublin area. The current situation is by no means satisfying and leads to secondary movements of persons with protection status. Also in the light of the recent decision to enlarge the scope of application of the Directive on Long Term Residents, it is of importance to come to more common terms.
- A decision to refrain from a transfer or removal into a Member State like Italy is also a **commitment to burden sharing and solidarity** with Member States that are more challenged due to their geographical situation. Italy needs support from other Member States. At the same time, the Italian gov-

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<sup>154</sup> Families with minors and single women are not considered vulnerable (see pt. 3.3.1.4).

<sup>155</sup> See also the Report from the Commission to the Council and to the European Parliament on the Application of Directive 2003/9/EC of 27 January 2003 Laying down Minimum Standards for the Reception of Asylum Seekers, Brussels, 26.11.2007, COM(2007) 745 final, stating on page 10 that Italy does not provide for a scheme to identify asylum seekers with special needs.

ernment is under the obligation to endow the asylum structures in a proper and sustainable manner to envisage improvements in a longer term.

