



**UNHCR RECOMMENDATIONS ON IMPORTANT ASPECTS  
OF REFUGEE PROTECTION IN ITALY**

July 2012

Tens of thousands of refugees<sup>1</sup> and migrants arrive in Italy every year in the context of so-called 'mixed migratory flows'. A migrant-producing country until the 1960s, Italy is now a destination for those fleeing persecution as well as economic migrants. An estimated 4-5 million third country nationals, including 61,000 refugees, live in the country, whose total population is 60 million.

Italy is a State Party to the 1951 Convention relating to the Status of Refugees and to its Protocol since 1954 and 1972, respectively. Full implementation of the Convention was secured in 1990, when the law abolishing the so-called 'geographical limitation' was enacted.<sup>2</sup> Since then, Italy has participated actively in efforts of the European Union to harmonise asylum and migration policies and to establish a Common European Asylum System.

This document provides a number of recommendations which the United Nations High Commissioner for Refugees (UNHCR) has developed in the organisation's habitual spirit of constructive cooperation and with a view to contributing to further strengthening and aligning Italian asylum policies and practices with international and European standards. The recommendations are addressed to the government and to all other relevant institutional actors and stakeholders and cover the following topics:

1. Access to territory and the principle of non-refoulement
2. Protection of unaccompanied or separated children
3. Access to the asylum procedure
4. Quality of the asylum procedure in Italy
5. Reception conditions for asylum-seekers
6. Local integration of refugees and resettlement
7. UNHCR's work for refugees elsewhere in the world

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<sup>1</sup> This paper uses the term 'refugee' to denote both refugees recognized under Article 1A of the 1951 Convention and those granted subsidiary or other complementary forms of international protection in Italy.

<sup>2</sup> Law No. 39 of 28 February 1990

## 1. Access to territory and the principle of non-refoulement

Italian immigration and asylum legislation provides for a number of procedural and substantive safeguards which aim to ensure access to the territory for persons seeking international protection. The Immigration Act states that *“in no case may expulsions or rejections be ordered towards a State in which the foreigner could be subjected to persecution for reasons of race, sex, language, citizenship, religion, political opinion, personal or social conditions, or could risk being on-sent to another country in which he or she lacks protection from persecution”*.<sup>3</sup>

In light of the primary national and international importance of the principle expressed in this provision<sup>4</sup> of the Immigration Act, UNHCR wishes to express its appreciation for the efforts undertaken by the Italian authorities, and in particular by the Coast Guard, Tax and Customs Police (Guardia di Finanza) and Italian Navy, in undertaking rescue at sea, including bringing to safety in Italy and therefore saving the lives of thousands of persons. These operations are often carried out in extremely difficult conditions and at a great distance from the Italian mainland. Those who are rescued arrive by sea as part of so-called ‘mixed migratory flows’, including asylum-seekers and refugees fleeing persecution, civil war and human rights violations, who take the same irregular migratory routes and the same means of transport as people moving for other reasons.

On 23 February 2012, the European Court of Human Rights (ECtHR or ‘the Court’) in Strasbourg decided the ‘Case of Hirsi Jamaa and others v. Italy’ (Application no. 27765/09) concerning a group of 24 Somali and Eritrean applicants, who were part of a larger group of migrants, intercepted on high seas by Italian State vessels and returned to Libya in May 2009. The Court considered that this operation represented a violation of Art. 3 (prohibition of torture or inhuman or degrading treatment or punishment) and Art. 13 (right to an effective remedy) of the European Convention of Human Rights as well as Art. 4 of Additional Protocol No. 4 (prohibition of collective expulsion).<sup>5</sup> UNHCR welcomed the immediate reaction of the Italian Government to the decision of the Court in Strasbourg, particularly the statement, as quoted in Italian media, of the President of the Council of Ministers and of the Minister of Interior, expressing Italy’s intention to respect the judgment of the Court.<sup>6</sup>

<sup>3</sup> Legislative Decree 286/98, Art. 19, Para. 1.

<sup>4</sup> This corresponds to the principle of ‘non-refoulement’ expressed in Article 33 of the 1951 Geneva Convention relating to the Status of Refugees.

<sup>5</sup> In its reasoning, the Court noted, *inter alia*, that the international obligations arising from the European Convention of Human Rights must always be respected on the high seas, in so far as the intercepted persons, transferred to Italian state vessels, find themselves under the effective jurisdiction of Italy. Therefore, their fate following return to Libya was within Italy’s responsibility. The Court furthermore noted that the persons intercepted on the high seas did not receive information on the possibility to apply for international protection. The Court reiterated that the lack of access to information represents a major obstacle in accessing asylum procedures and that each person subject to removal measures has the right to obtain sufficient information to gain effective access to relevant procedures. The Court also found that there were insufficient guarantees to ensure that the individual circumstances of the intercepted migrants were actually subject to a detailed examination.

<sup>6</sup> (ANSA) - ROMA, 23 FEB - *“Alla luce dell’analisi di questa sentenza prenderemo decisioni per quanto riguarda il futuro”*. Così il premier Mario Monti sulla condanna della Corte europea dei diritti umani di Strasburgo per i respingimenti verso la Libia.

According to the information currently available, the Italian Government ceased to apply its push-back policy to Libya in September 2009, a development UNHCR welcomed at the time. Between May 2009 and September 2009, Italian military vessels were involved in returning to Libya persons intercepted in international waters who had left that country in an irregular manner, with the intent of reaching Italy. Those who were pushed back included a number of asylum-seekers and refugees who could not access effective protection in Libya. To date, however, this policy has not been officially revoked, a step which, if taken, would ensure both formal and substantive application of the principle of 'non-refoulement'.

Possible protection needs of persons who arrive in an irregular manner on ferries docking at Italy's Adriatic ports and who are subsequently returned to Greece need to be systematically identified. This would ensure that asylum-seekers arriving at these ports do not face difficulties in applying for international protection due, *inter alia*, to limited access to information and assistance at the border. Incidents of impeded access to the asylum procedure have been reported.

Measures to control borders and counter irregular migration are a legitimate prerogative of the State. However, UNHCR remains concerned when such measures do not foresee appropriate mechanisms to distinguish potential asylum-seekers and other persons in need of protection from other types of migrants.

## Recommendations

- 1. In light of the recent jurisprudence of the ECtHR, UNHCR recommends that readmission and cooperation agreements in relation to irregular immigration include adequate protection safeguards for asylum-seekers and refugees. Moreover it is important that possible consequences of expulsion, interception and removal measures, including the risk of onward removal to countries where the people concerned would be at risk of being exposed to persecution or other serious human rights violations, are rigorously examined. UNHCR hopes that, in order to maintain an effective system of search and rescue at sea, the declaration of Lampedusa as not being a safe place for the disembarkation of migrants rescued at sea (Ordinance N.15 of 24.9.2011) will be revoked as soon as possible.**
- 2. Considering the observations made by the ECtHR, UNHCR encourages Italy to ensure that all border control mechanisms effectively guarantee respect for the principle of**

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(ANSA) - ROMA, 23 FEB - *"Sono in corso serrati contatti con la nuova dirigenza libica al fine di riavviare la collaborazione operativa fra i due Paesi. Ogni iniziativa intrapresa sarà improntata all'assoluto rispetto dei diritti umani ed alla salvaguardia della vita degli uomini in mare"*. Lo ha detto il ministro dell'Interno, Annamaria Cancellieri.

(ANSA) - ROMA, 23 FEB - *"Con altrettanta fermezza - spiega il ministro dell'Interno - sarà contrastata l'immigrazione illegale soprattutto quella che si manifesta attraverso la tratta delle persone"*. Sulla condanna di Strasburgo all'Italia poi il ministro aggiunge: *"La decisione di oggi della Corte Europea dei Diritti dell'Uomo, in quanto sentenza proveniente da un alto organo giurisdizionale europeo, va rispettata e non commentata"*.

***non-refoulement***. A protection-sensitive approach to border control includes the provision of adequate information to all new arrivals, including potential asylum-seekers. This needs to include information about the possibility of lodging an asylum claim, the asylum procedure, other options for stay and voluntary return. In this context, the effective possibility of expressing any protection needs has always to be guaranteed, as should confidentiality and the availability of interpreters. It is of vital importance that the competent authorities assess possible protection needs of persons about to be pushed back or returned on a case by case basis and prior to their removal.

3. In order to facilitate the identification of asylum-seekers and to ensure access to international protection procedures, UNHCR recommends that article 10 of the Practical Handbook for Border Guards (Schengen Handbook)<sup>7</sup> be applied. The Handbook, drafted by the European Commission and published on 6 November 2006, recommends in its Recital 6 that '*Member States should also use the Practical Handbook for the purpose of training all the personnel*' to be deployed to border control tasks.
4. UNHCR recommends that, in the framework of regular training activities for border personnel, the Italian authorities further increase training activities focusing specifically on the international protection of refugees. Appropriate instructions need to be given to ensure that asylum-seekers are identified and referred to the relevant asylum authorities prior to the application of any removal measures. The content of the training would focus on the legal framework as well as on country of origin information and cross-cultural communication. Regular training on asylum is also best included in the official training curriculum of police officers operating in the immigration units of Provincial Police Directorates (Questure) and at the border. UNHCR stands ready to cooperate with the competent authorities in designing and delivering training modules on international refugee protection.

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<sup>7</sup> Cf. Article 10 on asylum-seekers/applicants for international protection:

*Article 10.1. A third-country national must be considered as an applicant for asylum/international protection if he/she expresses – in any way – fear of suffering serious harm if he/she is returned to his/her country of origin or former habitual residence. The wish to apply for protection does not need to be expressed in any particular form. The word “asylum” does not need to be used expressly; the defining element is the expression of fear of what might happen upon return. In case of doubt on whether a certain declaration can be construed as a wish to apply for asylum or for another form of international protection, the border guards must consult the national authority(-ies) responsible for the examination of applications for international protection.*

*Article 10.2. All third-country nationals who express the wish to apply for asylum/international protection at the border (including airport and seaport transit zones) must be given the opportunity to do so. To this end, border authorities must inform the applicants, in a language they may reasonably be expected to understand, of the procedure to be followed (how and where to make the application), as well as of their rights and obligations, including of the possible consequences of not complying with their obligations and not cooperating with the authorities. In order to avoid misunderstandings, and to be sure that applicants are adequately informed of their rights and obligations, as well as of the procedure, if an applicant for international protection does not have sufficient knowledge of the language spoken in the Member State concerned, the services of an interpreter must be called upon where necessary.*

*Article 10.3. Any application for international protection must be transmitted either to the competent national authority designated by each Member State for the purpose of its examination/processing or to the authority which is responsible for deciding whether to permit the applicant entry to the territory so that his/her application can be examined by the competent authority. No decision to return the applicant must be taken by the border guard without prior consultation with the competent national authority or authorities.*

5. Information services provided for in the Immigration Act (Article 11, Para 6 of Decree 286/98), currently implemented in the Rome-Fiumicino and Milan-Malpensa airports as well as at the main Adriatic ports, need to be strengthened. The information service at the Milan-Malpensa airport, which currently operates as a help desk situated after passport control, should be relocated to the transit area, as is the case at the Rome-Fiumicino international airport. Furthermore, these services must be made available to all those who intend to apply for asylum, irrespective of the mode of arrival and location, and therefore need also to be rolled out in Apulia, Calabria, Sicily and Sardinia. Good practices developed by the 'Praesidium' project (see section 3 below) could provide useful elements for the establishment of an effective information and assistance system in all areas where mixed migratory flows could arrive.

## 2. Protection of unaccompanied or separated children (UASC)<sup>8</sup>

According to the Ministry of Interior, 827 unaccompanied minors applied for asylum in Italy in 2011, while the Committee for Foreign Minors, the official inter-agency body responsible for the well-being of unaccompanied foreign minors in Italy<sup>9</sup>, had registered in its database a total of 7,750 unaccompanied foreign minors at end-2011, with the second largest number being Afghans. These figures show that, although a significant number of UASC arrived from traditional refugee-producing countries, many did not apply for international protection in Italy. Cases of unaccompanied foreign minors absconding from designated reception facilities occur regularly and have been widely reported. Many of the UASC refrain from registering with the authorities, on the assumption that they would otherwise be unable to move to other European countries. Research carried out by UNHCR in the last months of 2010 revealed that many UASC who lack reliable information on the possibility of being granted protection in Italy decide to move on to other countries and that their decision to leave Italy is, to a great extent, prompted by pressure from traffickers and family members as well as by concerns about integration prospects in Italy once they become adults.

Italian law is particularly attentive to the rights of unaccompanied foreign minors. They may not be expelled and must be issued with a residence permit. Should age determination procedures concerning an individual declaring him or herself a minor be unable to yield a definitive result, the benefit of the doubt must be applied in favour of the individual claiming to be a minor. Though Italian legislation provides a number of additional safeguards for unaccompanied foreign minors, including the rapid appointment of a guardian and fast-track determination of international protection needs for those who apply for it, there is considerable scope for improving the application of these provisions. In some cases, for instance, the appointment of a guardian (generally the local mayor or a municipal officer)

<sup>8</sup> According to UNHCR's terminology, *unaccompanied children* (also called *unaccompanied minors*) are persons under the age of 18 years who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. *Separated children* are those separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members. The Italian legislation does, however, not contain this distinction and generally only refers to "*unaccompanied (foreign) minors*".

<sup>9</sup> Unaccompanied asylum-seeking children do not fall under the remit of the Committee for Foreign Minors.

may be a mere formality, with duties being delegated to social workers who struggle to provide individualised assistance due to the high numbers of unaccompanied foreign minors assigned to them. Lengthy waiting times for the appointment of guardians also often delay access to international protection procedures and/or the timely identification of the appropriate support required by each of these minors and the drafting of a tailored integration plan.

A correct and reliable age determination is key given that the vast majority of registered unaccompanied foreign minors are between 16 and 17 years of age. Italy still lacks an adequate multidisciplinary age determination procedure, a necessary precondition to ensure that minors are treated as such and are granted forms of protection tailored to their specific vulnerabilities and needs.

Finally, standards at reception facilities for unaccompanied foreign minors appear to vary significantly across the country, with some reports that facilities exist where assistance might not always be up to standard.<sup>10</sup>

## Recommendations

- 6. UNHCR recommends that the Italian Government establish a national body focusing specifically on UASC in need of international protection in order to develop, coordinate and oversee the timely identification of needs and the provision of adequate responses, notably durable solutions, which are in the best interests of the child.**
- 7. UNHCR encourages the Italian authorities to consolidate existing practices by developing a single set of operational guidelines on the timely identification of UASC and of their specific vulnerabilities immediately upon arrival. The guidelines could also provide indications on how best to identify specific protection measures in the best interest of each child. Such measures could not only address the short term but also the longer term and adopt a multidisciplinary approach including the opinion of independent experts.**
- 8. UNHCR urges the Italian authorities to ensure that the best interest of the child underlies all decisions or actions pertaining to him or her, *inter alia*, by ensuring that a qualified guardian with the necessary expertise is appointed in a timely manner.**
- 9. UNHCR calls on the Italian authorities to ensure the application of adequate common reception and assistance standards in facilities hosting UASC, in line with the European Action Plan on Unaccompanied Minors (2010–2014),<sup>11</sup> and to establish mechanisms to facilitate the gradual and long-term integration of the minors in host communities.**

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<sup>10</sup> cf. Save the Children (Italy) Report: L'accoglienza temporanea dei minori stranieri non accompagnati arrivati via mare a Lampedusa nel contesto dell'emergenza umanitaria Nord Africa. ([http://images.savethechildren.it/IT/f/img\\_pubblicazioni/img157\\_b.pdf](http://images.savethechildren.it/IT/f/img_pubblicazioni/img157_b.pdf))

<sup>11</sup> European Union, Communication from the Commission to the European Parliament and the Council - Action Plan on Unaccompanied Minors (2010 – 2014), May 2010.

- 10. UNHCR recommends that the Italian authorities ensure the adoption of a multidisciplinary age determination procedure. The procedure would be conducted by independent experts with specific knowledge of the ethnic and cultural background of the concerned children and the ability to take all relevant factors, such as the individual's physical, psychological, cultural and social development, into account.**
- 11. UNHCR calls on the Italian authorities to strengthen the provision of assistance and information in the asylum procedure for UASC by tailoring services to their needs, taking their opinions into account and encouraging their involvement in all decisions concerning them.**

### **3. Access to the asylum procedure**

According to UNHCR's observations, third-country nationals who are already in the country generally do not experience major difficulties in applying for international protection. However, according to several reports, there have been instances in a number of Provincial Police Directorates (Questure) in which formal registration of asylum applications was difficult without proof of residence; or in other instances some Police Directorates only fixing appointments for the registration of asylum applications several months after the asylum-seeker expressed the intention to apply, thereby depriving these persons, for prolonged periods of time, of access to the rights available to formally registered asylum-seekers. In cases of detainees awaiting deportation in Identification and Expulsion Centres (CIEs) there have also been reports of difficulties in lodging asylum applications, either because of a lack of adequate information or legal assistance, or due to bureaucratic obstacles.

The 'Praesidium' project has been operational since March 2006 and is presently implemented by UNHCR, IOM, the Italian Red Cross and (since 2008) Save the Children in the main areas of sea arrivals, i.e. Sicily, Calabria and Apulia. The project's overall objective is to strengthen the initial reception capacity with respect to 'mixed migratory flows' (where asylum-seekers and refugees travel alongside persons moving for other reasons). Main activities consist of providing information on the asylum system and on the immigration legislation to third-country nationals who land on Italy's shores without passing through official border points. The multi-agency approach developed by 'Praesidium' partners is considered to be an efficient way of managing the arrival of 'mixed migratory flows', whilst safeguarding the integrity of the asylum system. This is achieved through information provision and the timely identification of specific needs and of possible responses to the latter, which include access to the asylum procedure or other forms of protection, or opting for voluntary return. However, 'Praesidium' partners were unable to provide assistance at a number of landings of groups which had departed from Egypt, due to a lack of access to the migrants, most of whom were subsequently returned to that country. Presently, UNHCR is exploring ways of guaranteeing the sustainability of the good practices developed in the context of this project.

## Recommendations

- 12. UNHCR calls on the competent authorities to ensure that registration of asylum claims is carried out in all cases without delay, including at CIEs, and that asylum-seekers are promptly issued with information regarding the asylum procedure. They need to receive documentation attesting to their status, and immediate access to health care and other basic social services as needed. Access to legal counselling and interpretation needs to be assured at all times for the purpose of registering asylum claims.**
- 13. Coordination among all stakeholders involved in the asylum procedure – the relevant authorities and non-governmental organisations as well as interpreters or ‘cultural mediators’ - could be strengthened through the organisation of coordination meetings and of training courses on asylum.**
- 14. UNHCR recommends that Italy make use of the humanitarian and sovereignty clauses in the Dublin II regulation in order to avoid returning asylum seekers to Greece until the Greek asylum system is able to ensure adequate protection standards.**
- 15. UNHCR personnel and staff from other qualified bodies need to be granted access to all potential asylum seekers at all times, regardless of where these persons are and of their nationality, race, gender and age, so as to enable these actors to provide information on the right to apply for asylum and to identify particularly vulnerable individuals such as UASC or victims of torture or trafficking in human beings.**

### 4. The quality of the international protection determination procedure

In 2005, a decentralised procedure was established for the determination of international protection needs. Under this procedure, claims are assessed by Territorial Commissions whose members comprise two officials of the Ministry of Interior, a representative of the local authorities and a UNHCR representative. The transposition of the EU Asylum Procedures and Qualification Directives<sup>12</sup> has led to a series of significant and positive improvements in the body of law concerning the international protection determination procedure in Italy, which now foresees, *inter alia*, an assessment of the merits of all claims for which Italy is responsible according to the Dublin II Regulation. UNHCR welcomes and appreciates the marked improvements in some of the procedural aspects of the work of the Territorial Commissions as well as the level of protection granted to persons found to be in need of such protection. UNHCR likewise fully appreciates its long-standing co-operation with the Italian authorities in relation to status determination procedures. In 2011 a total of 24,416 asylum

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<sup>12</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, transposed by Legislative Decree No. 251 of 9 November 2007 and Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member states for granting and withdrawing refugee status, transposed by Legislative Decree No. 25 of 28 January 2008.



applications were examined with an overall recognition rate of 30% (including both international protection and national humanitarian protection). Refugee status as defined by the 1951 Geneva Convention was recognized in approximately 7,5% of the cases. UNHCR is pleased that the Territorial Commissions take UNHCR positions and guidelines into account, including in relation to certain countries of origin or to specific legal aspects such as fear of persecution for reasons of membership of a particular social group.

UNHCR notes, however, that certain aspects of the procedure still require improvement. UNHCR has observed some inconsistent practices in the registration of asylum applications by the police, with variations in waiting times and with regard to the availability of interpretation. As regards the Territorial Commissions, UNHCR recognises that significant efforts have been made to organise regular and fruitful training sessions and refresher courses for Territorial Commission members. However, Territorial Commission members are not required to possess prior experience and expertise in the field of asylum and they sometimes fill other positions during their tenure as members of Territorial Commissions. With regard to the judicial procedure on appeals against negative decisions at first instance, UNHCR encourages the authorities to promote specialisation in the field of asylum for magistrates dealing with asylum cases. Lengthy delays – and the subsequent impact on asylum-seekers - are frequently reported in cases pertaining to the Dublin II Regulation, especially regarding instances where asylum-seekers are awaiting a decision on which Member State is responsible for their asylum application.

## **Recommendations**

- 16. UNHCR recommends the establishment of a working group comprising the National Commission for the Right to Asylum, the Ministry of Interior, UNHCR and other relevant institutional actors and organisations, with a view to discussing the need for and the possible scope of interventions to further improve the international protection determination procedure.**
- 17. UNHCR recommends that the Italian authorities adopt the necessary legislative measures (including through the adoption of a Regulation implementing Legislative Decree 25/2008) to ensure that Territorial Commission members are selected on the basis of their experience and knowledge in the field of asylum, that members undertake regular and systematic training activities and that they occupy the position of Territorial Commission member full-time. The quality of interpretation could also be improved by foreseeing adequate training for Territorial Commission interpreters and the verification of their qualifications.**
- 18. UNHCR welcomes the computerisation of the template (Module 'C3 form') which standardises the registration and processing of asylum requests at the Police Directorate, recently introduced by the Ministry of Interior in a pilot phase in Foggia and Bologna. This innovation could result in considerably expediting the asylum procedure and lead to immediate access of an asylum-seeker to accommodation as required by the respective Directive of the European Union. UNHCR recommends also a revision of the content of the template (Module 'C3 form') with the aim of facilitating the prompt**

completion of the form and to further include the essential elements of the asylum request.

19. UNHCR recommends that the unit of the Ministry of Interior dedicated to the management of 'Dublin cases' be strengthened in order to ensure that decisions on transfers or on assumptions of responsibility as per the Dublin II Regulation are taken without delay. UNHCR also recommends that the Italian authorities ensure that all asylum-seekers subject to the application of the Dublin II Regulation enjoy the right to an effective remedy.
20. UNHCR recommends that regular training activities on international protection be made available to the judiciary and that a database on Italian asylum case law be established and maintained.
21. UNHCR recommends that the Italian authorities adopt legislation aimed at ensuring that asylum-seekers whose claims to international protection have been denied are guaranteed access to legal remedies, particularly in the case of asylum-seekers with limited financial means. UNHCR also calls upon the Italian authorities to adopt specific provisions to ensure that asylum-seekers who have appealed against negative decisions at first instance and have requested that the execution of the decision they are challenging be suspended, be entitled to remain in the country pending a ruling on the suspension.

## 5. Reception conditions for asylum-seekers

Legislative Decree No. 140/2005, which implements the European Union Directive laying down minimum standards for the reception of asylum-seekers<sup>13</sup>, is the main law underpinning the Italian reception system. The decree foresees that those who apply for protection in Italy, but lack the means to ensure a dignified standard of living for themselves, are, in principle, hosted in adequate reception facilities. The reception system currently includes the following types of facilities: Reception Centres for Asylum-Seekers (CARA), Reception Centres for migrants (CDA), local projects established in the context of the Protection System for Asylum-Seekers and Refugees (SPRAR) and centres in so-called 'metropolitan areas', which have been set up in large cities. The system has recently been complemented by an emergency reception plan managed by the Department of Civil Protection which was rolled out to address migratory flows from North Africa from January 2011 onwards.

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<sup>13</sup> Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers in Member States.

Based on a series of requirements set out in Article 20 of Legislative Decree No. 25/2008, some asylum-seekers who arrive in Italy are initially referred to CARAs, mainly for identification purposes. CARAs are open facilities which are run by organisations selected through a public tender procedure managed by the local Prefecture. The nine CARAs which are currently operational in various Italian regions have a total capacity of approximately 2,000 places. At times, however, reception facilities for migrants, or CDAs, are also used to host asylum-seekers, bringing the total capacity in Italy to approximately 5,000 regular places. Asylum-seekers falling into specific categories (namely those previously served with an expulsion order) may also be detained in Identification and Expulsion Centres (CIE).

The SPRAR network of reception and integration projects, whose members include municipalities, provinces and non-profit organisations, is coordinated by a Central Service and currently managed by the National Association of Italian Municipalities (ANCI). Funding is provided through a public tender procedure managed by the Ministry of Interior. SPRAR's approximately 150 projects have a total capacity for about 3,000 persons. Five hundred places are set aside for vulnerable individuals, including fifty for individuals suffering from serious mental disorders. SPRAR projects host beneficiaries of international protection and of national humanitarian protection as well as asylum-seekers. With regard to asylum-seekers, places in the SPRAR network are usually for vulnerable or destitute asylum-seekers whose identification procedures have been completed or who have spent 35 days in a CARA.

In recent years, due to the limited capacity of the SPRAR network, asylum-seekers who could have been hosted in this type of reception facility have often been referred to CARAs. Asylum-seekers who would, according to the policy, have spent a maximum of 35 days in a CARA have therefore stayed on in these facilities until their asylum procedures were completed, or, in some cases, up to six months, without being able to access SPRAR projects. As regards the length of their stay, asylum-seekers hosted in SPRAR projects may, in a number of given circumstances, extend their stay for up to six months after they are granted a form of international protection.

In general terms, those hosted in CARAs should benefit from a series of services beyond food and accommodation, which include health care and mental health care, training and recreational activities, and legal assistance. The relevant legal framework<sup>14</sup> defines common minimum standards for CARAs at the national level, which are now included in all contracts for the management of these reception facilities. Services in SPRAR reception facilities are less homogeneous and accommodation is generally foreseen in small to medium-sized facilities such as flats where services are geared towards facilitating local integration.

In 2011, following a significant number of arrivals from North Africa and the ensuing declaration of a state of 'humanitarian emergency', regional governments were asked to identify additional reception facilities, given that the existing reception capacity was deemed to be insufficient. An agreement was then reached between the central Government and the relevant local authorities (regions, provinces governed by a special statute and municipalities), setting out criteria for the distribution of up to 50,000 persons across the

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<sup>14</sup> Ministry of Interior Decree of 21 November 2008.

country, with regional quotas based on population size. Responsibility for the management of this 'Migrant Reception Plan' was assigned to the Head of the Department of Civil Protection, who was designated Emergency Administrator. As of today, over 20,000 forced migrants have been hosted in the framework of the plan, mostly in small to medium-sized facilities spread out throughout Italy (with the exception of the Abruzzo region<sup>15</sup>).

UNHCR expresses its appreciation for the improvements to the reception system which have been carried out in recent years. Overall, the CARAs, CDAs and SPRAR projects are able to provide for the reception needs of a significant number of asylum-seekers. However, UNHCR believes that a number of issues continue to be of concern, namely the following: i) when significant numbers of arrivals take place, CDAs, CARAs and SPRAR projects alone are unable to host all asylum-seekers who cannot provide for themselves; ii) the actual level of assistance and the quality of services provided vary significantly depending on the type of facility, with SPRAR projects offering reception in a multitude of small facilities, many of which have established strong ties to the local area, whilst CARAs and CDAs are larger facilities with capacities ranging from a minimum of 100 to 150 places to a maximum of 1,500 to 2,000 places; (iii) the criteria and procedures for referring individual asylum-seekers to a CARA or a SPRAR project are not always set out formally in writing; (iv) there have been a number of instances in which reception in a CARA was limited to a maximum of six months, a practice which does not appear to be in line with the EU Directive on reception conditions, when applied to asylum-seekers who are unable to provide for themselves and have not received a decision on their applications within this period; however, recently, UNHCR has received assurances from the Ministry of Interior that this restrictive practice will be discontinued; (v) CARAs do not all offer the same reception services, with the quality of assistance varying between facilities and sometimes failing to meet adequate standards, especially regarding the provision of legal and psycho-social assistance; (vi) there is still room for improvement in the CARAs, in particular with regard to community participation, the creation of efficient complaints mechanisms and regarding gender and diversity perspectives; (vii) care provided to vulnerable individuals is often inadequate due to low levels of coordination among stakeholders, an inability to provide adequate legal and social support as well as the necessary logistical follow-up, and a poor referral system; (viii) monitoring of reception conditions by the relevant authorities is generally not systematic and complaints often remain unaddressed; (ix) regarding the 'North Africa emergency', which enabled accommodation for significant numbers of asylum-seekers ex-Libya to be found within a short space of time, monitoring activities falling under the remit of the regional Implementing Authorities in the framework of the national reception plan have been delayed. Moreover, most of the new facilities established by regional governments to host arrivals from Libya do not currently offer the range of services foreseen by national legislation on minimum reception standards in CARAs.

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<sup>15</sup> The region of 'Abruzzo' was exempted from the Migrant Reception Plan, as it was hit by a devastating earthquake in 2009.

## Recommendations

22. UNHCR calls on the Italian Government to ensure an adequate reception capacity for asylum-seekers throughout the country, including when significant numbers of arrivals take place, so that all asylum-seekers lacking the means to provide for themselves are able to access adequate reception facilities, in line with provisions of the EU Directive on Reception Conditions. The reception system needs to be more flexible, so as to be able to respond to fluctuations in the numbers of asylum applications and to the actual length of the asylum procedure.
23. Reception conditions and standards in all reception facilities need to be harmonised at an acceptable level of quality. Given the structural differences between the various types of facilities (CARAs, CDAs, SPRAR projects, 'metropolitan area' facilities and facilities established in the context of the Migrant Reception Plan), the current approach could be reviewed in order to ensure high standards for all asylum-seekers. Regardless of whether these changes are carried out or not, reception for asylum-seekers awaiting a decision on their asylum applications ought not be limited to six months. Finally, hosting asylum-seekers in large facilities for long periods of time is best avoided.
24. Measures need also to be taken to render services provided to asylum-seekers and refugees more distinct, offering the former the assistance they need pending a decision on their status, whilst providing refugees with the support they require to facilitate their integration in Italian society.
25. Measures aimed at providing specific support to individuals with special needs, such as victims of torture and of sexual and gender-based violence, UASC, single or pregnant women and the disabled, need to be upgraded. UNHCR also supports the adoption of Standard Operating Procedures (SOPs) for the referral of the different categories of vulnerable persons to the relevant reception facilities, so as to ensure adequate care and follow-up by qualified services.
26. UNHCR encourages the Italian authorities to establish mechanisms aimed at consulting asylum-seekers hosted in reception facilities and at facilitating their active participation, to introduce complaints mechanisms and to ensure that gender differences, age and individual needs are taken into account.
27. UNHCR calls upon the Italian Government to strengthen its existing monitoring and quality control systems and to introduce new, more efficient systems.
28. Innovative elements introduced in the context of the North African emergency response by the Migrant Reception Plan in 2011, such as the quota system, the involvement of regional governments and the establishment of a national Co-ordination Committee, as well as of a Monitoring and Support Group, could be drawn upon in the review of the current reception system.

## 6. Local integration and resettlement

According to the relevant provisions in international and European Union law, refugees are to be granted access to a number of rights which are key to integration in the country of asylum on an equal footing with Italian or European nationals. However, there are shortcomings both in Italian legislation and practice which may hinder efforts of refugees to become self-reliant. Existing integration policies, which do not take account of the initial disadvantage of refugees in the labour market compared to Italian nationals, limit their socio-economic integration. Measures offering specific support to refugees accessing the labour market therefore need to be rolled out. Moreover, in most cases, refugees who have been granted a form of international protection may no longer benefit from the assistance provided to asylum-seekers and therefore struggle to have access to housing. The SPRAR system, given its low capacity, is limited in its efficiency to assist refugees in securing adequate accommodation. As a result, destitute refugees may become homeless.

Furthermore, the current legal framework does not foresee the implementation of measures geared at overcoming the specific administrative hurdles refugees face. Many refugees, for instance, lack documents or certificates which they are unable to obtain from their countries of origin, but which they are requested to produce to be able to exercise a number of rights, including recognition of their educational and professional qualifications, or being able to marry. Requests for documents proving family links as well as delays in assessing applications also pose obstacles to family reunion.

Practices which introduce differential treatment for nationals and non-nationals, in violation of the right to non-discrimination, also constitute serious obstacles to refugees' integration, as do restrictions applied by some local authorities when registering refugees as local residents. These practices have knock-on effects on the ability of refugees to enjoy the rights to which they are entitled.

Refugees and stateless persons benefit from more favourable legal requirements for naturalisation, as they are required to demonstrate that they have been residing in the country for five years, as opposed to the ten years requested from all other third-country nationals. They might, however, face a number of practical problems in actually accessing this benefit, *inter alia*, due to the fact that the procedure is often rather lengthy and that the criteria for granting Italian citizenship leave a considerable margin of discretion. Furthermore, children who are born in Italy do not automatically acquire Italian citizenship.

Additional challenges stem from limitations to the freedom of movement and settlement within the EU for beneficiaries of international protection. Transposition in Italy of the recently amended Long-Term Residents Directive<sup>16</sup>, still pending, would enable refugees and beneficiaries of subsidiary protection to acquire long-term resident status in EU Member

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<sup>16</sup> Directive 2011/51/UE of the European Parliament and of the Council of 11 May 2011, amending Council Directive 2003/109/EC [concerning the status of third-country nationals who are long-term residents] to extend its scope to beneficiaries of international protection.

States on the same terms as other third-country nationals who have been legally residing in the European Union for at least five years.

UNHCR also believes that the involvement of refugees in political life would foster their feeling of belonging in their country of asylum and would facilitate their integration. However, Italian legislation does not currently provide third-country nationals with the right to vote, including in local elections.

As regards asylum-seekers, UNHCR endorses initiatives, including in CARAs, supported by the Interior Ministry geared at furthering their integration should they be recognised as refugees, such as Italian language tuition, civic education, the assessment of professional skills and vocational training. UNHCR believes that these measures may help to support asylum-seekers as they have to take decisions about their future and to promote positive relations with local communities. Once individuals leave the CARAs, however, access to additional support measures is limited and integration prospects may therefore be slowed down.

UNHCR welcomes the Italian Government's willingness in recent years to accept several hundreds of refugees for resettlement from third countries where they could not access adequate and long-term protection. UNHCR believes that the possibility of resettled refugees' successful integration within local communities is high in a number of the areas to which they have been relocated. These pilot resettlement initiatives have highlighted the fact that there is scope for improvement in the planning and management of integration support for resettled refugees. Lessons learned could therefore be drawn upon to promote similar initiatives elsewhere.

Furthermore, UNHCR expresses appreciation for the recent appointment, in the newly-formed cabinet, of a Minister for Development Co-operation and Integration, and hopes that the new Ministry will spearhead policies furthering the integration of refugees in Italy.

Finally, UNHCR is very concerned about the frequent and increasing use of language in public discourse which is calculated to stoke xenophobia and intolerance. This may undermine positive relations between Italians and non-nationals and have a negative impact on refugees and asylum-seekers.

## **Recommendations**

**29. UNHCR recommends that the Italian Government engage in a comprehensive review of the legal framework and adopt measures aimed at removing the obstacles in administrative procedures which have a significant impact on the integration prospects of refugees. UNHCR further recommends the introduction of affirmative action measures to support newly recognized refugees at the initial stage of their integration process. UNHCR also calls upon the Italian authorities to review the legal requirements and the procedure pertaining to the granting of citizenship to refugees, in order to align policies and practice with the 1951 Geneva Convention. Furthermore, UNHCR recommends that the Italian Government consider streamlining the procedure for family reunification.**

30. With regard to the role of the SPRAR system in supporting the integration of refugees, UNHCR urges the Italian authorities to strengthen the capacity of the network and to ensure that services provided by SPRAR are mainly geared towards refugee integration.
31. The coordination role of regional governments with respect to integration policies, which is outlined in Italian legislation, could be strengthened in order to maximise the impact of interventions carried out by town councils and ensure the efficient use of available resources.
32. UNHCR commends the willingness of the Italian Government to welcome refugees in the framework of resettlement from third countries. UNHCR stands ready to contribute to the development of an integrated resettlement model which would build upon existing pilot schemes, by, inter alia, organising training activities and exchange visits to other countries.
33. UNHCR strongly urges all media outlets to respect the Rome Charter, a set of guidelines adopted by the Federation of Italian Journalists on how to cover issues relating to refugees and migrants, so as to avoid the use of language which may fuel racism, xenophobia or racist violence.
34. UNHCR urges the Italian authorities to rapidly transpose the amended EU Directive concerning the status of third-country nationals who are long-term residents, which extends the possibility of obtaining this status to refugees and beneficiaries of international protection.

## 7. UNHCR's work for refugees elsewhere in the world

Since 2008, when Italy donated over forty million US dollars to UNHCR for its work around the world, financial contributions from the Italian government have fallen significantly. In 2009, Italy was ranked as the eighteenth government donor worldwide with a total contribution of over fifteen million US dollars. In 2010 and in 2011, its contribution decreased further (placing Italy at rank 25). Projections for 2012, however, indicate a slight increase in the Government's contributions to UNHCR.

Year	Euro	US Dollars
2004	9.750.000	12.175.250
2005	12.250.000	15.863.839
2006	7.126.531	10.473.189
2007	13.907.485	19.074.876
2008	30.238.213	44.117.001
2009	9.756.465	15.449.748
2010	7.762.338	11.477.673
2011	5.141.469	7.841.708



By contrast, private sector donations in Italy exceeded 8,8 million US dollars in 2010 and increased further to 13,5 million US Dollars in 2011, placing Italy's private donors in the third rank worldwide, after the Netherlands and Spain.

### **Recommendations**

**35. UNHCR expresses its appreciation for the generous contributions from the Italian public and the Government to UNHCR over the years. However, UNHCR also calls on the Italian Government to align its current annual contribution to UNHCR with the average level of its contributions in previous years. UNHCR also urges the Government to ensure that donations from private donors are tax-deductible, as is the case for donations to non-profit entities in Italy (known as 'onlus' organisations), in accordance with Law No. 80/14 of May 2005.**

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**UNHCR**

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