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# 移民人权问题特别报告员弗朗索瓦·克雷波的报告

增编

## 对意大利的后续访问(2014 年 12 月 2 日至 6 日)*

**概要**

移民人权问题特别报告员于 2014 年 12 月 2 日至 6 日对意大利进行了访问。他访问了罗马，与意大利政府官员、民间社会组织和联合国机构举行了磋商会议。

尽管承认意大利面临经济和政治挑战，意大利仍采取大胆措举，解决大批乘船到来的移民和寻求庇护者。欧洲联盟成员国必须集体支持诸如意大利的前线国家，以便作出可持续的应对，确保充分尊重移民的人权。

* 本报告概要以所有正式语文印发。报告本身载于概要附件，仅以提交语文印发。

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# Annex

*[English only]*

## Report by the Special Rapporteur on the human rights of migrants, François Crépeau, on his follow-up mission to Italy (2–6 December 2014)

Contents


| | | *Paragraphs* | *Page* |
|---|---|---|---|
| I. | Introduction | 1–5 | 4 |
| II. | Background on Italy and migration: a brief overview | 6–14 | 4 |
| III. | Normative and institutional framework on migration and border management | 15–37 | 5 |
| | A. Regional framework | 16–21 | 6 |
| | B. National legal, institutional and policy framework | 22–28 | 7 |
| | C. Italy and the European Union: regional influence on national laws, policies and institutions in the sphere of migration management and border control | 29–37 | 7 |
| IV. | Border management | 38–55 | 9 |
| | A. Rescue at sea | 39–45 | 9 |
| | B. Cooperation on border management | 46–50 | 10 |
| | C. Bilateral agreements | 51–52 | 11 |
| | D. Regional processes | 53–55 | 11 |
| V. | Detention and reception of migrants in an irregular situation | 56–92 | 12 |
| | A. Detention practices and legislation | 56–61 | 12 |
| | B. Types of accommodation | 62–66 | 13 |
| | C. Access to reception centres | 67–74 | 14 |
| | D. Conditions of reception centres | 75–79 | 15 |
| | E. Length of stay in reception centres | 80–83 | 16 |
| | F. Revocation of the provision of accommodation in reception centres | 84–85 | 16 |
| | G. Access to reception centres by third parties | 86 | 16 |
| | H. Freedom of movement | 87–88 | 17 |
| | I. Special categories of detainees | 89–92 | 17 |
| VI. | Cross-cutting concerns | 93–104 | 18 |
| | A. Access to justice | 93–99 | 18 |
| | B. Labour exploitation | 100–101 | 19 |
| | C. Xenophobic and discriminatory acts against migrants | 102–104 | 19 |

VII. Recommendations ..... 105–113 20
A. Recommendations to the Government ..... 105–110 20
B. Recommendations to the European Union ..... 111–113 23

# I. Introduction

1. From 2 to 6 December 2014, the Special Rapporteur on the human rights of migrants conducted an official follow-up visit to Italy. The visit was undertaken in follow-up to the Special Rapporteur's 2012 year-long study on the management of the external borders of the European Union(A/HRC/23/46), which included a mission to Italy (see A/HRC/23/46/Add.3 and Corr.1).

2. The Special Rapporteur reaffirmed the importance of addressing irregular border crossings, recalling that it is in the context of such crossings that the most egregious human rights abuses appear to take place (see A/HRC/23/46, para. 20). The increased numbers of migrant crossings and deaths in the Mediterranean Sea and the response by European Union member States prompted him to revisit the issue of European Union border management. In addition, in September 2014 the Human Rights Council, through presidential statement 27/3, requested the Special Rapporteur, among others, to pay particular attention to the protection of migrants at sea. Consequently, the present report is focused on external border control, and does not provide a comprehensive overview of the broader human rights situation of all migrants in Italy. The report should be read in conjunction with the Special Rapporteur's 2012 report on his mission to Italy (A/HRC/23/46/Add.3 and Corr.1) and with his 2014 reports on Malta (A/HRC/29/36/ Add.3) and the European Union (A/HRC/29/36).

3. During his mission, the Special Rapporteur visited Rome and met with representatives of the Ministry of Foreign Affairs and International Cooperation, the Ministry of the Interior, the Ministry of Justice, the Italian Coast Guard, the Authority for Children and Adolescents and the National Office against Racial Discrimination and with members of the Senate Commission for Human Rights. He also met with representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration.

4. The Special Rapporteur also consulted with numerous civil society organizations, lawyers and academics working in the field of migration.

5. The Special Rapporteur expresses his sincere appreciation to the Government of Italy for its support throughout the visit and to UNHCR for its excellent support and assistance in preparing and carrying out the visit.

# II. Background on Italy and migration: a brief overview

6. In 2014, an unprecedented number of migrants and asylum seekers arrived in the Euro-Mediterranean region. Given its long coastline and its proximity to North Africa, Italy continues to be a key point of entry for many migrants seeking to reach Europe.

7. Migrants take flight owing to the push factors in their countries of origin, which may include war, conflict, natural disasters, persecution or extreme poverty, as well as in response to pull factors, such as unmet needs in the labour markets of European Union member States. Migrants are often willing to do the "dirty, difficult and dangerous" jobs that nationals will not, at the exploitative wages that unscrupulous employers offer, including in the construction, agriculture, hospitality and caregiving sectors.

8. According to UNHCR, more than 200,000 refugees and migrants reached Europe by crossing the Mediterranean by sea in 2014, compared to 60,000 in 2013. Italy received over 140,000 arrivals in 2014, most of whom were rescued at sea by the Italian navy operation Mare Nostrum.

9. UNHCR estimates that over 3,500 people died or went missing at sea in 2014, in comparison to just over 600 in 2013. Most boats carrying irregular migrants to Europe sail from Libya, others leave from Tunisia or Egypt. The Mediterranean has been recognized by UNHCR as a mixed migration channel, used both by economic migrants and by those seeking international protection. A significant proportion of those currently using this precarious route are Eritreans and Syrians seeking asylum.

10. In 2014, the number of Eritreans and Syrians arriving by sea to Italy increased by almost 400 per cent and 600 per cent, respectively, compared to 2013. More women, children and elderly persons are embarking on such journeys, adding to the already large proportion of vulnerable people aboard unsafe boats. In 2014, over 18,000 children arrived in Malta and Italy by sea, including at least 10,000 unaccompanied minors, mainly boys between the ages of 12 and 16. Many of the migrants who arrive are under the age of 30.

11. Irregular migrants who have been rescued have reported that they were abused and exploited at each stage of their migration towards Italy and the European Union. Before departure, migrants can often spend several days or weeks detained by smugglers, without information and in constant fear of being deceived and abused. During sea crossings, they end up in unseaworthy and overcrowded boats, typically made of rubber or wood, packed into a few metres of space with no food or water. Life vests cost extra, and most migrants do not get one. The journey can take one to four days, or even longer, depending on the weather, the sea conditions and the condition of the boat. In several incidents people have been stranded on boats for more than two weeks before being rescued. Many arrivals are diagnosed with trauma and report being victims of or witnesses to physical and sexual violence, in some cases perpetrated by smugglers.

12. This sudden and growing surge in demand for Mediterranean Sea crossings has resulted in a deterioration of the already precarious conditions of the journey and an increase in smuggling, as ruthless groups charge migrants thousands of euros to facilitate dangerous routes into the European Union.

13. For many who arrive, especially Syrians and Eritreans, Italy is considered a country of transit. From their port of arrival in Italy, migrants most often make their way to Milan and then onwards to countries such as Austria, Germany and Sweden. Onward movement and asylum claims tend to vary among migrants of different nationalities. Syrians who arrive in Italy are reportedly able to leave reception centres within 48 hours. Such reception centres are open facilities that allow migrants freedom of movement. Eritreans are not usually as well connected as Syrians and do not have as many resources, and therefore wait longer to leave Italy, sometimes for six weeks or more, if they leave at all. Some Eritreans and other non-Syrian migrants prefer to apply for asylum in Italy because it offers better opportunities for protection than they would find in other parts of Europe. The rate of positive decisions in refugee status and subsidiary protection determination cases is 32 per cent in Italy, higher than the rates in several other European Union countries.

14. The Italian Coast Guard predicts an increase in the numbers of migrants arriving in 2015. This is not only because war, conflict and extreme poverty continue to push people to seek safety in Europe, but also because, with asylum seekers paying huge sums to cross the Mediterranean by boat, there is a powerful incentive for smugglers to continue to increase their activities.

# III. Normative and institutional framework on migration and border management

15. In the present section, the Special Rapporteur will discuss only the legal framework developed since his previous country visit to Italy.

## A. Regional framework

16. The European Convention for the Protection of Human Rights and Fundamental Freedoms, which was adopted in 1950 by the Council of Europe and entered into force in 1953, contains substantive rights that reflect, to a large extent, the rights enshrined in the International Covenant on Civil and Political Rights. The Convention is complemented by 14 additional protocols which have introduced substantive human rights guarantees. The European Court of Human Rights upholds the Convention. Regarding forced or collective expulsions of migrants and asylum seekers, the Court has handed down judgements in the following cases involving Italy.

17. On 23 February 2012, the Court made a landmark decision in *Jamaa and Others* v. *Italy*, holding unanimously that Italy had violated the Convention when it forcibly returned a group of asylum seekers by sea to Libya, where they were at risk of violations of their human rights and in danger of being repatriated to their home countries. According to the Court's judgement, even when individuals are intercepted in international waters Government authorities are obliged to abide by international human rights law. They must offer each person they intercept an individual procedure and the means to challenge a decision to return them to their country of departure.

18. On 21 October 2014, in *Sharifi and Others* v. *Italy and Greece*, the Court confirmed its position concerning collective expulsion by Italian authorities. It reiterated the importance of ensuring that all migrants had access to the asylum procedure, so as to prevent forced returns to countries where migrants might be subject to inhuman or degrading treatment.

19. In several cases, the Court found that asylum seekers who were returned to Italy under the Dublin regulations would not be subject to ill-treatment.[1] However, on November 2014, in *Tarakhel* v. *Switzerland*, the Court ruled that there would be a violation of article 3 of the Convention if the applicants were to be returned to Italy without the Swiss authorities having first obtained individual guarantees from the Italian authorities that the applicants would be taken charge of in a manner adapted to the age of the children and that the family would be kept together.

20. In the *Sharifi* case, the Court clarified its position, stating that the Dublin system, which is used to determine which European Union member State is responsible for examining an asylum application lodged in one of the member States by a third-country national, must be applied in a manner compatible with the European Convention on Human Rights. The Court clarified that no form of collective and indiscriminate returns could be justified by reference to the Dublin system, and it was for the State carrying out the return to ensure that the destination country offered sufficient guarantees in the application of its asylum policy to prevent the person concerned from being removed to her country of origin without an assessment of the risks faced.

21. The Special Rapporteur welcomes these rulings made by the European Court of Human Rights and urges Italy and other European countries to fully implement them in law and in practice.

[1] *Hussein* v. *the Netherlands and Italy*, decision adopted on 2 April 2013; *Halimi* v. *Austria and Italy* decision adopted on 18 June 2013 and *Abubeker* v. *Austria and Italy*, decision adopted on 18 June 2013.

## B. National legal, institutional and policy framework

### 1. Legal framework

22. In this section, the Special Rapporteur will touch only upon legislation introduced following his country visit to Italy in 2012. Since then, there has been a significant degree of legal reform in relation to the human rights of migrants within Italy, as outlined below.

23. Legislative Decree No. 109 of 16 July 2012, on implementing Directive 2009/52/EC of the European Parliament and of the Council, introduced sanctions and measures against employers of illegally staying third-country nationals and, by modifying article 22 of the Immigration Act, introduced a protection mechanism for irregular migrants who decide to report their situation of exploitation to the police.

24. Legislative decree No. 119 of 15 October 2013 introduced article 18 bis in the Immigration Act, adding the possibility for migrant women subject to psychological and physical violence (especially within the family) to report their case to the police and obtain a residence permit for humanitarian reasons.

25. Decree-Law No. 146/2013 of 23 December 2013, which was converted to Law No. 10/2014 on 21 February 2014, was introduced to help with the identification of migrant prisoners to avoid further administrative detention once their prison term had been served.

26. Legislative Decree No. 18/2014 of 21 February 2014, which transposes into national law European Union Directive 2011/95/EU, sets standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or persons eligible for subsidiary protection, and for the content of the protection granted. Beneficiaries of subsidiary protection now enjoy the same rights afforded to refugees, in particular with regard to family reunification and to the period of validity of their residence permits, which was increased from three years to five years. The legislative decree also introduced the National Integration Plan for the beneficiaries of international protection.

27. Law No. 67/2014 of 28 April 2014 mandated the government to abolish the criminal offence of irregular entry or stay in Italian territory within 18 months and to, in its place, establish administrative sanctions. Irregular migrants re-entering the country following an expulsion will continue to face criminal sanctions. The Special Rapporteur notes the decriminalization of irregular migration as a positive step, but remains concerned that the law has yet to be effectively implemented.

28. Law No. 190/2014 of 1 January 2015 provides for the transfer of resources for unaccompanied minors from the Ministry of Labour to the Ministry of the Interior and the establishment of a new fund for the reception of all unaccompanied minors with an annual budget allocation of €32.5 million per year.

## C. Italy and the European Union: regional influence on national laws, policies and institutions in the sphere of migration management and border control

29. Since its implementation of the Schengen acquis in 1998, Italy continues to be a key point of entry into the Schengen area, and its coastline is one of the major external sea borders of the European Union. As a border State within the Schengen area, Italy is in a difficult position: it is responsible for the European Union border at a time of significant peaks in irregular migration and with very limited support from the European Union and other European Union member States (see A/HRC/23/46/Add.3 and Corr.1 for more details).

30. The Special Rapporteur observes that, under the Schengen system, any irregular migrant who is registered in Italy will be returned to Italy, even if they move to another country within the European Union. This can create a situation where irregular and undocumented migrants become stuck in Italy; in particular those without documents often become trapped, as they are unable to travel to other countries within the European Union or safely return home.

31. Following heavy criticism of the Dublin II regulation, including the greater pressure it puts on front-line European Union member States, Regulation No. 604/2013 of the European Parliament and of the Council of the European Union (the Dublin III regulation) came into force on 1 January 2014. It provides enhanced safeguards for applicants for international protection in Europe, including a provision that stipulates that, while waiting for a decision on his or her appeal, a person has the right to remain in the country (a suspensive right of appeal), and a clause designed to prevent breaches of human rights, whereby a State is not permitted to transfer a person to another European Union member State if there is a risk that he or she would be subjected to inhuman and degrading treatment in that member State. This means that States will be obliged to undertake their own assessment of the situation rather than continue to apply the Dublin regulations on returning migrants unless the European Court of Human Rights or the European Court of Justice take a decision to the contrary.

32. The Dublin III regulation introduces an early warning mechanism, which is aimed at making it easier to detect problems in a member State's asylum system so that the European Union Commission and the European Asylum Support Office can provide assistance before the situation degenerates. The regulation contains an emphasis on respect for family life, including provisions to ensure that transfers under Dublin III facilitate family unity as much as possible. It also widens the definition of the family to benefit unaccompanied minors, who can now be reunited with grandparents, uncles or aunts living in a European Union member State. Additionally, during personal interviews, officials are required to inform applicants that they may provide information about family members in other European Union member States, which will be taken into account in the determination as to which State is responsible. The Dublin III regulation also provides for the production of a common information leaflet on Dublin and a specific leaflet for unaccompanied minors.

33. A key area of concern is that, under Regulation No. 603/2013 of the European Union, migrants entering the European Union are fingerprinted to ensure that their asylum claim is processed in the correct member State in accordance with the Dublin system. If migrants attempt to enter another European Union member State, they are returned to where it has been deemed their application should be made — usually the first country of entry. Migrants often do not want to have their fingerprints taken because, as discussed above, they have plans to travel to other countries in Europe.

34. The Special Rapporteur is concerned that this requirement creates tension between irregular migrants and border officials in the context of arrivals in Italy. In September 2014, the Department of Public Security of the Ministry of the Interior issued a circular containing operational guidelines for police on identification procedures for migrants, explicitly authorizing police officers to use force in cases where migrants do not cooperate and refuse either to provide personal details or to have their fingerprints taken. The Special Rapporteur expressed his concern about the use of these guidelines for purposes related to the Dublin system, especially as the limits on the use of force are unclear. Border guards face particular difficulty in fingerprinting large groups of migrants who refuse to have such data collected. The Special Rapporteur received information about the use of excessive force for identification purposes, which included the use of physical violence and tasers. He

also received information about ill-treatment of irregular migrants who had just arrived in Italy.

35. Another issue of concern to the Special Rapporteur is the observation that the Dublin system continues to create a situation where persons who may have a valid asylum claim avoid lodging that claim in Italy because they believe they will not receive adequate protection or opportunities there. Many asylum seekers in Italy are unable to gain assistance for integration or find a job, due to the economic crisis, and do not receive social benefits, which makes them vulnerable to becoming homeless. The number of those arriving in Italy is far higher than the number of those who remain, showing that Italy is reachable but is not the country of destination for most migrants. This demonstrates that the Dublin system exacerbates vulnerabilities by creating a situation in which persons with valid asylum claims choose not to lodge their claim, but rather continue their journey as undocumented migrants, thus remaining at a high risk of abuse and exploitation.

36. The Special Rapporteur is also concerned about the lack of trust in the capacity of the Dublin system. Irregular migrants appear to distrust Dublin procedures, such as those for family reunification. Those processes often take months, whereas a smuggler can reunite migrants with their family within days. The Special Rapporteur was informed that the Italian office dealing with cases that fall under the Dublin regulations was understaffed and required more resources in order to make the most of the improvements of the Dublin system.

37. The Special Rapporteur cautions that migrants must see the benefits of following the procedures of the Dublin system, including identification and fingerprinting, or they will continue to try to evade such procedures and find alternative means to reach and travel through Europe. In the view of many migrants, the foreseeable consequence of respecting the Dublin procedures is that they will be kept on, or returned to, Italian territory and prevented from reaching their intended country of destination.

# IV. Border management

38. The Special Rapporteur observed that the Lampedusa tragedy of October 2013 and the increased numbers of irregular migrants arriving in Italy by boat had shifted the focus of the country's migration policies from a reliance on securing its borders to a response that emphasizes humanitarian assistance and more recognition of the human rights of migrants.

## A. Rescue at sea

### 1. Italian Coast Guard

39. The Special Rapporteur was pleased to learn that the safety of migrants travelling towards Italy still remains the key priority of both the Italian Coast Guard and the Financial Guard in migration-related operations at sea.

40. As discussed above, the majority of the boats carrying migrants to Italy depart from Libya, and safety conditions aboard the boats are extremely poor. Often, one of the migrants on a boat is given a satellite phone by smugglers with the instructions to call the Italian Maritime Rescue Coordination Centre after six or seven hours at sea. Callers normally report that there are women and children on board, that the boat is sinking, that they have no food, and/or that they are dying. The Italian Coast Guard sometimes receives over 25 calls simultaneously with the same detailed request, and it is difficult to determine which boat to prioritize in its search and rescue operations. The Coast Guard has also reported incidents where migrants had refused assistance offered by Malta, as they

preferred Italy. Italian search and rescue vessels are well equipped, with a medical team to offer emergency care, food, water and blankets. Once migrants reach land, their well-being is the responsibility of the Ministry of the Interior.

41. The Coast Guard has been monitoring an area of approximately 500,000 square kilometres. Officials informed the Special Rapporteur that 90 per cent of the search and rescue operations were conducted outside of the Italian search and rescue area. Libya does not have search and rescue capacity and Malta and Greece have limited capacity. Consequently, Italy is coordinating such operations for the entire Mediterranean. Although they have expressed their commitment to their rescue work, Coast Guard officers also have capacity limitations. Given the sheer numbers of arrivals, the Coast Guard confirmed the need for a more concerted effort to require the European Union and the broader international community to save lives.

### 2. Mare Nostrum

42. In October 2013, following two major shipwrecks in which 500 people died off the Italian coast and criticism that disputes between Italy and Malta had led to delays in rescue response time, Italy launched a naval search and rescue operation entitled Mare Nostrum. Its goal was to prevent further tragedies at sea and apprehend smugglers. The Italian navy employed an average of five of its ships and their air units in search and rescue operations.

43. The Special Rapporteur noted the extraordinary efforts made under Mare Nostrum, which resulted in over 150,000 persons being rescued. Italy had to devote 9 million euros monthly to this operation, at a time of high unemployment and economic crisis. Its repeated requests for financial, technical and human support from the European Union and other European Union member States were rejected and met with criticism.

44. Unable to sustain its bold operation, Italy officially ended Mare Nostrum in November 2014. However, its navy has continued to save lives at sea and has cooperated with Operation Triton, managed by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX), as discussed below.

### 3. Merchant vessels

45. Private vessels cooperate in and sometimes carry out search and rescue operations at the request of the Italian Maritime Rescue Coordination Centre. In 2014, 660 merchant vessels were involved in such operations; however, such assistance is provided at their own financial cost. The crews on the merchant vessels provide migrants with whatever emergency support they are able to offer until the migrants are disembarked at an Italian port. The Special Rapporteur noted that in February 2015 the International Organization for Migration had underlined that support provided by merchant vessels to search and rescue operations should remain exceptional, and that States should shoulder the main responsibility of fielding sufficient search and rescue capacity.

## B. Cooperation on border management

46. The management of the external borders of Italy is further supported by FRONTEX, which works with the Guardia di Finanza and the border police to combat irregular migration, migrant smuggling and other migration-related offences. The FRONTEX joint operations Hermes 2014 and Aeneas 2014 were established at the request of the Government of Italy. Under Hermes, air surveillance was provided to detect migrant flows from Tunisia towards the south of Italy, whereas under Aeneas, flows from Egypt, Greece and Turkey towards Apulia and Calabria were monitored.

47. In April 2014, Regulation No. 656/2014 of the European Parliament and of the Council on surveillance of the external sea borders in the context of operational cooperation coordinated by FRONTEX was adopted, aimed at resolving confusion arising from diverging national interpretations of international provisions on maritime surveillance. The Regulation sets out clear rules for FRONTEX joint operations at sea, including with respect to the interception of vessels, search and rescue situations and the disembarkation of intercepted or rescued people; operational plans are to be established in accordance with the provisions of the regulation.

**Joint Operation Triton**

48. In November 2014, the joint operations Hermes 2014 and Aeneas 2014 were combined to form Joint Operation Triton. The operational area and necessary assets were agreed between FRONTEX and Italy, as the host State, on the basis of the requests for assistance made by the Italian authorities. The operation relies primarily on the human and technical resources made available by Italy.

49. Triton supports the Italian efforts — it does not replace or substitute Italian obligations in monitoring and surveying the Schengen external borders and in guaranteeing full respect of European Union and international obligations, including those relating to search and rescue operations. Italy will have to continue to make substantial efforts using national means, in full coordination with the FRONTEX operation, to manage its external borders.

50. The forces deployed as part of Joint Operation Triton respond to distress calls and have conducted search and rescue operations. However, they have limited reach outside Italian territorial waters and are not as well equipped as those under Mare Nostrum were, and will therefore not have the same impact.

## C. Bilateral agreements

51. Italy has a number of bilateral agreements in place with countries of transit and origin. The refoulement of asylum seekers in the Hirsi case, discussed above, took place under the auspices of a bilateral agreement with Libya. The Special Rapporteur reiterates his concerns about bilateral agreements being used as a means of border control, often without sufficient human rights safeguards. He remains concerned about the lack of transparency surrounding such agreements: not only are negotiations conducted seemingly with very little external oversight or input, but often the final text is not publicly available, thus contributing to uncertainty regarding the content, interpretation and implementation of the agreements.

52. Of particular concern to the Special Rapporteur is the information he received about continued violations of the principle of non-refoulement and of the prohibition of collective expulsions with regard to the return of some migrants, possibly including minors, immediately after their arrival. He learned that, on the basis of bilateral readmission agreements, nationals of Egypt and Tunisia are often returned without having had access to asylum procedures; this has occurred in, among other places, Pozzallo. In addition, push-backs to Greece reportedly continue to occur in some locations, for example Fiumicino Airport in Rome; children are sometimes involved.

## D. Regional processes

53. The Special Rapporteur learned of the involvement of Italy in the Khartoum and Rabat regional processes, which are aimed at ensuring more effective border control,

tackling smuggling and trafficking and addressing the root causes of migration, such as economic development and human rights issues in countries of origin. They are also exploring a common approach to enable those seeking asylum to do so closer to their countries of origin.

54. The Special Rapporteur remains cautious about such processes, as they are perceived mainly as enablers of migration control mechanisms aimed at preventing migrants from crossing the Mediterranean and reaching European Union territory, regardless of the consequences in terms of human rights violations. This approach leads to practices that drive migrants further underground, thus empowering and entrenching smuggling rings, increasing the precariousness of migrants and exposing migrants to more exploitation and human rights violations.

55. However, if conceived as part of a long-term plan to support development assistance cooperation with, and the political stabilization of, the countries of origin and transit, such processes could be useful. Clear objectives, transparency and accountability will be needed to inspire trust that these mechanisms have the human rights of migrants at heart.

# V. Detention and reception of migrants in an irregular situation

## A. Detention practices and legislation

56. All irregular migrants who arrived in 2013 and 2014 were channelled into the Italian asylum system, which is focused more on reception rather than detention. This government decision seriously affected the Italian reception system, which did not have the capacity to host the increasingly large number of irregular migrants arriving by sea. The Government consequently established the following policies and programmes.

57. In 2012, the Ministry of the Interior established a national working group to coordinate the progressive expansion of the centres under the System for the Protection of Asylum Seekers and Refugees (SPRAR), with a view to accommodating asylum seekers in small centres for shorter periods of time instead of keeping them in the large, often overcrowded reception centres for asylum seekers (CARAs). The working group was set up in response to the increase in the number of migrants arriving as a result of the Arab Spring.

58. Legislative Decree No. 18/2014 confirmed the mandate of the working group, which includes activities aimed at improving the national reception system and establishing an integration plan for the beneficiaries of international protection. The working group includes representatives of UNHCR and civil society organizations.

59. In recognition of the rise in numbers of irregular arrivals by sea, in 2013 the Ministry of the Interior issued decrees in which it envisioned increasing the capacity of SPRAR centres to 20,000 places between 2014 and 2016. As at February 2015 the system's capacity had grown to 20,956 places.

60. Decree-Law No. 119/2014 sets out new procedures for gaining access to international protection. Among other things, the law increased from 10 to 20 the number of territorial commissions tasked with analysing asylum claims,[2] and provided for the possibility of establishing up to 30 additional commissions. To date there are 40 commissions. Additionally, the Decree-Law allows the Ministry of the Interior to take

[2] Commissions are composed of two officials from the Ministry of the Interior, one representative of the local authorities and one representative of UNHCR.

exceptional measures to simplify the procedure applied by the commissions should the number of claims increase considerably; establish new standards for the composition and the competence of the commissions; increase the budget allocated to the reception of asylum seekers and migrants arriving by sea; and provide for tax reductions for local authorities involved in providing assistance for asylum seekers and migrants arriving by sea.

61. Law No. 161/2014 reduced the maximum time limit for detention of irregular migrants in identification and expulsion centres from 18 months to a strict limit of 3 months. The new maximum is reduced to 30 days if the irregular migrant has already spent 3 months or more in prison. In his previous report the Special Rapporteur had criticized the country's practice of lengthy detention and consequently welcomes this reform. Such developments help to protect the human rights of migrants in Italy.

## B. Types of accommodation

62. The reception system for irregular migrants and asylum seekers is complex and includes a number of different structures.

### 1. First reception centres

63. First accommodation centres accommodate large numbers of irregular migrants and generally offer basic assistance, including food, accommodation, clothing, some information, legal services, first aid and emergency treatment. Upon arrival, irregular migrants may be placed temporarily in reception centres for migrants (CDAs),[3] which provide short-term accommodation, or in first assistance and reception centres (CSPAs),[4] depending on what is locally available. Currently 10 CDAs and 4 CPSAs are operating. In April 2014, in response to the increase in arrivals, centres for extraordinary reception were established as open centres that host people for up to six months. Those who arrive by sea are taken first to CPSAs and then to either a centre for extraordinary reception or a CARA.

### 2. Reception centres for asylum seekers

64. CARAs are longer-term accommodation facilities for asylum seekers. Article 20 of Legislative Decree No. 25/2008 stipulates that asylum seekers should be accommodated in CARAs for identification reasons. However, in practice, many are placed in such centres owing to a lack of places in other centres.

65. SPRAR centres also offer longer term accommodation. Such centres, which were established in 2002, are managed by local authorities through the National Association of Italian Municipalities and in cooperation with NGOs (non-governmental organizations) and are funded by the Ministry of the Interior. They offer several services aimed at integrating asylum seekers and refugees into Italian society. Unlike the other types of reception centre, which host significant numbers of migrants at any one time, SPRAR centres are small to medium size, better tailored to individual needs and better equipped to assist in local integration. There are currently 456 such centres.

[3] This type of centre was created in 1995.

[4] This type of centre was created in 2006.

### 3. Accommodation for Dublin returnees

66. Temporary reception centres have been established to host migrants transferred to Italy on the basis of the Dublin regulations. Under those systems accommodation is provided until the migrant's legal situation is defined; if a migrant belongs to a vulnerable category, an alternative facility is found. The Ministry of the Interior, through the European Refugee Fund, has financed these temporary reception facilities. Currently 13 centres for the reception of Dublin returnees are operating; of those, 7 are designated for vulnerable persons. There are four centres in Rome, three in the province of Milan, two in Venice, two in Bologna and two in Bari; all together they can accommodate a total of 572 Dublin returnees.

## C. Access to reception centres

67. In accordance with Legislative Decree No. 140/2005 of 30 May 2005, asylum seekers who lack the financial resources to ensure an adequate standard of living for themselves and their family, in terms of health and subsistence, can present a reception request when lodging their asylum claim. To do so, an asylum seeker must fill in an ad hoc declaration of destitution when filing the asylum application at the immigration office of the police (Questura).

68. The Special Rapporteur noted that the Legislative Decree did not provide a definition of "adequate standard of living and subsistence" and did not envisage specific financial support for different categories of migrants according to identified vulnerability, such as people with special needs.

#### Challenges to gaining access to reception centres

69. Irregular migrants and asylum seekers face a number of challenges in gaining access to reception centres in Italy.

70. First, relevant law stipulates that access to reception centres is to be provided from the moment of the presentation of the asylum request and the fingerprinting. In practice, however, asylum seekers may gain access to accommodation centres only after formal registration. The waiting times between the fingerprinting and registration differ among the police immigration offices. Depending on, among other things, the number of asylum applications, the waiting period can be several months. Consequently, asylum seekers must find alternative temporary accommodation and, if they lack economic resources, must either resort to friends, find emergency facilities or sleep on the streets.

71. Second, there are capacity issues. Given the surge in the numbers of asylum seekers, the Italian reception system does not have sufficient capacity to provide adequate reception services in all cases. In addition, owing to a shortage of Prefecture (local government office) staff and of cultural mediators and interpreters, not all accommodation requests can be assessed and processed in a timely manner. Reception requests are transmitted by the Questura to the Prefecture, which checks the availability of places in SPRAR centres and CARAs. If those are full, the Prefecture is obligated by law to grant a financial allowance until accommodation is located. In practice, it will still send asylum seekers to one of the reception centres, resulting in overcrowding and a deterioration of living conditions. A partial response to the limitations in capacity is the enlargement of the network of SPRAR centres, as mentioned above.

72. A related obstacle is the length of the asylum procedure, including the appeal phase, which leads to asylum seekers staying for long periods in CARAs and SPRAR centres, thus

creating difficulties in guaranteeing that places will be made available for new asylum seekers.

73. Lastly, there can also be confusion among migrants and asylum seekers as to how to access accommodation. In large cities, such as Rome, there is a lack of information on how to submit to the Questura a request for accommodation.

74. These barriers can have serious consequences in relation to the human rights of migrants. Asylum seekers who have neither access to reception centres nor a financial allowance are obliged to live in the self-organized settlements that have flourished in metropolitan areas. These settlements are usually overcrowded and have terrible living conditions. One example is Salam Palace, an abandoned university building in a southern suburb of Rome, occupied by about 800 irregular migrants from the Horn of Africa. These settlements, and other precarious forms of accommodation, including living on the street, impede the enjoyment by migrants and asylum seekers of their economic and social rights, as well as their integration into society.

## D. Conditions of reception centres

75. The issue of inadequate living conditions of asylum seekers in Italy has been gaining more attention from other European Union member States, owing to the rising number of appeals filed before the European Court of Human Rights by asylum seekers against their transfer to Italy on the basis of the Dublin regulation (see, for example, the case of *Tarakhel* v. *Switzerland*).

76. Owing to the limited duration of the follow-up visit, the Special Rapporteur was unable to visit detention and reception centres. However, he received, from various stakeholders, the information below describing the services and conditions of those facilities. Reception conditions vary to a significant degree among different types of accommodation and also within the same type of accommodation. Therefore it is difficult to gain a full picture of and reliable information for each reception centre.

77. CARAs do not all offer the same reception services. The quality of assistance varies between facilities, and sometimes fails to meet adequate standards. Areas of concern include the provision of legal and psychosocial assistance; inadequate identification, referral and care provided to vulnerable individuals owing to low levels of coordination among stakeholders; lack of capacity for necessary logistical follow-up; and unsystematic monitoring of reception conditions by the relevant authorities, resulting in complaints not being unaddressed.

78. CARAs are reportedly often overcrowded; accordingly, the quality of the accommodation services offered is not equivalent to those of the SPRAR centres or other reception facilities of a smaller size, and can be highly variable among CARAS themselves. Depending on the CARA, and to differing extents, overcrowding can exacerbate problems relating to insufficient food; a lack of sufficient sanitation facilities; limited space available for assistance, legal advice and socialization; the physical inadequacy of the facilities; the remoteness of the centres and their isolation from the community; and difficulties in gaining access to appropriate information.

79. In order to ensure the proper monitoring of reception facilities, the Senate Commission for Human Rights issued a resolution in March 2014 asking the Government to review the mechanisms for the outsourcing of the management of all identification and

expulsion centres.[5] The Commission recommended that a single public entity be appointed for the management of all centres at the national level.[6] In addition, on 17 November 2014 the Chamber of Deputies established an inquiry commission to monitor and assess CARAs and CDAs and the detention conditions of migrants held in identification and expulsion centres, as well as to investigate the outsourcing mechanisms for the management of the centres, which often lack transparency. While the Special Rapporteur welcomes efforts to standardize and improve reception centre conditions, it is important that Italy ensures the full and effective implementation of those changes.

## E. Length of stay in reception centres

80. The maximum stay in a CARA is 35 days, or 20 days for asylum seekers without travel or identity documents and those who had false or counterfeited documents. However, the actual stay has been systematically extended to six months or more, since the asylum procedure takes several months and the asylum seeker has the right to stay in the centre during the appeal stage.

81. Depending on the availability of places, the urgency of the case and the vulnerability of the person, asylum seekers can also be referred to SPRAR centres, where typically they stay for up to 12 months.

82. A number of provisions govern access to SPRAR centres by migrants who exercise their right to work within Italy. If a decision on the asylum request is not adopted within six months after the submission of the request, the asylum seeker receives a new sixmonth residence permit allowing him to work until the asylum procedure is completed. Asylum seekers who work may continue to benefit from SPRAR accommodation provided that they contribute financially. Those who lodge an appeal against a negative decision on their asylum application are allowed to remain on the national territory and have access to accommodation in a SPRAR centre only if they are not allowed to work or their physical condition prevents them from working.

83. As mentioned earlier, the Special Rapporteur welcomes the new law that limits detention to a period of 90 days and looks forward to its successful implementation.

## F. Revocation of the provision of accommodation in reception centres

84. In accordance with Legislative Decree No. 140/2005, the Prefect of the province where the accommodation centre is placed can decide on an individual basis to revoke the provision of accommodation to a migrant on a number of grounds, including failure to notify the Prefecture before leaving a centre, the lodging of a previous asylum claim in Italy and a serious violation of a centre's internal rules.

85. By law, asylum seekers may, with the benefit of free legal aid, lodge an appeal before the Administrative Regional Tribunal against the decision of the Prefect to discontinue the provision of accommodation in a centre. In practice, appeals are rarely lodged, because asylum seekers who do not present themselves at the centres or leave the centres after their arrival have usually left to enter another European Union member State.

[5] Senate Commission for Human Rights, "Rapporto sui centri di identificazione ed espulsione in Italia" (2014), p. 32; see also p. 143.

[6] Ibid., p. 32.

## G. Access to reception centres by third parties

86. Lawyers, international organizations, the asylum seeker's family members, Italian citizens and NGOs need prior permission from the Prefecture to enter CARAs; this is not required for SPRAR centres. The Special Rapporteur urges that access to all reception centres be facilitated for all stakeholders.

## H. Freedom of movement

87. Italian legislation does not establish specific limits on the freedom of movement of asylum seekers. Nevertheless, it does allow the competent Prefect to delimit a specific place of residence or a geographic area where asylum seekers may circulate freely.

88. To the Special Rapporteur's knowledge, this provision has never been applied. The freedom of movement of migrants can, however, be affected by the fact that it is not possible to leave the reception centre temporarily, for example to visit relatives, without prior authorization. If a person leaves a centre without permission or does not return within the period of time agreed upon with the management body, that person cannot be readmitted to the same centre.

## I. Special categories of detainees

### 1. Vulnerable groups

89. Article 8 (1) of Legislative Decree 140/2005 stipulates that any accommodation provided should take into account the special needs of the asylum seekers and their family members, in particular those who are vulnerable, such as children, disabled persons, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other forms of psychological, physical or sexual violence. It also stipulates that the managers of reception centres are to provide adequate psychological support in order to address the special needs of vulnerable asylum seekers. However, special needs assessment is not always carried out systematically and in some cases the required facilities and services cannot be provided. In addition, Legislative Decree 140/2005 specifies that asylum seekers, wherever possible, are to be accommodated in structures that ensure the protection of family unity. Sometimes a father is accommodated in a wing for single men and his wife and children are placed in a separate wing for women or single parents with children.

### 2. Minors

90. Italy still lacks an adequate multidisciplinary age determination procedure, which is necessary to ensure that children are treated as such and are granted forms of protection tailored to their specific vulnerabilities and needs. The Special Rapporteur notes that the current emphasis on age determination, which currently includes wrist X-rays and body examination and the application of the benefit of the doubt for children who manifestly appear to be under 18, seems a cautious approach that favours protection over expediency. The test will be whether it is possible to sustain the political resolve necessary to implement the policy over the long term. Particularly worrying is the situation of unaccompanied minors who seem to lack adequate protection. All unaccompanied minors are provided with a legally appointed guardian. However, the guardian, who is often the Mayor, the Councillor of Social Affairs or a municipal official, can be responsible for over 60 minors at any one time. The Special Rapporteur urges Italian authorities to develop a more structured system of guardianship for unaccompanied minors. It is important for their

protection and development that the guardian be appointed quickly, have the necessary expertise, capacity, experience and competence, be appropriately supported with the necessary resources, and not be responsible for an excessive number of minors. The best interest of the child depends on the guardian being able to make the best and quickest decisions possible on all matters of concern to the child.

91. Another issue of concern is that young people in reception centres are not always engaged in any educational or vocational activity. Consequently, they sometimes engage in criminal activities, such as drug trafficking and prostitution, to earn money. Those arrested and found guilty of such crimes serve their sentences in a juvenile penitentiary; once they are 18, they are returned to a reception centre, if they have completed their sentence, or sent to an adult prison to serve out the rest of their sentence. The Special Rapporteur was informed that new legislation on providing improved reception centres for unaccompanied minors, including management aspects, will be developed. The resources for the centres will no longer come from strained municipal budgets, but rather from a central budget. Regarding unaccompanied minors who arrive in Italy but do not want to stay, Italy should establish a process with other countries that helps minors reach, as quickly as possible, their preferred country of destination, thereby helping them avoid transit through countries where conditions are dangerous or being led into criminal activity.

92. The Special Rapporteur learned that Italy will be adopting a bill to better protect migrant children and assist in their integration. The idea of offering such children integration avenues through language training, schooling and professional training programmes is promising, as most young people will adapt quickly to their new environment and become productive citizens. The Special Rapporteur was also informed of several bills designed to allow easier access to Italian citizenship for migrants born in Italy and for young people educated in Italy, which is a positive step towards the integration of migrant children.

# VI. Cross-cutting concerns

## A. Access to justice

93. The Special Rapporteur remains concerned that barriers to access to justice exist at many different stages of the processes of migration to Italy.

94. Issues around access to justice can sometimes arise at the border. Some migrants have reportedly been returned upon apprehension when entering irregularly, commonly known as push-back; others have been found at the border and admitted provisionally to Italian territory for reasons of emergency health-care assistance, but were then returned, which is known as deferred push-back. Such practices may exclude migrants from the procedural guarantees linked to the ordinary expulsion procedure, thereby denying migrants the opportunity to submit an asylum claim.

95. The Special Rapporteur remains concerned about access to justice for migrants who, after arriving in Italy, apply for asylum while in detention. When a migrant who is detained in an identification and expulsion centre makes an application for asylum, the expulsion order is suspended, pending the evaluation of the application. However, the Special Rapporteur learned that, despite this safeguard, some migrants detained in identification and expulsion centre had been deported, even though they had previously expressed their desire to make an asylum claim.

96. In addition, migrants are also often not able to obtain legal advice before submitting their asylum claim. This creates problems later, when legitimate cases are rejected owing to

a lack of information on how best to submit the claim. Some migrants are unaware that some of their experiences amount to torture, making them eligible for an asylum claim. In other cases, migrants are given the information they need to submit a claim, but often may be too traumatized to respond effectively. Consequently, although the asylum application must be submitted immediately upon arrival in Italy, often victims of violence are unable to report immediately the violence they experienced. They only learn of the importance of such reports after their claim has been rejected; some, if they are fortunate, are able to then submit such information when they appeal.

97. Migrants who receive an expulsion order risk being returned, owing to the lack of automatic suspensive effect of appeals against such orders and the practical difficulties of lodging appeals — the procedure does not allow sufficient time to contact a lawyer, or even an interpreter. Moreover, the judges deciding whether expulsion and detention orders should be extended are justices of the peace without any particular expertise in immigration issues. The ability of these lay judges to review the detention orders on the merits seems to be limited; rather, the confirmation of the detention orders is perceived to be, in many cases, based on mere formalities, thus resulting in a lack of real judicial control over the order. The Special Rapporteur strongly urges the Government to streamline expulsion and detention orders so as to ensure that the relevant procedures work well to protect those in need and allow for improved access to justice.

98. The Special Rapporteur remains concerned that the appeal system for expulsion and detention orders is unnecessarily complex, requiring two parallel appeal procedures in the city where the order was made, which often requires the hiring of a local lawyer. This can be very difficult for migrants to navigate, as they may not speak the language and may have limited access to information in detention facilities; often, their access to funds or legal advice is restricted. Even if the expulsion and detention orders were issued in the same city, the bifurcation of the process still requires two separate proceedings.

99. Migrants within Italy still have problems obtaining competent and reliable legal representation. Some are able to obtain legal advice and support from NGOs. Others are able to engage private lawyers, but remain easy targets for dishonest lawyers who wish to make extra money. The Special Rapporteur urges the Italian authorities to work with bar associations to ensure that migrants are able to gain access to competent legal representation.

## B. Labour exploitation

100. Legislative Decree No. 109/2012, which transposed into national law Directive 2009/52/EC of the European Parliament and of the Council on sanctions against employers, has yet to be fully implemented. Employers continue to exploit migrants physically and financially without fear of sanctions.

101. Labour inspectors should respect and protect the human rights of workers, irrespective of their status, and certainly should not have immigration enforcement powers, which only serves to deter migrants from reporting exploitation because they fear being arrested, detained and deported.

## C. Xenophobic and discriminatory acts against migrants

102. The Special Rapporteur learned that migrants continued to be victims of violent attacks and murders in recent years, with both mob violence and individual attacks reported. At the same time, the number of prosecutions for racially motivated attacks is

low, owing to a lack of general awareness about the law and insufficient training for law enforcement and judicial personnel.

103. The Special Rapporteur remains concerned about the terminology and discourse around migration used by some government institutions and agencies. The term clandestine remains in widespread use, in particular by the media. Such language further legitimizes a discourse of exclusion and criminalization of migration, which then entrenches attitudes of discrimination and xenophobia and creates an environment in which the exploitation of irregular migrants is perceived as legitimate.

104. Xenophobic and racist discourse, including by elected officials and other public figures, contributes to a climate of impunity and intolerance. Law No. 654/1975 of 13 October 1975 criminalized incitement to racial hatred. However, in practice, even Italian politicians found guilty of such crimes were not penalized for their conduct.

# VII. Recommendations

## A. Recommendations to the Government

### 1. Normative and institutional framework for the protection of the human rights of migrants

105. **The Special Rapporteur recommends that the Government:**

**(a) Develop a comprehensive national system of data collection, analysis and dissemination regarding immigration policies and practices, which should be used as a foundation for rights-based policymaking on migration. Data relating to migrants in detention and deportations should also be included**;

**(b) Establish a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and ensure that it is both functionally and financially independent of the Government and vested with the authority to investigate all issues relating to human rights, including those of migrants, regardless of their administrative status;**

**(c) Ensure the establishment of a fully independent national preventive mechanism, in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with a mandate to visit all places where migrants may be deprived of their liberty;**

**(d) Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

### 2. Border management

106. **The Special Rapporteur recommends that the Government:**

**(a) Fully respect the human rights of migrants when implementing readmission agreements;**

**(b) Ensure that readmission and cooperation agreements aimed at, inter alia, combating irregular migration include safeguards for the full respect of the human rights of migrants and ensure the adequate protection of vulnerable migrants, including asylum seekers and refugees, in particular with regard to the principle of non-refoulement;**

**(c) Establish a comprehensive mechanism for the identification of unaccompanied minors that includes not only medical exams but also a psychosocial and cultural approach, in order to best identify specific protection measures in the best interests of each child.**

### 3. Bilateral agreements

107. **The Special Rapporteur recommends that the Government:**

**(a) Ensure that all bilateral and multilateral agreements on migration issues are negotiated and made publicly available in full transparency, with clear human rights protections integrated at all stages;**

**(b) Eliminate the practice of informal automatic push-backs to Greece;**

**(c) Ensure that readmission agreements, such as those with Egypt and Tunisia, adequately protect the human rights of migrants and ensure proper and systematic individual screening for protection concerns, as well as guarantee full access by international organizations and civil society organizations, including Praesidium project members, at landing sites and to all temporary and permanent reception centres. The Praesidium project should be formalized.**

### 4. Detention and reception

108. **The Special Rapporteur recommends that the Government:**

**(a) Ensure that migrants are detained only when they present a danger to themselves or others or a demonstrated risk of absconding from future proceedings, and always ensure that detention is used for the shortest time possible and as a measure of last resort. Non-custodial alternatives to detention should be used in all other cases;**

**(b) Improve and standardize the management of reception centres for irregular migrants, drawing from the best practices observed in the existing network of reception centres and in other facilities in Europe and around the world, and in accordance with relevant standards set out in international human rights law;**

**(c) Ensure that all detained migrants have access to proper medical care, interpreters, adequate food and clothing, hygienic conditions, adequate space to move around and outdoor exercise;**

**(d) Systematically inform detained migrants in writing, in a language they understand, of the reason for their detention, its duration and their rights to access to a lawyer, to promptly challenge their detention and to seek asylum;**

**(e) Implement legislation concerning the early identification of migrant prisoners to avoid further detention;**

**(f) Ensure that all migrants deprived of their liberty are able to promptly and easily contact their family, consular services and a lawyer, which should be free of charge;**

**(g) Guarantee full access by international organizations, including UNHCR and the International Organization for Migration, as well as civil society organizations, doctors, journalists and lawyers, to all areas where migrants are held or detained, at all stages of the procedure, including in reception centres;**

**(h) Develop comprehensive human rights training programmes for all staff who work in reception centres;**

**(i) Coordinate and simplify all the different reception centres to avoid confusion and duplication of efforts, especially where family members are processed under different procedures;**

**(j) Ensure the monitoring of reception centres so that they are all brought to the same standards.**

### 5. Access to justice

109. **The Special Rapporteur recommends that the Government:**

**(a) Ensure full and proper access to justice for all detainees, including through a more accountable system for lodging complaints within reception centres;**

**(b) Ensure that all detained persons who claim protection concerns are, without delay, informed adequately of their right to seek asylum, have access to the procedure for registering asylum claims and can easily communicate with UNHCR, lawyers and civil society organizations;**

**(c) Ensure that all decision makers within the territorial commissions are trained adequately in asylum and human rights law so that they can appropriately determine asylum claims;**

**(d) Establish a fairer and simpler system for migrant detainees to be able to challenge expulsion and detention orders, and ensure that the appeal proceedings are based on the merits and validation of the detention;**

**(e) Provide justices of the peace with training on international human rights law and international refugee law;**

**(f) Ensure that migrants awaiting a judicial decision on their request to suspend repatriation procedures, following a negative decision made by the competent territorial commission, are not repatriated before the decision on suspension is made.**

### 6. Cross-cutting concerns

110. **The Special Rapporteur recommends that the Government:**

**(a) Provide access to basic services to everyone living on Italian territory, regardless of their immigration status, in accordance with international human rights standards;**

**(b) Take all necessary measures to execute the judgements of the European Court of Human Rights in the Hirsi and Sharifi cases;**

**(c) Fully implement the directive on sanctioning employers, including by developing comprehensive measures to punish Italian employers who abuse the vulnerability of migrants by paying them exploitative wages;**

**(d) Effectively penalize landlords who house migrants in inappropriate and unsanitary conditions;**

**(e) Use terminology that does not reinforce prejudices against migrants, and refrain from using charged expressions such as “illegal migrant” or “clandestine”; take a leadership role in developing a political discourse that stresses the necessary protection of human rights for all, including migrants, regardless of their administrative status;**

**(f) Support, both technically and financially, civil society organizations that offer services and support to migrants regardless of their administrative status, and especially those that help migrants defend their rights;**

**(g) Develop and implement a national diversity and integration programme.**

## B. Recommendations to the European Union

111. **The Special Rapporteur recommends that the European Union:**

**(a) Ensure that European Union frameworks do not contribute to the restriction of human rights protections of migrants in Italy;**

**(b) Ensure that European cooperation frameworks with partner countries do not result in the externalization of border controls without adequate human rights guarantees in favour of migrants being implemented, with the support of European institutions, in such partner countries;**

**(c) Establish a programme for the quick relocation of asylum seekers across Europe, according to a distribution key and taking into account the wishes of the asylum seekers themselves, the possibilities of family reunification and humanitarian considerations that are essential to an equitable redistribution of responsibilities among States. If well managed, such a system would incentivize asylum seekers to register in the first European Union country of entry. It would encourage asylum seekers not to use the evasion tactics that are now systematically employed to avoid their identification and the application of the Dublin regulations;**

**(d) Accept the inevitability of increased migration to the European Union region. The European Union and its member States therefore need to develop channels for regular migration into Europe;**

**(e) Ensure a well-managed reception capacity that can sustain the expected seasonal migration peaks. Fully accept the shared responsibility among all member States; for example, some States could offer part of their reception capacity to other front-line States experiencing migration peaks;**

112. **European Union member States must strive to create a common asylum policy, by embracing two mechanisms. First, States should recognize each other's refugee status determination decisions, thus ensuring the mobility of refugees throughout the territory of the European Union. Second, in order to gain confidence in each other's refugee status determination systems, they should create a roster of decision makers from each European Union member State, at first decision and at appeals levels, for the joint screening of asylum applications. With the help of the European Asylum Support Office and UNHCR, this would allow for the sharing of expertise, experience, good practices and lessons learned. It would also help create trust in the capacity of each national system through the knowledge that it is grounded on a common knowledge base of country-of-origin information, to be developed around a common interpretation of the legal criteria for protection and to be responsive to the same factors as considered in other systems.**

113. **The Special Rapporteur also recommends that the European Union:**

**(a) Ensure that the cooperation with FRONTEX takes full account of the human rights of migrants, rather than focusing only on security-related aspects;**

**(b) Promote family reunification between unaccompanied minors, both asylum seekers and other migrants, and their relatives who are regularly resident in other European Union member States;**

**(c) Ensure the full implementation of responsibility sharing among European Union member States in the management of its external borders, taking into full account the geographical position of Italy, which renders its coastlines particularly exposed to migration flows. This should include allowing asylum seekers the freedom**

**of movement within the European Union and attributing European Union support funds to the country where asylum seekers establish themselves.**