aida

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CONSIGLIO ITALIANO PER I RIFUGIATI

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European Council on Refugees and Exiles

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The information in this report is up-to-date as of 22 December 2015.

The AIDA project

The AIDA project is jointly coordinated by the European Council on Refugees and Exiles (ECRE), Forum Réfugiés-Cosi, Irish Refugee Council and the Hungarian Helsinki Committee. It aims to provide up-to date information on asylum practice in 16 EU Member States (AT, BE, BG, CY, DE, FR, GR, HR, HU, IE, IT, MT, NL, PL, SE, UK) and 2 non-EU countries (Switzerland, Turkey) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. Furthermore the project seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.

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Glossary & List of Abbreviations

Mare Nostrum	Maritime operation running from October 2013 to October 2014 to prevent loss of life in the Mediterranean.
Praesidium	Project on first screening of persons arriving by sea, coordinated by the Ministry of Interior
Questore	Chief of the Immigration Office of the Police
Questura	Immigration Office of the Police
Relocation	Transfer of an asylum seeker from one Member State to another Member State
Verbalizzazione	Registration of the asylum application

AMIF	Asylum, Migration and Integration Fund
ANCI	Associazione Nationale Comuni Italiani
ASGI	Associazione per gli Studi Giuridici sull'Immigrazione
CARA	Centre for the Reception of Asylum Seekers | Centro di accoglienza per richiedenti asilo
CAS	Emergency Accommodation Centre | Centro di accoglienza straordinaria
CDA	Accommodation Centre for Migrants | Centro di accoglienza
CIE	Identification and Expulsion Centre | Centro di identificazione ed espulsione
CIR	Italian Council for Refugees | Consiglio Italiano per i Rifugiati
CNDA	National Commission for the Right of Asylum | Commissione nazionale per il diritto di asilo
CPSA	First Aid and Reception Centre | Centro di primo soccorso e accoglienza
CTRPI (or Territorial Commission)	Territorial Commission for the Recognition of International Protection | Commissione territoriale per il riconoscimento della protezione internazionale
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ERF	European Refugee Fund
GRETA	Group of Experts on Action against Trafficking
IOM	International Organisation for Migration
MEDU	Doctors for Human Rights | Medici per I diritti umani
SAR	Search and rescue
SPRAR	System of Protection for Asylum Seekers and Refugees | Sistema di protezione per richiedenti asilo e rifugiati
VESTANET	Registration database

Statistics

Table 1: Applications and granting of protection status at first instance: 2015 (January-September)

	Applicants in 2015	Pending applications in 2015	Refugee status	Subsidiary protection	Humanitarian protection	Rejection[1]	Refugee rate	Subs. Prot. rate	Hum. Prot. rate	Rejection rate
Total	59,165	50,460	2,480	6,975	10,330	24,240	5.6%	15.8%	23.4%	55.2%
Breakdown by countries of origin of the total numbers										
Nigeria	12,530	10,975	225	685	1,570	5,135	2.9%	9%	20.7%	67.4%
Gambia	6,365	5,365	170	130	1,770	3,490	3%	2.3%	31.8%	62.9%
Pakistan	5,830	5,360	270	1,090	940	2,690	5.4%	21.8%	18.8%	54%
Senegal	4,970	3,930	65	105	915	2,130	2%	3.2%	28.4%	66.4%
Bangladesh	4,390	4,450	80	70	600	1,995	2.9%	2.5%	21.8%	72.8%
Mali	4,260	4,040	45	445	1,400	3,940	0.8%	7.6%	24%	67.6%
Afghanistan	2,860	2,045	215	2,005	95	70	9%	84%	4%	3%
Ghana	2,455	2,260	20	40	425	1,030	1.3%	2.6%	28%	68.1%
Côte d'Ivoire	2,390	1,925	40	170	405	695	3%	13%	30.9%	53.1%
Guinea	1,185	995	20	50	320	260	3.1%	7.7%	49.2%	40%
Syria	365	160	175	40	0	30	71.4%	16.3%	0%	12.3%
Eritrea	265	190	210	190	15	60	44.2%	40%	3.1%	12.7%
Somalia	550	340	125	595	15	40	16.1%	76.7%	1.9%	5.3%
Kosovo	210	190	0	20	5	35	0%	33.3%	8.3%	58.4%

Source: Eurostat (rounded).

[1] Rejection should include *both* in-merit and admissibility negative decisions (including Dublin decisions).

Table 2: Gender/age breakdown of the total number of applicants in 2015 (January-September)

	Number	Percentage
Total number of applicants	59,165	100%
Men	52,725	89.2%
Women	6,440	10.8%
Children	4,705	8%
Unaccompanied children	Not available	Not available

Source: Eurostat (rounded).

Table 3: Comparison between first instance and appeal decision rates in 2015
Information for 2015 is not available.

Table 4: Applications processed under the accelerated procedure in 2015
The accelerated procedure was not applicable for Italy for the period January-September 2015.

Table 5: Subsequent applications lodged in 2015 (January-September)

	Number	Percentage
Total number of subsequent applications	635	100%

Table 6: Number of applicants detained per ground of detention: 2013-2015
Data on grounds for detention is not available.

Table 7: Number of applicants detained and subject to alternatives to detention
Data on alternatives to detention is not available.

Overview of the legal framework and practice

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

Title (EN)	Original Title (IT)	Abbreviation	Web Link
Law 722/1954 "ratifying and giving execution to the 1951 Geneva Convention"	Legge 24 luglio 1954, n. 722 "ratifica ed esecuzione della Convenzione relativa allo status dei rifugiati firmata a Ginevra il 28 luglio 1951"	L 722/1954	<http://bit.ly/1GfWhWZ> (IT)
Legislative Decree no. 286/1998 "Consolidated Act on provision concerning the Immigration regulations and foreign national conditions norms"	Decreto Legislativo 25 luglio 1998, n. 286 "Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero"	Consolidated Act on Immigration	<http://bit.ly/1PYQbyL> (IT)
Amended by: Law no. 189/2002 "concerning amendments on immigration and asylum"	*Modificato:* Legge 30 luglio 2002, n. 189 "Modifica alla normativa in materia di immigrazione e di asilo" o "Legge Bossi-Fini"	L 189/2002	<http://bit.ly/1GfWiu7> (IT)
Law 94/2009 "norms on public security" (Security Package)	Legge 15 luglio 2009, n. 94 "Disposizioni in materia di sicurezza pubblica" (Pacchetto Sicurezza)	L 94/2009	<http://bit.ly/1GQKhdk> (IT)
Legislative Decree no. 140/2005 "Implementation of Directive 2009/3/EC on minimum standards for the reception of the asylum seekers in Member States"	Decreto Legislativo 30 maggio 2005, n. 140 "Attuazione della direttiva 2003/9/CE che stabilisce norme minime relative all'accoglienza dei richiedenti asilo negli Stati membri"	Reception Decree	<http://bit.ly/1QjHlqb> (IT)
Legislative Decree no. 251/2007 "Implementation of Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted"	Decreto legislativo 19 novembre 2007, n. 251 "Attuazione della direttiva 2004/83/CE recante norme minime sull'attribuzione, a cittadini di Paesi terzi o apolidi, della qualifica del rifugiato o di persona altrimenti bisognosa di protezione internazionale, nonche' norme minime sul contenuto della protezione riconosciuta"	Qualification Decree	<http://bit.ly/1FOscKM> (IT)
Legislative Decree no. 25/2008 "Implementation of Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status"	Decreto Legislativo 28 gennaio 2008, n.25 "Attuazione della direttiva 2005/85/CE recante norme minime per le procedure applicate negli Stati membri ai fini del riconoscimento e della revoca dello status di rifugiato"	Procedure Decree	<http://bit.ly/1PYQjOW> (IT)
Amended by: Legislative Decree no. 159/2008 "Amendments and integration of the legislative Decree of 28 January 2008 […]"	*Modificato:* Decreto Legislativo 3 ottobre 2008, n. 159 "Modifiche ed integrazioni al decreto legislativo 28 gennaio 2008, n. 25 […]"	LD 159/08	<http://bit.ly/1KxD3tO> (IT)

Amended by: Legislative Decree no. 142/2015	*Modificato:* Decreto legislativo n. 142/2015		<http://bit.ly/1Mn6i1M> (IT)
Decree-Law no. 89/2011 "Urgent provisions for the full application of the Directive 2004/38/E**C** on the free movement of EU citizens and for the transposition of the Directive 2008/115/E**C** on returning illegally staying third-country nationals" *Implemented by*: Law 129/2011	Decreto-Legge 23 giugno 2011, n. 89 "Disposizioni urgenti per il completamento dell'attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini di Paesi terzi irregolari" *Conversione in:* Legge 2 agosto 2011, n. 89	Decree-Law 89/2011 L 129/2011	<http://bit.ly/1SPQ4V2> (IT) <http://bit.ly/1HGdkfL> (IT)
Legislative Decree no. 18/2014 "Implementation of Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)"	Decreto Legislativo 21 febbraio 2014, n. 18 "Attuazione della direttiva 2011/95/UE recante norme sull'attribuzione, a cittadini di paesi terzi o apolidi, della qualifica di beneficiario di protezione internazionale, su uno status uniforme per i rifugiati o per le persone aventi titolo a beneficiare della protezione sussidiaria, nonche' sul contenuto della protezione riconosciuta"	LD 18/2014	<http://bit.ly/1I0ioRw> (IT)
Legislative Decree no. 24/2014 "Prevention and repression of trafficking in persons and protection of the victims", implementing Directive 2011/36/EU**"**	Decreto Legislativo 4 marzo 2014, n. 24 "Prevenzione e repressione della tratta di esseri umani e protezione delle vittime", in attuazione alla direttiva 2011/36/UE, relativa alla prevenzione e alla repressione della tratta di esseri umani e alla protezione delle vittime"	LD 24/2014	<http://bit.ly/1Fl2OsN> (IT)
Decree-Law no. 119/2014 "[…] for assuring the functionality of the Ministry of Interior (Article 5 to 7)" implemented by Law no. 146/2014 *Implemented by:* Law no. 146/2014	Decreto-Legge 22 agosto 2014, n. 119 "Disposizioni urgenti in materia di contrasto a fenomeni di illegalità e violenza in occasione di manifestazioni sportive, di riconoscimento della protezione internazionale, nonché per assicurare la funzionalità del Ministero dell'Interno" *Conversione in:* Legge 17 ottobre 2014, n. 146	Decree-Law 119/2014 L 146/2014	<http://bit.ly/1QjHpWQ> (IT) <http://bit.ly/1M330lU> (IT)
Law 154/2014 "European Delegation Law 2013 – second semester"	Legge 7 ottobre 2014, n. 154 "Delega al Governo per il recepimento delle direttive europee e l'attuazione di altri atti dell'Unione europea - Legge di delegazione europea 2013 - secondo semestre"	European Delegation Law 2013	<http://bit.ly/1HGdrYv> (IT)
Law no.161/2014 "Provisions for Italy's compliance with the EU obligations – European Law *2013-bis"*	Legge 30 ottobre 2014, n. 161 "Disposizioni per l'adempimento degli obblighi derivanti dall'appartenenza dell'Italia all'Unione europea - Legge europea 2013-bis"	European Law 2013-bis	<http://bit.ly/1KH93id> (IT)
Legislative Decree 142/2015 "Implementation of Directive 2013/33/EU on minimum standards for the reception of asylum applicants and the Directive 2013/32/EU on common procedures for the	Decreto legislative 18 agosto 2015, n 142 "Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE,	LD 142/2015	<http://bit.ly/1Mn6i1M> (IT)

recognition and revocation of the status of international protection."	recante procedure comuni ai fini del riconoscimento e della revoca dello *status* di protezione internazionale."		

Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions and detention.

Title (EN)	Original Title (IT)	Abbreviation	Web Link
Presidential Decree no. 394/1999 "Regulation on norms implementing the consolidated act on provisions concerning the immigration regulations and foreign national conditions norms" *Amended by:* Presidential Decree no. 334/2004 "on immigration"	Decreto del Presidente della Repubblica del 31 agosto 1999, n. 394 "Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero" *Aggiornato con le modifiche apportate dal:* Decreto del Presidente della Repubblica 18 ottobre 2004, n. 334 "in materia di immigrazione"	PD 394/1999 PD 334/2004	<http://bit.ly/1M33qIX> (IT) <http://bit.ly/1KxDnsk> (IT)
Presidential Decree no. 303/2004 "Regulation on the procedures for the recognition of refugee status"	Decreto del Presidente della Repubblica del 16 settembre 2004, n.303 "Regolamento relativo alle procedure per il riconoscimento dello status di rifugiato"	PD 303/2004	<http://bit.ly/1I3YoL6> (IT)
Decree of the Head of the Civil Liberties and Immigration Department of the Ministry of Interior of 17 September 2013	Decreto 17 settembre 2013 dal capo Dipartimento per le Libertà civili e l'Immigrazione	D 17/9/2013	<http://bit.ly/1eLif89> (IT)
Circular of the Ministry of Interior of 20 June 2014 on the "Influx of foreign nationals following further disembarkations on the Italian coasts"	Circolare del Ministero dell'Interno del 20 giugno 2014 "Afflusso di cittadini stranieri a seguito di ulteriori sbarchi sulle coste italiane"	MoI Cir. 20/6/2014	<http://bit.ly/1REyzpq> (IT)
Circular of the Ministry of Interior of 27 June 2014 on the "Distribution of resources in favour of the System for Protection of Asylum Seekers and Refugees SPRAR, year 2014"	Circolare del Ministero dell'Interno del 27 giugno 2014 "Ripartizione risorse in favore del Sistema di protezione di richiedenti asilo e rifugiati SPRAR, annualità 2014"	MoI Cir. 27/6/2014	<http://bit.ly/1KH9hWH> (IT)
Ministry of Interior Decree of 17 October 2014 "National coordinating working group on unplanned migratory flows"	Decreto del Ministero dell'Interno "Tavolo di coordinamento nazionale sui flussi migratori non programmati di cui all'art. 1 del Decreto Legislativo 18/2014"	MoI D 17/10/2014	<http://bit.ly/1I0jj4t> (IT)
Regulation of the Ministry of Interior of 20 October 2014 "Criteria for the organisation and management of Identification and expulsion centres set by Article 14 of legislative Decree of 25 July 1998 n. 286 and following changes".	Regolamento recante: "Criteri per l'organizzazione e la gestione dei centri di identificazione ed espulsione previsti dall'articolo 14 del decreto legislativo 25 luglio 1998, n. 286 e successive modificazioni"	MoI Reg. 20/10/2014	<http://bit.ly/1PpOVmi> (IT)

Ministry of Interior Circular of 17 December 2014 on the "Influx of foreign nationals following further disembarkations on the Italian coasts"	Circolare del Ministero dell'Interno del 17 dicembre 2014 "Afflusso di cittadini stranieri a seguito di ulteriori sbarchi sulle coste italiane"	MoI Cir. 17/12/2014	<http://bit.ly/1BBN6sJ> (IT)
Presidential Decree no. 21/2015 on "Regulation on the procedures for the recognition and revocation of international protection"	Decreto del Presidente della Repubblica del 12 gennaio 2015 "Regolamento relativo alle procedure per il riconoscimento e la revoca della protezione internazionale a norma dell'articolo 38, comma 1, del decreto legislativo 28 gennaio 2008, n. 25."	PD 21/2015	<http://bit.ly/1QjHx8R> (IT)
Ministry of Interior Decree of 27 April 2015 on "Modalities for requests for services from local entities for the reception in SPRAR of foreign unaccompanied minors"	Decreto del Ministero dell'Interno "Modalità di presentazione delle domande di contributo, da parte degli enti locali, per i servizi finalizzati all'accoglienza nella rete SPRAR di minori stranieri non accompagnati"	MoI D 27/4/2015	<http://bit.ly/1KH9kBF> (IT)
Directive of the Minister of Interior on the implementation of activities aimed to control the managing bodies of reception services for non- EU citizens.	Direttiva del Ministro dell'Interno in materia di implementazione delle attività di controllo sui soggetti affidatari dei servizi di accoglienza dei cittadini extracomunitari.	MoI Directive 04/08/2015	<http://bit.ly/21VEjkD> (IT)
Decree of the Minister of Interior of 7 August 2015 on the submission of projects related to the reception with the aim to strengthen the SPRAR system.	Decreto del Ministro dell'Interno del 7 agosto 2015 per la presentazione di progetti relativi all'accoglienza di richiedenti/titolari di protezione internazionale e dei loro familiari, nonché degli stranieri e dei loro familiari beneficiari di protezione umanitaria per 10.000 posti a valere sul Fondo nazionale per le politiche e i servizi di asilo.	MoI D 07/08/2015	<http://bit.ly/1QjnPyF> (IT)
Ministry of Interior Circular of 6 October 2015 on the Decision of the European Council n. 1523 of 14 September 2015 and Decision n.1601 of 22 September 2015 on relocation procedure.	Circolare del Ministero dell'Interno del 6 ottobre 2015 "Decisioni del Consiglio europeo n. 1523 del 14 settembre 2015 e n. 1601 del 22 settembre 2015 per istituire misure temporanee nel settore della protezione internazionale a beneficio dell'Italia e della Grecia – Avvio della procedura di *relocation.*	MoI Cir. 06/10/2015	<http://bit.ly/1OmjO6P> (IT)
Ministry of Interior Circular of 30 October 2015 on Legislative Decree 142/2015	Circolare del Ministero dell'Interno del 30 ottobre 2015 "Decreto legislativo 18 agosto 2015, n. 145"	MoI Cir. 30/10/2015	<http://bit.ly/1mybXMX> (IT)

Overview of the main changes since the previous report update

The previous report update was published in **January 2015**.

Statistics and transposition

- According to UNHCR, by 22 December 2015, there were 972,551 arrivals by sea in the Mediterranean and 3,625 dead or missing,[2] out of which 150,200 migrants had reached the coasts of Italy. The 10 top nationalities are Eritrea (26%), Nigeria (14%), Somalia (8%), Sudan (6%), Syria (5%), Gambia (5%), Mali (4%), Senegal (4%), Bangladesh (3 %), and Morocco (3%).[3] As reported by the Ministry of Interior from January to 10 October 2015 were rescued 14,109 minors out of which 10,322 were unaccompanied minors.[4]

- According to the Ministry of Interior, from first January to 10 October 2015, Italy received 61,545 asylum applications and adopted 46,490 decisions. 2,549 people were recognised as refugees, 7,242 obtained the subsidiary protection and 10,821 protection on humanitarian reasons, while 23,905 applications were rejected.[5] During the first three quarters of the year, the overall recognition rate was 44.8%.[6]

- On 15 September 2015, Italy adopted the Legislative Decree (LD) 142/2015 implementing both the recast Reception Conditions Directive and the recast Asylum Procedures Directive. This LD entered into force on 30 September 2015. An implementing Regulation will be issued within 6 months from its entry into force, which will modify the Presidential Decree (PD) 21/2015.

Procedure

- The Presidential Decree (PD) 21/2015 on "Regulation on the procedures for the recognition and revocation of international protection", in accordance with the Procedure Decree 25/2008 was published in March 2015. The PD 21/2015, repealing the provisions of both PD n. 303 of 16 September 2004, and PD n. 136 of 15 May 1990, contains many provisions aimed to clarify the different stages of the asylum procedure. It clarifies the composition and functioning of the Territorial Commissions (CTRPI) and National Commission for the Right to Asylum (CNDA). With regard to the procedure, the regulation provides with norms related to the presentation of the asylum claim, the examination, the decisions and the court proceedings against the negative decisions. It extends the validity of the stay permit up to 2 years for humanitarian grounds.

- Under the LD 142/2015, the CNDA may periodically identify the countries of origin, or parts of these countries, for whose nationals it is possible to omit the personal interview. In fact, the CTRPI may now also omit the interview of applicants coming from those countries identified by the CNDA when considering that there are sufficient grounds to recognise subsidiary protection. However, the competent territorial commission, before adopting such a decision, informs the applicant that he or she has the opportunity, within 3 days from the communication, to be admitted to the personal interview. In absence of such a request, the CTRPI takes the decision to omit the interview.

- With regard to the duration of the examination procedure, the LD 142/2015 provides that the CTRPI interviews the applicant within 30 days after having received the application and decides in the 3 following working days. When the CTRPI is unable to take a decision in this time limit and

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2 UNHCR, *Refugees/Migrants Emergency Response – Mediterranean*, available at: http://bit.ly/1W059nR.
3 *Ibid*.
4 Ministry of Interior, *Rapporto sull'accoglienza di migranti e rifugiati in Italia. Aspetti, procedure, problemi*, October 2015, available at: http://bit.ly/1OXZQnr, 36.
5 *Ibid*, 21.
6 Eurostat, *First instance decisions on applications by citizenship, sex and age Quarterly data (rounded)*, migr_asydcfstq.

needs to acquire new elements, the examination procedure is concluded within six months of the lodging of the application. The CTRPI may extend the time limit for a period not exceeding a further nine months, where: (a) complex issues of fact and/or law are involved; (b) a large number of asylum applications are made simultaneously; (c) the delay can clearly be attributed to the failure of the applicant to comply with his or her obligations of cooperation. By way of exception, the CTRPI, in duly justified circumstances, may further exceed this time limit by three months where necessary in order to ensure an adequate and complete examination of the application for international protection. In the light of the different possibilities of extension, the asylum procedure this may last for a maximum period of 18 months.

- The LD 142/2015 introduced for the first time the accelerated procedure. The President of the CTRPI identifies the cases under the prioritised or accelerated procedures. Where the application is made by the applicant placed in administrative detention centres, the police headquarter, upon receipt of the application, immediately transmits the necessary documentation to the CTRPI that within 7 days of the receipt of the documentation takes steps for the personal hearing. The decision is taken within the following 2 days. These time limits are doubled when: (a) the application is manifestly unfounded; (b) the applicant has introduced a subsequent application for international protection; (c) the applicant has lodged his or her application after being stopped for avoiding or attempting to avoid border controls or after being stopped for irregular stay, merely in order to delay or frustrate the adoption or the enforcement of an earlier expulsion or rejection at the border order.

- Victims of trafficking and genital mutilation as well as persons affected by serious illness or mental disorders have been inserted in the list of vulnerable persons. Where determining authorities deem it relevant for the assessment of the application, they may, subject to the applicant's consent, arrange for a medical examination of the applicant concerning signs that might indicate past persecution or serious harm according to specific guidelines which will be issued by the Ministry of Health, When no medical examination is provided by the CTRPI, the applicants may, on their own initiative and at their own cost, arrange for such a medical examination and submit the results to the CTRPI for the examination of their applications.

Reception

- In addition, PD 21/2015 provides rules related to the institution and functioning of the reception centres for asylum seekers (CARA) and the services within these centres.

- The same Regulation provides a periodic review (every three months) of compliance with the rights of asylum seekers and with reception standards as regulated in the contracts signed with the managing bodies on the basis of modalities established by the Department for Civil Liberties and Immigration of the Ministry of the Interior.

- The LD 142/2015 repealed all provisions of the Reception Decree (LD 140/2005), except Article 13 relating to the financial measures. The new Decree regulates a new reception system that remains substantially the same as the previous one. The LD provides for two phases of reception. The first is ensured through first aid and reception centres (CPSA), first accommodation centres (CPA) and temporary centres for emergency reception (CAS) when the asylum applicants cannot be placed either in CPA or in SPRAR centres due to unavailability of places. Accommodation in these temporary facilities is strictly limited to the necessary time to transfer the applicants to the CPA or SPRAR centres. SPRAR centres are considered as the second reception stage.

Detention

- According to LD 142/2015, asylum applicants may be placed in administrative detention centres (CIE) on the basis of additional grounds with respect of the previous norms. Detention may be applied where: (a) the person has conducted criminal activities with the intention of committing terroristic acts; (b) there is a risk of absconding; or (c) the applicant may represent a danger for

public order and security. In the assessment of the level of danger *(pericolosità*) shall be also taken into consideration any conviction, even with non-final court decisions.

- Moreover, the asylum applicant waiting in CIE for the enforcement of an expulsion order pursuant to Articles 13 and 14 of the DL 286/1998, shall remain in such facility when there is a reasonable ground to consider that the application has been submitted with the sole reason of delaying or obstructing the enforcement of the expulsion order. The foreign citizen detained in CIE shall be provided by the manager of the facility with the relevant information on the possibility of applying for international protection. The applicants detained in such facilities are provided with the relevant information by means of an informative leaflet (*opuscolo informativo*).

- The detention or the extension of the detention shall not last beyond the time necessary to assess the application pursuant to the accelerated procedure, unless additional detention grounds subsist pursuant to Article 14 DL 286/1998 apply.

- The applicant detained who appeals against the rejection decision issued by the CTRPI remains in the detention facility until the adoption of the order suspending the expulsion order from the Tribunal and also as long as he or she is authorised to remain in the national territory as a consequence of the lodged appeal. Worryingly, in such a case, the *Questore* shall request the extension of the ongoing detention for additional periods no longer than 60 days, which can be extended by the judicial authority from time to time. In any case, the maximum detention cannot last more than twelve months.

Relocation

- Following the Commission proposal on relocation, the Council has adopted the two following decisions establishing provisional measures in the area of international protection for the benefit of Italy and of Greece, in view of supporting them in better coping with an emergency situation characterised by a sudden inflow of nationals of third countries in these countries:
    - Council Decision (EU) 1523/2015 of 14 September 2015,[7] on the basis of which the relocation procedure will apply to 24,000 persons arriving in Italy as of 15 August 2015, from 16 September 2015 until 17 September 2017.
    - Council Decision (EU) 1601/2015 of 22 September 2015,[8] on the basis of which 15,600 persons will be relocated from Italy. The Decision will apply to those asylum seekers arriving in Italy since 24 March 2015, from 25 September 2015 until 26 September 2017.

- It should be recalled that Article 8(1) of Decision (EU) 2015/1523 sets out an obligation for Italy and Greece to provide structural solutions to address exceptional pressures on their asylum and migration systems, by establishing a solid and strategic framework for responding to the crisis situation and intensifying the ongoing reform process in these areas. The roadmap which Italy has presented to that end include measures in the area of asylum, first reception and return, enhancing the capacity, quality and efficiency of its systems in those areas, as well as measures to ensure appropriate implementation of the mentioned Decision with a view to allowing it better to cope, after the end of the application of this Decision, with a possible increased inflow of migrants on its territory.[9]

- On 6 October 2015 the Ministry of Interior has issued a circular on the launch of the relocation procedure on the basis of the two mentioned EU decisions.[10] Relocation is applied only to Syrian, Eritrean and Iraqi asylum seekers and since the beginning of the implementation of the relocation programme only 144 people benefitted from this mechanism**.**

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7 *OJ* 2015 L239/146.
8 *OJ* 2015 L248/80.
9 See Italian Roadmap of 28 September 2015, available at: http://bit.ly/1RJOSmn.
10 Available at: http://bit.ly/1OmjO6P.

- CIR, also during the 5th EASO annual Consultative Forum held in Malta on 30 November has expressed, in principle, appreciation for the relocation mechanism which for the first time allows Member States to derogate Article 13 of the Dublin III Regulation and to take common responsibility in supporting Italy and Greece in facing mixed migration pressure. However, CIR has also raised concerns on the discriminatory use of this instrument applied only to some nationalities on the presumption that only those who belong to these nationalities are in clear need of international protection. This worrying tendency to consider *ex ante* true refugees mainly Syrians, Eritreans and Iraqis is evident when considering that in the Western Balkans routes, border guards of different countries allow their entry and following transit mainly to those people belonging to the mentioned nationalities.

- Generally speaking, regrettably Member States are making available much less places despite their relocation quota. Moreover, asylum seekers are requested to adhere to the relocation programme without knowing in which State they will be then transferred without having appropriate and sufficient informative/legal orientation.

- As denounced by CIR, NGOs and RCOs are not involved in the relocation process, even though they could highly contribute in "confidence building", in informative campaigns, in interviewing people to be relocated and in gathering useful information and documents to send to the Italian authorities and to EASO and liaison officers for the matchmaking procedure. An independent and qualified monitoring system should be put in place.

"Hotspots"

- Four "hotspots" have been identified in Porto Empedocle, Pozzallo, Trapani and Lampedusa, where reception structures can accommodate about 1,500 people.[11] Two additional "hotspots" have been identified in the Augusta and Taranto ports, which will be operational by the end of 2015 providing with additional 600 places.[12] The objective is to reach the total capacity of 2,500 places by the end of 2015. From 21 September 2015, the "hotspot" in Lampedusa has been activated. EASO personnel very recently arrived in Lampedusa to support the otherwise only Italian personnel operating in the "hotspot", and the information collected is then forwarded to the Catania's European Regional Task Force, the operation's headquarters.[13]

- The Italian authorities have adopted the "Hotspot" approach to channel the arrivals of mixed migration flows in the mentioned ports and to apply there the pre-identification, registration, photo and fingerprinting operations. Subsequently, those identified as migrants *tout court* are notified with a rejection / expulsion order and, where places are available, they are detained in the identification and expulsion centres. Asylum seekers, instead, are channelled to the Regional Hubs. Syrians, Eritreans and Iraqis who may adhere to the relocation process are accommodated in *ad hoc* regional hubs or regional hubs with *ad hoc* places (hotels, barracks, CARA of Bari and Crotone etc.). The first group of relocated persons were accommodated in Villa Sikania near Agrigento. Moreover, UNHCR officers are also present in the "hotspot" to monitor the situation.

11 Italian Roadmap of 28 September 2015.

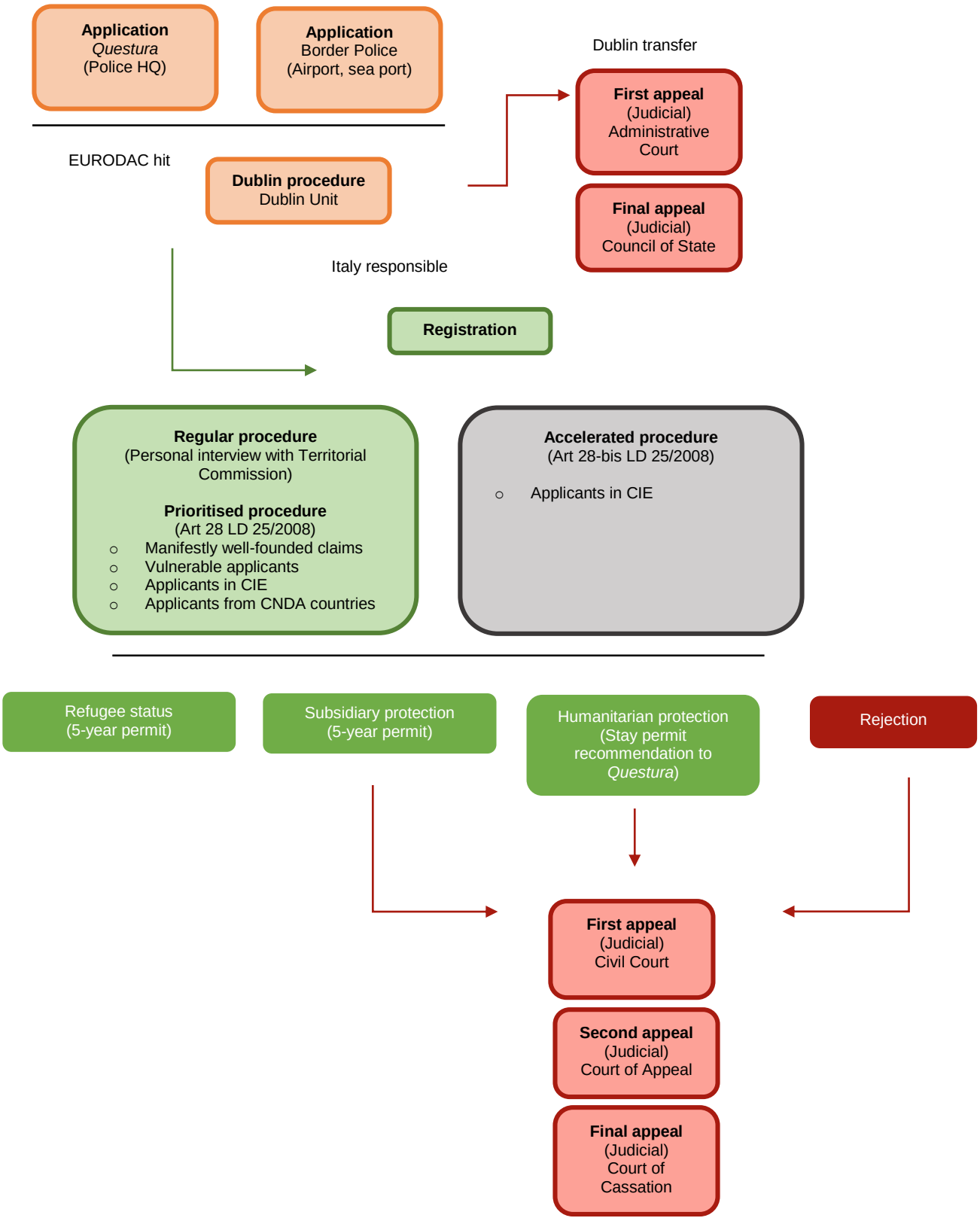
12 Circolare del Ministero dell'Interno del 6 ottobre 2015 "Decisioni del Consiglio europeo n. 1523 del 14 settembre 2015 e n. 1601 del 22 settembre 2015 per istituire misure temporanee nel settore della protezione internazionale a beneficio dell'Italia e della Grecia – Avvio della procedura di relocation.

13 Redattore Sociale, 'Migranti, hotspot dal 17 settembre. "Saranno centri di detenzione"', 10 September 2015, available in Italian at: http://bit.ly/1hAjtns.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

❖ Regular procedure:	☒ Yes	☐ No
▪ Prioritised examination:[14]	☒ Yes	☐ No
▪ Fast-track processing:[15]	☐ Yes	☒ No
❖ Dublin procedure:	☒ Yes	☐ No
❖ Admissibility procedure:	☐ Yes	☒ No
❖ Border procedure:	☐ Yes	☒ No
❖ Accelerated procedure:[16]	☒ Yes	☐ No
❖ Other:		

3. List of authorities intervening in each stage of the procedure

Stage of the procedure	Competent authority in EN	Competent authority in original language (IT)
Application ❖ At the border ❖ On the territory	Border Police Immigration Office, Police	Polizia di Frontiera Questura
Dublin (responsibility assessment) **Dublin (appeal)**	Dublin Unit, Ministry of Interior Regional Administrative Tribunal	Unità Dublino, Ministero dell'Interno Tribunale Amministrativo Regionale
Refugee status determination	Territorial Commissions for the Recognition of International Protection	Commissioni Territoriali per il Riconoscimento della Protezione Internazionale
Appeal ❖ First appeal ❖ Second (onward) appeal ❖ Final appeal	Civil Tribunal Appeal Court Court of Cassation	Tribunale Civile Corte d'Appello Corte di Cassazione
Subsequent application	Territorial Commissions for the Recognition of International Protection	Commissioni Territoriali per il Riconoscimento della Protezione Internazionale

4. Number of staff and nature of the first instance authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?

14 For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) APD.
15 Accelerating the processing of specific caseloads as part of the regular procedure.
16 Labelled as "accelerated procedure" in national law. See Article 31(8) APD.

Territorial Commissions and Sub-commissions for International Protection	168[17]	Ministry of Interior	☐ Yes ☒ No

5. Short overview of the asylum procedure

The Italian asylum system foresees a single regular procedure, the same for the determination of both refugee status and subsidiary protection status. Within this procedure the CTRPI may decide those cases falling under the prioritised procedure or in the accelerated procedure.[18]

According to Italian legislation, there is no formal time-frame for lodging an asylum request. The intention to make an asylum request may be expressed also orally by the applicant in his or her language with the assistance of a linguistic-cultural mediator.[19] However, asylum seekers should present their application as soon as possible. Immigration legislation prescribes, as a general rule, a deadline of 8 days from arrival in Italy for migrants to present themselves to the authorities.[20]

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

The police authorities of the Questura ask the asylum seeker questions related to the Dublin III Regulation during the formal registration stage and then contact the Dublin Unit of the Ministry of the Interior which then verifies whether Italy is the Member State responsible for the examination of the asylum application. If Italy is deemed responsible, the asylum applicant will be invited to go to the Questura to continue the regular procedure.

The police authorities send the registration form and the documents concerning the asylum application to the Territorial Commissions or Sub-commissions for International Protection (*Commissioni territoriali per il riconoscimento della protezione internazionale*) (**CTRPI**) located throughout the national territory, the only authorities competent for the substantive asylum interview.[21] The National Commission for the Right of Asylum (*Commissione nazionale per il diritto di asilo*) (**CNDA**) not only coordinates and gives guidance to the Territorial Commissions in carrying out their tasks, but is also responsible for the revocation and cessation of international protection.[22]

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

Regular procedure

By the previous law, the personal interview before the Territorial Commissions should be carried out within a maximum of 30 days from the date the claim and related documents are received. The Commissions should take the decision within 3 working days after the interview. In practice, however, the regular procedure usually lasts several months. According to LD 142/2015, the CTRPI interviews the applicant within 30 days after having received the application and decides in the 3 following working days. When

17 4 permanent staff members for each of the presently 42 Territorial Commissions.
18 Article 28(1bis) LD 25/2008, as amended by LD 142/2015.
19 Article 3(1) PD 21/2015.
20 Article 3(2) PD 21/2015.
21 LD 119/2014, which modifies Article 4 LD 25/2008.
22 Articles 13 and 14 PD 21/2015.

the CTRPI is unable to take a decision in this time limit and needs to acquire new elements, the examination procedure is concluded within six months of the lodging of the application.

However, the CTRPI may extend the time limit for a period not exceeding a further nine months, where: (a) complex issues of fact and/or law are involved; (b) a large number of asylum applications are made simultaneously; (c) the delay can clearly be attributed to the failure of the applicant to comply with his or her obligations of cooperation. By way of exception, the CTRPI, in duly justified circumstances, may further exceed this time limit by three months where necessary in order to ensure an adequate and complete examination of the application for international protection.[23] In the light of the different possibilities of extension, the asylum procedure this may last for a maximum period of 18 months.

Prioritised and accelerated procedure

Under Italian legislation, there is no admissibility/screening procedure or any border procedure. Under the previous law, in a number of circumstances prescribed by the Procedure Decree, asylum applications may be examined under the "prioritised procedure", meaning that the regular procedure is shorter. The previous prioritised procedure applied when: (a) the request is deemed manifestly well-founded; (b) the asylum claim is lodged by an applicant considered vulnerable; (c) the asylum seeker is accommodated in CARA – except where accommodation is provided to verify the applicant's identity – or held in an Identification and Expulsion Centre (*Centro di identificazione ed espulsione*) (**CIE**). By law, only for the cases held in CIE, the Territorial Commissions conducted the personal interview within 7 days from receipt of the relevant documentation from the Questura, and take the decision within the following 2 days.

The LD 142/2015 introduces an accelerated procedure in addition to the prioritised procedure The President of the CTRPI identifies the cases under the prioritised or accelerated procedures. The **prioritised procedure** is applied when: (a) the request is deemed manifestly well-founded; (b) the asylum claim is lodged by an applicant considered vulnerable; (c) the applicant is placed in a CIE; and (d) the applicant comes from one of the countries identified by the CNDA at the scope to omit the personal interview.[24]

The **accelerated procedure** applies where the asylum request is made by the applicant placed in administrative detention centres, the police headquarter, upon receipt of the application, immediately transmits the necessary documentation to the CTRPI that within 7 days of the receipt of the documentation takes steps for the personal hearing. The decision is taken within the following 2 days. These time limits are doubled when: (a) the application is manifestly unfounded; (b) the applicant has introduced a subsequent application for international protection; (c) when the applicant has lodged his/her application after being stopped for avoiding or attempting to avoid border controls or after being stopped for irregular stay, merely in order to delay or frustrate the adoption or the enforcement of an earlier expulsion or rejection at the border order.[25]

Appeal

Asylum seekers can appeal within 30 days before the competent Civil Tribunal, which does not exclusively deal with asylum appeals, against a negative decision issued by the Territorial Commissions. According to the previous law, rejected asylum seekers in CIE and in Accommodation Centres for Asylum Seekers (*Centri di accoglienza per richiedenti asilo*) (**CARA**) had only 15 days to lodge an appeal, subject to some exceptions. Moreover, the law prescribed that the appeal had automatic suspensive effect on the decision, with the exception of asylum seekers: (a) who were notified with a rejection or expulsion order before lodging an asylum request; (b) whose claims were considered "manifestly unfounded"; (c) whose claims were considered inadmissible; (d) who were placed in CIE or in CARA after having been apprehended

23 Article 27 LD 25/2008, as amended by LD 142/2015.
24 Article 27 LD 25/2008, as amended by LD 142/2015.
25 Article 28-bis LD 25/2008, as amended by LD 142/2015.

for avoiding or attempting to avoid border controls (or immediately after); or (e) who left the CARA without justification. However, even these individuals can request suspensive effect on the decision from the competent judge. In this respect, the amendments introduced by LD 142/2015 confirm that the appeal must be lodged within 30 calendar days from the notification of the first instance decision and must be submitted by a lawyer.[26] Applicants placed in detention facilities and those under the accelerated procedure have only 15 days to lodge an appeal.[27]

As the previous law, the LD 142/2015 prescribes that if the appeal is dismissed, it can be appealed to the Court of Appeal within 30 days of the notification of the decision. A final appeal before the highest appellate court (Cassation Court) can be lodged within 60 days of the notification of the dismissal of the previous appeal.

B. Procedures

1. Registration of the asylum application

Indicators: Registration

1. Are specific time-limits laid down in law for asylum seekers to lodge their application? ☒ Yes ☐ No
2. If so, what is the time-limit for lodging an application?
   - ❖ At the border: 8 working days
3. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No

Under the Procedure Decree,[28] the asylum claim can be lodged either at the Border Police upon arrival or at the Immigration Office of the Police (*Questura*) if the applicant is already in the territory. The wish to seek international protection may be expressed orally or in writing by the person concerned in their own language with the help of a mediator.[29]

PD 21/2015, which entered into force in March 2015, provides that asylum seekers who express their wish to apply for international protection before border police authorities are to be requested to approach the competent Questura within 8 working days. Failure to comply with the 8 working day time-limit, without justification, results in deeming the persons as illegally staying on the territory.[30] However, there is no provision for a time limit to lodge an asylum request before the Questura when the applicant is already on the national territory.

The procedure for the initial registration of the asylum application is the same at the border and at the Questura. The first step is an identification and registration process, which entails fingerprinting and photographing that can be carried out either at the border police or at the Questura. This procedure is called "*fotosegnalamento*".

At the Questura, in order to apply for asylum, the person is required to have previously indicated a residence – an address which will be then quoted on the permit of stay. In Rome, it is sufficient to show a domicile issued by several NGOs, while in other cities Questura requires a residence.[31] By contrast, at

26 Article 35(1) LD 25/2008.
27 Article 19 (3) LD 150/2011, as amended by Article 27 LD 142/2015.
28 Article 6 LD 25/2008.
29 Article 3(1) PD 21/2015.
30 Article 3(2) PD 21/2015.
31 Although in large cities asylum seekers are helped in obtaining a residence by several NGOs, in order to receive directly their temporary permit of stay at these addresses, UNHCR reported difficulties encountered

the Border Police Office, asylum seekers are not required to provide such residence that will be indicated after their entry into the Italian territory, and receive a letter (called "*verbale di invito*") inviting them to go to the competent Questura to continue the asylum procedure.

The LD 142/2015 has clarified that the address of the accommodation centres and of the CIE are to be considered the place of residence of asylum applicants who effectively live in these centres. The address is also valid for the notification of any kind of communication of any act concerning the asylum procedure.[32]

The law does not foresee any financial support for taking public transport to the competent Questura. In practice, the NGOs working at the border points can provide the train ticket for that journey on the basis of a specific agreement with the competent Prefecture. However, this support is not always guaranteed.

This preliminary phase is followed by a second step, consisting in the formal registration of the asylum request, which is carried out exclusively at the Questura within the national territory. The formal registration of the application (the so-called "*verbalizzazione*") is accomplished through a form ("*Modello C/3*", commonly called "*verbale*").[33] The form is completed with all the information regarding the applicant's personal history, the journey he or she has undertaken to reach Italy and the reasons for fleeing from the country of origin. This form is signed by the asylum seeker who receives, together with a copy of the *verbale*, copies of all other documents submitted to the police authorities. In practice, before filling in the *verbale*, the applicant may provide a written statement concerning his or her personal history, which can be written in his or her mother tongue.

With the completion of the *verbale*, the formal stage of applying for international protection is concluded. The "*fotosegnalamento*" and the formal registration of the international protection application do not always take place at the same time, especially in big cities, due to the high number of asylum requests and to the shortage of police staff. According to the previous legislation, there was no time-limit for the authorities to complete the formal registration of the asylum request. In practice, the formal registration might take place weeks after the date the asylum seeker had made the asylum application. This delay created and still creates difficulties for asylum seekers who, in the meantime, might not have access to the reception system and the national health system; with the exception of emergency health care. In this respect, the LD 142/2015 provides that the transcription of the statements made by the applicant is carried out within 3 working days from the manifestation of the willingness to seek protection or within 6 working days in case the applicant has manifested such willingness before border police authorities. That time limit is extended to 10 working days in presence of a significant number of asylum applications due to consistent and tight arrivals of asylum seekers.[34]

In addition, the LD 142/2015 clarifies that applications for international protection are made in the territory, including at the border and in transit zones, and in the territorial waters by non-EU citizens.[35] Moreover, the Decree also provides for training for Police authorities appropriate to their tasks and responsibilities.[36]

The LD 142/2015 provides for the issuing of a stay permit for asylum seekers valid for 6 months, renewable.[37]

Access to the territory and the procedure

in certain Provincial Police HQs (Questure), due to the request of a proof of residence for the registration of the asylum application. See UNHCR, *UNHCR Recommendations on important aspects of refugee protection in Italy*, July 2013, available at: http://bit.ly/1Pcktwy, at 6.

32 Article 5(2) LD 142/2015.

33 "Modello C/3 -"Modello per il riconoscimento dello status di rifugiato ai sensi della Convenzione di Ginevra" (Form for the recognition of the refugee status in the meaning of the Geneva Convention).

34 Article 26(2-bis) LD 25/2008, as amended by LD 142/2015.

35 Article 1 LD 25/2008, as amended by LD 142/2015.

36 Article 10(1-bis) LD 25/2008, as amended by LD 142/2015.

37 Article 4(1) LD 142/2015.

With regard to the difficulties in accessing the asylum procedure, in July 2013, UNHCR reported some cases in which Egyptian and Tunisian nationals, who arrived in Lampedusa in an irregular manner by sea and who had expressed the intention to lodge an asylum claim, were only admitted to the asylum procedure thanks to the interventions by NGOs and lawyers within the "*Praesidium*"[38] project staff.[39] Similar concerns were expressed by CIR in its report entitled "Access to Protection" of October 2013.[40]

On the basis of information available to CIR, in the second half of 2014 a change of policy was noticed towards Egyptian nationals, who previously met obstacles in lodging an asylum request due to obstacle posed by Italian authorities. On the basis of the bilateral readmission agreements signed with Egypt and Tunisia, Egyptian and Tunisian nationals have been generally repatriated within 48 hours of arrival in Italy or their interception at sea. Soon after disembarkation, they were separated from other migrants and were mainly placed in First Aid and Reception Centres (*Centri di primo soccorso e accoglienza*) (**CPSA**) used as detention centres or in other closed centres. They were interviewed by police with the aim of establishing their nationality and, following a summary identification by the consular authorities or their country of origin, were sent back. Before their repatriation, they often had no opportunity to enter into contact with humanitarian organisations to receive legal information on the possibility of applying for asylum.[41] Incidents of this nature are admittedly now fewer in number. Nonetheless, Egyptians tend not to seek asylum anyway. On the other hand, some concerns persist with regard to Tunisian nationals, towards whom there is the tendency to detain in CIE before repatriation. In this respect it should be pointed out that the arrival of Egyptians is quite stable but a substantial decrease of arrival of Tunisians has been registered during 2015. The readmission of Tunisians seems not to be presently carried out in a systematic way.

After the end of the *Mare Nostrum* operation and also due to the intensification of the fighting in Libya, new *modi operandi* have been put in place by smuggling networks, which have used big vessels in order to carry considerable numbers of migrants, including many families and children. Once the vessels arrive at high sea close to the Southern coasts of Italy e.g. Apulia or Calabria, the crew abandons the ship, leaving people alone. This was the case of Blue Sky M, which arrived near Apulia at the end of December 2014 with 970 people on board, and the case of the Ezadeen vessel, which arrived near the Calabria Region with 450 people on board at the beginning of January 2015. Italian coastguards brought Blue Sky M under control and safely docked it at the Italian port of Gallipoli, while the Italian rescue team led the Ezadeen vessel to the Calabria coast.

These vessels came from Turkey instead of Libya. In fact, this is not a new trend for Italy, because in the past Italy has already faced arrivals of big vessels directly from Turkey. However, on these previous occasions, vessels were not abandoned at the high seas but were rather brought right to the coasts and smugglers disguised themselves among asylum seekers.

Operation Mare Nostrum and Joint Operation Triton

The "*Mare Nostrum*" Operation was launched by the Italian authorities as a "military and humanitarian" operation in the Channel of Sicily immediately after the tragic shipwreck which occurred on 3 October 2013 near the Lampedusa coast, in order to prevent the increasing number of deaths of migrants at sea. This operation, initiated officially on 18 October 2013, aimed at strengthening surveillance and patrols on the high seas as well as to increase search and rescue activities. It provided for the deployment in the operation of personnel and equipment of the Italian Navy, Army, Air Force, Custom Police, Coast Guards and other institutional bodies operating in the field of mixed migration flows.[42]

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38 The *Praesidium* project is carried out by UNHCR, Red Cross, Save the Children and IOM to provide information and to identify migrants, including asylum seekers, unaccompanied children and victims of trafficking. *Praesidium* is based at arrival points such as Lampedusa, Sicily, Calabria and Apulia.

39 UNHCR, *UNHCR Recommendations on important aspects of refugee protection in Italy*, July 2013, 6.

40 CIR, *Access to Protection: a human right*, October 2013, available at: http://bit.ly/1ju7poZ, 35-38.

41 *Ibid*, 35-37.

42 See Ministry of Defence, 'Mare Nostrum Operation', available at: http://bit.ly/1zNLzkg.

From January 2014 to 31 October 2014, 156,382 migrants were rescued during 439 rescue operations carried out by *Mare Nostrum*. In 2014, 170,000 persons arrived by sea while 4,000 persons lost their lives in the Mediterranean Sea.[43] Under the "*Mare Nostrum*" Operation, thousands of rescued migrants and asylum seekers were fingerprinted on board on a voluntary basis.[44] The formal registration took once the persons were disembarked and then transferred to reception centres.

On 31 October 2014, the Italian Ministries of Interior and Defence announced the end of *Mare Nostrum* operation,[45] and on 1 November the FRONTEX-coordinated Joint Operation Triton was launched. Triton initially operated with a monthly budget of €2.9 million and coordinated the deployment of 3 open sea patrol vessels, 2 coastal patrol boats, 2 coastal patrol vessels, 2 aircrafts, and 1 helicopter in the Central Mediterranean. FRONTEX also supports the Italian authorities through five debriefing teams and two screening teams. Triton's activities will cover the territorial waters of Italy as well as parts of the search and rescue (SAR) zones of Italy and Malta.[46]

However, UNHCR and many NGOs, among which CIR, expressed their concern about the phasing out of the *Mare Nostrum* operation and the limited scale and mandate of Triton, since the mandate of Triton does not cover search and rescue activities in the Mediterranean sea, being instead limited to the patrolling of sea borders, and thus not entirely responding to the problem.[47] In an open letter addressed to Matteo Renzi, various NGOs expressed their fear that other tragedies at sea could happen again in the future.[48] Following the shipwrecks in April 2015 and the decisions taken at EU level, the mandate of the Triton operation was extended, including search and rescue operations to 138 nautical miles south of Sicily. Triton has additional vessels and experts at its disposal. These include nine debriefing teams comprised of four people each and six screening teams composed of four people each.[49] Furthermore, six off shore patrol vessels and twelve patrol boats; four airplanes and two helicopters took part in the operation as of July 2015. The Regional Task Force established in Catania, coordinates the liaison officers from Europol, Eurojust and the European Asylum Support Office (EASO). According to Frontex the budget for Triton for 2015 is €38 million, while the Commission will provide an additional €45 million for both operations Triton and Poseidon in 2016.

With regard to the services provided in the disembarkation process, the *Praesidium* project ended at the end of June 2015. However, UNHCR and IOM continue to monitor the access of foreigners to the relevant procedures and the initial reception of asylum seekers and migrants in the framework of their mandates. The activities are funded under the Asylum, Migration and Integration Fund (AMIF) (Access and Reception). Five UNHCR legal operators and mediators of Arabic and Tigrinya languages monitor disembarkation in Puglia, Calabria, Sicilia and Lampedusa, as well as the ways the operations are carried out. UNHCR is presently conducting a mapping exercise on the services locally available for the identification and referral of vulnerable persons.

With regard to people arriving in Italy by boat in 2015, it should be underlined that persons on boat must undergo to a medical screening in order to have an authorisation for disembarkation. On land, they

43 UNHCR, 'Profonda preoccupazione per la fine dell'Operazione Mare Nostrum', 16 October 2014, available in Italian at: http://bit.ly/1PqvI3G.

44 CIR, *Information obtained in the course of research activities,* carried out during 2014.

45 Ministry of Interior, 'Mediterraneo, inizia l'uscita da Mare Nostrum, parte Triton', 31 October 2014, available in Italian at: http://bit.ly/1PckQHu.

46 FRONTEX, 'FRONTEX launches Joint Operation Triton', 31 October 2014, available at: http://bit.ly/1RDYbT0.

47 UNHCR, 'Profonda preoccupazione per la fine dell'Operazione Mare Nostrum'; CIR, 'Bene Renzi su "Mare Nostrum"', 26 September 2014, available in Italian at: http://bit.ly/1Ex1Tov.

48 Amnesty International Italia *et al.*, *Open letter to Matteo Renzi*, available in Italian at: http://bit.ly/1Mo5JVo.

49 Debriefing teams conduct interviews with migrants with the objective of gathering information mainly on their travel routes and those who facilitated their trip and are only conducted with the consent of the migrants concerned. Screening teams assist the authorities of the host Member State of Frontex Operations in identifying the nationality and identity of the migrants apprehended at the border. All migrants apprehended during Frontex operations are subjected to screening and is mandatory for the migrants.

undergo another medical screening conducted by Ministry of Health and the Italian Red Cross. Where necessary, migrants are conducted to the nearest hospitals. Due to the huge number of migrants arriving in Italy, it is impossible and not fair for the concerned persons to conduct the fingerprinting procedure at ports, also because some of them are used only for merchandise ships and are not equipped to receive visitors.

Thanks to specific Protocols, the Prefectures and police authorities coordinate activities that are conducted in collaboration with UNHCR and IOM as well as with local public authorities, local organisations, including religious ones. Distribution of snacks, water and food packages is ensured to all migrants. It may happen that Police authorities may conduct only registration and preregistration of migrants. In any event, fingerprinting is conducted immediately or after the persons are transferred to reception centres depending of the number of migrants, the type of ports and the premises and services available locally.

The case of *Khlaifa v Italy* (application no. 16483/12), issued in September 2015 by the European Court of Human Rights (ECtHR),[50] concerned the detention in the reception centre Contrada Imbriacola on Lampedusa and subsequently on ships moored in Palermo harbour, as well as the repatriation to Tunisia, of irregular migrants who had landed on the Italian coast in 2011 during the events linked to the "Arab Spring". The Court held unanimously that there had been the violation of several norms, in particular the right to be informed promptly. In addition, the applicants' detention was considered unlawful. They had not been notified of the reasons for their detention, for which there was no statutory basis, and had been unable to challenge it. The Court further considered that the applicants had suffered a collective expulsion, as their *refoulement* decisions did not refer to their personal situation. Moreover, the applicants had not benefited from any effective remedy in order to lodge an appeal under Article 13 of the European Convention on Human Rights (ECHR).

"Hotspots"

Part of the European Commission's European Agenda on Migration, the "hotspots", are generally described as "operational solutions for emergency situations", as a single place to swiftly process asylum applications, enforce return decisions and prosecute smuggling organisations through a platform of cooperation among EASO, Frontex, Europol and Eurojust. Even though there is no precise definition of the "hotspot" approach, it is clear that it became a fundamental feature of the relocation procedures that will be conducted from Italy and Greece in the framework of Council Decisions 1523/2015 and 1601/2015 of 14 and 22 September 2015 respectively. "Hotspots" managed by the competent authority will not require new reception facilities, operating instead from already existing ones. Frontex will help with the identification, registration and fingerprinting of recently arrived people, enforcement of return decisions and collection of information on smuggling routes, while EASO will help with the processing of asylum claims and the eventual relocation procedure.

Four "hotspots" have been identified in **Porto Empedocle**, **Pozzallo Trapani** and **Lampedusa**, where reception structures can accommodate about 1,500 people.[51] Two other "hotspots" have been identified in the **Augusta** and **Taranto** ports, which will be operational by the end of 2015 providing with additional 600 places.[52] The objective is to reach the total capacity of 2,500 places by the end of 2015. From 21 September 2015, the "hotspot" in Lampedusa has been activated. EASO personnel very recently arrived in Lampedusa to support the otherwise only Italian personnel operating in the "hotspot", and the

50 ECtHR, *Khlaifa and Others v Italy*, Application No 16483/12, Judgment of 1 September 2015 .

51 Italian Roadmap, 28 September 2015.

52 Circolare del Ministero dell'Interno del 6 ottobre 2015 "Decisioni del Consiglio europeo n. 1523 del 14 settembre 2015 e n. 1601 del 22 settembre 2015 per istituire misure temporanee nel settore della protezione internazionale a beneficio dell'Italia e della Grecia – Avvio della procedura di relocation available at: http://bit.ly/1OmjO6P.

information collected is then forwarded to the Catania's European Regional Task Force, the operation's headquarters.[53]

The Italian authorities have adopted the "hotspot" approach to channel the arrivals of mixed migration flows in the mentioned ports and to apply there the pre-identification, registration, photo and fingerprinting operations. Following these operations, those identified as migrants *tout court* are notified with a rejection/expulsion order and, where places are available in identification and expulsion centres, are detained in such facilities. Asylum seekers, instead, are channelled to the regional Hubs (see section on Reception Conditions). Syrians, Eritreans and Iraqis who may adhere to the relocation process are accommodated in *ad hoc* regional hubs or regional hubs with *ad hoc* places (hotels, barracks, CARA of Bari and Crotone, etc.) The first group of relocated persons were accommodated in **Villa Sikania** near **Agrigento** (Sicily). Moreover, UNHCR officers are also present in the "hotspot" to monitor the situation.

According to the Italian Roadmap the "hotspot" approach will apply the following procedure:

- All disembarked people is subject to a medical screening.
- Soon after the medical screening, each migrant is interviewed by Police authorities supported by FRONTEX for the compilation of the so-called "*foglio notizie*" to collect basic whereabouts of the person concerned. EASO personnel support the competent authorities to identify possible candidates for relocation. These persons can be subject to additional interviews by investigative police supported by Frontex and Europol staff in order to gather useful information for intelligence and prosecution purposes.
- Following the pre-identification process, all persons are photographed and fingerprinted.
- Asylum seekers will be then admitted to the asylum procedure and will formalize their asylum request through the "*Modello C3*". Those who may adhere to the relocation process will formalise their asylum request through an *ad hoc* "*Modello C3*" in English with the support of experts selected by EASO.
- Asylum seekers are transferred to the regional Hubs dislocated in the entire national territory.
- It is envisaged in each "hotspot" area the use of 5 mobile units for the photo and fingerprinted procedures.

Considering that the vast majority of people arriving in Italy tend to proceed to other countries to present their asylum claim without even registering, to avoid being returned to Italy under the Dublin III Regulation, the question on how these people will be forced to register remains. The potential use of force in registration procedures is indeed one of the major concerns of CIR in relation to the "hotspots", and there are credible reports stating that a proportionate use of force will be used by Italian authorities in an effort to fingerprint everyone who arrives. Another concern raised by CIR and shared by ECRE are the conditions under which people will be held while waiting to be registered, and the need to ensure that they do not amount to detention.[54] There are still many questions surrounding their implementation and the protection that will be granted to new arrivals. Christopher Hein stated that a strong monitoring presence by civil society is needed for a proper mechanism to be put in place and to ensure the effective functioning of this approach. With the relocation process still not under way, and with constant delays put forward at the European level, the ongoing developments need to be accurately and closely followed to ensure compliance with the international, European and national legal frameworks.

So far, around 300 people, mostly from Eritrea, have already been identified at the **Lampedusa** "hotspot", and the process is reported to have gone quite smoothly. However, while Syrians and Eritreans may be more cooperative in the registration process – as they have a chance to be relocated to other Member States – the situation will need to be closely monitored as regards other nationalities. For all the other asylum seekers in fact, the relocation will not be applicable and therefore, if registered in Italy, they will

53 Redattore Sociale, 'Migranti, hotspot dal 17 settembre. "Saranno centri di detenzione"', 10 September 2015, available in Italian at: http://bit.ly/1hAjtns.

54 For additional information, see ECRE, '"Hotspots": the Italian example – conversation with Christopher Hein from CIR', 2 October 2015, available at: http://bit.ly/1hBUUGN.

have to claim asylum in Italy. According to the Ministry of Interior, nobody has refused to be fingerprinted so far. Migrants have been held for one day only instead of 48 hours, and not four days as previously presumed.[55]

Moreover, CIR reported very worrying information about a group of 16 Gambians who were immediately shifted from the Lampedusa "hotspot" to a detention centre in **Caltanissetta**, with a deportation procedure already underway. "This calls into question whether they were effectively granted the possibility to apply for asylum and whether there will be a 'group' approach, and all those coming from a country which is not either Syria or Eritrea will be automatically deported."[56]

At the beginning of November 2015, CIR and other organisations belonging to the National Asylum Round Table sent a letter to the Minister of the Interior asking to meet him to express serious concerns on the bad practices adopted by the Italian police but no answer was received so far. These practices of dubious constitutional legitimacy were adopted concurrently with the implementation of the "hotspot" approach by the police together with Frontex personnel.

Among the bad practices are:

- Limitation of access to the asylum procedure for specific nationalities, mainly from West Africa;
- Hundreds of people notified with a rejection/expulsion order in the identified "Hotspot" areas. Most of them were not detained in identification and expulsion centres, due to lack of places available in CIEs;
- Migrants received none or inadequate information on the procedure applied, or on the possibility to make an asylum request, or on the possibility and modalities to lodge an appeal.
- No access to NGOs nor to the UNHCR.

Push-backs

Difficulties in the access to the asylum procedure have also been encountered in the framework of certain modalities of removal carried out in the Adriatic ports. These "returns" or "informal custody to the captain" to Greece of third-country nationals coming from this country are issued without any formal proceeding. These "returns" are based on bilateral readmission agreements signed by Italy with Greece.[57] The most critical aspect is that this "informal return" is a *de facto* removal of the person concerned without any written notification of this measure and the relevant procedural guarantees attached thereto.[58] In the case the individual situation is not correctly examined by the authorities, there is a risk of exposing the third-country national returned to Greece to indirect *refoulement*.

On 21 October 2014, in *Sharifi v Italy and Greece*,[59] the ECtHR condemned Italy for the "automatic return" carried out by the Italian authorities in the ports of the Adriatic Sea against persons who were removed to Greece and were deprived of any procedural and substantive rights. With regard to the readmission of foreigners from the Adriatic ports to Greece, no information are available of any readmission to Greece. According to CIR,[60] it seems that there is a reduction of stowaways arriving at the Adriatic ports. This is probably due to more strict controls by the ferry companies and to the change of route from Afghan and Pakistani nationals who tend to pass through Hungary, Austria before reaching Tarvisio, Udine and Gorizia or from Austria try to reach Germany or other European countries. However, considering that from spring 2015 the major irregular migration flows moved eastward from the Central Mediterranean to the

55 CIR, 'Lampedusa, aperto il 1° degli hotspot. La posizione del CIR', 23 September 2015, available in Italian at: http://bit.ly/1PcnMnI.

56 ECRE, '"Hotspots": the Italian example – conversation with Christopher Hein from CIR', 2 October 2015, available at: http://bit.ly/1hBUUGN.

57 CIR, *Access to protection: a human right*, October 2013, 22.

58 *Ibid*.

59 ECtHR, *Sharifi and others v Italy and Greece*, Application No 16643/09, 21 October 2014, available in French.

60 Currently, CIR manages the border service only at Brindisi port.

Eastern Mediterranean / Western Balkans route, with thousands of persons per day, we expect to receive an increased mixed migration flow entering from the North and from the Adriatic Sea.

According to CIR, UNHCR and other NGOs no push-backs have been registered in 2015.

2. Regular procedure

2.1. General (scope, time limits)

Indicators: Regular Procedure: General

1. Time-limit set in law for the determining authority to make a decision on the asylum application at first instance: 33 days – 18 months[61]
2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? ☒ Yes ☐ No
3. Backlog of pending cases as of 30 September 2015: 50,460

The Territorial Commissions

The authorities competent to examine the asylum application and to take first instance decisions are the Territorial Commissions for the Recognition of International Protection (CTRPI) and Sub-commissions, which are administrative bodies specialised in the field of asylum, under the Ministry of Interior.

On 23 August 2014, Decree-Law 119/2014 entered into force. It has established the possibility of enlarging the number of the Territorial Commissions from 10 to 20,[62] as well as to create 30 additional sub-Commissions in the entire national territory,[63] in order to boost and improve the management of the increasing number of applications for international protection.

The initial 10 Territorial Commissions are based in: Gorizia, Milan, Rome, Foggia, Syracuse (Sicily), Crotone, Trapani, Bari, Caserta and Torino. In February 2015, a new Territorial Commission started operations in Verona,[64] while another was established in Enna at the end of March 2015,[65] and another in Campobasso at the end of April 2015.[66]

Each Territorial Commission is composed by 4 members:[67]

- 2 representatives of the Ministry of Interior, one of which is a senior police officer;
- 1 representative of the Municipality (or Province or Region); and
- 1 representative of UNHCR.

The members of the Territorial Commission are appointed based on experience in the field of immigration and asylum or the protection of human rights, and participate in trainings organised by the National

61 The personal interview must be conducted within 30 days of the registration of the application, and a decision must be taken within 3 *working* days of the interview.
62 Article 4(2) LD 25/2008, as amended by Article 5(1)(a)(2) Decree-Law 119/2014.
63 Article 4(2-bis) LD 25/2008, as amended by Article 5(1)(a)(3) Decree-Law 119/2014.
64 CNDA, 'Operativa a Verona la commissione territoriale per il riconoscimento della protezione internazionale', 2 February 2015, available in Italian at: http://bit.ly/1EwZQRl.
65 CNDA, 'Instituta ad Enna la commissione territoriale per il riconoscimento della protezione internazionale', 23 March 2015, available in Italian at: http://bit.ly/1HvQ6IY.
66 CNDA, 'Nuova sezione a Campobasso per la commissione protezione internazionale Molise', 27 April 2015, available in Italian at: http://bit.ly/1FfLTc2.
67 Article 4(3) LD 25/2008.

Commission for the Right of Asylum (CNDA).[68] According to LD 142/2015, before the appointment of the members of the Territorial Commissions, the absence of incompatibility and conflict of interests must be evaluated. The Decree specifies that for each member of CTRPI are appointed one or more substitutes. Members and substitutes have to be skilled or trained in the field of migration, asylum and human rights in order to be nominated.[69] The LD 142/2015 has adopted another important norm which provides that the CNDA adopts a code of conduct for the members of the CTRPI, the interpreters and the personnel supporting them.[70]

Under the Procedure Decree, the decision on the merits of the asylum claim must be taken by at least a majority of 3 members of the Territorial Commission; in the case of a 2:2 tie, the President's vote prevails.[71] However, according to the August 2014 legislative amendments,[72] only one member is in charge of conducting the personal interview, where possible of the same sex as the applicant. The interviewing officer then presents the case to the other members of the Commission in order for a joint decision to be taken.

Time-limits

According to previous legislation valid until the end of September 2015, the personal interview had to be carried out within 30 calendar days after the determining authorities (Territorial Commissions) have received the asylum application from the Questura.[73] A decision on the merits had to be taken within 3 working days following the substantive interview.[74] However, where a Territorial Commission was unable to adopt a decision within 3 days due to the need to gather new elements, the Commission had to inform the asylum applicant and the competent Questura accordingly.[75] In practice, however, these time-limits were not complied with. The procedure usually takes much longer considering on one hand that the competent determining authorities receive the asylum application only after the formal registration and the forwarding of the *Modello C/3* form through VESTANET has taken place. On the other hand, the first instance procedure usually lasts several months, while the delays for different determining authorities in issuing a decision vary between Territorial Commissions. In cities such as Rome, the entire procedure is generally longer and takes from 6 up to 12 months.

According to the LD 142/2015 the CTRPI interviews the applicant within 30 days after having received the application and decides in the 3 following working days. When the CTRPI is unable to take a decision in this time limit and needs to acquire new elements, the examination procedure is concluded within six months of the lodging of the application. The CTRPI may extend the time limit for a period not exceeding a further nine months, where:

a. Complex issues of fact and/or law are involved;
b. A large number of asylum applications are made simultaneously; or
c. The delay can clearly be attributed to the failure of the applicant to comply with his or her obligations of cooperation.

By way of exception, the CTRPI, in duly justified circumstances, may further exceed this time limit by three months where necessary in order to ensure an adequate and complete examination of the application for international protection.[76] In the light of the different possibilities of extension, the asylum procedure may last for a maximum period of 18 months.

68 Article 2(1) PD 21/2015.
69 Article 4(3) LD 25/2008 as amended by LD 142/2015.
70 Article 5(1ter) LD 25/2008 as amended by LD 142/2015.
71 Article 4(4) LD 25/2008; Article 2(3) PD 21/2015.
72 Article 12(1) LD 25/2008, as amended by Article 5(1)(b)(2) Decree-Law 119/2014.
73 Article 27(2) LD 25/2008.
74 Article 27(2) LD 25/2008.
75 Article 27(3) LD 25/2008.
76 Article 27(2)(3) LD 25/2008, as amended by LD 142/2015.

Suspension

LD 142/2015 states that when the applicant leaves the reception centre without any justification or escapes detention measure without having been interviewed, the CTRPI suspends the examination of the application. The applicant, only once, may request the reopening of the suspended procedure within 12 months from the suspension decision. After this deadline, the CTRPI declares the extinction of the procedure. Any application made after the declaration of the extinction of the procedure is submitted to a preliminary examination as a subsequent application (see section on Subsequent Applications). During the preliminary examination, the grounds supporting the admissibility of the application and the reasons of the moving away from the centres are examined.[77]

Outcomes of the regular procedure

There are 5 possible outcomes to the regular procedure, as well as a fifth outcome inserted by LD 142/2015. The Territorial Commission may decide to:[78]

- Grant refugee status and issue a 5-year renewable residence permit;
- Grant subsidiary protection and issue a 5-year renewable residence permit;[79]
- Recommend to the Police to issue a 2-year residence permit on humanitarian grounds e.g. for health conditions;
- Reject the asylum application; or
- Reject the application as manifestly unfounded.[80]

2.2. Prioritised examination / Fast-track processing

Under Article 28 of the previous Procedure Decree, the following claims are examined by the first instance authorities under a prioritised procedure:

(a) Claims deemed manifestly well-founded;[81]
(b) Claims by asylum seekers deemed vulnerable;[82]
(c) Claims by asylum seekers held in:
   - ❖ Reception centres for asylum seekers (CARA), with the exception of persons held in CARA for the purposes of verifying or assessing identity; [83]
   - ❖ Identification and Expulsion Centres (CIE) in application of Article 1F of the 1951 Geneva Convention or for having been convicted for crimes such as smuggling, drugs trafficking and sexual exploitation, or having been notified with an expulsion or a rejection order at the border.[84]

No time-limit was envisaged by the Procedure Decree for the prioritised procedure, except for asylum seekers held in CIE. In this case, the determining authorities must conduct the personal interview within 7 calendar days from the receipt of the asylum application and must take a decision within 2 following calendar days following the interview. The PD 21/2015 entered into force in March 2015, providing that the timeframe for the personal interview as soon as possible within the regular terms of 30 days from the

77 Article 23-bis LD 25/2008, as inserted by LD 142/2015.
78 Article 6(1) PD 21/2015.
79 The duration of validity of residence permits issued both to refugees and beneficiaries of subsidiary protection has been equalised by Article 23(2) LD 18/2014, which extended the duration of residence permit for subsidiary protection beneficiaries from 3 to 5 years.
80 Article 32(1)(b-bis) LD 25/2008, as inserted by LD 142/2015.
81 Article 28(1)(a) LD 25/2008.
82 Article 28(1)(b) LD 25/2008, citing Article 8 of the Reception Decree (LD 140/2005).
83 Article 28(1)(c) LD 25/2008, citing Article 20 LD 25/2008. Under Article 20, the prioritised procedure should be applied also in the cases of: (1) asylum seekers who have presented the asylum request after they have been apprehended for having avoided or attempted to avoid the border controls; and (2) asylum seekers presenting the application after being apprehended in situation of irregular stay.
84 Article 28(1)(c) LD 25/2008, citing Article 21 LD 25/2008.

receiving of the asylum application and decides within the 3 following days.[85] However, since the LD 142/2015 has modified LD 25/2008, this Decree has indicated that the PD21/2015 will be amended consequently.[86]

In practice, the prioritised procedure applied to those held in CIE and rarely to the other categories. Nevertheless, practice shows that vulnerable applicants have more chances to benefit from the prioritised procedure, even though this possibility is more effective in case they are assisted by NGOs or they are identified as such at an early stage. With regard to victims of torture and extreme violence, on the basis of CIR's experience, the prioritised procedure is rarely applied, since these asylum seekers are not identified at an early stage by police authorities. In fact, torture survivors are usually only recognised as such in a later phase thanks to NGOs providing them with legal and social assistance or during the personal interview by the determining authorities. In practice, the prioritised procedure is also not applied to unaccompanied children mainly because of the delay in appointing their legal guardian by the guardianship judge (*giudice tutelare)*.

The LD 142/2015 provides that the President of the CTRPI identifies the cases under the prioritised or accelerated procedure.

The **prioritised procedure** now applies:

a. Where the application is likely to be well-founded;
b. Where the applicant is vulnerable, in particular unaccompanied minors or in need of special procedural guarantees;
c. When the application is made by the applicant placed in an administrative detention centre;
d. The application is examined by the determining authorities who may omit the interview of applicants coming from those countries identified by the CNDA, when considering that there are sufficient grounds available to recognise subsidiary protection. The competent CTRPI, before adopting such a decision, informs the applicant that has the opportunity, within 3 days from the communication, to be admitted to the personal interview. In absence of such request, the CTRPI takes the decision.[87]

The LD 142/2015 has introduced the accelerated procedure,[88] which applies where the application is made by the applicant placed in administrative detention centres (CIE). In this case, the police headquarter, upon receipt of the application, immediately transmits the necessary documentation to the CT that within 7 days of the receipt of the documentation takes steps for the personal hearing. The decision is taken within the following 2 days.[89] These time limits are doubled when:

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

According to Article 28-bis LD 142/2015, the CTRPI may exceed the mentioned time limits where necessary to ensure an adequate and complete examination of the application for international protection, except the (maximum) time limits of 18 months.[90] Where the application is made by the applicant placed in CIE the above time-limits[91] are reduced by a third (maximum 6 months).[92]

85 Article 7(2) PD 21/2015.
86 Article 30 LD 142/2015.
87 Article 28 LD 25/2008, as amended by LD 142/2015.
88 Article 28bis LD 25/2008, as amended by LD 142/2015.
89 Article 28bis(1) LD 25/2008, as amended by LD 142/2015.
90 Article 27(3)-(3bis) LD 25/2008, as amended by LD 142/2015.
91 Article 27(3) LD 25/2008, as amended by LD 142/2015.
92 Article 28-bis(2) LD 25/2008, as amended by LD 142/2015.

Moreover, LD 142/2015 states that, when the applicant leaves the reception centre without any justified reasons, or escapes detention measure without having been interviewed, the CTRPI suspends the examination of the application. The applicant, only once, may request the reopening of the suspended procedure within 12 months from the suspension decision. After this deadline, the CTRPI declares the extinction of the procedure. Any application made after the declaration of the extinction of the procedure is submitted to a preliminary examination in line with Article 29(1-bis) LD 142/2015. During the preliminary examination the grounds supporting the admissibility of the application and the reasons of the moving away from the centers are examined.[93]

2.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

The Procedure Decree, as amended and confirmed by LD 142/2015, provides for a personal interview of each applicant, which is not public.[94] The LD 142/2015 has clarified that during the personal interview the applicant can disclose exhaustively all elements supporting his/her asylum request.[95]

In practice, asylum seekers are systematically interviewed by the determining authorities. However, Article 12(2) of the Procedure Decree foresees the possibility to omit the personal interview where:

(a) Determining authorities have enough elements to grant refugee status under the 1951 Geneva Convention without hearing the applicant; or

(b) The applicant is unable or unfit to be interviewed, as certified by a public health unit or by a doctor working with the national health system. In this regard, LD 142/2015 provides that the personal interview can be postponed due to the health conditions of the applicant duly certified by a public health unit or by a doctor working with the national health system or for very serious reasons.[96] The applicant is allowed to ask for the postponement of the personal interview through a specific request with the medical certificates.[97]

Moreover, the Decree has also introduced a new provision stating that the CTRPI may also omit the personal interview:

(c) For applicants coming from those countries identified by the CNDA, when considering that there are sufficient grounds to grant them subsidiary protection.[98]

The competent Territorial Commission, before adopting such a decision, informs the applicant that he or she has the opportunity, within 3 days from the communication, to be admitted to the personal interview. In absence of such request, the Territorial Commission takes the decision to omit the interview. This provision is particularly worrying, considering that it derogates from the general rule on the basis of which the personal interview is also aimed to verify first whether the applicant is a refugee, and if not, the conditions to grant subsidiary protection. CIR believes that if the applicant in not duly and properly

93 Article 23-bis LD 25/2008, as amended by LD 142/2015.
94 Article 12(1) LD 25/2008; Article 13(1) LD 25/2008.
95 Article 13(1-bis) LD 25/2008, as amended by LD 142/2015.
96 Article 12(3) LD 25/2008.
97 Article 5(4) PD 21/2015.
98 Article 12(2-bis) LD 25/2008, read in conjunction with Article 5(1-bis), as amended by LD 142/2015.

informed on the consequences of not being interviewed by the CTRPI, he or she may lose the opportunity to be recognised as refugee according to the Geneva Convention.

The law provides for the interview to be conducted generally by one member of the CTRPI and, where possible, by an interviewer of the same gender as the applicant.[99]

In the phases concerning the presentation and the examination of the asylum claim, including the personal interview, applicants must receive, where necessary, the services of an interpreter in their language or in a language they understand.[100] Moreover, LD 142/2015 specifies that, where necessary, the documents produced by the applicant shall be translated.[101]

At border points, however, these services may not be always available depending on the language spoken by asylum seekers and the interpreters available locally. Given that the disembarkation of asylum seekers does not always take place at the official border crossing points, where interpretation services are available, there may therefore be significant difficulties in promptly providing an adequate number of qualified interpreters also able to cover different idioms.

In practice, there are not enough interpreters available and qualified in working with asylum seekers during the asylum procedure. However, specific attention is given to interpreters ensuring translation services during the substantive interview by determining authorities. The Consortium of Interpreters and Translators (ITC), which provides this service, has drafted a Code of Conduct for interpreters.

Audio or video recording was not previously foreseen in the law, but according to LD 142/2015 the personal interview may be recorded. The recording is admissible as evidence in judicial appeals against the CTRPI's decision. Where the recording is transcribed, the signature of the transcript is not required by the applicant.[102]

Interviews are transcribed in a report that is given to the applicant at the end of the interview.[103] Applicants are given the opportunity to make further comments and corrections soon after the personal interview before the final official report is handed over to them. The quality of this transcript can vary depending on the interviewer and the Territorial Commission which conducts the interview, but complaints on the quality of the transcripts are not frequent.

Moreover, according to LD 142/2015, the applicant receives a copy of the report and has the opportunity to make comments that are provided at the bottom of the report. The norm confirms that the CTRPI adopts adequate measures to ensure the confidentiality concerning the identity and statements of applicants.[104]

99 Article 12(1-bis) LD 25/2008, as amended by Article 5(1)(b)(2) Decree-Law 119/2014.
100 Article 10(4) LD 25/2008.
101 Article 10(4) LD 25/2008 as amended by LD 142/2015.
102 Article 14(2-bis) LD 25/2008, as amended by LD 142/2015.
103 Article 14 LD 25/2008.
104 Article 14 LD 25/2008 as amended by LD 142/2015.

2.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure? ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ No
2. Average processing time for the appeal body to make a decision: 6-18 months

The Procedure Decree provides for the possibility for the asylum seeker to appeal before the competent Civil Tribunal (a judicial body) against a decision issued by the Territorial Commissions rejecting the application, granting subsidiary protection instead of refugee status or requesting the issuance of a residence permit on humanitarian grounds instead of granting international protection.[105]

The appeal must be lodged within 30 calendar days from the notification of the first instance decision,[106] and must be submitted by a lawyer.[107] Article 35 of the Procedure Decree, as amended by LD 142/2015, confirms this timeframe.[108] According to the previous norm, rejected asylum seekers in CIE and CARA, with some exceptions, had only 15 calendar days to lodge an appeal.[109] In this respect, it should be underlined that, according to the amendments introduced by LD 142/2015, applicants placed in CIE and those under the accelerated procedure have only 15 days to lodge an appeal (see section on Accelerated Procedure).[110]

Moreover, new criteria to establish the competence of the Court have been established. In addition to the competence determined on the basis of the place of the competent CTRPI, now the competence is established also on the basis of the place where the applicant is placed (governmental reception centres, SPRAR and CIE).[111]

The appeal has an automatic suspensive effect.[112] However, there are exceptions to automatic suspensive effect in the following cases:[113]

(a) The applicant is detained in CIE;
(b) The claim is deemed inadmissible;
(c) The claim is deemed "manifestly unfounded";
(d) The claim is made by an applicant under the accelerated procedure after having been apprehended for avoiding or attempting to avoid border controls, or immediately after, or for irregular stay, with the sole aim to avoid an expulsion or rejection order.[114]

However, in those cases, the applicant can request individually a suspension of the return order from the competent judge. The court must issue a non-appealable decision granting or refusing suspensive effect within 5 days.[115] Moreover, when the subsequent application has been rejected for the second time, the appeal or the request of suspension do not suspend the effects of the order adopted.[116]

Onward appeal

105 Article 35(1) LD 25/2008, as amended by LD 150/2011.
106 Article 35(1) LD 25/2008.
107 Article 35(1) LD 25/2008.
108 Article 19 LD 150/2011, as amended by Article 27 LD 142/2015.
109 Article 35(1) LD 25/2008, citing Article 21 LD 25/2008. In this respect, LD 142/2015 provides that the existing CARA centres may perform the functioning of governmental first reception centres as set out by Article 9(3).
110 Article 19(3) LD 150/2011 as amended by Article 27 LD 142/2015.
111 *Ibid*.
112 Article 35 LD 25/2008, as amended by Article 19(4) LD 150/2011 and Article 27 LD 142/2015.
113 Article 35 LD 25/2008, as amended by Article 19(4) LD 150/2011 and Article 27 LD 142/2015.
114 Article 28-bis(c) LD 25/2008, as inserted by LD 142/2015.
115 Article 35 LD 25/2008, as amended by Article 27 LD 142/2015.
116 Article 19 LD 150/2011, as amended by Article 27 LD 142/2015.

The Tribunal can either reject the appeal or grant international protection to the asylum seeker. The amended Article 35 of the Procedure Decree does not lay down the conditions for appealing against the decision of the Civil Tribunal. However, by virtue of the Civil Procedure Code, which is applicable in this context, the appeal to the Court of Appeal must be filed within 30 days of the Civil Tribunal's decision. A final appeal before the Cassation Court, the highest appellate court, can be lodged within 60 days of the ruling of the Court of Appeal. Asylum seekers have the right to be heard by the court, which in any event has the discretion to hear the applicant. In this regard, it should be pointed out that, prior to the amendment of the Procedure Decree by LD 150/2011, the Civil Tribunal had to issue a judgment within 3 months from the submission of the appeal, based on both facts and points of law.[117] By virtue of LD 150/2011, no time-limit is provided for delivering a decision on appeals. As of January 2015, based on information provided by lawyers to CIR, the average processing time for the reviewing body to make a first decision took generally 6 to 18 months or more. According to LD 142/2015, the Tribunal, the Appeal Court and the Cassation Court issue a judgment within 6 months from the submission of the appeal.[118]

In practice, asylum seekers who file an appeal against the first and second judicial instance decision, in particular those who are held in CARA and CIE, have to face several obstacles. The time limit of 15 days for lodging an appeal in those cases concretely jeopardises the effectiveness of the right to appeal since it is too short for finding a lawyer or requesting free legal assistance, and for preparing the hearing in an adequate manner. This short time-limit for filing an appeal does not take due consideration of other factors that might come into play, such as the linguistic barriers between asylum seekers and lawyers, the lack of knowledge of the legal system, the long distance between the residence of the asylum seekers and the competent tribunals. In addition, lawyers are not always adequately qualified to draft good quality appeals.

2.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?
   ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview ☐ Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
   ☐ Yes ☒ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☒ Representation in courts ☒ Legal advice

Legal assistance at first instance

According to Article 16 of the Procedure Decree 25/2008, as confirmed by LD 142/2015, asylum seekers may benefit from legal assistance and representation during the first instance of the regular and prioritised procedure at their own expenses.

In practice, asylum applicants are usually supported before and sometimes during the personal interview by legal advisors or lawyers financed by NGOs or specialised assisting bodies where they work. Legal assistance provided by NGOs depends mainly on the availability of funds deriving from projects and public or private funding.

A distinction should be made between national public funds and those which are allocated by private foundations and associations. In particular, the main source of funds provided by the State is the National Fund for Asylum Policies and Services, financed by the Ministry of Interior. This fund allowed, *inter alia*, local entities such as municipalities and provinces to benefit and therefore to allocate through specific

117 Article 35(10) LD 25/2008, deleted by Article 19 LD 150/2011.
118 Article 19(9) LD 150/2011, as amended by Article 27 LD 142/2015.

projects economic resources to NGOs in order to offer legal counselling services inside CARA, in addition to the legal services provided by the CARA management body. Since 2014, however, legal services inside CARA are exclusively provided by the CARA management body. With regard to reception facilities belonging to the SPRAR system, each project provides legal assistance for asylum seekers hosted in the centres. In this respect, a new provision introduced by LD 142/2015 provides that the Ministry of Interior can establish specific agreements with UNHCR or other organisations with experience in assisting asylum seekers, with the aim to provide free information services on the asylum procedure as well on the revocation one and on the possibility to make a judicial appeal. These services are provided in addition to those ensured by the manager of the accommodation centres.[119]

National funds are also allocated for providing information and legal counselling at official land, air, sea border points and where migrants arrive by boat.[120] In addition, some funds for financing legal counselling may also be provided from European projects / programmes or private foundations. However, it should be highlighted that these funds are not sufficient.

The lawyer or the legal advisor from specialised NGOs prepares asylum seekers for the personal interview before the determining authority, providing them all necessary information about the procedure to follow, pointing out the main questions that may be asked by the Territorial Commission members and underlining the relevant information concerning their personal account. Moreover, the lawyer or the legal advisor has a key role in gathering the information concerning the personal history of the applicant and the country of origin information, and in drafting a report that, when necessary, is sent to the Territorial Commission, in particular with regard to vulnerable persons such as torture survivors. In this regard, the lawyer or the legal advisor may also inform the determining authorities of the fact that the asylum seeker is unfit or unable to undertake the personal interview so that the Commission may decide to omit or postpone it.

Lawyers may be present during the personal interview but they do not play the same role as in a judicial hearing. The applicant has to respond to the questions and the lawyer may intervene to clarify some aspects of the statements made by the applicant.

Nevertheless, the vast majority of asylum applicants go through the personal interview without the assistance of a lawyer since they cannot afford a lawyer and specialised NGOs have limited capacity due to lack of funds.

Legal assistance in appeal procedures

With regard to the appeal phase, free state-funded legal aid ("*gratuito patrocinio*"), is provided by law.[121] Nevertheless, the PD 115/2002 concerning the judicial expenses sets out an important restriction to the enjoyment of this right: only those applicants who may prove to have a yearly taxable income lower than €11,369.24 may benefit from free legal aid.[122]

The law specifies that in case of income acquired abroad, the foreigner needs a certification issued by the consular authorities of their country of origin.[123] However, the law prescribes that if the person is unable to obtain this documentation, he or she may alternatively provide a self-declaration of income.[124]

In this regard, during the last years there has been a worrying trend developed by the Rome Bar Council which has adopted the practice to systematically require an official certification of the income released by the consular authorities of the country of origin of the asylum seeker concerned in order to guarantee their

119 Article 10(2-bis) LD 25/2008 as amended by LD 142/2015.
120 Article 11(6) Unified Code on Immigration (LD 286/1998).
121 Article 16(2) LD 25/2008.
122 Article 76(1) PD 115/2002.
123 Article 79(2) PD 115/2002.
124 Article 94(2) PD 115/2002.

access to the *gratuito patrocinio*. As highlighted by UNHCR and several NGOs,[125] taking into consideration that in the majority of cases the persecution of asylum seekers is perpetrated by the authorities of their country of origin and, thus, that the persons concerned are in most cases unable to present themselves to the consular authorities to obtain the certification of their income, the practice adopted by the Rome Bar Association prevents many applicants from having access to free legal aid. In this respect, a complaint presented in November 2014 to the Civil Court of Rome led to a successful result, since the Tribunal finally removed the obstacles to the concrete access to free legal aid also to asylum seekers in the province of Rome, establishing the principle that the asylum seeker cannot be forced to address his or her diplomatic or consular authority to demand certifications. This judgment may put an end to the poor practice in the province of Rome in this regard. Moreover, it will not be necessary to present an affidavit authenticated by the Official of the Municipality, for which the possession of an ID document is required; the applicant can instead present a self-declaration without obligation to present an identity document.[126]

Article 8 PD 21/2015 clarified that, in order to be admitted to free legal assistance, the applicant can present a self-declaration instead of the documents prescribed by Article 79 DPR 115/2002.

In addition, access to free legal assistance is also subject to a merits test by the competent Bar Council ("*Consiglio dell'ordine degli avvocati*") which assesses whether the asylum seeker's motivations for appealing are not manifestly unfounded.[127] Moreover, it may occur that the applicant is initially granted free legal aid by a Bar Council but, as prescribed by law, the tribunal may revoke the decision if it considers that the admission requirements assessed by the Bar Council are not fulfilled.[128]

Applicants who live in large cities have more chances to be assisted by specialised NGOs or legal advisors compared to those living in remote areas, where it is more difficult to find qualified lawyers specialised in asylum law. As discussed in the section on Regular Procedure: Appeal, in the Italian legal system, the assistance of a lawyer is more needed in the appeal phase. On the basis of CIR's experience, qualified lawyers are available to assist asylum seekers in lodging an appeal against the negative decision issued by the determining authorities. Concretely the problem of lawyers in taking on the case is the uncertainty of obtaining free legal aid by the State, as well as the delay in receiving State reimbursement i.e. the small amount of money foreseen for each case. In some cases, lawyers evaluate the individual case on the merits before deciding whether to appeal the case or not.

To conclude, it might happen that lawyers paid by the Italian State may also unlawfully request funds from the applicants. This practice has been denounced by some NGOs and by some lawyers during several conferences and workshops, and has also been reported directly to CIR by asylum seekers.

125 UNHCR, *Advisory Opinion to the Rome Bar Council,* January 2013, available at: http://bit.ly/1Qni6ol; CIR *et al.*, *Letter to the Ministry of Interior, the Ministry of Justice and the Ministry of Foreign Affairs*, 10 March 2013, available in Italian at: http://bit.ly/1VPVsGu.

126 Rome Court (XI Civil Section), Ordinance of 17 November 2014, available in Italian at: http://bit.ly/1GFwoLz.

127 Article 126 PD 115/2002.

128 Article 136 PD 115/2002.

3. Dublin

3.1. General

Indicators: Dublin: General[129]

1. Number of outgoing requests in 2015 (January-June): 4,871
2. Number of incoming requests in 2015 (January-June): 14,019
   - ❖ Top 3 sending countries: DE 5,218; CH 3,502; SE 1,318
3. Number of outgoing transfers in 2015: Not available
4. Number of incoming transfers in 2015: Not available

In 2014 the outgoing requests were 5,412, while the incoming requests were 28,904. The outgoing transfers in 2014 were 10, while the incoming transfers were 1,918.[130]

Application of the Dublin criteria

According to CIR, the Italian authorities tend to use circumstantial evidence for the family unity purposes such as photos, reports issued by the case-workers, UNHCR's opinion in application of the Dublin Implementing Regulation (Regulation 118/2014), and any relevant information and declarations provided by the concerned persons and family members.

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

Regrettably no data on the criteria used for both the incoming and outgoing requests are available. However, according to CIR, the criterion most frequently used in the incoming requests is that of first entry.

The dependent persons and discretionary clauses

The Dublin Unit does not provide data on the application of the discretionary clauses under Article 17 of the Dublin III Regulation. The last data available dates back to 2008, under the Dublin II Regulation. No data are available on the use of the discretionary clauses. However, according to CIR it seems that the "sovereignty clause" is more frequently applied than the "humanitarian clause", in particular on vulnerability and health grounds.

3.2. Procedure

Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? 10-40 days

All asylum applicants are photographed and fingerprinted by police authorities who systematically store their fingerprints in Eurodac. When there is a Eurodac hit, the police contact the Italian Dublin Unit within the Ministry of Interior. Moreover, after the formal registration of the asylum request, on the basis of the

129 Ministry of Interior, *Rapporto sull'accoglienza di migranti e rifugiati in Italia. Aspetti, procedure, problemi*. Rome, October 2015, available at: http://bit.ly/1Q9TJ11, 18.

130 *Ibid.*

information gathered and if it considers that the Dublin III Regulation should be applied, the Questura transmits the pertinent documents to the Dublin Unit which examines the criteria set out in the Dublin III Regulation to identify the Member State responsible.

However, as of 2013, *Praesidium* partners and CIR operators working in CARA centres have reported cases where asylum seekers refused to be fingerprinted or have been reluctant to do so in Lampedusa or upon arrival to avoid the application of the Dublin Regulation. After disembarkation or when migrants are transferred to other reception centres in Southern Italy, some leave during the night for onward travel. The refusal or reluctance to be fingerprinted is particularly prevalent among Eritreans, Somalis and Syrians. This phenomenon has been registered in other locations where migrants and refugees disembark. Refusal to be fingerprinted has also been reported at the border point of the Adriatic ports (Venezia, Bari, Ancona and Brindisi). In these ports, asylum seekers come from Greece, though their number is relatively low. Even if these persons are in need of protection, it can happen that they decide not to ask for asylum in Italy, in order to avoid being subjected to the Dublin procedure. Generally speaking, they prefer to reach other European countries for family reasons or for better living conditions. On the contrary, some Syrian families arriving during 2013 in Bari immediately asked for asylum and were then admitted to the asylum procedure. On the same night, however, they left the reception centre, presumably to reach their desired destination countries.[131] The phenomenon of refusal to be fingerprinted remains in 2015 even though very recently it seems that Eritreans are more keen to be fingerprinted due to the relocation programme. The drastic reduction of arrivals of Syrians through the Central Mediterranean should also be taken into consideration.

This issue of Eurodac fingerprinting has been widely discussed at European level in various fora.[132] With regard to the Italian context, a Circular was issued by the Minister of Interior on 25 September 2014, recalling the obligation to fingerprint asylum seekers detected on national territory.[133] The Ministry of Interior gave instructions to the Police to photograph and fingerprint all migrants under whatever circumstances, together with a leaflet to be distributed to migrants in 6 languages informing them that their fingerprints will be obtained, whenever necessary, by the use of force. The Police Trade Unions raised serious concerns on how to implement this Circular, more particularly as regards the legal basis for the use of force, where necessary.[134] Considering that the use of force is extremely difficult to apply in practice and is also forbidden by Italian law, it is expected that soon it will be regulated.[135]

According to the law, the Italian authorities may declare themselves responsible for the examination of applications of asylum seekers held in detention centres (CIE) or reception centres (CARA) with the exception of those staying in CARA in order to have their identity verified.[136]

Individualised guarantees

Information on the provision of individualised guarantees in line with *Tarakhel v Switzerland* are not available. However, in relation to the guarantees for vulnerable cases, in particular to family groups with

131 CIR, *Access to protection: a human right*, October 2013, 46; UNHCR, *UNHCR Recommendations on important aspects of refugee protection in Italy*, July 2013, at 6. Information is also acquired by CIR operators in the field.

132 See e.g. Council of the European Union, *Taking action to better manage migratory flows,* 13747/14, 6 October 2014; European Commission, *A European Agenda on Migration*, COM(2015) 240, 13.

133 The Circular is not public. For information, see I Sesana and V Spagnolo, 'L'Italia cede all'Ue: migrant schedati', *Avvenire* 27 September 2014, available in Italian at: http://bit.ly/1jur88b; Redattore Sociale, 'Stretta del governo, schedati tutti I rifugiati. "Ora l'accoglienza scoppierà"', 26 September 2014, available in Italian at: http://bit.ly/1VPVNsP.

134 CIR, *Access to protection: Bridges not Walls*, October 2013, 73.

135 Commissione parlamentare di inchiesta sul sistema di accoglienza e di identificazione, nonché sulle condizioni di trattenimento dei migranti nei centri di accoglienza, nei centri di accoglienza per richiedenti asilo e nei centri di identificazione ed espulsione resoconto stenografico 20. seduta di giovedì 10 settembre 2015, available at: http://bit.ly/1RfWTAc. See also ASGI, L'identificazione dei cittadini stranieri da parte delle forze di polizia e il divieto dell'uso della forza per i rilievi fotodattiloscopici, available at: http://bit.ly/1Y4cfMm.

136 Article 28(3) LD 25/2008, as amended by LD 142/2015.

minors, on 8 June 2015 the Italian Dublin Unit sent to the other Dublin Units a circular letter,[137] together with a list of SPRAR centres for families transferred to Italy which provide "integrated reception" and adequate services. Following the *Tarakhel v Switzerland* ruling, in practice the guarantees requested are ensured mainly to families and vulnerable cases.

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

Transfers

In case another Member State is considered responsible under the Dublin Regulation, the asylum procedure is declared closed. The Dublin Unit issues a decision that is transmitted to the applicant through the Questura, mentioning the country where the asylum seeker will be returned and the modalities for appealing against the Dublin decision. Afterwards, the Questura arranges the transfer.

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

Since the practical organisation of the transfer is up to the Questura, it is difficult to indicate the average time before a transfer is carried out. The length of the Dublin procedure depends on many factors, including the availability of means of transport, the personal condition of the person, whether or not the Police needs to accompany the person concerned etc.

However, as the majority of applicants abscond and do not present themselves for the transfer, the Italian authorities often ask the responsible Member State for an extension of the deadline up to 18 months, as envisaged under Article 29(2) of the Dublin III Regulation.

Therefore the length of the procedure for the determination of the state responsible under Dublin Regulation usually exceeds the time-limits foreseen by law. In its latest report published in 2013, UNHCR noted that the procedures may often last up to 24 months, thereby severely affecting the living conditions of asylum seekers, including persons with special needs and unaccompanied and separated children.[138] While waiting for the result of their Dublin procedure, asylum seekers are not detained, however.

The applicant usually waits for months without knowing if the Dublin procedure has started, to which country a request has been addressed and the criteria on which it has been laid down. In the majority of cases, it is only thanks to the help of NGOs providing "Dublin cases" with adequate information that asylum seekers are able to go through the whole procedure. When necessary, the NGOs contact the public authorities to get the required information.

In order to overcome this length of the procedure, the Ministry of Interior together with the National Commission for the Right of Asylum (CNDA) decided in 2013 to accelerate the procedures related to Dublin cases hosted in Reception Centres for Asylum-Seekers (CARAs).[139]

According to CIR, presently the procedure may last over one year and no official measures have been adopted so far. Generally speaking, the Italian authorities tend to consider themselves competent for the examination of the asylum application when the duration of the procedure lasts over 8/10 months.

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

138 UNHCR, *UNHCR Recommendations on important aspects of refugee protection in Italy,* July 2013, 7.

139 CNDA, *Note*, Rome 6 May 2013.

The situation of Dublin returnees

Persons transferred to Italy from another Member State usually arrive at the main Italian airports such as Rome and Milan. At the airport, border police provides to the person returned under the Dublin Regulation an invitation letter ("*verbale di invito*") indicating the competent Questura where he or she has to go.

Dublin returnees may face different situations depending on whether they have applied for asylum in Italy before moving on to another European country, and whether the determining authority has taken its decision on the status determination.[140] Accordingly, the procedure to be applied to the Dublin returnee's case will depend on the category they fall into.

- Where the person did not apply for asylum during his or her initial transit or stay in Italy before moving on to another European country, he or she can lodge an application under the regular procedure;

- Where the person had already submitted an asylum applications, the following situations may arise:
  - The Territorial Commission may in the meantime have taken a positive decision and issued a permit of stay;
  - The Territorial Commission may have taken a negative decision. If the applicant has been notified of the decision and lodged no appeal, he or she may be issued an expulsion order and be placed in a CIE. If not, he or she may lodge an appeal when notified.
  - The Territorial Commission has not yet taken a decision and the procedure continues;
  - The person has not presented him or herself for the personal interview and will be issued a negative decision, but may request the Territorial Commission to have a new interview.

The main problem Dublin returnees face when they are transferred back to Italy relates to the reception system, which is, however, a problem common for all asylum seekers. In its ruling of 4 November 2014 in *Tarakhel v Switzerland*,[141] concerning an Afghan family with 6 children who were initially hosted in a CARA in Bari before travelling to Austria and then Switzerland, the ECtHR found that Switzerland would have breached Article 3 ECHR if it had returned the family to Italy without having obtained individual guarantees by the Italian authorities on the adequacy of the specific conditions in which they would receive the applicants. The Court stated that it is "incumbent on the Swiss authorities to obtain assurances from their Italian counterparts that on their arrival in Italy the applicants will be received in facilities and in conditions adapted to the age of the children, and that the family will be kept together."[142]

3.3. Personal interview

Indicators: Dublin: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure? ☒ Yes ☐ No
   - If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No

2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

According to Italian legislation, with the exception of the verbalisation of the asylum request by the competent Questura, no personal interview of asylum seekers is envisaged during the Dublin procedure.

140 For more details see: CIR, *Guide for asylum seekers*: *The Dublin Regulation and the asylum procedure in Italy*, April 2012, available at: http://bit.ly/1VPVQoq; See also CIR, *Dublin II Regulation Italian national report*, December 2012, available at: http://bit.ly/1PcHwaF.

141 Application No 29217/12, 4November 2014, available at. See also CIR, 'Accoglienza di richiedenti asilo in Italia – violazione dei diritti umani? CIR sorpreso della sentenza della Corte di Strasbourgo', 4 November 2014, available in Italian at: http://bit.ly/1AreIWp.

142 *Tarakhel v Switzerland*, para 120.

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

3.4. Appeal

Indicators: Dublin: Appeal
☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure? ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ No

Asylum applicants are informed of the determination of the Dublin Unit concerning their "take charge" / "take back" by another Member State at the end of the procedure when they are notified through the Questura of the transfer decision. Asylum seekers may be informed on the possibility to lodge an appeal against this decision generally by specialised NGOs. As the Dublin III Regulation has established an obligation to provide applicants under the Dublin procedure with the right to appeal,[143] in the case of Italy this is now implemented through the possibility of an appeal without automatic suspensive effect before the Administrative Tribunal (TAR). In fact, together with the appeal, a request to suspend the effects of the decision is lodged before TAR.

According to the law, the transfer decision under Dublin III Regulation can be appealed within 60 calendar days from the notification before the Regional Administrative Tribunal (TAR), the territorial jurisdiction competent for reviewing at first instance the legality of a decision taken by the public administration. TAR is not a specialised body in refugee law. At the second appeal instance, the competent body is the Council of State ("*Consiglio di Stato"*), which is a central administrative court.

The law envisages also the opportunity to lodge an appeal to the President of the Republic within 120 calendar days from the notification of the transfer decision. In this case, unlike the judicial appeal, the applicant may lodge the appeal without the help of a lawyer, even if in practice it is quite difficult to do so autonomously.

The Court, on the basis of the asylum seeker's circumstances, must evaluate the lawfulness of the transfer decision. In case the Court deems the transfer decision unlawful, due to a violation of the Dublin III Regulation or of another rule, or when it deems the application of the sovereignty clause necessary, it may revoke the transfer decision and declare the Italian authorities responsible for the examination of the international protection application. In fact, the Court itself even carries out further investigations when needed. Furthermore, the Court may apply directly, if necessary, the discretionary clauses.

The appeal against a decision to transfer the applicant to another Member States under the Dublin Regulation has automatic suspensive effect. However, according to Italian law, the appeal has no automatic suspensive effect and it is granted subject to the decision of the administrative court, even if not systematically. Since the Dublin III Regulation establishes that States should guarantee the suspensive effect of the appeal against a transfer decision,[144] the transfer should be suspended as soon as the applicant lodges an appeal.

According to Italian jurisprudence, courts also tend to take into account the level of protection and the living conditions of asylum seekers in Greece, Hungary and Malta when taking decisions on the implementation of the Dublin Regulation.

143 Article 27 Dublin III Regulation.
144 Article 27(3) Dublin III Regulation.

3.5. Legal assistance

Indicators: Dublin: Legal Assistance
☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
   ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview
     ☐ Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?
   ☐ Yes ☒ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☒ Representation in courts
     ☒ Legal advice

The same law and practices described under the section on Regular Procedure: Legal Assistance apply to the Dublin procedure with regard to legal assistance, including the merits and means tests.

3.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries? ☐ Yes ☒ No
   - ❖ If yes, to which country or countries?

There is no official policy on systematically suspend the transfer of "Dublin cases" to other States. However, in practice the Italian Unit tend not to transfer these cases to Greece and recently to Hungary, Malta and Bulgaria. With regard to **Greece**, CIR has asked the competent authorities to adopt a general policy to suspend transfers to Greece following the European Court on Human Rights' *M.S.S v Belgium and Greece* judgment, but the Dublin Unit has never taken an official position on this issue.

Concerning **Malta** and **Hungary**, the Italian Ministry of Interior has not taken an official position even though in practice it seems there is a trend of not transferring asylum seekers towards these countries. This practice is also supported by some decisions issued by Administrative Courts, declaring transfers to Malta and Hungary unlawful.[145] In this regard, CIR in 2014 registered however a case of transfer to Hungary under Dublin III Regulation occurred in the CARA of Gorizia.

With regard to Hungary, the Administrative Tribunal of Lazio in its Judgment no. 5292/2012 of 11 June 2012 declared the cancellation of a decision of transfer to Hungary due to the fact that the National authorities cannot automatically consider another European country as a safe country; this requires an assessment. The judge considered also the situation of Hungary in terms of violation of the asylum seekers' human rights.

With regard to Malta, the Council of State in its judgment n. 4195 of 19 October 2012 ruled that "it is sufficiently proved that the minimum standards for asylum seekers are not guaranteed by Malta".67 Therefore, the Tribunal decided to suspend the transfer towards Malta on the basis of former Article 3(2) of the Dublin II Regulation.

4. Admissibility procedure

145 Administrative Tribunal of Lazio, Judgment no. 5292/2012 of 11 June 2012.

N/A.

5. Border procedure (border and transit zones)

N/A.

6. Accelerated procedure

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

The LD 142/2015 has introduced an accelerated procedure that applies where the application is made by the applicant placed in administrative detention centers (CIE).[146]

In this case, the Questura, upon receipt of the application, immediately transmits the necessary documentation to the Territorial Commission which, within 7 days of the receipt of the documentation, takes steps for the personal hearing. The decision is taken within 2 days of the interview.[147]

These time limits are doubled when:

(a) The application is manifestly unfounded as the applicant has only raised issues irrelevant to international protection;
(b) The applicant has introduced a subsequent application for international protection;
(c) The applicant has lodged his or her application after being stopped for avoiding or attempting to avoid border controls or after being stopped for irregular stay, merely in order to delay or frustrate the adoption or the enforcement of an earlier expulsion or rejection order.

According to Article 28-bis of the Procedure Decree, the CTRPI may exceed the abovementioned time limits where necessary to ensure an adequate and complete examination of the application for international protection, except the (maximum) time limits of 18 months.[148] Where the application is made by the applicant placed in CIE, the above terms are reduced to a third (maximum 6 months).[149]

6.2. Personal Interview

Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure? ☒ Yes ☐ No
   - ❖ If so, are questions limited to nationality, identity, travel route? ☐ Yes ☒ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

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

146 Article 28-bis LD 25/2008, as inserted by LD 142/2015.
147 Article 28-bis(1) LD 25/2008 as inserted by LD 142/2015.
148 Article 27(3)-(3-bis) LD 25/2008, as amended by LD 142/2015.
149 Article 28-bis(2) LD 25/2008, as inserted by LD 142/2015.

6.3. Appeal

Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure? ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☐ Yes ☒ No

Applicants under the accelerated procedure have only 15 days to lodge an appeal.[150] This appeal does not have suspensive effect.[151]

6.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview ☐ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice? ☐ Yes ☒ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☒ Representation in courts ☒ Legal advice

The same rules apply as under the regular procedure.

C. Information for asylum seekers and access to NGOs and UNHCR

Indicators: Information and Access to NGOs and UNHCR

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No
   - ❖ Is tailored information provided to unaccompanied children? ☐ Yes ☒ No
2. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
3. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
4. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

According to Article 10 of the Procedure Decree,[152] when a person claims asylum, police authorities must inform the applicant about the asylum procedure and his or her rights and obligations, and of time-limits and any means (i.e. relevant documentation) at his or her disposal to support the application. In this regard, police authorities should hand over an information leaflet. In addition, the Reception Decree

150 Article 19(3) LD 150/2011 as amended by Article 27 LD 142/2015.
151 Article 35 LD 25/2008, as amended by Article 19(4) LD 150/2011 and Article 27 LD 142/2015.
152 Article 10(1) LD 25/2008.

provides that police authorities, within a maximum of 15 days from the presentation of the asylum request, should provide information related to reception conditions for asylum seekers and hand over information leaflets accordingly.[153] The brochures distributed also contain the contact details of UNHCR and other refugee-assisting NGOs. However, the practice of distribution of these brochures by police authorities is actually quite rare. Moreover, although Italian legislation does not explicitly state that the information must also be provided orally, this happens in practice but not in a systematic manner and at the discretion of police authorities. Therefore, adequate information is not constantly and regularly ensured, mainly due to the insufficient number of police staff dealing with the number of asylum requests, as well as to the shortage of professional interpreters and linguistic mediators.

PD 21/2015 provides that unaccompanied minors shall receive information on the specific procedural guarantees specifically provided for them by law.[154]

Information on the Dublin Regulation

More specifically, asylum seekers are not properly informed on the different steps in the Dublin procedure. In this regard, CIR has elaborated a leaflet in the framework of the European Refugee Fund (ERF) national programme through the Ministry of Interior in 10 languages,[155] illustrating the different phases of the asylum procedure and on reception conditions. This is not systematically distributed.

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

As far as "cultural and family ties" are concerned, no specific questions are submitted to asylum seekers about family or other links to a certain Member State, they are not informed about the rules governing family reunification under the Dublin criteria or, for instance, the possibility in certain Member States for unmarried couples living together in a stable relationship to be considered in the same way as married couples. As of January 2014, following the entry into force of more protective rules in the Dublin III Regulation,[156] the competent authorities have the obligation to appropriately inform the asylum seeker on the Regulation and to conduct an individual interview aiming at verifying the correct comprehension of the information provided.

On the basis of information available to CIR, the questionnaire submitted to the asylum seeker at the registration of the asylum claim is mandatory but the information on the applicant's personal situation collected by the Questura on the basis of Article 5 is, in CIR's opinion, not accurate enough. After the formal registration of the asylum application, if a procedure for determining the Member State responsible for examining the application starts under the Regulation, no information is provided to the asylum seeker thereof, not even when it implies a delay of the whole procedure. During a Dublin procedure, it happens

153 Article 3 LD 142/2015, substantially confirming the previous LD 140/2005.
154 Article 3(3) PD 21/2015.
155 CIR, *The Dublin Regulation and the asylum procedure in Italy: Are you aware of your rights? Guide for asylum seekers*, 2012, available at: http://bit.ly/1PcKImI.
156 Articles 4 and 5 Dublin III Regulation.

frequently that the word "Dublin" figures in the receipt of the asylum claim ("*cedolino*") without providing the asylum seeker with explanation of what this means.

With the entry into force of the Dublin III Regulation, reception centres for unaccompanied children and children's homes have been provided by Italian authorities with a new version of the asylum application form which includes new questions. However, information on the applicant's situation is collected in a superficial way and does not include all the relevant aspects. With regard to the information on the Dublin procedure, a new model has introduced all the amendments adopted through the Dublin III Regulation. However, on the basis of the information acquired by CIR,[157] at present both the common leaflet as well as the specific brochure for unaccompanied children drawn up by the European Commission, as prescribed by Article 4(3) of the Dublin III Regulation, have not yet been distributed.

Information in reception and detention centres

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

LD 142/2015 introduces a norm providing that foreigners detained in CIE shall be provided by the manager of the facility with relevant information on the possibility of applying for international protection. The asylum applicants detained in such facilities are provided with the relevant information set out by Article 10(1) of the Procedure Decree, by means of an informative leaflet.[158]

The Procedure Decree expressly requires the competent authorities to guarantee asylum seekers the possibility to contact UNHCR and NGOs during all phases of the asylum procedure.[159] Moreover, the previous norm, specifying that access to detention centres (CIE) shall be ensured to the representatives of UNHCR, to lawyers and to entities working for the protection of refugees, which are authorised by the Ministry of the Interior, has been abolished.[160] For more detailed information on access to CIE, see the section on Detention Conditions: Conditions in Detention Facilities below.

However, due to insufficient funds or due to the fact that NGOs are located mainly in big cities, not all asylum seekers have access to them.

Information at the border

According to the law,[161] at the border, "those who intend to lodge an asylum request or foreigners who intend to stay in Italy for over three months" have the right to be informed about the provisions immigration and asylum law by specific services at the borders run by NGOs. These services, located at the official border points, also ensure "social counselling, interpreting service, search for accommodation, contact with local authorities/services, production and distribution of informative documents on specific asylum issues."[162] With regard to legal counseling, LD 142/2015 also clarifies that the information on the asylum procedure, the rights and obligations of applicants, on the timeframes and means to accompany the asylum application, are provided to foreigners who show their intention to seek asylum at border crossing points and in transit areas in the frame of the information and reception services set by Article 11(6) LD 286/1998. Access to the border points from representatives of UNHCR and other refugee-assisting organisations with experience is ensured. For security and public order grounds or, in any case, for any

157 This information was confirmed by interviews and during CIR's participation to the working group organised in the framework of the National Consultancy body ("*Garante per l'Infanzia e l'adolescenza*").
158 Article 6(4) LD 142/2015.
159 Article 10(3) LD 25/2008.
160 Article 21(3) LD 25/2008 has been repealed by LD 142/2015.
161 Article 11(6) LD 286/1998, read in conjunction with Article 4 MoI Decree of 22 December 2000.
162 CIR, *S.A.B. Project, Services at Borders: a practical cooperation*, 2008, 21.

reasons connected to the administrative management, the access can be limited on condition that is not totally denied.[163]

In spite of the relevance of the assistance provided, it is worth highlighting that, since 2008, this kind of service has been assigned on the basis of calls for proposals. The main criterion applied to assign these services to NGOs is the price of the service, with a consequent impact on the quality and effectiveness of the assistance provided due to the reduction of resources invested, in contrast with the legislative provisions which aim to provide at least immediate assistance to potential asylum seekers.

With regard to third-country nationals who arrive by boat at unofficial border points, in the framework of the *Praesidium* project, UNHCR provides information on the right to seek asylum on arrival, monitors access to legal assistance and identifies vulnerable cases.[164] In practice, especially due to the increasing number of arrivals in 2014 and 2015, the organisations involved in the *Praesidium* project face difficulties in providing information to migrants and asylum seekers at the disembarkation phase due to the shortage of staff. As indicated by the *Praesidium* organisations, information is provided to migrants and asylum seekers when they arrive at the reception centres. As mentioned above, the *Praesidium* project ended at the end of June 2015. However, UNHCR and IOM continue to monitor the access of foreigners to the relevant procedures and the initial reception of asylum seekers and migrants in the framework of their mandates. The activities are funded under the AMIF (Access and Reception).

D. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☐ Yes ☒ No

2. Is a removal order suspended during the examination of a first subsequent application?
   - ❖ At first instance ☒ Yes ☐ No
   - ❖ At the appeal stage ☒ Yes ☐ No

3. Is a removal order suspended during the examination of a second, third, subsequent application?
   - ❖ At first instance ☐ Yes ☒ No
   - ❖ At the appeal stage ☐ Yes ☒ No

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

The first is related to the possibility for the asylum seeker to present new elements before the Territorial Commission takes the final decision. According to the Procedure Decree, the applicant has the right to submit new elements and documents to the competent Territorial Commission at any stage of the asylum procedure, even after his or her personal interview.[165] In addition, in case the asylum seeker makes a subsequent application before the determining authorities have taken the decision on the initial asylum request, the new elements of the request are examined in the framework of the previous request leading to a single decision issued by the Territorial Commission. In the decision, the competent authorities specify if the applicant made more than one asylum requests indicating the statements and documents attached to each request.

The second situation is related to a new application filed after the notification of the decision by the determining authorities. Under the law, the Territorial Commission must declare inadmissible an asylum

163 Article 10-bis(1)-(2) LD 25/2008, as amended by LD 142/2015.
164 For more detailed information on *Praesidium*, see IOM, *The Praesidium Project,* available in Italian at: http://bit.ly/1WZbCQn.
165 Article 31(1) LD 25/2008.

request that has been submitted for the second time after a decision has been taken by the determining authorities without presenting new elements concerning the personal condition of the asylum seeker or the situation in his or her country of origin.[166] In case of a subsequent application after a decision has been issued, the Territorial Commission makes a preliminary assessment in order to evaluate whether new elements have been added to the asylum request, and takes a decision without proceeding to an examination on the merits of the asylum application or conducting a personal interview.[167] No time-limits are foreseen by law for such preliminary assessment.

The law also does not specify what can be considered as "new elements" in a subsequent application. In this regard, LD 142/2015 has introduced a new provision, stating that when the applicant has reiterated the same application after the CTRPI has taken a decision without presenting new elements regarding his or her personal conditions and situation in his or her country of origin, the President of the CTRPI makes a preliminary examination of the application to verify whether new elements considered relevant for the purpose of the recognition of international protection have emerged or been raised. The CTRPI, before adopting the decision on the inadmissibility of the subsequent application, notifies the applicant the opportunity to make comments, within 3 days from the notification, in order to support the admissibility of his or her application and that, in absence of observations, the CTRPI will take the decision.[168]

In practice, the Territorial Commissions tend to carry out a personal interview even when the new elements provided by asylum seekers on their claim are in contradiction with their previous declarations, taking in due consideration the negative consequences of an inadmissibility decision for the person concerned.

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

The National Commission for the Right of Asylum (CNDA) issued a Circular on 30 April 2010 addressed to the Territorial Commissions, indicating that the Territorial Commission which receives the subsequent application should transmit all relevant documentation to the Commission which took the first decision, as the latter will be in charge of taking the decision on the subsequent application as well.

Italian legislation does not foresee a specific procedure to appeal against a decision on inadmissibility for subsequent applications. The Procedure Decree provides, however, that an appeal against an inadmissibility decision does *not* have automatic suspensive effect.[169] However, the appellant can request a suspension of the decision of inadmissibility, based on serious and well-founded reasons, to the competent court. For the rest of the appeal procedure, the same provisions as for the appeal in the regular procedure apply (see section on Regular Procedure: Appeal).

Asylum seekers who lodge a subsequent application benefit from the same legal guarantees provided for asylum seekers in general and can be accommodated in accommodation centres (CARA), if places are available.

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

166 Article 29(1)(b) LD 25/2008.
167 Article 29(1)(b) LD 25/2008.
168 Article 29(1-bis) LD 25/2015, as amended by LD 142/2015.
169 Article 19(4) LD 150/2011, as amended by Article 27 LD 142/2015.

E. Guarantees for vulnerable groups of asylum seekers (children, traumatised persons, survivors of torture)

1. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☐ Yes ☐ For certain categories ☒ No
   - ❖ If for certain categories, specify which:

2. Are there special procedural arrangements/guarantees for vulnerable people? ☒ Yes ☐ For certain categories ☐ No
   - ❖ If for certain categories, specify which:

LD 142/2015 has added other types of vulnerabilities highlighted hereafter in bold to the previous list: minors, **unaccompanied minors**, pregnant women, single parents with minor children, **victims of trafficking**, disabled, elderly people, **persons affected by serious illness or mental disorders**; persons for whom has been proved they have experienced torture, rape or other serious forms of psychological, physical or sexual violence; **victims of genital mutilation**.[170]

Identification

There is no procedure defined in law for the identification of vulnerable persons. Additionally, there exists no national plan defining the procedures, roles and functions of public and private actors involved in the identification, referral and care of torture survivors, or defining the coordination of services or an effective monitoring system. Consequently, the identification of and assistance provided to torture survivors are often carried out without a common and coordinated framework.[171]

The identification of victims of torture or extreme violence may occur at any stage of the asylum procedure by lawyers, competent authorities, professional staff working in reception centres and specialised NGOs. Despite the lack of specific provisions and of a comprehensive national plan, good practices have been developed and adopted in part thanks to projects funded at EU, national and international levels.

Under 2005 CNDA Guidelines,[172] when asylum seekers manifest serious difficulties in answering questions during the substantive interview, members of the Territorial Commissions should make contact with specialised services, not only out of interest for the well-being of the asylum seekers but also in order to obtain additional useful information concerning their health and pertinent elements of their claim. There remains, however, a need to foresee *ad hoc* procedures and Guidelines focused on the modalities to interview vulnerable groups (children, traumatised persons, survivors of torture and violence) as well as skilled personnel competent to deal with these cases.

Survivors of torture

During the personal interview, if the members of the Territorial Commissions suspect that the asylum seeker may be a torture survivor, they may refer him or her to specialised services and suspend the interview.

Since 1996, CIR has carried out several projects under the acronym Vi.To (Victims of Torture),providing interdisciplinary services such as legal, social and psychological counselling and assistance to torture

170 Article 2(1)(h-bis) LD 25/2008, as amended by LD 142/2015.

171 CIR, *Maieutics "Elaborating a common interdisciplinary working methodology (legal-psychological) to guarantee the recognition of the proper international status to victims of torture and violence"*, December 2012, available at: http://bit.ly/1Gb1PCq, 55-57.

172 CNDA, *Linee Guida per la valutazione delle richieste di riconoscimento dello status di rifugiato*, 2005, 83-85.

survivors (see section on Healthcare below). CIR is presently carrying out a similar project "Right to Rehabilitation Project," supported by the European Union which provides the same services ensured under the previously mentioned project.

LD 142/2015 provides that persons for whom has been proved they have experienced torture, rape or other serious forms of violence shall have access to appropriate medical and psychological assistance and care on the basis of Guidelines that will be issued by the Ministry of Health, as mentioned above. To this end, health personnel shall receive appropriate training and must ensure privacy.[173] CIR is a member of the Working Group set up under the Ministry of Health for the drafting of the aforementioned Guidelines.

Children

The protection of asylum seeking children has been strengthened with the adoption of LD 18/2014. Article 3(5)(e) LD 18/2014 provides the obligation to take into account the level of maturity and the personal development of the child while evaluating his or her credibility, while Article 19(2-bis) expressly recalls and prioritises the principle of the best interests of the child.

LD 142/2015 provides that the public security authority immediately communicates the presence of an unaccompanied minor to: (i) the judge responsible for the guardianship in order to start the guardianship and appoint the guardian; (ii) the State Attorney to the Juvenile Court; (iii) the Juvenile Court in order to ratify the adopted reception measures; and (iv) the Ministry of Employment and Social Policies, with the necessary means to grant the privacy of the minor while providing for the census and the monitoring of unaccompanied minors.[174]

Any action necessary to identify the family members of the unaccompanied minor seeking asylum is promptly started in order to ensure the right to family reunification. The Ministry of Interior shall enter into agreements with international organisations, intergovernmental organisations and humanitarian associations, on the basis of the available resources of the National Fund for asylum policies and services, to implement programs directed to find the family members. The researches and the programs directed to find such family members are conducted in the superior interest of the minor and with the duty to ensure the absolute privacy and, therefore, to guarantee the security of the applicant and of his or her relatives.[175]

A member of the CTRPI, specifically skilled for that purpose, interviews the minor at the presence of the parents or the legal guardian and the supporting personnel providing specific assistance to the minor. For justified reasons, the CTRPI may proceed to interview again the minor at the presence of the supporting personnel even without the presence of the parent or the legal guardian, if considered necessary in relation of the personal situation of the minor concerned, degree of maturity and development, in the sole minor's best interests.[176]

Victims of trafficking

Where during the examination procedure, well-founded reasons arise to believe the applicant has been a victim of trafficking, the Territorial Commissions may suspend the procedure and inform the Police Headquarters, the Prosecutor's office or NGOs providing assistance to victims of human trafficking thereof.[177] LD 24/2014, adopted in March 2014 for the transposition of the Anti-Trafficking Directive, foresees that a referral mechanism should be put in place in order to coordinate the two protection mechanisms established for victims of trafficking, namely the protection systems for asylum seekers and

173 Article 17(8) LD 142/2015.
174 Article 19(5) LD 142/2015.
175 Article 19(7) LD 142/2015.
176 Article 13(3) LD 25/2008, as amended by LD 142/2015.
177 Article 32(3-bis) LD 25/2008, as amended by LD 24/2014.

beneficiaries of international protection, coordinated at a central level, and the protection system for victims of trafficking established at a territorial level.[178]

However, as highlighted by the Group of Experts on Action against Trafficking in Human Beings of the Council of Europe (GRETA), there is neither a coherent national identification nor a referral mechanism in place for victims of trafficking. Italy has been encouraged to develop increased attention to detecting victims of trafficking among unaccompanied children, irregular migrants and asylum seekers.[179] To this aim, it has been suggested by GRETA that Italy establish binding procedures to be followed and training to be provided to immigration police officers and staff working in first aid and reception centres (CPSA), reception centres for migrants (CDA), detention centres (CIE) and reception centres for asylum seekers (CARA).

In this regard, it should be underlined that some good practices have been put in place with regard to children and potential victims of trafficking. In Turin, the Territorial Commission signed an agreement in 2014 with the Municipality – department of social policies and health care for migrants.[180]

The LD 142/2015 clarifies that trafficked asylum seekers shall be channelled into a special programme of social assistance and integration.[181]

Special procedural guarantees

Vulnerable persons are admitted to the prioritised procedure.[182] Following the PD 21/2015, the Territorial Commission must schedule the applicant's interview "in the first available seat" when that applicant is deemed vulnerable.[183] In practice, when the police have elements to believe that they are dealing with vulnerable cases, they inform the Territorial Commissions which fix the personal interview as soon as possible, prioritising their case over the other asylum seekers under the regular procedure. Moreover, this procedure is applied also in case the Territorial Commissions receive medico-legal reports from specialised NGOs, reception centres and Health centres.

LD 142/2015 has introduced a provision allowing the minors to directly present an asylum application through their parents.[184]

Moreover, the law requires the CNDA to ensure training and refresher courses to its members and Territorial Commissions' staff. Training is supposed to ensure that those who will consider and decide on asylum claims will take into account an asylum seeker's personal and general circumstances, including the applicant's cultural origin or vulnerability. Since 2014, the National Commission has organised training courses on the EASO modules, in particular on "Inclusion", "Country of Origin Information" and "Interview Techniques". These training courses provide both an online study session and a two-day advanced analysis conducted at central level in Rome. In addition to these permanent trainings, courses on specific topics are also organised at the local level. The CNDA has agreed that 20 EASO experts should help the Territorial Commissions in drafting the COI. Furthermore, the National Commission in collaboration with EASO organised, at local level, a vocational training workshop in order to explain the know-how to make a COI research.[185]

178 Article 13 L 228/2003; Article 18 LD 286/1998.
179 GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human beings by Italy, first evaluation round*, September 2014, GRETA (2014)18, available at: http://bit.ly/1NDVMcs.
180 ANCI *et al.*, *Rapporto sulla Protezione Internazionale in Italia 2014*, 169.
181 Article 17(2) LD 142/2015 in conjunction with Article 18(3-bis) LD 286/1998 and LD 24/2014.
182 Article 28(1)(b) LD 25/2008.
183 Article 7(2) PD 21/2015.
184 Article 6(2) PD 21/2015.
185 Parliamentary Commission on the reception and identification system, Debate, 14 May 2015, available at: http://bit.ly/1Gb3xDX, 14.

In May 2015, the National Commission, in collaboration with UNHCR, introduced a project for monitoring the skills of the Territorial Commissions through specific inspections to evaluate the local situation.[186] By law, the National Commission should also provide training to interpreters to ensure appropriate communication between the applicant and the official who conducts the substantive interview.[187] However, in practice interpreters do not receive any specialised training. Some training courses on asylum issues are organised on *ad hoc* basis, but not regularly.

In this context, it is also important to emphasise that the Procedure Decree foresees the possibility for asylum seekers in a vulnerable condition to be assisted by supporting personnel during the personal interview even though the legal provision does not specify which kind of personnel.[188] During the personal interview, the applicant may be accompanied by social workers, medical doctors and/or psychologists.

2. Use of medical reports

Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?
   ☐ Yes ☐ In some cases ☒ No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements? ☒ Yes ☐ No

Italian legislation contains no specific provision on the use of medical reports in support of the applicant's statements regarding past persecutions or serious harm. Nevertheless, the Qualification Decree states that the assessment of an application for international protection is to be carried out taking into account all the relevant documentation presented by the applicant, including information on whether the applicant has been or may be subject to persecution or serious harm.[189]

Moreover, a medico-legal report may attest the applicant's inability or unfitness to attend a personal interview. According to the Procedure Decree, the Territorial Commissions may omit the personal interview when the applicant is unable or unfit to face the interview as certified by a public health unit or a doctor working with the National Health System.[190] Moreover, the applicant can ask for the postponement of the personal interview providing the CTRPI with pertinent medical documentation.[191]

Moreover, the 2005 CNDA Guidelines underscore the usefulness of medical reports to corroborate the declarations made by the torture survivors who have difficulties disclosing elements of their claim.

In practice, medico-legal reports are generally submitted to the Territorial Commissions by specialised NGOs, legal representatives and personnel working in the reception centres before, or sometimes during or after, the substantive interview at first instance. They may also be submitted to the judicial authorities during the appeal stage.[192]

The Territorial Commissions consider these reports very useful in assisting them to properly conduct the personal interviews with vulnerable persons and in evaluating the credibility of the applicant's statements with a view to taking a fair decision. During the *ad hoc* training addressed to the members of the Territorial

186 *Ibid.*
187 Article 15 LD 25/2008, as amended by LD 119/2014.
188 Article 13(2) LD 25/2008.
189 Article 3 LD 251/2007.
190 Article 12(2) LD 25/2008.
191 Article 5(4) PD 21/2015.
192 CIR, *Maieutics*: *Elaborating a common interdisciplinary working methodology (legal-psychological) to guarantee the recognition of the proper international status to victims of torture and violence*, December 2012, 61.

Commissions, CARA staff and other authorities, organised by CIR in collaboration with the CNDA, the determining authorities have stressed the importance of receiving medico-legal reports before the personal interview by experts with a view to adopt a proper decision. In addition, from the decisions of the determining authorities examined, it emerges that in cases where the applicant's statements are deemed inconsistent but a medical-legal report has been issued by an expert to explain the reasons for such inconsistencies, the Territorial Commissions usually rely on the contents of the medico-legal report and grant the proper form of international protection.

It may happen, albeit not systematically, that the Territorial Commissions have consultations with experts before, after or during the personal interview in case the asylum seekers are accompanied by these experts.

LD 142/2015 has introduced a new provision allowing the CTRPI to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, religious, child-related or gender issues. Where the CTRPI deems it relevant for the assessment of the application, it may, subject to the applicant's consent, arrange for a medical examination of the applicant concerning signs that might indicate past persecution or serious harm according to the Guidelines that will be issued by the Ministry of Health.[193] When no medical examination is not provided by the Territorial Commission, the applicants may, on their own initiative and at their own cost, arrange for such a medical examination and submit the results to the Territorial Commission for the examination of their applications.[194]

The degree of consistency between the clinical evidence and the account of torture is assessed in accordance with the Guidelines of the Istanbul Protocol and recent specialised research.[195]

The medical reports are provided to asylum seekers for free. NGOs may guarantee the support and medical assistance through *ad hoc* projects. Another example of good practice for torture survivors in Italy was illustrated in 2012 by medico-legal reports provided for free by Sa.Mi.Fo, a project funded thanks to the collaboration between the *Association Centro Astalli* and the *Azienda di Sanità Pubblica (ASL) Roma A* (Public Health Unit).[196] This service, which is still operating, also assists asylum seekers and victims of torture offering legal medical-psychological and psychiatric assistance.[197]

3. Age assessment and legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for an identification mechanism for unaccompanied children?
   ☐ Yes ☒ No
2. Does the law provide for the appointment of a representative to all unaccompanied children?
   ☒ Yes ☐ No

Age assessment

193 Article 27(1-bis) LD 251/2007, as amended by LD 18/2014.
194 Article 8(3-bis) LD 25/2008, as amended by LD142/2015.
195 See in this regard: CIR, *Maieutics*; B Van der Kolk *et al.*, *Disorders of Extreme Stress: The Empirical Foundation of a Complex Adaptation to Trauma* (2005) 18:5 Journal of Traumatic Stress 389–399; B Van der Kolk *et al.*, *Traumatic Stress*, Guilford Press, 1996; P Bromberg, *Standing in the spaces: Essays on clinical process, trauma, and dissociation*, New Jersey: Analytic Press, 1998; R Mears, *Intimacy and Alienation: Memory, Trauma, and Personal Being*, Brunner-Routledge, 2001; Bromberg, P.M. *The shadow of the tsunami and the growth of the relational mind*, Routledge, 2011.
196 See CIR, *Maieutics*, 61.
197 According to a Centro Astalli, in 2012, 267 medico-legal reports were issued by SA.Mi.FO. For further information, see Centro Astalli, *Rapporto annuale 2013*, March 2013, available in Italian at: http://bit.ly/1R8QKCt, 30-31.

The Procedure Decree includes a specific provision concerning the identification of unaccompanied children. It foresees that in case of doubts on the age of the asylum seeker, unaccompanied children can be subjected to an age assessment through non-invasive examinations.[198] The age assessment can be triggered by the competent authorities at any stage of the asylum procedure. However, before subjecting a young person to a medical examination, it is mandatory to seek consent of the unaccompanied child concerned or of his or her legal guardian.[199] The refusal by the applicant to undertake the age assessment has no negative consequences on the examination of the asylum request.

The Procedure Decree, however, does not clearly lay down detailed rules on age assessment methods; it only specifies that the age assessment must be carried out through non-invasive medical examinations.

According to the Ministry of Interior Cir. No. 17272/7 on age assessment, it is necessary to resort to all kinds of examinations, giving however priority to the medical examinations carried out in public health structures with paediatric departments.[200] This Circular emphasises that, considering that the age assessment cannot lead to an exact result, the benefit of the doubt principle should be always applied when doubts remain concerning the real age of the applicant.

In this sense, case-law has established in 2013 that the X-ray examination for age assessment cannot be considered as entirely reliable. Therefore, in case the applicant holds documents proving he or she is underage, such documents should prevail over the medical examination.[201]

Article 4 LD 24/2014 concerning unaccompanied children victims of trafficking establishes further regulations to be adopted by the Government, aimed at identifying appropriate mechanisms for the age assessment of victims of trafficking. Such a procedure should intervene in cases where there are reasonable doubts about the person's age and in case he or she does not have any identity document, in accordance with the best interests of the child. The age assessment should be conducted through a multidisciplinary approach, by specialised personnel and following appropriate procedures taking into account the specificities of the child's ethnic and cultural features. At the time of writing, these regulations have not been adopted.

In practice, as underlined by several NGOs, in most cases where asylum seekers declare to be children or are suspected to be adults by the police, they are subjected to the age assessment procedure, which is often not carried out by specialised doctors through X-ray methods.[202]

Guardianship

LD 142/2015 provides that the unaccompanied minor can make an asylum application in person or through his or her legal guardian on the basis of the evaluation of the situation of the minor concerned.[203]

The Procedure Decree states that, when an asylum request is made by an unaccompanied child, the competent authority suspends the asylum procedure and immediately informs both the Juvenile Court ("*Tribunale per i minorenni*") and the Judge for guardianship (*Giudice tutelare*).[204] The Judge for guardianship has to appoint a legal guardian within 48 hours following the communication by the Questura. The law foresees no exception to this rule. This is confirmed by LD 142/2015.[205]

198 Article 19(2) LD 25/2008.
199 *Ibid.*
200 Circular No. 17272/7 of 9 July 2007 of the Ministry of Interior.
201 Giudice di Pace di Ravenna, Ordinanza n. 106 of 14 November 2013.
202 Analysis and position of Save the children Italy on the Protocol concerning the assessment of the age of unaccompanied minors elaborated in June 2009 by the Ministry of Labour, the Ministry of Health and that of Social Affairs, September 2010. See also: Save the Children Italia, *Principi Generali in Materia di Accertamento dell'Età*, July 2009. This practice is still relevant in 2015.
203 Article 6(3) LD 25/2008, as amended by LD 142/2015.
204 Article 26 LD 25/2008.
205 Article 19(5) LD 142/2015 and Article 26(5) LD 25/2008, as amended by LD 142/2015.

The legal guardian, when appointed, immediately takes contact with the police authorities to confirm and reactivate the asylum procedure and the adoption of measures related to the accommodation and the care of the child.

According to the Procedure Decree, the legal guardian has the responsibility to assist the unaccompanied child during the entire asylum procedure, and even afterwards, in case the child receives a negative decision on the claim.[206] For this reason, the legal guardian accompanies the child to the police, where he or she is fingerprinted if he or she is over 14, and assists the child in filling the form and formalise the asylum claim. The legal guardian also has a relevant role during the personal interview before the determining authorities, who cannot start the interview without his or her presence. The legal guardian must be authorised by the Judge for guardianship to make an appeal against a negative decision. In practice, this happens rarely because in general legal guardians do not consider necessary to appeal the decisions due to the fact that children already obtained a form of protection status or could obtain a stay permit until they are 18. In addition, guardians may consider that the appeal is useless or that the judicial procedure would be too burdensome.[207]

Italian legislation does not foresee any specific provision concerning the possibility for unaccompanied children to lodge an appeal themselves, even though in theory the same provisions foreseen for all asylum seekers are also applicable to them.

The system of legal guardianship is not specific to the asylum procedure. A legal guardian is appointed when children do not have legal capacity and no parents or other relatives or persons who could exercise parental authority are present in the territory.[208] The guardian is responsible for the protection and the well-being of the child. Usually, the Mayor of the Municipality where the child is residing is appointed as guardian. In practice, the Mayor delegates this duty to individuals who provide social assistance or other services for the Municipality. These persons have to deal with a high number of other vulnerable persons such as elderly, handicapped persons and so forth, and have no time to accomplish properly their mandate.

Guardianship may also be granted to “volunteer guardians”, a category of qualified persons that have received special training, though this option is not systematically applied. In, Venice there is a register of specifically trained “volunteer guardians”, and they are appointed within 2 months from the moment a request is lodged.

There are no legal provisions specifying that legal guardians should be trained and possess expertise in the field of asylum. In general, legal guardians are not specifically trained to deal with asylum seekers. There is no monitoring system in place to verify how legal guardians act and perform their mandate. However, the legal guardian shall have the proper skills to perform his or her functions and duties pursuant to the principle of the superior interest of the minor. Individuals or organisations whose interests may be even potentially in contrast to the ones of the minor cannot be appointed as guardians. The guardian can be substituted only in case of necessity.[209]

In practice, legal guardians tend to meet the child only during the formal registration of the asylum request and the hearing before the Territorial Commission, as is strictly required by law. Legal guardians are rarely appointed within 48 hours as prescribed by the law. Judges for guardianship tend to appoint the legal guardians after several weeks from the submission of the asylum request and not to appoint a legal guardian when a child is 17. In such cases, the child is not allowed to reactivate the asylum procedure

206 Article 19(1) LD 25/2008.
207 France Terre d’Asile and CIR, *Right to asylum for unaccompanied minors in the European Union. Comparative study in the 27 EU countries*, 2012.
208 Article 343 et seq. Civil Code.
209 Article 19(6) LD 142/2015.

because he or she has no legal capacity. Therefore, children are obliged to wait until they turn 18 to make a new asylum request. However, in practice this has never been applied before.

On 27 June 2014, CIR signed a petition directed to Parliament and the Government together with other organisations, aimed at fostering Italian institutions to adopt and to implement organic legislation concerning the protection and the reception of unaccompanied children who arrive in Italy.

The LD 142/2015 provides that a member of the CTRPI, specifically skilled for that purpose, interviews the minor in the presence of his or her parents or the legal guardian and the supporting personnel providing specific assistance to the minor. For justified reasons, the CTRPI may proceed to interview again the minor, even without the presence of the parent or the legal guardian, at the presence of supporting personnel, if considered necessary in relation of the personal situation of the minor, degree of maturity and development, in the sole minor's best interests.[210]

F. The safe country concepts

Indicators: Safe Country Concepts

1. Does national legislation allow for the use of "safe country of origin" concept? ☐ Yes ☒ No
   - ❖ Is there a national list of safe countries of origin? ☐ Yes ☒ No
   - ❖ Is the safe country of origin concept used in practice? ☐ Yes ☒ No
2. Does national legislation allow for the use of "safe third country" concept? ☐ Yes ☒ No
   - ❖ Is the safe third country concept used in practice? ☐ Yes ☒ No
3. Does national legislation allow for the use of "first country of asylum" concept? ☐ Yes ☒ No

The safe country concepts are not applicable in the Italian context.

G. Treatment of specific nationalities

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No
   - ❖ If yes, specify which: Syria, Eritrea, Iraq (relocation)
2. Are applications from specific nationalities considered manifestly unfounded?[211] ☐ Yes ☒ No
   - ❖ If yes, specify which:

According to Article 12(2-bis) of the Procedure Decree, inserted by LD 142/2015, the CNDA may designate countries for the nationals of which the personal interview can be omitted, on the basis that subsidiary protection can be granted (see section on Regular Procedure: Personal Interview). This provision is particularly worrying, considering that it derogates from the general rule on the basis of which the personal interview is also aimed to verify first whether the applicant is a refugee, and if not, the conditions to grant subsidiary protection. CIR believes that if the applicant in not duly and properly informed on the consequences of not being interviewed by the CTRPI, he or she may lose the opportunity to be recognised as refugee according to the Geneva Convention.Currently, the CNDA has not yet designated such countries.

1. Relocation

[210] Article 13(3) LD 25/2008, as amended by LD 142/2015.
[211] Whether under the "safe country of origin" concept or otherwise.

Following the Commission proposal on relocation, the Council has adopted the two following decisions establishing provisional measures in the area of international protection for the benefit of Italy and of Greece, in view of supporting them in better coping with an emergency situation characterised by a sudden inflow of nationals of third countries in these countries:

- Council Decision (EU) 1523/2015 of 14 September 2015,[212] on the basis of which the relocation procedure will apply to 24,000 persons arriving in Italy as of 15 August 2015, from 16 September 2015 until 17 September 2017.
- Council Decision (EU) 1601/2015 of 22 September 2015,[213] on the basis of which 15,600 persons will be relocated from Italy. The Decision will apply to those asylum seekers arriving in Italy since 24 March 2015, from 25 September 2015 until 26 September 2017.

It should be recalled that Decision (EU) 2015/1523[214] sets out an obligation for Italy and Greece to provide structural solutions to address exceptional pressures on their asylum and migration systems, by establishing a solid and strategic framework for responding to the crisis situation and intensifying the ongoing reform process in these areas. The roadmap which Italy has presented to that end include measures in the area of asylum, first reception and return, enhancing the capacity, quality and efficiency of its systems in those areas, as well as measures to ensure appropriate implementation of the mentioned Decision with a view to allowing it better to cope, after the end of the application of this Decision, with a possible increased inflow of migrants on its territory.[215] According to the Roadmap, immediately after disembarkation, in the "hotspots" areas, medical screening and first aid operations are carried out (medical assistance, assessment of vulnerabilities, food, clothes, etc.). During such activities, the Italian police authorities together with Frontex personnel conduct pre-identification, verifying the nationalities of people who can be eligible for relocation. During this phase a so-called "*foglio notizie*" a form containing basic information of all people is conducted together with a screening of those nationalities of potential candidates for relocation Currently **Syrians**, **Eritreans**, **Iraqis** and **stateless** people coming from Syria, Eritrea and Iraq are eligible for such procedure. All relocation activities are coordinated by the Ministry of Interior.

Following the pre-identification phase, registration and fingerprinting operations are conducted by the scientific police supported by Frontex personnel that has been asked to deploy 2 officers for each "Hotspot" area.

Asylum seekers *tout court* are channelled to the Regional Hubs dislocated in the national territory.

Asylum seekers who may potentially fall under the relocation procedure receive detailed information from three EASO experts and two UNHCR officers, assisted by three cultural mediators. Those who accept to be relocated in other EU countries are registered in the VESTANET system as CAT1 and transferred within 24-48 hours, in *ad hoc* reception centres (Regional Hubs), where asylum seeker can generally stay from two months to three and a half months maximum.[216] In these specific Hubs 5 EASO experts and 3 cultural mediators provide information on relocation. Asylum seekers' requests are verbalized through a specific model "C3" in English and used for the following matchmaking process conducted at the Dublin Unit office in Rome. The matchmaking is conducted with the support of 10 EASO experts and liaison officers and consists of examining the profiles of people to be relocated (in terms of academic qualifications, professional qualifications, languages spoken, etc.) and of combining such information with the offers made available from the various Member States.

212 *OJ* 2015 L239/146.
213 *OJ* 2015 L248/80.
214 Article 8(1) of the Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece.
215 See Italian Roadmap of 28 September 2015, available at: http://bit.ly/1RJOSmn.
216 *Ibid*, 9-10.

The subsequent approval by the receiving Member State is notified to the parties concerned at the specific regional Hub. The Italian police and EASO experts assigned to the Dublin Unit conduct the transfer operations.

According to the Roadmap, to avoid secondary movements the following measures will be adopted:

- Information campaign to speed up the relocation process by the EASO and UNHCR officers both in the "Hotspot" areas and in the *ad hoc* regional hubs.
- Collection of all titles/certificates of studies, professional qualifications and of job skills useful for a rapid transfer of people to be relocated in other Member States.
- Additional interviews with reluctant asylum seekers to promote positive attitude towards relocation.
- Constant exchange of information through liaison officers of Member States of relocation.

On 6 October 2015 the Ministry of Interior has issued a circular on the launch of the relocation procedure on the basis of the two mentioned EU decisions.[217]

Relocation is applied only to Syrian, Eritrean and Iraqi asylum seekers. On 9 October 2015, the first group of 19 Eritreans departed from Rome to **Sweden** within the relocation programme. These persons arrived few weeks ago in Italy and have been convinced by the staff of UNHCR and the Italian Red Cross to be fingerprinted although they previously expressed their reluctance.[218] Subsequently the Minister of the Interior, Angelino Alfano, announced that about 100 asylum seekers will be relocated in Germany, the Netherlands and in other European countries. Presently there is no detailed information on the way the relocation procedure is applied. On 21 October 19 Syrians and 51 Eritreans were relocated in **Finland** and **Sweden**.[219] On 6 November 19 Eritreans were relocated in **France**.[220]

Concerning the relocation from Italy to **Spain**, initially there was an announcement for the relocation of 50 people and then of only 19 asylum seekers. However on 8 November, only 11 Eritreans and 1 Syrian were transferred to Spain, while the other 7 people refused to be relocated there due to the precarious Spanish reception system.[221]

By 15 December 2015, a total of 144 persons have been relocated from Italy:

Country of relocation	Number of relocated asylum seekers
Finland	63
France	19
Germany	11
Spain	12
Sweden	39

CIR, also during the 5th EASO annual Consultative Forum held in Malta on 30 November 2015, has expressed appreciation for the relocation mechanism which for the first time allows Member States to derogate Article 13 of the Dublin III Regulation and to take common responsibility in supporting Italy and Greece. However, CIR has also raised concerns on the discriminatory use of this instrument applied only to some nationalities on the presumption that only those who belonging to these nationalities are in clear need of international protection. This worrying tendency to consider *ex ante* true refugees mainly Syrians,

217 Ministry of Interior, Circular on Relocation, available at: http://bit.ly/1OmjO6P.

218 Ministry of Interior, Press Release, 9 October 2015, available at: http://bit.ly/1Y4dSdd; Huffington Post, 'Rifugiati, Relocation. Partiti da Roma i primi 19 rifugiati eritrei. Destinazione Stoccolma', 9 October 2015, available in Italian at: http://huff.to/1PpRPrc.

219 Ministry of Interior, Press Release, 21 October 2015, available at: http://bit.ly/1Yajc9p.

220 Le Dauphine, '19 réfugiés transférés d'Italie vers la France', 6 November 2015, http://bit.ly/1Z4MpFb.

221 Ministry of Interior, Press Release, 4 November 2015, available at: http://bit.ly/1iDatyv; El Diario, 'Llegal a Espana los primeros refugiados reubicados: 7 de los 19 anunciados se quedan en Italia', 9 November 2015, available at: http://bit.ly/1XZ2Hik.

Eritreans and Iraqis is evident in the Western Balkans routes, when border guards of different countries allow transit only to those people belonging to the mentioned nationalities.

Regrettably Member States made and are making available much less places despite their relocation quota. Moreover, asylum seekers are requested to adhere to the relocation programme without knowing in which State will be transferred to.

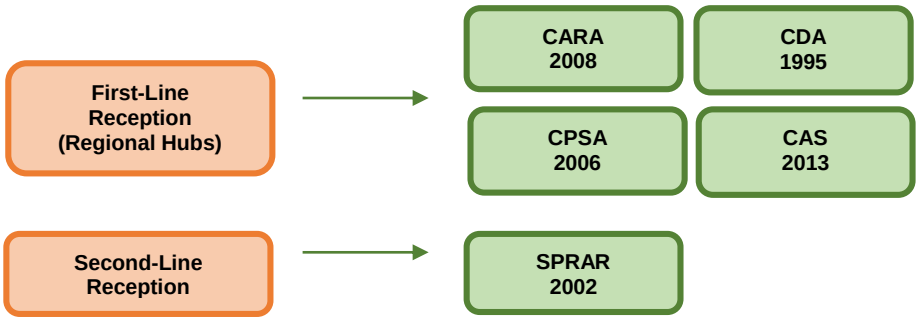
NGOs and RCOs are not involved in the relocation process, even though they could highly contribute in “confidence building”, in information campaigns, in interviewing people to be relocated and in gathering useful information and documents to be sent to the Italian authorities and to EASO and liaison officers for the matchmaking procedure. An independent and qualified monitoring system should be put in place.

A. Access and forms of reception conditions

Short overview of the Italian reception system

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

The reception system is in theory distinguished between first reception and second reception.[222]



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

- Centres for Accommodation of Asylum Seekers (**CARA**). CARA were established in 2008 and replaced previous identification centres;[223]
- Accommodation Centres (**CDA**), created in 1995 for general purposes of accommodation of migrants and also used for asylum seekers;
- First Aid and Reception Centres (**CPSA**), created in 2006 for the purposes of first aid and identification before persons are transferred to other centres;
- Emergency Reception Centres (**CAS**), introduced in October 2013 upon the launch of the *Mare Nostrum* Operation in response to the increasing influx of sea arrivals in Italy.[224]

At the same time, temporary reception centres have also been established for persons returned to Italy under the Dublin Regulation through specific projects.

According to LD 142/2015, first reception is guaranteed in the governmental accommodation centres in order to carry out the necessary operations to define the legal position of the foreigner concerned.[225] It is also guaranteed in the temporary facilities, specifically set up by the Prefect upon the arrival of a great influx of refugees, due to unavailability of places in the first and second level accommodation centres.[226] Indeed, accommodation in temporary reception structures is limited to the time strictly necessary for the transfer of the applicant in the first or second reception centres.[227] LD 142/2015 provides also first aid and accommodation structures[228] and clarifies that the current governmental reception centres (CARA) have the same functions of CPA.[229]

222 Article 8(1) LD 142/2015.
223 Article 20 LD 25/2008, replacing the *Centri di identificazione* with the CARA; Article 9 LD 142/2015.
224 Their legal basis is now provided in Article 11 LD 142/2015.
225 Article 9(1) LD 142/2015.
226 Article 11(1) LD 142/2015.
227 Article 11(3) LD 142/2015.
228 Article 8(2) LD 142/2015.
229 Article 9(3) LD 142/2015.

According to the Italian Roadmap the first reception centres (CARA/CDA and CPSA) are turning into **Regional Hubs**, which are reception structures where the applicants will formalise their asylum requests through the form C3. Generally the asylum seekers can stay in these centres for a period ranging from 7 to 30 days and thus ensure a fast turnover of guests.

Second-line reception is mainly provided under the System for the Protection of Asylum Seekers and Refugees (**SPRAR**). The SPRAR, established in 2002 by L 189/2002, is a publicly funded network of local authorities and NGOs which accommodates asylum seekers and beneficiaries of international protection. It is formed by small reception structures where assistance and integration services are provided. In contrast to the large-scale buildings provided in CARA, CDA, CPSA and CAS, SPRAR is composed of over 430 smaller-scale decentralised projects as of May 2015.

SPRAR accommodates those destitute asylum seekers that have already formalised their applications. Therefore, asylum applicants already present in the territory may have access directly to the SPRAR centres.[230]

Coordination and monitoring

The overall activities concerning the first reception and the definition of the legal condition of the asylum applicant are conducted under the programming and criteria established by both National and regional Working Groups (*Tavolo di coordinamento nazionale e tavoli regionali*).[231] In first and second accommodation centres special reception services are ensured to vulnerable asylum seekers.[232]

Without prejudice to the activities conducted by the Central Service of the SPRAR, the Civil Liberties Department of the Ministry of Interior conducts, also through the Prefectures, control and monitoring activity in the first and second reception facilities. To this end, the Prefectures may make of use of the municipality's social services.[233]

Moreover, the LD 142 has introduced a more protective norm concerning the trafficked asylum seekers who can now be channelled to a special programme of social assistance and integration under Article 18(3-bis) of LD 286/1998.[234]

The Minister of Interior adopted on 4 August 2015 a Directive on the implementation of activities aimed to control the managing bodies of reception services for non-EU citizens,[235] transmitted through the Circular 11209 of 20 August 2015 to all Prefectures. Specifically, the directive aims to strengthen the control system on the subjective requirements of the bodies managing reception centres and to set out specific clauses aiming at protecting the overwhelming public interest in preserving legality and transparency.

230 Article 14 LD 142/2015.
231 Article 9 (1) LD 142/2015.
232 Article 17(3) (4) LD 142/2015.
233 Article 20(1) LD 142/2015.
234 Article 17(2) LD 142/2015.
235 Available at: http://bit.ly/21VEjkD.

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Dublin procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ First appeal	☐ Yes	☒ Reduced material conditions	☐ No
❖ Onward appeal	☐ Yes	☒ Reduced material conditions	☐ No
❖ Subsequent application	☒ Yes	☐ Reduced material conditions	☐ No

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

LD 142/2015 sets out the reception standards for third-country nationals making an application for international protection on the territory, including at the borders and in their transit zones or in the territorial waters of Italy.[236]

On the basis of the previous Reception Decree, asylum seekers, provided they lack financial resources to ensure an adequate standard of living for their and their family members' health and subsistence,[237] could present a reception request when they lodged their asylum claim.[238] Access to reception centres had to be provided at the moment of the presentation of the asylum request.[239] In other words, in order to benefit from reception conditions, when filing an asylum application at the Questura, an asylum seeker also had to fill in an *ad hoc* declaration of destitution. The reception request was transmitted by the Questura to the Prefecture in charge of carrying out the assessment of financial resources on the basis of the criteria laid down for this assessment in the context of the granting of tourist visas.[240]

The LD 142/2015 clarifies that the reception measures apply from the moment applicants have manifested their willingness to make an application for international protection,[241] and that access to the reception measures is not conditioned upon additional requirements.[242] However, access to SPRAR centres is only granted to destitute applicants. Destitution is evaluated by the Prefecture on the basis of the annual social income (*assegno sociale annuo*).[243]

According to the practice recorded until the end of September 2015, even though by law asylum seekers are entitled to material reception conditions immediately after claiming asylum and the "*fotosegnalamento*" (fingerprinting), they may access accommodation centres only after their formal registration ("*verbalizzazione*"). This implies that, since the *verbalizzazione* can take place even months after the presentation of the asylum application, asylum seekers can face obstacles in finding alternative temporary accommodation solutions. Due to this issue, some asylum seekers lacking economic resources are obliged to either resort to friends or to emergency facilities, or to sleep on the streets.[244]

However, the full extent of this phenomenon is not known, since no statistics are available on the number of asylum seekers who have no immediate access to a reception centre immediately after the *fotosegnalamento*. Moreover, the waiting times between the *fotosegnalamento* and *verbalizzazione* differ between Questure, depending *inter alia* on the number of asylum applications handled by each Questura. In this regard, it must be also pointed out that during 2014, thanks to the enlargement of the SPRAR

236 Article 1(1) LD 142/2015.
237 Article 5(2) LD 140/2005.
238 Article 6(1) LD 140/2005.
239 Article 5(5) LD 140/2005.
240 Article 4(3) LD 286/1998.
241 Article 1(2) LD 142/2015.
242 Article 4 (4) LD 142/2015.
243 Article 14 (3) LD 142/2015.
244 For more information, see ANCI *et al.*, *Rapporto sulla protezione internazionale in Italia*, 2014, available at: http://bit.ly/15k6twe, 124.

system and the establishment of the Emergency Reception Centres (CAS), the situation described above concerns those asylum seekers who enter Italian territory and who file their asylum application *in loco* to police headquarters. In fact, over 2014, those asylum seekers rescued at sea are immediately transferred to CAS after disembarkation, regardless of the registration of their applications.[245]

As regards the assessment of financial needs, it is worth noting that the assessment of financial resources is not carried out in practice by the Prefecture, which considers the self-declarations made by the asylum seekers as valid.[246]

Appeal

With regard to appellants, LD 142/2015 provides that accommodation is ensured until a decision is taken by the CTRPI and, in case of rejection of the asylum application, until the expiration of the timeframe to lodge an appeal before the judicial court. When the appeal has an automatic suspensive effect, accommodation is guaranteed to the appellant until the first instance decision taken by the Court.

However, when the appeals have no automatic suspensive effect, the applicant remains in the same accommodation centre until a decision on the suspensive request is taken by the competent judge. If this request is positive, the applicant remains in the accommodation centre where he or she already lives.[247] The applicant detained in a CIE who makes an appeal and a request of suspensive effect of the order, if accepted by the judge, remains in the CIE. Where the detention grounds are no more valid, the appellant is transferred to governmental reception centres.[248]

Dublin procedure

With regard to the specific case of asylum seekers under the Dublin procedure, the Italian legal framework does not foresee any particular reception system.[249] In addition, the same Decree has clarified that it applies also to the applicants subject to the Dublin procedure.[250] Two scenarios should be distinguished:

- **Outgoing transfers from Italy**

Since the Italian law does not establish that persons who are waiting to be transferred to another Member State on the basis of the Dublin III Regulation have to be detained, international protection seekers who have received transfer orders are accommodated within the reception centres (CARA or SPRAR) under the same conditions as other asylum seekers.[251]

- **Incoming transfers to Italy**

Within the broader category of returnees, a further distinction is deemed necessary depending on whether the returnee had already enjoyed the reception system while he or she was in Italy or not.

- If returnees had not been placed in reception facilities while they were in Italy, they may still enter reception centres (CARA or SPRAR). Due to the lack of available places in reception structures and to the fragmentation of the reception system, the length of time necessary to find again availability in the centres is – in most of the cases - too long, however. Since there is no general practice, it is not possible to evaluate the time necessary to access an accommodation. In the last years, temporary reception systems have been established to house persons transferred to

245 ANCI *et al.*, *Rapporto sulla protezione internazionale in Italia*, 124.
246 As reported to CIR by the Prefettura di Roma. See also M Benvenuti, *La protezione internazionale degli stranieri in Italia*, Jovene Editore, Napoli 2011.
247 Article 14(4) LD 142/2015.
248 Article 14(5) LD 142/2015.
249 CIR *et al.*, *Dublin II Regulation – National Report on Italy*, December 2012, 47.
250 Article 1(3) LD 142/2015.
251 *Ibid.*

Italy on the basis of the Dublin III Regulation. However, it concerns a form of temporary reception that lasts until their juridical situation is defined or, in case they belong to vulnerable categories, an alternative facility is found.

Such temporary reception has been set up thanks to targeted projects funded by the European Refugee Fund (ERF). At present, 11 centres for the reception of Dublin returnees are operating, out of which seven are specifically addressed to vulnerable persons. There are 3 centres in Rome, 3 in the province of Milan, 2 in Venice, 2 in Bologna and 1 in Bari. They can accommodate a total of 443 Dublin Returnees, who are accommodated for a short/medium period on a turnover basis. Until 30 June 2014, CIR managed an accommodation facility - the "Locanda Dublino" - in Venice, with a capacity of 40 places.

However, it happens that Dublin returnees are not accommodated and find alternative forms of accommodation such as self-organised settlements.[252]

- If returnees, who have already been granted a form of protection, had already enjoyed the reception system when they were in Italy, they have *no* more right to be accommodated in CARA. However, they may be accommodated in these centres in case places are available to allow them to restart the administrative procedure to obtain a permit of stay.

The aforementioned projects providing accommodation centres for Dublin returnees funded under ERF ended at the end of June 2015 and it is expected that they will be funded again.

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2015 (in original currency and in €):
   - ❖ CARA €75
   - ❖ SPRAR €60-€75
   - ❖ CAS Not available
   - ❖ Not accommodated[253] €836.70

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

The Ministry of Interior Decree of 21 November 2008 defines common minimum standards for CARA at the national level, which are included in all contracts for the management of these reception facilities. The CARA centres can be managed by public local entities and other public or private bodies specialised in the assistance of asylum seekers, through *ad hoc* agreements valid for a period of 3 years.[254] In practice, however, these accommodation centres are managed by private companies or consortia of social cooperatives and consortia of social enterprises.

252 Pro Asyl, *The living conditions of refugees in Italy*, 2011, 23.
253 This provision is not applied in practice.
254 Regulated by PD 303/2004.

CARA do not all offer the same reception services. Their quality of assistance varies between facilities and sometimes fails to meet adequate standards, especially regarding the provision of legal and psycho-social assistance.[255] Identification, referral and care provided to vulnerable individuals is often inadequate due to low levels of coordination among stakeholders, an inability to provide adequate legal and social support as well as the necessary logistical follow-up.[256] Finally, the monitoring of reception conditions by the relevant authorities is generally not systematic and complaints often remain unaddressed.[257] As mentioned above, LD 142/2015 provides for a monitoring system in reception centres by the Prefecture through the social services of Municipalities.[258]

Asylum seekers hosted in CARA receive €2.50 per day per person as cash money or goods throughout the period they are accommodated. This amount is issued for personal needs. The amount received by applicants hosted in CAS is not available.[259]

On the other hand, the SPRAR centres are run by the regions, in cooperation with the provinces and municipalities and together with civil society actors such as NGOs. According to the PD 303/2004, the accommodation centres ensure interpreting and linguistic-cultural mediation services, legal counselling, health assistance, socio-psychological support in particular to vulnerable persons, counselling on the services available at local level to allow integration locally, information on (assisted) voluntary return programmes, as well as information on recreational, sport and cultural activities.[260]

Persons hosted in a SPRAR centre receive a pocket money, which varies depending on the individual project from €1.50 to €2.50.[261] According to the estimation made by the Ministry of Interior the daily average per capita cost on reception in CARA, CDA, CPSA for 2015 is €30-35, while in SPRAR structures it is €35.[262]

If there is no place in either SPRAR structures or CARA centres, the Prefecture should by law grant the applicant a financial allowance, for the period needed until a place is found for that person in one of the accommodation centres.[263] The financial allowance should be provided in 2 instalments: the first instalment should amount to €557.80 (€27.89 per day), covering the first 20 days. The second should amount to €418.35, covering the following 15 days.[264] In this respect, LD 142/2015 does not provide any financial allowance for asylum applicants needing accommodation. Nevertheless, this provision has never been applied in practice. In fact, where there is no place available in neither SPRAR nor CARA, the Prefecture nevertheless sends asylum seekers to one of those structures, thereby exceeding their maximum reception capacity. As a result, this causes overcrowding and a deterioration of material reception conditions (see the section on Conditions in Reception Facilities).

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

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

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

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

258 Article 20(1) LD 142/2015.

259 Note that the entities managing CAS are given €30 per day per person for the provision of all basic needs.

260 See also Article 40 LD 286/1998.

261 For example in the Calabria Region, Badolato Project, guests receive €2 per day per person. CIR is currently managing a SPRAR project in Rome called "*Roma città aperta*", where hosts are provided with €2 cash per day.

262 Ministry of Interior, *Rapporto sull'accoglienza di migranti e rifugiati in Italia. Aspetti, procedure, problemi*. October 2015, 53.

263 Article 6(7) LD140/2005.

264 Ministry of Interior Directive of 1 March 2000 on the definition of means of subsistence for the entry and stay of foreigners in the territory of the State. See also M. Benvenuti, *La protezione internazionale degli stranieri in Italia*.

It is not possible to say that the treatment of asylum seekers concerning social benefits is less favourable than that of nationals, since the Qualification Decree establishes only a comparison between nationals and international protection beneficiaries and not with asylum seekers.[265]

3. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres:[266]
   - ❖ CPSA, CDA, CARA — 13 structures
   - ❖ SPRAR — 430 projects
   - ❖ CAS — Not available
2. Total number of places in the reception centres:[267]
   - ❖ CPSA, CDA, CARA — 7,290
   - ❖ CAS — 70,918
   - ❖ SPRAR — 21,814
3. Total number of places in private accommodation: Not available
4. Type of accommodation most frequently used in a regular procedure:
   ☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:
   ☐ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☒ CIE

First reception: CPSA, CARA, CDA

As of the end of June 2015, the first reception centres in Italy hosted the following numbers of persons:

CPSA	Occupancy at 30 June 2015
Agrigento, Lampedusa	921
Cagliari, Elmas	230
Lecce – Otranto	0
Ragusa, Pozzallo	127
Total	**1,278**

Source: ANCI *et al., Rapporto sulla protezione internazionale in Italia 2015*, 85-87.

CARA / CDA	Occupancy at 30 June 2015
Gorizia	252
Ancona	109
Rome, Castelnuovo di Porto	892
Foggia	642
Bari	1,440
Brindisi	148
Lecce	0
Crotone	1,305
Catania, Mineo	3,422

265 LD 251/2007 of 19 November 2007, as amended by LD 18/2014.

266 Both permanent and for first arrivals. Regarding CAS it is not possible to insert a specific number since CAS are temporary structures which are operative on the basis of the number of arrivals.

267 Data are up-to-date as of 10 October 2015. See Ministry of Interior, *Rapporto sull'accoglienza di migranti e rifugiati in Italia. Aspetti, procedure, problemi*, October 2015, 28.

Ragusa, Pozzallo	127
Catlanissetta	520
Agrigento, Lampedusa	921
Trapani	0
Cagliari, Elmas	230
Total	**10,008**

Source: ANCI *et al., Rapporto sulla protezione internazionale in Italia 2015*, 90.

As of the end of June 2015, CARA hosted approximately 10,000 asylum seekers. The situation of some CARAs is particularly critical because of overcrowding. This is the case of: the CARA of Bari, which can accommodate a maximum of 1,216 persons, but hosted 1,440 asylum seekers; the CARA of Catania Mineo, with a maximum capacity of 3,000 persons, but hosted 3,422 asylum seekers; the CARA of Gorizia, with a maximum capacity of 138, which hosted 252 asylum seekers.

The centres for Dublin returnees are temporary reception centres established for persons returned to Italy under the Dublin Regulation through specific projects funded by ERF. The last projects ended on June 2015, and presently no reception centres operating under this fund are in place. In the next months, calls for proposal under the AMIF funds should be published to provide a specific accommodation for Dublin returnees who are now accommodated in the regular reception system.

According to the Italian Roadmap the first reception centres (CARA/CDA and CPSA) are turning into **Regional Hubs**, which are reception structures where the applicants will formalise their asylum requests through the form C3. Generally the asylum seekers can stay in these centres for a period ranging from 7 to 30 days and thus ensure a fast turnover of guests. These first reception centres have a capacity of 12,000 places in mid-2015, including those available in the hotspot areas. When all the reception centres will turn into Regional Hubs the capacity will increase reaching over 14,750 places within the first semester of 2016 and 15,550 places within the end of 2016. At present the Regional Hubs system is still being implemented and it is planned that it will be completed within the end of 2016, providing about one centre for every region.[268]

Second reception: SPRAR

The structures available to host asylum seekers and refugees mainly consist of flats (80% of the total number of facilities), small reception centres (14%), and community homes (6%). The community homes are mainly addressed to unaccompanied minors.[269]

Following the North Africa emergency, in the middle of 2012 the Ministry of Interior established a permanent National Coordinating Working Group ("*Tavolo*") bringing together representatives of the Ministry of Integration,[270] of Labour and Regions, Provinces, Municipalities and UNHCR, as observer participate. This body has proposed and is currently working on the progressive enlargement of SPRAR centres with the aim to accommodate asylum seekers in little centres for shorter period of times, instead of putting them in CARAs that are often overcrowded.[271]

LD 18/2014 confirmed the activities of the National Coordinating Working Group, aimed at improving the national reception system as well as adopting an Integration Plan for beneficiaries of international protection. It is important to underline the fact that a representative of UNHCR as well as a representative from civil society are part of the working group. CIR is currently one of the NGOs allowed to participate in

268 See Italian Roadmap, 28 September 2015, 4.
269 SPRAR, *Rapporto Annuale SPRAR 2014*, available in Italian at: http://bit.ly/1WZGekE, 44.
270 The Ministry of Integration, which was part of the *Tavolo* when it was established, has not been renovated by the current Renzi government, which took office in February 2014.
271 Asilo in Europa, 'Lo SPRAR al centro': Intervista a Daniela Di Capua, direttrice del Servizio Centrale dello SPRAR, 4 March 2014, available in Italian at: http://bit.ly/1VQmL3v.

the technical working group, with the aim to provide legal expertise on how to optimise the reception system for asylum seekers and beneficiaries of international protection.

A partial response to the insufficiency of available structures to provide all asylum seekers with material reception conditions was the enlargement of the SPRAR system.

On 17 September 2013, the Head of the Department for Civil Liberties and Immigration (Ministry of Interior) issued a decree that foresees an increase of the accommodation capacity of the SPRAR system to reach up to 16,000 places in the period 2014-2016.[272] Moreover, to face the current emergency situation due to consistent arrivals by sea of migrants and asylum seekers, the Italian Ministry of Interior has increased the funds partially allocated to the accommodation system.[273] With specific regard to the increased funds for reception conditions, Decree-Law 119/2014 established an additional €50.8 million to the National Funds for policies and services of asylum, aimed at enlarging the SPRAR system, and created a new provisional fund to face the exceptional migratory flows to Italy, allocating €62.7 million. Through a Decree of 27 April 2015, the Ministry of Interior established specific reception capacity for unaccompanied children, with 1,000 places in SPRAR accommodation to be provided by the end of 2016.[274]

At present, 456 reception projects have been adopted, out of which 57 reception projects are dedicated to unaccompanied children, while 32 reception projects are destined to persons with mental disorders and disabilities. The total number of accommodation places in the 430 SPRAR projects financed as of 31 May 2015 amounted to around 21,449.[275]

Thanks to the Decree of 7 August 2015 of the Minister of the Interior, an additional 10,000 places will be available within the SPRAR system through a public notice addressed to local authorities published on 7 October 2015.[276]

Emergency reception: CAS

Alternative types of accommodation with respect to CARA, CPSA and SPRAR system have been established in order to respond to the large number of arrivals since the end of 2013. Considering the huge number of people, the Ministry of Interior issued a Circular requesting local Prefectures to find reception places (preferably not hotels) and sign agreements with local entities and NGOs for their management.[277]

Further instructions have been issued by the Ministry of Interior in June 2014[278] and December 2014,[279] requesting local Prefectures to provide additional places in reception facilities. Each Region has to receive a share of migrants identified at a centralised level, while the governance of the system is carried out at a regional level.

With regard to governance mechanisms managing the reception system, UNHCR expressed since the beginning of the emergency phase the need to plan a more stable reception system.[280] CIR also requested that Italian authorities elaborate and put in place a comprehensive plan for reception which should

272 Decree by Head of Department for Civil Liberties and Immigration, 17 September 2013.
273 Article 1(2) LD 120/2013.
274 Article 4 MoI D 27/4/2015.
275 ANCI *et al.*, *Rapporto sulla protezione internazionale in Italia 2015*, 116.
276 Decree of the Ministry of Interior, 7 August 2015 available at: http://bit.ly/1QjnPyF.
277 Circular of the Ministry of Interior of 8 January 2014 and subsequent Circular of 19 March 2014.
278 Circular of the Ministry of Interior of 20 June 2014.
279 Circular of the Ministry of Interior of 17 December 2014.
280 UNHCR, 'UNHCR expresses its concern for the absence of a comprehensive plan for reception of asylum seekers and asks for more attention to the asylum reform', 25 March 2014, available in Italian at: http://bit.ly/1LL6yIG.

guarantee shorter periods of stays in reception centres and should reduce the delays of the asylum procedure.[281]

In this regard, thanks to the aforementioned agreement of 10 July 2014 between the Government, the Regions and local Authorities, an important achievement has been the establishment of a National Plan to face the extraordinary migratory flows. This system is organised in 3 phases:

- A rescue phase in border areas;
- An identification phase to be carried out in "Hub" centres established at a regional/interregional level ("first reception"); and
- A reception phase to be guaranteed within the SPRAR system ("second reception") funded and enlarged accordingly.[282]

As of the end of June 2015, such centres hosted around 50,711.[283] Obtaining detailed data for each CAS is extremely difficult, due to the temporary nature and different types of structures provided (hotels, schools, bed and breakfast etc.)

Other types of accommodation

Finally, in addition to the above mentioned reception centres, there is also a network of private accommodation structures which are not part of the national reception system, provided for example by Catholic or voluntary associations, which support a number of asylum seekers and refugees in addition to the places available through the SPRAR. It is very difficult to know the number of places. The function of these structures is relevant especially in emergency cases or of families.

Several churches have already accommodated refugees and many others have decided to do so following the Pope's call.

4. Conditions in reception facilities

Indicators: Conditions in Reception Facilities	
1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?	☒ Yes ☐ No
2. What is the average length of stay of asylum seekers in the reception centres?	Not available
3. Are unaccompanied children ever accommodated with adults in practice?	☐ Yes ☒ No

The recent LD 142/2015 provides that the governmental first reception centres are managed by public local entities, consortia of municipalities and other public or private bodies specialised in the assistance of asylum applicants through public tender.[284] Moreover, the Minister of the Interior adopts a decree on the call for tender for the supply of services for the functioning of the following centres: CIE, CPSA, CARA/CDA and temporary accommodation structures (CAS) in order to ensure uniform reception level in the whole national territory.[285]

In addition, LD 142/2015 clarifies that in the first reception centres and in the temporary ones the respect of private life, gender and age specific concerns, physical and mental health, family unit and the situation

281 CIR, 'Subito un piano completo per far fronte agli arrivi via mare', 20 March 2014, available in Italian at: http://bit.ly/1HxIGVC.
282 Ministry of Interior, 'Varato il Piano Nazionale per fronteggiare il flusso straordinario di migranti', 10 July 2014, available in Italian at: http://bit.ly/1EzcwHc.
283 ANCI *et al.*, *Rapporto sulla protezione internazionale in Italia 2015*, 85.
284 Article 9(2) LD 142/2015.
285 Article 12(1) LD 142/2015.

of vulnerable persons shall be ensured. Measures to prevent any form of violence and to ensure the safety and security of applicants shall be adopted.[286] The Decree clarifies also that asylum applicants are free to exit from the reception centres during the daytime but they have the duty to re-enter during the nigh time. The applicant can ask the Prefect a temporary permit to leave the centre in different hours for relevant personal reasons or for those related to the asylum procedure.[287] The personnel working in the reception centres is properly skilled and has the duty to guarantee the privacy of data concerning the applicants living in the centres.[288]

In practice, reception conditions vary considerably among different accommodation centres and also among the same type of centres. Therefore it is extremely difficult to give a full picture and reliable information for each reception centre. Generally speaking, SPRAR centres meet better standards than CARA, CDA and CPSA. Hovewer, SPRAR centres are reception facilities of different types such as apartments and hotels. Wihile the services provided are the same, the quality can differ depending on the management bodies running the centres.

While the SPRAR publishes annual report on its reception system, no comprehensive and updated reports on reception conditions in all the Italian territory are available. For this reason, in this part of the report, CIR makes reference to the information obtained by some reports and by the managers of some CARA.

As acknowledged by the extraordinary Commission for the protection and promotion of human rights of the Senate, "in Italy from 2011 a progressive deterioration of the accommodation standards for asylum seekers has been registered, which has worsened since 2012 and 2013".[289] The Commission highlighted the need to enlarge the number of available places within the SPRAR system and pointed, *inter alia*, to the lack of integration measures for beneficiaries of international protection. These problems have partially been addressed by the Government through the enlargment of the national reception system as well as through the establishment of a National Plan for Integration.

Nevertheless, in the November 2014 case of *Tarakhel v Switzerland*,[290] the applicants complained against the housing conditions in the centre where they lived, defined as extremely poor, in particular due to the lack of hygienic and health services. The Court held that:

> "[I]n view of the current situation as regards the reception system in Italy, and although that situation is not comparable to the situation in Greece which the Court examined in *M.S.S.*, the possibility that a significant number of asylum seekers removed to that country may be left without accommodation or accommodated in overcrowded facilities without any privacy, or even in insalubrious or violent conditions, is not unfounded."[291]

With regard to the difficulties inherent in the reception of Dublin cases, specific ERF-funded projects have been established. The Italian authorities should indicate the reception project from the moment they take charge of the person concerned. This practice was already developing before the judgment in *Tarakhel*.

Conditions in CARA / CPSA

Generally speaking, all CARA are very often overcrowded. Accordingly, the quality of the accomodation services offered is not equivalent to the SPRAR centres or other reception facilities of smaller size. In general, concerns have been raised about the high variability in the standards of reception centres in practice, which may manifest itself in, for example: overcrowding and limitations in the space available for

286 Article 10(1) LD 142/2015.
287 Article 10(2) DL 142/2015.
288 Article 10(5) DL 142/2015.
289 Commission for the protection and promotion of human rights of the Senate, Resolution n. 183 adopted on 28 November 2013, available in Italian at: http://bit.ly/1FcaCNj.
290 ECtHR, *Tarakhel v Switzerland*, Application No 29217/12, 4 November 2014.
291 *Tarakhel v Switzerland,* para 120.

assistance, legal advice and socialisation; physical inadequacy of the facilities and their remoteness from the community; or difficulties in accessing appropriate information.[292]

Nevertheless, it must be pointed out that the material conditions also vary from CARA to CARA depending on the size, the effective number of asylum seekers hosted compared to the actual capacity of the centre, and the level and quality of the services provided by the body managing each CARA. In addition, another critical aspect concerning CARA lies with their location, usually far from city centres.

More detailed information on specific CARA provided here is based on the situation in 4 CARA: Mineo (Sicily), Crotone (Calabria), Gorizia (Friuli Venezia Giulia) and Castelnuovo di Porto (Rome).

CARA of Mineo

The CARA of Mineo (in Sicily) is a huge area where there are several facilities, composed by housing units, which host thousands of asylum seekers. The CARA of Mineo may accommodate up to 3,000 individuals. However, as of the end of June 2015, 3,422 asylum seekers lived in this centre, thereby making Mineo the largest reception centre in the whole of Europe.

A member of the municipality of Vizzini (near Catania), Giuseppe Coniglione, after his 2014 visit to the CARA of Mineo, has reported that migrants and asylum seekers met inside the centre "sleep on sponge mattresses without sheets, toilets do not work properly and there is no shower inside the housing units".[293] Usually, upon arrival at the CARA, asylum seekers are provided with a kit containing sheets, pillow case, and clothes.

In CARA, asylum seekers are not allowed to cook, even though some structures are equipped with kitchens. Meals are always provided by an external catering entity and they eat in a common canteen inside the CARA. For example, in the CARA of Mineo, although each house is equipped with a kitchen, it is forbidden to cook for security reasons (also in the rooms).[294] In addition, each asylum seeker has a pre-paid card, worth €2.50 per day, for purchasing items in the shop inside the centre. The card can also be used as a "meal voucher" to buy goods in some supermarkets in Mineo, Caltagirone and Catania.

The cleaning of the CARA centres is done by the staff of the managing organisation. In the case where the CARA is organised in apartments, sometimes people can help cleaning their own rooms. The general level of cleanliness in the centre is sufficient, although this aspect is strictly related to the asylum seekers accomodated in the centre, since cleaning and laundry services are equally carried out through the cooperation ensured by asylum seekers with the *ad hoc* cleaning companies externally contracted.

Furthermore, according to the previous Procedure Decree 25/2008, CARA centre should accommodate asylum seekers for a maximum period of 35 days, but, as pointed out by MEDU, migrants spent there 18 months on average.[295]

The main problem is represented by the geographical position of the centre, which is located in the countryside, in an isolated area not well served by public transportation. Therefore many people hosted

292 Council of Europe Commissioner for Human Rights, *Report by Nils Muiznieks, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 3 to 6 July 2012*, CommDH(2012)26, 18 September 2012, 36.

293 Attilio Occhipinti, 'Emergency at the CARA of Mineo', 19 April 2014, available in Italian at: http://bit.ly/1REGSkx.

294 Il Sette e Mezzo Magazine, Giacomo Belvedere, "Dossier 'Carissimo Cara' – Costi umani ed economici del mega centro di accoglienza di Mineo" ("Expensive CARA. Human and economic costs of the mega accommodation centre of Mineo"), 29 June 2013, available in Italian at: http://bit.ly/1REGSRB. See also Melting Pot, 'In che condizioni realmente vivono i richiedenti asilo nel megaCara di Mineo? Dalla Rete Antirazzista Catanese un approfondimento sulle condizioni di vita all'interno del CARA di Mineo', March 2012, available in Italian at: http://bit.ly/1WZHNiy.

295 Medici per i diritti umani (MEDU), *Rapporto sulle condizioni di accoglienza CARA di Mineo*, Project ON.TO., May 2015, 4.

in the centre tend to stay there and are at high risk of isolation.[296] As reported by MEDU, media have denounced sexual assault, drug trafficking, robbery and prostitution within the centre, where there is also an informal economy made up of abusive stalls, makeshift shops.

The centre is always overcrowded and inevitably produces a malfunctioning of services. Socio-psychological and legal counselling is largely insufficient to meet the demand of counselling by the hosted applicants.[297] As reported by some CARA legal workers, migrants do not always receive the *"Attestato nominativo"*, which is the document used to certify that a person is an asylum seeker and to be enrolled to the National Health Service.[298] In addition, the list of applicants to be interviewed by Territorial Commission is not communicated with adequate advance notice and consequently legal staff have not enough time to ensure proper legal counselling to asylum seekers to face the interview.[299] Moreover, recently the CARA in Mineo has also been implicated in the *Mafia Capitale* scandal.[300] Recently there has also been an interesting attempt to involve 45 educational, sport and recreational no-profit associations in the CARA in Mineo in order to facilitate the integration and the reception of migrants.[301]

CARA of Castelnuovo di Porto

The CARA of Castelnuovo di Porto (near Rome) is established in the compound of a former hotel. Bathrooms are private and included in the rooms, which are generally spacious. Asylum seekers are separated by gender, and each room can accommodate up to 4 women or 5 men.

Cleaning services in the rooms is the responsibility of the asylum seekers, while the cleaning of common areas is carried out by a cleaning company that usually executes disinfestations as well, since the compound is located in the countryside. In addition, the centres provides a self-service laundry, thanks to 6 washing-machines at asylum seekers' disposal.

In the centre, asylum seekers are not allowed to cook in their rooms, although they can consume uncooked meals in the kitchen of the centre. The centre is also provided with a meeting hall, a hairdressing and barber service twice a week, a former TV hall, which has now been turned to a canteen and adequate facilities to attend courses of Italian language.[302] Presently, around 900 people are hosted in this centre.[303] The centre is currently used also for accommodation of asylum seekers awaiting relocation to other Member States.

Although services provided in CARA centres are not uniform, normally rooms are equipped with a TV and guests have the possibility to access outdoor space, even though no particular activities are organised for them. For instance, in the **CARA of Crotone** no TV is available, nor other recreational activities are organised. Children go to school, as access to schooling is guaranteed by law.

A number of protests have been taking place in CARA (from North to South) for various reasons: material conditions; delays in the definition of the Dublin procedure; and inadequacy of food.

Concerns have also been raised about the shortage of staff working in the reception centres as well as the lack of adequate training, which affect the quality and standards of reception centres. With regard to CARA, by virtue of the "*Capitolato*" (standardised agreement between the Ministry of Interior and the

296 *Ibid,* 5.
297 *Ibid.*
298 ASGI, *Lettera dell'ASGI al Ministero dell'Interno Dipartimento per le Libertà Civili e l'Immigrazione Direzione Centrale per le Politiche dell'Immigrazione e dell'Asilo*, 25 May 2015, 6.
299 MEDU, *Rapporto sulle condizioni di accoglienza CARA di Mineo*, May 2015, 11.
300 International Business Times, 'Mafia Capitale: Italian official set Cara Mineo centre kickback at "one euro per migrant"', 4 June 2015, available at: http://bit.ly/1L9i2XM.
301 MEDU, *Rapporto sulle condizioni di accoglienza CARA di Mineo*, May 2015, 14.
302 CIR's original information relates to the situation under the previous management. While management at the centre has changed, this information continues to be valid in 2015.
303 Information acquired by CIR directly from the CARA staff at the end of September 2015.

managing entity), "the entity running the centre shall guarantee the employment of competent and trained personnel, whose professional profile is adequate to their tasks to be carried out."[304] However, this agreement does not explicitly provide a duty for the managing entity to organise trainings and refreshing courses for its personnel. In practice, in CARA no compulsory and regular training courses are organised.

With regard to the **CPSA in Lampedusa**, on 9 June 2015, the National and Regional MPs of the Movimento Cinque Stelle (M5S), an Italian political movement, visited this centre and denounced the inhumane conditions of migrants hosted there. The centre was overcrowded, considering that the structure should accommodate 381 people, whereas there were 800 migrants who were compelled to sleep with mattresses on the ground.[305]

On 17 November 2015, Doctors without borders (MSF) presented a Report on the reception conditions in the **CPSA in Pozzallo**, Sicily (future "Hotspot") to the Commission of Inquiry on the reception, identification and detention of migrants.[306] According to this Report, overcrowding causes a number of problems related to promiscuity of guests and the lack of specific safeguards for vulnerable people accommodated in the structure. The centre lacks of regular maintenance; in fact, there are infiltration of water and mould and dampness on the walls which make the structure unhealthy. There have been the infestations of cockroach which have caused the transmission of diseases. MSF has repeatedly highlighted the malfunctioning of sanitation services and the lack of doors (interior and external) in the restrooms without, therefore, ensuring the human dignity. As reported by MSF in the reception centre there are a number of cases of scabies. The risk of infection is particularly high because of the overcrowding and to the fact that the hygiene kits are not always provided. MSF has also underlined that in the structure there is the fire suppression system but it doesn't work because it is not properly maintained. The managing body should provide calling cards to the guests but, as highlighted by MSF, there are many problems related to the actual use of the telephone. The MSF personnel have also underlined the lack of legal services within the centre.[307]

Conditions in SPRAR centres

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

In some SPRAR structures, it is possible to cook autonomously, using either pocket money given by the managing entity to buy food – the amount of which varies mainly depending on the typology of beneficiaries, as more is provided to vulnerable individuals – or the products/ingredients provided. In this case the kitchen is shared by the guests. In other structures, meals are provided by an external catering or internal canteen.[308]

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

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304 Standardised agreement for the management of the reception centres (*Capitolato*), available at: http://bit.ly/1REJfUu, 7.

305 La Cosa, 'Blitz del M5S nel centro accoglienza di Lampedusa', 9 June 2015, available at: http://bit.ly/1LLwZmm.

306 MSF, *Rapporto di Medici Senza Frontiere Sulle condizioni di accoglienza nel CPSA Pozzallo*, available at http://bit.ly/1THaK01.

307 *Ibid*.

308 ANCI *et al.*, *Rapporto sulla protezione internazionale in Italia 2014*, October 2014, 17.

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

Training and adjournment courses are organised by the authority in charge of the management of the entire system ("*Servizio centrale del sistema di protezione*") on an annual basis, which are addressed to the personnel who operates in all SPRAR facilities located on the national territory.[309] SPRAR staff is obliged to attend these training courses. Training provides both basic expertise and refreshment courses. Their content consists in both legislation and integration paths.

Conditions in CAS

With regard to the emergency reception facilities established on the basis of the increased number of arrivals by sea, there is no information available on reception conditions in such centres at this stage, as there is no monitoring system or public reports describing conditions.

Duration of stay in reception centres

Under Article 20 of the Procedure Decree 25/2008, the maximum duration of stay in CARA was 35 days, subject to an exception for applicants who do not possess or hold false travel or identity documents, and who could only stay up to 20 days.[310] However, applicants without sufficient financial resources could continue to be accommodated in CARA beyond the 35-day time-limit if it is ascertained that no places are available in SPRAR accommodation.[311] In SPRAR, asylum seekers can stay from 6 to 12 months, particularly in the case of vulnerable persons.

It is not possible to determine an overall average of duration of stay, however asylum seekers remain in reception centres throughout the whole asylum procedure, which may last several months, as well as during the appeal procedure. The LD 142/2015 does not provide any timeframe on the reception, since this has to be provided since the manifestation of the intention to make an asylum request and during the asylum procedure.

5. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?
   ☐ Yes ☒ No
2. Does the legislation provide for the possibility to withdraw material reception conditions?
   ☒ Yes ☐ No

According to the previous Reception Decree the Prefect of the Province where the asylum seeker's accommodation centre is placed may decide on an individual basis with a motivated decision to revoke material reception conditions on the following grounds:[312]

(a) The asylum seeker did not present him or herself at the assigned centre or left the centre without notifying the competent Prefecture;
(b) The asylum seeker did not present him or herself before the determining authorities for the personal interview even though he or she was notified thereof;
(c) The asylum seeker has previously lodged an asylum application in Italy;
(d) The authorities decide that the asylum seeker possesses sufficient financial resources; or

309 SPRAR, *Manual for operators*, 9 and 22.
310 Article 20(3) LD 25/2008.
311 Article 6 LD 140/2005.
312 Article 12(1) LD 140/2005. See also Article 22(2) LD 25/2008.

(e) The asylum seeker has committed a serious violation or continuous violation of the accommodation centre's internal rules or the asylum seeker's conduct was considered seriously violent.
Where guests commit criminal offences, they are also liable to criminal proceedings like nationals.

The LD 142/2015 confirms the abovementioned grounds for withdrawal of reception conditions. Neither previous nor present law provide for any assessment of destitution risks when revoking accommodation.

According to the Reception Decree, when asylum seekers failed to present themselves to the assigned centre or leave the centre without informing the authorities, the centre managers must immediately inform the competent Prefecture.[313] In case the asylum seeker spontaneously presented him or herself before the police authorities or at the accommodation centre, the Prefect could decide to readmit the asylum seeker to the centre if the reasons provided were due to *force majeure* or unforeseen circumstances. In this respect, LD 142/2015 confirms the procedure foreseen by the previous Reception Decree, however it has added "serious personal reasons" as the ground to be readmitted to the centre.[314] Moreover, while assessing the withdrawal of reception conditions, the Prefect must take into account the specific conditions of vulnerability of the applicant.[315]

According to the previous Reception Decree 140/2005 and the LD 142/2015, asylum seekers may lodge an appeal before the Regional Administrative Tribunal (TAR) against the decision of the Prefect to withdraw material reception conditions.[316] To this end, they can benefit from free legal aid. In reality, appeals are rarely lodged mainly due to the fact that asylum seekers who do not present themselves at the centres or leave the centres after their arrival have usually left Italy in order to enter other EU countries. In practice, however, material conditions can be reinstated after having been withdrawn.

Where detention grounds apply to asylum seekers placed in the first and second accommodation centres or in a temporary one (CDA/CARA, CAS or SPRAR), the Prefect orders the withdrawal of the reception conditions and refer the case to the *Questore* for the adoption of the relevant measures.[317]

6. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
☐ Yes ☒ With limitations ☐ No

According to LD 142/2015, applicants have the opportunity to communicate with UNHCR, NGOs with experience in the field of asylum, religious entities, lawyers and family members.[318] The representatives of the aforementioned bodies are allowed to enter in these centres, except for security reasons and for the protection of the structures and of the asylum seekers.[319] The Prefect establishes rules on modalities and the time scheduled for visits by UNHCR, lawyers, NGOs as well as the asylum seekers' family members and Italian citizens who must be authorised by the competent Prefecture on the basis of a previous request made by the asylum applicant living in the centre.[320] The Prefecture notifies these decisions to the managers of the centres.

313 Article 12(2) LD 140/2005.
314 Article 23(3) LD 142/2015.
315 Article 23(2) LD 142/2015.
316 Article 23(5) LD 142/2015 and the previous Article 12(4) LD 140/2005.
317 Article 23(7) LD 142/2015.
318 Article 10(3) LD 142/2015.
319 Article 10(4) LD 142/2015.
320 Article 8 PD 303/2004.

The law states that the Prefect may refuse the entrance of NGOs to CARA centre for motivated reasons, but those are not laid down by law.[321] In practice, it has happened that some NGOs and some lawyers were not authorised to enter CARA. It is worth noting that these centres are open, therefore asylum seekers are free to contact NGOs, lawyers and UNHCR offices outside of the centres.

With regard to access to SPRAR centres by virtue of Article 9(4) of the Reception Decree, confirmed by LD 142/2015,[322] lawyers and legal counsellors indicated by the applicant, UNHCR as well as other entities and NGOs working in the field of asylum and refugees protection have access to these facilities in order to provide assistance to hosted asylum seekers.

7. Addressing special reception needs of vulnerable persons

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
☐ Yes ☒ No

Article 8(1) of the previous Reception Decree provided that accommodation is provided taking into account the special needs of the asylum seekers and their family members, in particular those of vulnerable persons such as children, disabled persons, elderly people, pregnant women, single parents with children under 18, persons who have been subjected to torture, rape or other forms of psychological, physical or sexual violence. As previously mentioned, victims of trafficking and genital mutilation as well as persons affected by serious illness or mental disorders have been inserted in the list of vulnerable persons by LD 142/2015 (see section on Special Procedural Guarantees).

There are no legal provisions on how, when and by whom this assessment should be carried out. However, Article 8(2) of the previous Reception Decree and LD 142/2015 provide that the managers of reception centres, where possible, set up special accommodation services, in cooperation with the local public health centres, to provide adequate psychological support in order to address the special needs of asylum seekers. The LD 142/2015 provides that asylum applicants undergo a health check since they enter the first reception centres and in temporary reception structures to assess their health condition and special reception needs.[323] The LD has introduced a more protective norm providing that special services addressed to vulnerable people with special needs shall be ensured in first reception centres and SPRAR structures.[324]

PD 21/2015 clarifies the need to set up specific spaces within CARA where services related to the information, legal counseling, psychological support, and receiving visitors are ensured.[325] Where possible, adult vulnerable people are placed together with other adult family members already present in the reception centres.[326] The manager of reception centres shall inform the Prefecture on the presence of vulnerable applicants for the possible activation of procedural safeguards allowing the presence of supporting personnel during the personal interview.[327]

With regard to reception in SPRAR centres, the Minister of Interior shall issue Guidelines for the implementation of services, including those addressed to persons with special needs.[328] Also in SPRAR centres, special reception measures should be set up to meet the specific needs of asylum seekers.[329]

321 Article 11 PD 303/2004.
322 Article 15(5) LD 140/2015.
323 Articles 9(4) and 11(1) LD 142/2015.
324 Article 17(3)(4) LD 142/2015.
325 Article 9(3) PD 21/2015.
326 Article 17(5) LD 142/2015.
327 Article 17(7) LD 142/2015.
328 Article 14(2) LD 142/2015.
329 Article 8(2) LD 140/2005.

The assessment of special needs is conducted upon placement of asylum seekers at one of the accommodation centres. This assessment is not carried out systematically and it depends upon the existence and the quality of services provided by the centre, the availability of funds and their use by the managers of the centres.

Survivors of torture

In practice, it may happen that torture victims remain in a CARA without any possibility to be transferred to a SPRAR centre due to lack of availability of places in *ad hoc* reception centres.

Families and children

The Reception Decree specifies that asylum seekers are accommodated in structures which ensure the protection of family unity, "wherever possible".[330]

Both in SPRAR centres and in CARA, the management body of the accommodation centres should respect the family unity principle.[331] Therefore they cannot separate children from parents who live in the same wing of the accommodation structure. In practice, it may happen that a father is accommodated in a wing for single men and his wife and children in the wing for women. In general, dedicated wings are designed for single parents with children. It may also happen that the parents are divided and placed in different centres, and usually the children are accommodated with the mother.

It may happen in CARA centres that families are divided in case the accommodation conditions are deemed not adequate and suitable for children. In these situations mothers and children are hosted in a facility, and men in another. The **CARA in Gorizia** is an example where families are usually divided. By contrast, in some CARA, families are accommodated together, like for instance in the **CARA of Castelnuovo di Porto** (near Rome), the **CARA in Mineo** (close to Catania) and **CARA in Crotone** (Calabria region).

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

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

Based on CIR's experience, no specific or standardised mechanisms are put in place to prevent gender-based violence in reception centres. As a general rule, permanent law enforcement personnel is present outside each CARA with the task of preventing problems and maintaining public order. Generally speaking, the management body of CARAs divides each family from the others hosted in the centre. Women and men are always separated.

Unaccompanied children

The LD 142/2015 clarifies that while applying the reception measures set out in this decree, the best interests of the child have a character of priority, in order to ensure life conditions suitable for a minor,

330 Article 9(1)(a) LD 140/2005.
331 SPRAR, *Manual for operators*, 7 and 13.

with regard to protection, well-being and development, including social development, in accordance with Article 3 of the Convention on the Rights of the Child.[332]

In order to evaluate the best interests of the child, the minor shall be heard, taking into account his or her age, the extent of his or her maturity and personal development, also for the purpose of understanding his or her past experiences and to assess the risk of being a victim of trafficking, and the possibility of family reunion pursuant to Article 8(2) of the Dublin III Regulation as long as it corresponds to the best interests.[333]

Concerning unaccompanied children, by law their reception is ensured by the local public entities (municipalities) on the basis of a decision taken by the Juvenile Court. The individuals working with the minors shall be properly skilled or shall in any case receive a specific training and have the duty to respect the privacy rights in relation to the personal information and data of the minors.[334]

Under the Procedure Decree 25/2008, unaccompanied children could not be held in CARA. Usually, unaccompanied children were accommodated in SPRAR centres.[335] In case places in SPRAR centres were not available, unaccompanied children were placed in specialised centres for children. In practice, however, due to time constraints and difficulties in finding interpreters and linguistic-cultural mediation, children were not always identified as such soon after arrival. Therefore, they could be transferred to CARA as "adults". When an asylum seeker indicated that he or she is a child, the manager of the centre immediately informed the competent authorities of the child's presence. An age assessment followed and if the person was recognised to be a child, then he or she was transferred to a SPRAR centre or, in case no place is available, to a specialised centre for children.

The amendments introduced by LD 142/2015 provide that, for immediate relief and protection purposes, unaccompanied minors are accommodated in governmental first reception facilities for the strictly necessary time, in any case not exceeding 60 days, to identify and assess the age of the minor and to receive any information on the rights recognised to the minor and on the modalities of exercise of such rights, including the right to apply for international protection. Throughout the time in which the minor is accommodated in the first relief facility, one or more meetings with a developing age psychologist are provided, when necessary, in presence of a cultural mediator, in order to understand the personal condition of the minor, the reasons and circumstances of the departure from his or her home country and his or her travel, and also his or her future expectations.[336]

The continuation of the reception of the minor is ensured when unaccompanied minors apply for international protection. These minors have access to the SPRAR centres.[337] In case of temporary unavailability of the SPRAR centres, the assistance and reception of the minor is temporarily granted by the public authority of the Municipality where the minor is accommodated.[338] Unaccompanied minors cannot be held or detained in governmental reception centres for adults and CIE.[339]

With regard to the reception of unaccompanied children *not* seeking asylum, L 190/2014 establishes that the National Asylum Fund, previously funding only projects for children seeking asylum, is now available also for reception projects for unaccompanied children not seeking asylum. On 27 April 2015, the Ministry of Interior issued a Decree on the modalities of funding for such projects. In addition, according to the Stability Law 2015, the difference between unaccompanied minors seeking or not seeking asylum is eliminated only with regard to reception, therefore the number of minors accommodated in SPRAR

332 Article 18 (1) LD 142/2015.
333 Article 18(2) LD 142/2015.
334 Article 18(5) LD 142/2015.
335 Article 26 LD 25/2008.
336 Article 19(1) LD 142/2015.
337 Article 19(2) LD 142/2015.
338 Article 19(3) LD 142/2015.
339 Article 19(4) LD 142/2015.

centres will increase. Presently, 1,318 unaccompanied minors are accommodated in SPRAR structures.[340]

As reported by journalists, for more than 14 days, 70 unaccompanied foreign minors were detained in **Contrada Imbriacola**, the CPSA located in **Lampedusa**. Some of them were 11 or 12 years old. The situation was paradoxical because the adult migrants were moved in other centres whereas the minors were obliged to remain there without receiving any legal notice on the appointment of the legal guardians and no guardians were appointed.[341]

8. Provision of information

According to the Procedure Decree, upon submission of an asylum application, police authorities have to inform applicants through a written brochure about their rights and obligations and the relevant timeframes applicable during asylum procedures (see section on Information and Access to UNHCR and NGOs above).[342] The brochure also includes information on health services and on the reception system, and on the modalities to access to these services. In addition, it contains the contact details of UNHCR and other specialised refugee-assisting NGOs. LD 142/2015 contains a provision on the right to information, confirming the obligation to hand over the brochure, as stated above, and states that these information are provided in reception centres within 15 days from the presentation of the asylum application. These information are ensured thought the assistance of an interpreter.[343]

This provision, unlike Article 5 of the recast Reception Conditions Directive, does not explicitly foresee that information shall be provided orally.

However, in practice the distribution of these leaflets, written in 10 languages,[344] is actually quite rare at the police stations. Although it is not foreseen by law, the information is orally provided by police officers but not in a systematic way mainly due to the shortage of professional interpreters and linguistic mediators. The gaps in providing information is of concerns to NGOs as it is considered necessary that asylum seekers receive information orally, taking into consideration their habits, cultural backgrounds and level of education which may constitute obstacles in effectively understanding the contents of the leaflets.

Upon arrival in the reception centres, asylum seekers are informed on the benefits and level of material reception conditions. Depending of the type of centre (SPRAR or CARA) and the rules adopted by the managers of the accommodation centres, asylum seekers may benefit from proper information of the asylum procedure, access to the labour market or any other information on their integration rights and opportunities. Generally speaking, leaflets are distributed in the accommodation centres and asylum seekers are informed orally through the assistance of interpreters.

9. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country? ☐ Yes ☒ No
2. Does the law provide for restrictions on freedom of movement? ☒ Yes ☐ No

340 Ministry of Interior, *Rapporto sull'accoglienza di migranti e rifugiati in Italia. Aspetti, procedure, problemi*, October 2015, 36.
341 Minori Stranieri Non Accompagnati, 'Minori detenuti nel CPSA di Contrada Imbriacola', April 2015, available at: http://bit.ly/1Ov7ndQ.
342 Article 10(1) LD 25/2008.
343 Article 3 LD 142/2015 and Article 10 PD 21/2015.
344 Italian, English, French, Spanish, Arabic, Somali, Kurdish, Amharic, Farsi and Tigrinya.

Italian legislation does not foresee a general limitation on the freedom of movement of asylum seekers. Nevertheless, the law specifies that the competent Prefect may limit the freedom of movement of asylum seekers, delimiting a specific place of residence or a geographic area where asylum seekers may circulate freely.[345] In practice, this provision has never been applied so far. In this respect, the LD 142/2015 confirms this provision.[346]

Applicants' freedom of movement can be affected, however, by the fact that it is not possible to leave the reception centre temporarily e.g. to visit relatives without prior authorisation. Authorisation is usually granted with permission to leave for some days. In case a person leaves the centre without permission and they do not return to the structure within a brief period of time (usually agreed with the management body), that person cannot be readmitted to the same structure and material reception conditions can be withdrawn (see the section on Reduction or Withdrawal of Material Reception Conditions above).

Rules concerning the entry to / exit from the centre are also laid down in an agreement signed between the body running the structure and the asylum seeker at the beginning of the accommodation period. In case the accommodation is revoked, the person concerned remains outside the National Reception System. Asylum seekers out of the SPRAR system can resort to accommodation in private centres outside the National Reception System. This accommodation is normally offered by charities.

Asylum seekers, once accommodated in a centre, can be transferred from one CARA to another or from one CARA to a SPRAR centre. In practice, it is not so common to be transferred from CARA to CARA, while it is possible to be moved to a SPRAR centre, especially in the case of families and vulnerable categories. The reason of transfer from CARA to a SPRAR centre is in their interest, since the reception conditions and services provided in SPRAR are of better quality.

Asylum seekers can be placed in CARA all over the territory, depending on the availability of places. What happens in practice is that many asylum seekers prefer to remain in Rome instead of moving to other cities in Italy. In this case, they stay outside the CARA system.

B. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market	
1. Does the law allow for access to the labour market for asylum seekers?	☒ Yes ☐ No
❖ If yes, when do asylum seekers have access the labour market?	2 months
2. Does the law allow access to employment only following a labour market test?	☐ Yes ☒ No
3. Does the law only allow asylum seekers to work in specific sectors?	☐ Yes ☒ No
❖ If yes, specify which sectors	
4. Does the law limit asylum seekers' employment to a maximum working time?	☐ Yes ☒ No
❖ If yes, specify the number of days per year	
5. Are there restrictions to accessing employment in practice?	☒ Yes ☐ No

According to the previous Reception Decree, asylum seekers had the right to work after 6 months from the moment they filed the asylum application, if the procedure was still ongoing and the delay was not

345 Article 7(1) LD 159/2008, amending LD 25/2008 and Article 5(4) of the LD142/2015.
346 Article 5(4) LD 142/2015.

due to the conduct of the asylum seeker.[347] According to LD 142/2015, an asylum applicant can start to work within 60 days from the moment he or she lodged the asylum application.[348] This stay permit cannot be converted in a work stay permit.[349]

In addition, LD 142/2015 states that asylum applicants living in the SPRAR centres may attend vocational training when envisaged in programmes eventually adopted by the public local entities.[350]

CIR has a collaboration with the Centre for Work Orientation (*Centro di Orientamento al Lavoro*) (COL), a bureau under the Municipality of Rome, aiming at providing refugees or asylum seekers with vocational training opportunities. Once the Social Service Office of CIR identifies an asylum seeker or refugee who fulfils the requirements (knowledge of the Italian language and the possibility to work as prescribed by law), it refers the person concerned to the COL.

COL has, in particular, 2 main tasks. On the one hand, it elaborates a specific integration path for each person through interviews, examination of their CV, an evaluation of their motivations and competences. On the other hand, it monitors jobs or training vacancies within the territory of Rome so as to create a notice board to collect all information. After these preliminary steps, COL is able to offer refugees the most suitable trainings or jobs for their situation.

With regard to the type of vocational trainings, there are different forms and lengths. The length of the trainings may vary depending on the funds at CIR. Usually these trainings require 20, 25 or 30 hours of attendance per week, for a period of three up to 6 months; they rarely amount to more than 30 hours per week.

In addition, the SPRAR has implemented standardised integration programmes. Asylum seekers or beneficiaries of international protection accommodated in the SPRAR system are generally supported in their integration process, by means of individualised projects which include vocational training and internships.[351]

SPRAR is the only integrated system that provides this kind of services to the beneficiaries. Vocational training or other integration programmes can be provided also by the means of National public funds (8xmille) or the Asylum, Migration and Integration Fund (AMIF). In this case, the Ministry of Interior can finance specific projects to NGOs at national level concerning integration and social inclusion (for instance, CIR has implemented until the end of June 2015 a project on integration entitled "*Ordinaria Integrazione – Supporting tool for the integration of the beneficiaries of International protection"*.[352] The projects financed under AMIF are, however, very limited in terms of period of activity and in number of beneficiaries.

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

Even though the law makes a generic reference to the right to access to employment without indicating any limitations, and although being entitled to enlist into Provincial Offices for Labour, in practice, asylum seekers face difficulties in obtaining a residence permit which allows them to work due to the delay in the registration of their asylum claims, on the basis of which the permit of stay will be consequently issued.

347 Article 11(1) and (3) LD 140/2005.
348 Article 22(1) LD 142/2015.
349 Article 22(2) LD 142/2015.
350 Article 22(3) LD 142/2015.
351 SPRAR, *Manual for operators,* 34-37.
352 In 2014 CIR implemented a project which ended on 30 June 2014. It is a similar integration project called "*Percorsi di Integrazione"* (Pathways to Integration).

Furthermore, some Questure do not automatically issue this kind of stay permit. In addition, the objective factors affecting the possibility of asylum seekers to find a job are the current financial crisis affecting Italy, language barriers, the remote location of the accommodation and the lack of specific support founded on their needs.

Moreover, in Italy, a critical issue remains the shortage of integration programmes addressed to both asylum seekers and refugees. Moreover, it must be pointed out that there is a considerable difference of opportunities in accessing integration programmes depending on the services provided by the reception centres where asylum seekers are accommodated.

2. Access to education

Indicators: Access to Education		
1. Does the law provide for access to education for asylum-seeking children?	☒ Yes	☐ No
2. Are children able to access education in practice?	☒ Yes	☐ No

Italian legislation provides that all minors, both Italian and foreigners, have the right and the obligation until the age of 16 to take part in the national education system. Under LD 142/2015, unaccompanied asylum seeking children and children of asylum seekers exercise these rights and are also admitted to the courses of the Italian language.[353] LD 142/2015 makes reference to Article 38 of the Consolidated Act on Immigration, which states that foreign children present on Italian territory are subject to compulsory education, emphasising that all provisions concerning the right to education and the access to education services apply to foreign children as well.

This principle has been further clarified by Article 45 PD 394/1999 which gives foreign children equal rights to education as for Italian children, even when they are in an irregular situation,. Asylum seeking children have access to the same public schools as Italian citizens and are entitled to the same assistance and arrangements in case they have special needs. They are automatically integrated in the obligatory National Educational System. No preparatory classes are foreseen at National level, but since the Italian education system envisages some degree of autonomy in the organisation of the study courses, it is possible that some institutions organise additional courses in order to assist the integration of foreign children.

In practice, the main issues concerning school enrolment lie in: the reluctance of some schools to enrol a high number of foreign students; the refusal from the family members and/or the child to attend classes; and the insufficiency of places available in schools located near the accommodation centres and the consequent difficulty to reach the schools if the centres are placed in remote areas.

C. Health care

Indicators: Health Care			
1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?	☒ Yes		☐ No
2. Do asylum seekers have adequate access to health care in practice?	☒ Yes	☐ Limited	☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?	☐ Yes	☒ Limited	☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?	☒ Yes	☐ Limited	☐ No

[353] Article 21(2) LD 142/2015.

Under the Consolidated Act on Immigration, asylum seekers and beneficiaries of international protection must enrol in the National Health Service.[354] They enjoy equal treatment and full equality of rights and obligations with Italian citizens regarding the mandatory contributory assistance provided by the National Health Service in Italy. There is no distinction between asylum seekers benefitting from material reception conditions and those who are out of the reception system, since all asylum seekers benefit of the National Health System.

According to Article 35 of the Consolidated Act on Immigration, irregular migrants are entitled to treatment in public health care facilities for emergency and essential treatments because of illness or accident. They also benefit from preventive medical treatment programmes aimed at safeguarding individual and collective health.[355] Therefore, they are entitled to the same health care as nationals.[356]

The right to medical assistance is acquired at the moment of the registration of the asylum request and this right remains applicable even in the process of the renewal of the permit of stay.[357] Medical assistance is extended automatically to each regularly resident family member under the applicant's care in Italy and is recognised immediately for new-born babies of parents registered with the National Health System.[358]

LD 142/2015 provides that asylum seekers are obliged to register with the National Health System in the offices of the local health board (ASL).[359] Once registered, a temporary health card ("*tessera sanitaria*") is delivered to the asylum seeker.

Registration entitles the asylum seeker to the following health services:

- Free choice of a general doctor from the list presented by the ASL and choice of a paediatrician for children (free medical visits, home visits, prescriptions, certification for access to nursery and maternal schools, obligatory primary, media and secondary schools);
- Special medical assistance through a general doctor or paediatrician's request and on presentation of the health card;
- Midwifery and gynaecological visits at the "family counselling" ("*consultorio familiare*") to which access is direct and does not require doctors' request; and
- Free hospitalisation in public hospitals and some private subsidised structures.

Asylum seekers and beneficiaries of international protection benefit from free of charge health services on the basis of a self-declaration of destitution. The request of ticket exemption is presented to the competent ASL. Usually asylum seekers are helped by the social assistance of their centre in filling in the request.

The medical ticket exemption is due to the fact that asylum seekers are treated under the same rules as unemployed Italian citizens.[360] With the Reception Decree coming into effect and authorising asylum seekers to work, the ticket exemption is valid at least for 6 months from the asylum request,[361] when a permit of stay valid for work is then issued to the asylum seeker. After that, the asylum seeker needs to register in the registry of the job centres ("*centri per l'impiego*") attesting his or her unemployment in order to maintain the ticket exemption.

354 Article 34 LD 286/1998. See also Article 27 LD 251/2007, which refers exclusively to beneficiaries of international protection.
355 Article 35 LD 286/1998.
356 Article 34(1) LD 286/1998.
357 SPRAR, *Guida pratica per i titolari di protezione internazionale - Istruzioni per l'uso dei servizi sul territorio (Practical guide for the beneficiaries of international protection – Instruction for the use of services on the territory)*, 2003, 107.
358 *Ibid*.
359 Article 21(1) LD 142/2015, citing Article 34(1) LD 286/1998.
360 See Ministry of Health Circular No. 5, 24/03/2000.
361 Given that the time-limit for accessing the labour market has been reduced from 6 to 2 months (see Access to the Labour Market), there is a possibility for this to change in the future.

Asylum seekers suffering from mental health problems, including torture survivors, are entitled to the same right to access to health treatment as provided for nationals by Italian legislation. In practice, they may benefit from specialised services provided by the National Health System and by specialised NGOs or private entities.

From 2007 to 2012, the CNDA, UNHCR, CIR and the Centre for the Study and the treatment of post-traumatic and stress pathologies of the San Giovanni Hospital in Rome ran the Italian Network for Asylum Seekers who Survived Torture (NIRAST).[362] Through this project, determining authorities were trained, and a process of exchange and capacity building on these issues was promoted. Furthermore, *ad hoc* training sessions have been conducted involving 10 national Medical Psychological Centres (part of the National Health System) located near the Territorial Commissions. These training sessions, specifically directed to health professionals working inside the CARA and in the Local Public Health Units (ASL), created a network of medical centres all over Italy with staff competent to identify, treat and draft medico-legal reports on behalf of torture victims. In Rome, doctors belonging to the NIRAST network continue their work to assist asylum seekers and refugees victims of torture outside the hospital. The continuation of their work is enabled through the CIR office and they continue to be funded by a European project, while other NGOs also continue to support torture victims.

Regarding the effective enjoyment of the health services by asylum seekers and refugees, it is worth noting that there is a general misinformation and a lack of specific training on international protection among medical operators.[363] In addition, medical operators are not specifically trained on the diseases typically affecting asylum seekers and refugees, which are very different from the diseases affecting Italian population.[364]

One of the most relevant obstacles to access health services is the language barrier. Usually medical operators only speak Italian and there are no cultural mediators or interpreters who could facilitate the mutual understanding between operator and patient.[365] Therefore asylum seekers and refugees often do not address their general doctor and go to the hospital only when their disease gets worse. These problems are worsening because of the severe conditions of the accommodation centres and of the informal accommodation in the metropolitan areas.[366]

An important improvement has been introduced by LD 18/2014 amending the Qualification Decree. Article 27(1bis) of the Qualification Decree now requires that the Ministry of Health adopt guidelines aimed at planning assistance and rehabilitation interventions as well as treatment of mental diseases affecting beneficiaries of international protection subject to torture, rape and other serious forms of violence.[367] Such guidelines should also include training programs for specialised health personnel.

CIR has been involved in the technical working group coordinated by the Ministry of Health as a representative of the non-profit sector. We have the unique opportunity to participate and provide input to the authorities in this delicate field.

The practical effect of these guidelines, once adopted, is to have a standardised programme on interventions to support and rehabilitate the beneficiaries of international protection who experienced

362 More information available at: http://bit.ly/1Q9C9oE.
363 See M Benvenuti, *La protezione internazionale degli stranieri in Italia*, Jovene Editore, Napoli 2011, 263.
364 See CIR, *Le strade dell'integrazione – Ricerca sperimentale quali-quantitativa sul livello di integrazione dei titolari di protezione internazionale presenti in Italia da almeno tre anni (The streets of integration - Experimental research on the qualitative and quantitative level of integration of beneficiaries of international protection present in Italy for at least three years)*, June 2012.
365 *Ibid*.
366 *Ibid*.
367 Article 27(1-bis) LD 251/2007, as amended by Article 1(s) LD 18/2014.

torture, rapes or other severe of forms of psychological, physical or sexual violence. Moreover, training and refreshing courses will be put in place in favour of sanitary staff.

Detention of Asylum Seekers

A. General overview

Indicators: General Information on Detention		
1.	Total number of asylum seekers detained in 2015:[368]	Not available
2.	Number of asylum seekers in detention at the end of 2015:[369]	Not available
3.	Number of detention centres:	7
4.	Total capacity of detention centres:	955

The Procedure Decree prohibits the detention of asylum seekers for the sole purpose of examining their asylum request as reiterated in Article 6(1) of LD 142/2015. Asylum seekers can be detained only under particular and limited conditions (see section on Grounds for Detention).

Previously, asylum claims by persons detained in CIE were examined under the prioritised procedure. However, following the adoption of LD 142/2015, which entered into force on 30 September 2015, they are now admitted to the accelerated procedure (for more details see section on Accelerated Procedure). The prioritised procedure applied until 30 September 2015 to asylum seekers placed in CIE provided that the CTRPI has to schedule the personal interview of the asylum seeker within 7 days from the date it receives the asylum application and documentation forwarded by the Police and has to adopt a decision within the 2 days following the personal interview.

However, in practice the time limits laid down in the previous law between the registration of the asylum request and the adoption of the decision by the determining authority were "almost never" respected, especially in cases where no Questura competent to register the asylum demands is present in the CIE.[370] The whole asylum procedure often lasts several weeks. As reported in March 2014 by lawyers assisting asylum seekers in the CIE of Rome (Ponte Galeria), once the Questura receives the asylum request, it usually transmits it to the competent Territorial Commission within 1 week. By contrast there are longer delays for the personal interviews. The Territorial Commission often interviews the person concerned more than 1 month after receiving all the necessary documents, even though the law provides for a deadline of 7 days.[371] Nevertheless, it must be noted that the duration of the asylum procedure for applicants detained in these facilities varies between different CIE.

In practice, the possibility of accessing the asylum procedure inside the CIE appears to be difficult due to the lack or appropriate legal information and assistance, and to administrative obstacles. Furthermore, the absence of a standard procedure related to asylum claims by persons detained in CIE has created delays in the transmission of asylum applications to the competent Questura, exposing asylum seekers "to the risk of repatriation prior to consideration of their asylum applications, which could create the risk of *refoulement*".[372]

Moreover, as reported by lawyers and stakeholders interviewed in March 2014,[373] it happens that the personal interview is often carried out inside the CIE. The NGOs Senza Confine, ASGI and Laboratorio

368 Including *both* applicants detained in the course of the asylum procedure and persons lodging an application from detention.
369 Specify if this is an estimation.
370 M Benvenuti, *La protezione Internazionale degli Stranieri in Italia*, 2011, at 558-559.
371 Information provided by lawyer assisting migrants and asylum seekers in the CIE of Rome (Ponte Galeria) interviewed by CIR on 12 March 2014.
372 UNHCR, *UNHCR Recommendations on Important Aspects of Refugee Protection in Italy*, July 2013, 6.
373 Interviews carried out by CIR with lawyers specialised in migration, detention in CIE and expulsion who assist migrants in the CIEs of Rome and Trapani, 11 March 2014, as well as with Raffaella Cosentino, journalist, expert in migration and detention issues, and director of the Documentary filmed in several Italian CIE, entitled "EU 2013: the Last Frontier", 10 March 2014. See also R Cosentino, *Cie di Milo, dietro le sbarre anche*

53 have highlighted that this is often the case in the CIE of Rome (Ponte Galeria) where there is an important number of asylum seekers detained in the facility.

It must be also noted that, as emerging from interviews carried out by CIR with lawyers working in CIE, recognition rates for people who applied for asylum from detention are quite low. One reason is that authorities generally consider that the application was filed only to delay the return process. Even though the authorities may consider these applications as not genuine, each asylum application is examined and evaluated on merit. In fact, it must be recalled that Italian law does not provide for admissibility or accelerated procedures, although these applications are prioritised.

In July 2014, the Extraordinary Commission for Human Rights ("*Commissione Straordinaria per la tutela e la promozione dei diritti umani*") of the Senate reported that there are 11 CIE in Italy. As of 18 September 2014, 373 persons were held in detention in the functioning CIE.[374]

According to the Roadmap on relocation,[375] there are currently 7 functioning CIE.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
   - ❖ on the territory: ☐ Yes ☒ No
   - ❖ at the border: ☐ Yes ☒ No

2. Are asylum seekers detained in practice during the Dublin procedure? ☐ Frequently ☐ Rarely ☒ Never

3. Are asylum seekers detained during a regular procedure in practice? ☐ Frequently ☐ Rarely ☒ Never

LD 142/2015 has deleted Article 21 of the Procedure Decree, on the detention of asylum applicants. According to LD 142/2015, the applicant shall not be detained for the sole reason of the examination of his application.[376] The applicant shall be detained in CIE,[377] on the basis of a case by case evaluation, when he or she:[378]

(a) Falls under the exclusion clauses laid down in Article 1F of the 1951 Convention;

(b) Is issued with an expulsion order as a danger to public order or state security,[379] or as suspected of being affiliated to a mafia-related organisation, has conducted or financed terrorist activities,

richiedenti asilo, trans e tossicodipendenti ("Milo's CIE, In detention also asylum seekers, trans and drug abusers"), March 2012, available in Italian at: http://bit.ly/1KrvWms.

374 CIR, *Data provided to CIR by Ministry of Interior*, 18 September 2014.

375 Ministry of Interior, Italian Roadmap, 28 September 2015, 14.

376 Article 6(1) LD 142/2015.

377 Article 14 LD 286/1998 provides that the authorised CIE shall be established by the Ministry of Internal Affairs in agreement with the Ministry of Economy.

378 Article 6(2) LD 142/2015.

379 Article 13(1) LD 286/1998.

has cooperated in selling or smuggling weapons or habitually conducts any form of criminal activity,[380] including with the intention of committing acts of terrorism;[381]

(c) May represent a danger for public order and security.
To assess such a danger, it is necessary to take into account any previous convictions, final or non-final, including the conviction adopted following the enforcement of the penalty at the request of the party pursuant to Article 444 of the Italian Criminal Procedure Code, in relation to certain serious crimes,[382] and also to drug crimes, sexual crimes, facilitation of illegal immigration, recruiting of persons for prostitution, exploitation of prostitution and of minors to be used in illegal activities;

(d) Presents a risk of absconding
The assessment of such risk is made on a case by case basis, when the applicant has previously and systematically provided false declarations or documents on his or her personal data in order to avoid the adoption or the enforcement of an expulsion order, or when the applicant has not complied alternatives to detention, including the obligation to surrender a passport, stay in an assigned place of residence determined by the competent authority or report at given times to the competent authority.[383]

In addition to the cases mentioned above, the applicant placed in a CIE awaiting for the enforcement of an expulsion order pursuant to Articles 13 and 14 LD 286/1998 shall remain in such facility when:

(e) There are reasonable grounds to consider that the application has been submitted with the sole reason of delaying or obstructing the enforcement of the expulsion order.[384]

The *Questore* orders detention if one of the above grounds of detention applies to the asylum applicant and transmits relevant documents to the competent Territorial Commission, as well the extension of detention.[385] The *Questore*'s order related to the detention or the extension thereof shall be issued in writing, accompanied by an explanatory statement, and shall indicate that the applicant may submit to the judge responsible to validate the order, personally or with the aid of a lawyer, statements of defence. Such order shall be communicated to the applicant in the first language that the applicant has indicated or in a language that the applicant can reasonably understand.[386]

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
   - ☒ Reporting duties
   - ☒ Surrendering documents
   - ☐ Financial guarantee
   - ☒ Residence restrictions
   - ☐ Other
2. Are alternatives to detention used in practice? ☐ Yes ☐ No

Article 6(5) LD 142/2015 makes reference to the alternatives to detention provided in the Consolidated Act on Immigration (LD 286/1998). To this end, authorities should apply Article 14 LD 286/1998 to the

380 Article 13(2)(c) LD 286/1998.
381 Article 3(1) LD 144/2005, as supplemented by L 155/2005.
382 Article 380(1)-(2) Italian Criminal Procedure Code is cited, which refers to individuals who have participated in, among others, the following criminal activities: (a) child prostitution; (b) child pornography; (c) slavery; (d) looting and vandalism; (e) crimes against the community or the state authorities.
383 Article 13(5), (5.2) and (13) and Article 14 LD 286/1998.
384 Article 6(3) LD 142/2015.
385 Article 4(2) PD 21/2015.
386 Article 6(5) LD 142/2015.

compatible extent, including the provisions on alternative detention measures provided by Article 14(1-bis).

The Consolidated Act on Immigration provides that a foreign national who has received an expulsion order may request to the Prefect a certain period of time for voluntary departure. In that case the person will not be detained and will not be forcibly removed from the territory. However, in order to benefit from this measure, some strict requirements must be fulfilled:[387]

- ❖ No expulsion order for state security and public order grounds has been issued against the person concerned;
- ❖ There is no risk of absconding; and
- ❖ The request of permit of stay has not been rejected as manifestly unfounded or fraudulent.

In case the Prefect grants a voluntary departure period, then by virtue of Article 13(5.2) of the Consolidated Act on Immigration, the chief of the Questura resorts to one or more alternative measures to detention such as:

(a) The obligation to hand over passport to the police until departure;
(b) The obligation to reside in a specific domicile where the person can be contacted;
(c) The obligation to report to police authorities following police instructions.

However, Doctors for Human Rights (MEDU) emphasise that, even though the Return Directive foresees detention only as a last resort where less coercive measures cannot be applied, in transposing the Return Directive, Italian legislation envisages forced return as a rule and voluntary departure as an exception.[388] In practice, Italian authorities still in 2015 rarely resort to alternatives to detention in CIE.[389] In addition, the decree issued by the Questore usually does not indicate the concrete and specific reasons for the detention in a CIE and for the impossibility to resort to less coercive measures.[390]

The LD 142/2015 provides that when the detained applicant requests to be repatriated in his Country of origin or in the Country from which he came from, the removal order[391] shall be immediately adopted or executed. The repatriation request corresponds to a withdrawal of the application for international protection.[392]

In case the applicant is the recipient of an expulsion order,[393] the deadline for the voluntary departure set out by Article 13(5) shall be suspended for the time necessary for the examination of his/her asylum application. In this case the applicant is accommodated in SPRAR centres.[394]

387 Article 13(5.2) and Article 14ter LD 286/1998, as amended by L 129/2011.
388 MEDU, *ARCIPELAGO CIE: indagine sui centri di identificazione ed espulsione italiani* (*Archipelgo CIE: survey of Italians identification and expusion centres)*, May 2013, 32.
389 ASGI, *Il Documento programmatico sui C.I.E. del Ministero dell'interno: un pessimo programma di legislatura (The Programmatic document of the Ministry of Interior: a bad legislative programme)*, 23 April 2013, 3. See also CIR, 'UN Special Rapporteur on the Human Rights of Migrants', 5 December 2014, available at: http://bit.ly/1Fcym3Y.
390 This has been acknowledged by the Tribunal of Crotone in the Sentenza 1410 of 12 December 2012.
391 Pursuant to Article 13(4) and (5-bis) LD 286/1998.
392 Article 6(9) LD 142/2015.
393 The expulsion order to be executed according to the procedures set out in Article 13(5)-(5.2) LD 286/1998.
394 Article 6(10) LD 142/2015.

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice? ☐ Frequently ☐ Rarely ☒ Never
   - ❖ If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☐ No
2. Are asylum seeking children in families detained in practice? ☐ Frequently ☐ Rarely ☒ Never

Article 19(4) LD 142/2015 explicitly provides that unaccompanied children can *never* be held in CIE or CARA, whereas the law is silent with regard to other vulnerable categories. Nevertheless, unaccompanied children wrongly assessed as adults after an age assessment procedure can be detained in CIE.

A striking example of this issue is the case of 3 Bangladeshi children who, as reported by the Association for Legal Studies on Immigration (ASGI) and several media, were taken in March 2013 from the reception centre for unaccompanied children and were hosted in the CIE of Ponte Galeria following a second age assessment. Their detention was ordered by the Rome municipality in the framework of the so-called operation "false unaccompanied foreign minors", on the basis of an agreement with the guardianship judge, police authorities and a military hospital (the Celio). The 3 Bangladeshi boys were, then, subjected to a third medical evaluation, which recognised their minority. Although the third age assessment concluded that they were children, and they had passports released by the Bangladeshi embassy in Italy proving their age, the guardianship judge on the request of Rome municipality still declared them as adults, therefore revoking their guardianship. Finally, thanks to the intervention of the NGO Yo Migro who contacted ASGI, an appeal against the decision of the guardianship judge as well as against the order of detention in the CIE was filed to the peace judge (*giudice di pace*), whose ruling was favourable to the Bangladeshi children.[395]

Another recent episode concerns a 17 year-old (S.O.) who arrived by boat from Libya and was rescued at sea on 15 February 2014. The young man was fingerprinted and photographed on the military vessel who rescued him, but since his data were not correctly registered and although he declared several times to be a child, the police authorities issued an order of "deferred rejection at the border ("*respingimento differito*") and an order of detention with the consequent transfer to the CIE of Ponte Galeria (Rome),[396] where he is currently held. As soon as the association Senza Confine, Asgi and Laboratorio 53 were informed about this situation they filed an appeal in order to put an end to the unlawful detention of the boy. While in detention, S.O. was subjected to an age assessment (through an X-ray of his wrist) which concluded that he is over 18. However, the medical report did not indicate any margin of error, which by virtue of the Circular of the Ministry of Interior no. 17272/7 of 9 July 2007 must be included in the report since the evaluation cannot precisely establish the age of the young person concerned.[397]

Detention of children in families is not prohibited. Children can be detained together with their parents if they request it and if decided by a Juvenile Judge. In practice, very few children are detained.

Moreover, other vulnerable persons may be detained in CIE and there are no provisions concerning the legal guarantees that should be applied when victims of torture or violence are identified in detention in order to transfer them to adequate reception centres and benefit from specific medical, psychological and other treatment. In this regard, asylum applicants whose health problems are incompatible with detention

395 Interview of a lawyer of ASGI carried out by CIR in July 2013. On the situation of the 3 Bangladeshi unaccompanied children, see Testimony collected from Yo Migro, available in Italian at: http://bit.ly/1JWJ44Z.
396 Association SenzaConfine, February 2014, available at: http://bit.ly/1FEUAyU.
397 Circular of the Ministry of Interior no. 17272/7 of 9 July 2007.

cannot be held in CIE. In the framework of the social and health services guaranteed in CIE, an assessment of vulnerability situations requiring specific assistance is periodically provided.[398]

In CIE, however, legal assistance and psychological support is not systematically provided. To date, no protocol on early identification of and assistance to vulnerable persons, and on the referral system to specialised services and/or reception centres has been adopted. Although standards of services in CIE centres are planned following the national regulation on management of the centres, they are insufficient and inadequate, especially for vulnerable categories of individuals. Moreover, the quality of services may differ from one CIE to another. In this respect, Article 4(e) of the Regulation of 20 October 2014 of the Minister of Interior provides, where possible, a specific space reserved to asylum seekers and persons with special reception needs.

4. Duration of detention

Indicators: Duration of Detention	
1. What is the maximum detention period set in the law (incl. extensions):	12 months
2. In practice, how long in average are asylum seekers detained?	Not available

As of November 2014, with the entry into force of the European Law 2013-bis, the maximum duration of detention of third-country nationals in CIE had been reduced from 18 months to 90 days.[399] This provision, however, has been modified by the LD 142/2015, which increased the maximum duration of detention.

The initial validation of immigration detention provides only for a maximum of 30 days in a CIE. In case the verification of the identity and nationality of the third-country national or the acquisition of his or her travel documents are particularly difficult, the judge, upon request of the *Questore*, can extend the detention period for an additional 30 days after the first 30 days. After this first extension (30 days + 30 days), the *Questore* may submit a request for one or more extension(s) to a lower civil court, where it is decided by a judge of the peace, in case there are concrete elements to believe that the identification of the concerned third country national is likely to be carried out or that such delay is necessary to implement the return operations. The assessment concerning the duration of such an extension lies with the judge of the peace who decides on a case-by-case basis. However, the overall detention period should never exceed 90 days.

The interpretation of the Consolidated Act on Immigration in relation to asylum seekers was not clear with regard to the maximum time limit for detention period in CIE since persons detained in a CIE who lodge an application for international protection receive a first extension of 30 days for the authorities to carry out the prioritised asylum procedure.[400] In this respect, LD 142/2015 has introduced few norms on the detention of asylum seekers falling under the accelerated procedure.

In case the person files an appeal against the negative decision of the Territorial Commission on his or her asylum application, and in case the judge agrees to suspend the expulsion measure, the applicant is issued a permit of stay for asylum applicants and he or she is released from the CIE.[401]

When detention is already taking place at the time of the submission of the application, the terms provided by Article 14(5) LD 286/1998 are suspended and the *Questore* shall transmit the relevant files to the competent judicial authority to validate the detention for a maximum period of 60 days, in order to allow the completion of procedure related to the examination of the asylum application.[402] However, the

398 Article 7(5) LD 142/2015.
399 Article 14(5) LD 286/1998, as amended by Article 3 L 161/2014.
400 Article 28 LD 25/2008.
401 Article 19(5) LD 150/2011.
402 Article 6(5) LD 142/2015.

detention or the extension of the detention shall not last beyond the time necessary for the examination of the asylum application under accelerated procedure,[403] unless additional detention grounds subsist pursuant to Article 14 LD 286/1998. Any delays in the completion of the administrative procedures required for the examination of the asylum application, if not caused by the applicant, do not constitute valid ground for the extension of the detention.[404]

According to LD 142/2015, the applicant detained in CIE who appeals against the rejection decision issued by the Territorial Commission remains in the detention facility until the adoption of the decision on the suspension of the order by the judge,[405] and also as long as the applicant is authorised to remain in the national territory as a consequence of the lodged appeal. In this respect the *Questore* shall request the extension of the ongoing detention for additional periods no longer than 60 days, which can be extended by the judicial authority from time to time, until the above conditions persist. In any case, the maximum detention period cannot last more than twelve months.[406]

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☐ Yes ☒ No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

Under the Procedure Decree, asylum seekers can be detained in CIE where third-country nationals who have received an expulsion order are generally held. Among them, there are also former detainees previously held in ordinary prisons.

According to the Roadmap on relocation,[407] currently are functioning the following 7 CIEs:

CIE	Official capacity
Bari	112
Brindisi	83
Caltanisetta	96
Crotone	30
Roma	250
Torino	180
Trapani	204
Prospective CIEs following the “hotspot” approach	
Milano	132
Gradisca d’Isonzo	248

The total effective capacity of the 7 CIEs is 955 places.

403 Pursuant to Article 28-bis(1) and (3) LD 25/2008, as inserted by LD 142/2015.
404 Article 6(6) LD 142/2015.
405 Articles 5 and 19(5) LD150/ 2011.
406 Article 6(8) LD 142/2015.
407 Ministry of Interior, *Italian Roadmap*, 28 September 2015, 14.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

1. Do detainees have access to health care in practice? ☒ Yes ☐ No
   - ❖ If yes, is it limited to emergency health care? ☐ Yes ☒ No

2. Is access to detention centres allowed to
   - ❖ Lawyers: ☐ Yes ☒ Limited ☐ No
   - ❖ NGOs: ☐ Yes ☒ Limited ☐ No
   - ❖ UNHCR: ☐ Yes ☒ Limited ☐ No
   - ❖ Family members: ☐ Yes ☒ Limited ☐ No

In 2014 the Human Rights Commission of the Senate, chaired by Senator Luigi Manconi, has conducted fact-finding missions in the five functioning CIEs (Bari, Rome, Gorizia, Trapani, Turin) focusing, in particular, on the respect of human dignity and fundamental rights. Such visits led to the drafting of a Report and a number of recommendations to the Government gathered in a Resolution approved by the same Commission. The reports have raised awareness on the importance of a systematic monitoring of detention conditions in CIEs.[408] A report by the Human Rights Commission expected in 2015 has not yet been published at the time of writing.

Access to UNHCR and NGOs

As mentioned above, the LD 142/2015 has repealed Article 21 of the LD 25/2008 concerning detention in CIE and has introduced two provisions on detention and detention conditions.[409]

The LD 142/2015 has introduced a norm on the detention conditions confirming the access to the CIE and to the freedom to meet detainees by the UNHCR or organisations working on behalf of UNHCR, by family members, lawyers assisting the applicants, organisations with consolidated experience in the field of asylum, representatives of religious entities.[410] In this respect, Article 6 the Regulation of CIE issued on 20 October 2014 by the Minister of Interior, provides that access to the CIE without asking the authorisation is allowed any time to governmental representatives, members of the Italian and European Parliament, judges, Office of the National Ombudsman for the rights of detained persons, UNHCR or Organisations working on behalf of UNHCR. However, an authorisation from the competent Prefecture is necessary for family members, Organisations with consolidated experience in the field of asylum, representatives of religious entities, journalists and any other person who make the request to enter CIE. However, for public order and security reasons or for reasons related to the administrative management of CIE the access can be limited but not fully impeded.[411]

Persons held in these centres vary significantly in terms of social origin, psychological condition, health condition, legal status.[412] This heterogeneity of persons kept in CIEs together with inadequate services provided inside these centres and the shortage of economic means for their management have caused a number of protests during last months in CIEs all over the national territory.[413]

408 See Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione ed espulsione in Italia*, September 2014.
409 Articles 6 and 7 LD 142/2015.
410 Article 7(2) LD 142/2015.
411 Article 7(3) LD 142/2015.
412 Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 14.
413 Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 14.

The conditions of administrative detention of migrants are very poor and vary considerably from centre to centre. This is mainly due to the fact that the management of each CIE is assigned to private entities, through public procurement contracts, exclusively based on a 'value for money criterion'.[414] Thus, the basic services provided and their quality varies from centre to centre but is generally very low and inadequate. [415] In this regard, the Human Rights Commission of Senate has underlined in its report the fact that the lack of common house rules for all CIEs leads to a great difference among centres with regard to the degree of flexibility in activities and services provided for detainees, also based on a different interpretation of the rules concerning security inside CIEs.[416] In fact, these rules are interpreted in some CIEs in a very restricted manner. For instance, as reported by the Human Rights Commission of the Senate, there are considerable difficulties/hurdles in obtaining authorisation to bring inside some CIEs pens, books, newspapers and ping-pong rackets.[417]

Furthermore, it is worth noting that there is a lack of an independent monitoring body in charge of the assessment of the work of the entities managing the CIEs. In fact, internal controls and evaluations concerning the management of these structures and the services provided are carried out by the same entities in charge of the centre.[418]

In order to overcome these flaws and shortcomings, the Human Rights Commission of the Senate issued a resolution approved in March 2014[419] asking the Government to review the mechanisms for the outsourcing of the management of all CIEs. To this aim, the Commission recommended a single public entity be appointed for the management of all centres at a national level.[420]

Moreover, the Commission asked for the establishment of a monitoring mechanism to be established within the Prefectures, thus verifying the compliance of the services provided with *ad hoc* agreements. In this respect it should be pointed out that Article 8 of the Regulation issued on 20 October 2014 by the Minister of Interior on the criteria for the organisation of the CIE provides that the Prefect shall identify the modalities to ensure control and monitoring activities on the management of such structures by the managing body. Frequent visits from the Prefecture can be conducted without alerting the manager. The Regulation provides a complaint service safeguarding the anonymity of detainees.[421]

It is also worth noting that since 2013, a collaboration has been established between the Human Rights Commission of the Senate and partner organisations of the Praesidium Project (UNHCR, IOM, Save the Children, Italian Red Cross) with the aim to establish mixed commissions including representatives from the Prefecture, the Police as well as a member from each organisation involved in the Praesidium Project, in charge of periodically verifying the respect of the outsourcing conventions for the management of CIEs.[422] In this respect it should be noted that *Praesidium* stopped its activities at the end of June 2015. However, IOM and UNHCR continue to monitor the detention conditions on the basis of their respective mandates. UNHCR conducts also monitoring on the access to asylum procedures ensure some activities.

414 As provided by Article 22(1) of the Presidential Decree 394/99 implementing the Consolidated Immigration Act, and the Ministerial Decree of 21 November 2008 concerning the procurement for the management of the CIEs, CIEs are managed by a variety of private entities, including private companies and non-governmental associations on the basis of an agreement concluded with the local Prefecture.

415 LasciateCIEntrare Campaign, Mai più CIE ("Never ever CIE"), 2013, available at: http://bit.ly/1THdv1z, 9.

416 Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 33.

417 *Ibid*.

418 LasciateCIEntrare, *Mai più CIE* ("No more CIE"), 2013, available at: http://bit.ly/1THdv1z, 9.

419 Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 143.

420 *Ibid*, 32 and 147-153.

421 Regulation of 20 October 2014, available at: http://bit.ly/1PpOVmi.

422 Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 33.

In addition, on 17 November 2014 the Chamber of Deputies established an "Inquiry Commission" in charge of monitoring and assessing the Italian reception system (CARA and CDA) and the detention conditions of migrants held in CIEs.[423]

The Commission has *inter alia* the mandate to detect structural critical aspects of accommodation and detention facilities as well as to investigate the outsourcing mechanisms for the management of these centres, often lacking transparency.[424]

On 24 January 2014, some doctors of the NGO Medici per i diritti umani (MEDU) visited the CIE of Trapani Milo, where they found appalling conditions. The entity managing the CIE at that time was not able to provide services and basic necessities: inside the centre there was a lack of pens, paper and detergents. The kit for entering detainees, containing basic necessities and underwear, were dramatically reduced or absent".[425]

The **CIE in Trapani Milo** is currently managed by the Italian Red Cross until a new management entity will be appointed through a public call.[426]

With regard to this CIE, on 29 August 2015 some Italian MPs with their assistants, visited this centre and reported that the majority of 130 detainees were from Morocco. One of the young migrants hosted in this CIE tried to commit suicide and the visitors reported that he wasn't adequately assisted by the doctors and psychologists. The migrants interviewed by MPs explained that they didn't know the reasons of their detention, its duration. They also complained that they manifested the will to get in touch with their family members but they did not get such opportunity.[427]

On 23 September 2015, the spokesperson of the political party *Movimento 5 Stelle*, Vincenzo Maurizio Santangelo, denounced the inadequate sanitary conditions of the CIE in Milo. He asked the Prefect and Police Commissioner to close this centre because these conditions could amount to a severe violation of human rights. In addition in the CIE there were dirty mattresses, without bedspring, broken windows and there was only cold water.[428]

With regard to the **CIE of Ponte Galeria**, as reported by LasciateCIEntrare Campaign, on 23 July 2015, 66 Nigerian women arrived in Sicily and, soon after disembarkation were immediately transferred to the CIE of Ponte Galeria (Roma). At the point of disembarkation they didn't receive any information about the opportunity to apply for asylum, even though on their bodies there were permanent burns caused by the violence they suffered from. When they arrived in the CIE an official of Nigerian Consulate for their "identification" to repatriate them was already present there. However, they applied for asylum and were admitted to the asylum procedure. On 3 September 2015, four of them were released and obtained the

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423 Chamber of Deputies, Resolution 17 November 2014**, "**Istituzione di una Commissione parlamentare di inchiesta sul sistema di accoglienza e di identificazione, nonché sulle condizioni di trattenimento dei migranti nei centri di accoglienza, nei centri di accoglienza per richiedenti asilo e nei centri di identificazione ed espulsione", Official Journal Serie Generale n.275 of 26 November 2014, available at: http://bit.ly/21X7dRq.

424 Delibera 17 novembre 2014 (pubblicata nella Gazzetta Ufficiale n. 275 del 26 novembre 2014). More information is available at: http://bit.ly/1lVU9uJ.

425 MEDU, *Centri di identificazione ed espulsione: da Trapani Milo a Ponte Galeria, chiudere delle strutture gravemente inadeguate* (Identification and expulsion centres: from Trapani Milo to Ponte Galeria, close the structures highly inadequate), 28 January 2014, available at: http://bit.ly/1O1zdiu.

426 The CIE of Trapani Milo has been run by different bodies during last two years. In fact as pointed out by the Extraordinary Human Rights Commission of the Senate, in August 2013 the Prefecture of Trapani has revoked the contract with the cooperative "L'Oasi" due to its grave lack of services provided and to disastrous management of the CIE. See: Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 70.

427 LasciateCIEntrare, 'Visita al CIE de Trapani del 29/8/2015', 8 September 2015, available at: http://bit.ly/1ILuoHV.

428 La Gazzetta, 'Santangelo: il CIE di Milo va chiuso immediatamente, causa condizioni igienico-sanitarie', 15 September 2015, available at: http://bit.ly/1OnDC9J.

humanitarian protection. The LasciateCIEntrare Campaign remained concerned about the future of the other Nigerian women detained in Ponte Galeria.[429]

Concerning the asylum seekers detained in the Italian administrative detention centres, the Special Rapporteur on the human rights of migrants, François Crépeau, remains concerned about lack of access to justice for migrants who apply for asylum while they are in CIE. As reported, although under the Italian law the order of expulsion is suspended during the examination of the application, he learned that some migrants had been deported in spite of they had already expressed their desire to make an asylum application.[430]

Activities and time management of the detainees

With regard to sports and recreational / leisure activities, CIEs are usually conceived as structures which temporarily detain migrants awaiting deportation. Therefore, since these facilities were designed to detain people for maximum 60 days and not for longer periods, they do not dispose of specific areas/rooms for recreational and sport activities.[431]

The extraordinary Human Rights Commission of the Senate underlines in its report that third-country nationals detained in CIEs have been deprived of "the possibility to carry on any kind of recreational or educational activity, living in precarious conditions from both material and human point of view".[432] This body specifies that the main criticism of CIEs is the "empty time".[433] This "empty time" has been identified as one of the most critical aspects of detention conditions.

In Italian CIEs the access to open-air spaces seems to be guaranteed, although in some cases with some limitations. However, foreigners detained spend a lot of their time in their cells since no "large common spaces [are] equipped for recreational activities – with the exception of the football fields in Roma, Bari and Caltanissetta – due to the potential security threat that these kind of activities could cause".[434]

With regard to the possibility for detainees to have access to reading materials, the personnel of the body running CIEs maintain that a library or books are available in these structures, but the representatives of the Union of Italian Criminal Chambers did not find the library in any of the CIEs visited.[435] In addition, access to internet and to newspapers is often not guaranteed.

It has been underlined that the shortage of recreational activities especially had a negative impact on living conditions of people staying in the CIE 24 hours a day and whose detention, according to the previous law, could last up to 18 months, thus making it one of the main factors entailing distress in detained migrants.[436]

With regard to the hygienic-sanitary conditions, the Union of Italian Criminal Chambers reported that in several CIEs, such as in the structure of **Ponte Galeria** in Rome, bathrooms are crumbling, there are

429 LasciateCIEntrare, 'Oggi libere 4 delle 66 ragazze nigeriane chiuse al CIE di Ponte Galeria. E le altre?' 3 September 2015, available at: http://bit.ly/1KLLaFV.

430 Human Rights Council Twenty-ninth session. Report by the Special Rapporteur on the human rights of migrants, François Crépeau. Follow-up mission to Italy (2–6 December 2014). 1 May 2015, 18.

431 Borderline-Europe, *op. cit.*, February 2014, 25-26.

432 Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 30.

433 *Ibid*.

434 Borderline-Europe, *At the Limen. The case of Italy, Spain and Cyprus*, February 2014, 26.

435 Union of Italian Criminal Chambers, report of the visit at the CIE of Bari (16 July 2013), report of the visit at the CIE of Turin (8 July 2013), report of the visit at the CIE of Rome (9 April 2013), report of the visit to the CIE of Milan (3 April 2013); Interview with Raffaella Cosentino, journalist expert in migration and detention issues and director of the documentary set in Italian CIEs "EU 013: The last Frontier", carried out by CIR on 10 March 2014.

436 Medici per i Diritti umani, *op.cit*, 24.

squat toilets, and in some cases doors do not close.[437] MEDU emphasised that hygienic services (showers, toilets, etc.) appear to be in insufficient and inadequate clean conditions.[438]

By law access to health care is guaranteed to all detainees. The law provides as a general rule that full necessary assistance and respect of dignity shall be guaranteed to the detainees.[439] The legislation further states that the fundamental rights of the detainees must be guaranteed, and that inside detention centres essential health services are provided.[440]

The Directive of 14 April 2000 of the Ministry of the Interior on Centres of Temporary Permanence and Assistance (former name of CIE) states that, during detention, the protection of physical and mental health must be ensured and that health services shall be provided by the centre's managing body.

The competent Prefecture signs *ad hoc* agreements (*Capitolato di appalto*) with the entity in charge of ensuring the management of the centre, that are elaborated on the basis of a general model of rules[441] related to the functioning of the CIE and to the services that must be provided by the managing body.

This general model of rules was adopted on the 21rst November 2008 through a Ministerial Decree in order to harmonise the typology and the quality of services provided within all the CIEs.
According to the *Capitolato*, the following services must be guaranteed by the managing entity of the CIE, also through the contribution of NGOs or other agencies: interpretation, cultural mediation, social assistance, legal orientation, psychological support, health care.
The health care services provided must consist of:

- Medical screening carried out upon entrance of the migrants in CIEs, aiming at checking general health conditions and at identifying vulnerable cases (unaccompanied children, disabled people, victims of physical and psychological violence);
- Medical service ensured on a daily basis by a doctor assisted by nurses, present in the centre for an adequate number of hours established in consideration of the number of persons detained;
- Moreover, in case the detained person needs urgent health care, on the basis of the explicit request of the responsible doctor or, in their absence, of supervisory staff, they are conducted to the nearest public health unit.

MEDU in its report issued on May 2013 pointed out that the comprehensive level and quality of health services provided by the management bodies within the CIEs "do not seem to ensure adequately the right to health to the persons detained".[442]

With regard to the detention facilities for families and vulnerable persons, the Directive of 14 April 2000 of the Ministry of the Interior regulates the structural characteristics of the centres and establishes that separated rooms or wings should be available for women, men and families (with or without children). Family unity must be guaranteed, therefore family members should remain in the same centre and when such an arrangement is not possible in a short time, they will be transferred to another centre.

According to Doctors without Borders,[443] and the report issued in 2012 by the Commission for the protection and promotion of human rights of the Senate (hereafter "Senate report"),[444] separate rooms or

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437 Union of Italian Criminal Chambers, Report of the visit at the CIE of Bari (16 July 2013); Report of the visit at the CIE of Milan (3 April 2013); Report of the visit at the CIE of Rome (9 April 2013).
438 Medici per i Diritti umani, *op.cit,* p. 21.
439 Article 14(2) of the TU n. 286/1998.
440 Article 21(1) and 21(2) of the Presidential Decree 394/1999.
441 Schema di capitolato di appalto per la gestione dei centri di accoglienza per immigrati.
442 Medici per i Diritti umani, *ARCIPELAGO CIE*, May 2013, p. 24.
443 Doctors without Borders, *opus cite.*
444 Commissione straordinaria per la tutela e la promozione dei diritti umani del Senato *" Rapporto sullo stato dei diritti umani negli istituti penitenziari e nei centri di accoglienza e trattenimento per migranti in Italia"*, February 2012 (Extraordinary Commission for the protection and promotion of human rights of the Senate, *Report on the status of human rights in the penitentiary institutions and in the reception and detention centres for migrants in Italy).*

wings for vulnerable persons, asylum seekers or others groups are not always provided in detention facilities. These reports have denounced the fact that there is in practice little attention for vulnerable persons and that migrants and asylum seekers are obliged to share the same rooms and wings with former prisoners who have committed different types of crimes. This promiscuity among detainees with heterogeneous social, legal and psychophysical conditions (ex-prisoners, asylum seekers, victims of trafficking, foreigners who lived irregularly for many years in Italy, foreigners just arrived...) can potentially expose vulnerable persons to further abuses and makes more difficult their identification and proper assistance.

As highlighted in its 2014 Report,[445] during its missions the Human Rights Commission met a number of detainees held in CIEs showing psychological and physical vulnerability. The detention of such persons, other than worsening their condition, proves to be useless for their identification. The Commission accordingly urges Government to define homogenous health standards, assuring the adoption of operational protocols and agreements with the Local Health Units (ASL). Moreover, it requests the adoption of increased measures supporting vulnerable persons.[446]

Concerning the access to education in CIEs, foreigner children should have access to education at the same conditions foreseen for nationals. The presence of children in detention centres has been reported in very few cases.

Access to detention centres is guaranteed by law, in any case, to UNHCR's representatives, lawyers and specialised refugee assisting organisations that have been previously authorised by the Ministry of the Interior.[447] Nevertheless, the latter organisations are still not given full and continuous access to these centres.

Access to CIEs for journalists and politicians is quite difficult. They have to pass through two different stages before gaining authorisation to visit the CIEs. Firstly, they need to make a request to the local *prefecture* (the local government representative), which then forwards the request to the Ministry of Interior who investigates the applicant, before finally sending the authorisation back to the Prefecture.

As pointed out by Borderline-Europe "it is a very long and arbitrary procedure which leaves a lot of rooms for the authorities to limit access to the camps".[448]

It is often hard to obtain a reply from the *Prefecture*. Moreover, authorities have a high discretion in allowing or not the entrance of external actors in CIEs since legislation does not foresee precise and clear criteria for the access."[449]

On this point the UN Special Rapporteur on the human rights of migrants underlines the need to "establish a nationwide institutional framework in which NGOs, intergovernmental organizations, journalists and lawyers can freely access and monitor the facilities".[450]

In order to inform and raise awareness on the effective situation and conditions of migrants inside Italian administrative detention centres, the LasciateCIEntrare campaign organizes visits inside CIEs with journalists, lawyers, members of Parliament and NGOs."[451]

445 Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 28.
446 *Ibid*, 35.
447 Article 21(3) LD 25/2008.
448 Borderline-Europe, *opus cite*, February 2014, 22.
449 *Ibid*, 22.
450 UN Special Rapporteur on the human rights of migrants, François Crépeau, Mission to Italy (29 September–8 October 2012), Report 20 April 2013, 15-16.
451 LasciateCIEntrare, *Mai più CIE*, 2013, 9.

Moreover, in compliance with the Optional Protocol to the UN Convention Against Torture (OPCAT), Italy established the Office of the National Ombudsman for the rights of detained persons and persons deprived of their liberty (*Garante Nazionale per i detenuti*) under Law no. 10/2014.[452] The Ombudsman can, *inter alia*, have unrestricted access to any facility inside the CIEs.[453] Moreover, he or she is in charge of verifying the respect of the national law with regard to the rights provided by Article 20 (detention in CIEs), Article 21 (forms of detention), Article 22 (functioning of the centres) and Article 23 (activities of first assistance and rescue) of ruling adopted through Presidential Decree no. 394/1999.

As reported by the Extraordinary Commission for Human Rights of the Italian Senate, the Ministry of interior Angelino Alfano recently stated that the rules concerning access to the CIEs will be modified through specifying how to carry out visits and identifying the categories of subjects authorised to access such centres.[454]

The Commission also highlighted the fact that in those CIEs that are more open towards the external world, namely where associations can provide information and support on a regular basis, the environment is less tense and migrants detained have a less aggressive attitude towards the personnel of the managing body of the centre and Police.[455]

The issue of maintaining regular contacts/communicating with people outside the centre is particularly crucial. The procedure for the authorization of visits changes from centre to centre and, as reported by several sources,[456] it is very difficult to obtain the possibility to meet relatives and friends. Usually detainees have to make a formal request, but "the answer can come too late and sometimes only relatives are allowed to visit people inside the CIE. This can cause big problems for common law-couples and in general to the social life of the detainees (particularly when they are detained in a centre far from their city)".[457]

Since, it is hard and it takes long the access to CIE to people outside the detention centres, thus "a mobile phone is the only possibility to maintain contacts with families and friends".

As reported by Raffaella Cosentino during her interview with CIR as well as pointed out by the Union of Italian Criminal Chambers after its visit to several CIEs during 2013, in some detention centres some public telephone are installed in the facilities, such as in the CIE of Bari.[458]

In most CIEs the use of mobile phones is allowed but only if they do not have a camera. People who have mobile phones with camera must break it or not use that phone.[459]

Inside CIEs access to neither internet nor media information is guaranteed.

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452 Article 7 Law Decree no. 146/2013.

453 Article 7(5)(e) Law Decree no. 146/2013.

454 Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 36.

455 Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 29.

456 Borderline-Europe, *opus cite*, February 2014, 26; interview with Raffaella Cosentino, journalist expert in migration and detention issues and director of the documentary set in Italian CIEs "EU 013: The last Frontier", carried out by CIR on 10 March 2014; European Alternatives and Lasciateci entrare Campaign, La detenzione amministrativa dei migranti e la violazione dei diritti umani, December 2012, 23.

457 Borderline-Europe, *opus cite*, February 2014, 26.

458 Union of Italian Criminal Chambers, visit at the CIE of Bari, 16 July 2013; Interview with Raffaella Cosentino, journalist expert in migration and detention issues and director of the documentary set in Italian CIEs "EU 013: The last Frontier", carried out by CIR on 10 March 2014.

459 European Alternatives and Lasciateci entrare Campaign, La detenzione amministrativa dei migranti e la violazione dei diritti umani, December 2012, 23; Interview with Raffaella Cosentino, journalist expert in migration and detention issues and director of the documentary set in Italian CIE "EU 013: The last Frontier", carried out by CIR on 10 March 2014.

In relation to detention conditions, the LD 142/2015 provides, as a general rule, that full necessary assistance and respect of dignity shall be guaranteed to the detainees. Separation of persons in respect of gender differences, maintaining, where possible, the family unity and the access to open-air spaces must be ensured.[460] According to Article 2 of the CIE Regulation the detainee is informed of his or her rights and duties in a language he or she understands and is provided with the list of lawyers.

The LD 142/2015 introduces a norm providing that foreigners detained in CIE shall be provided by the manager of the facility with relevant information on the possibility of applying for international protection. The asylum applicants detained in such facilities are provided with the relevant information set out by Article 10(1) LD 25/2008, by means of an informative leaflet.[461]

Moreover, the LD 142/2015 provides that asylum seekers with health problems incompatible with the detention conditions cannot be detained. Within the socio-health services provided in the CIE a periodical assessment of the conditions of vulnerability requiring special reception measures is ensured.[462] In this regard, Article 3 of the CIE Regulation describes in details the health services provided to detainees and the possibility for the Prefecture to stipulate specific agreements with the public health units.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention		
1. Is there an automatic review of the lawfulness of detention?	☒ Yes	☐ No
2. If yes, at what interval is the detention order reviewed?	30 days	

The law regulates the modalities and the time-frame of detention in CIE for asylum seekers[463] that should be read in conjuction with LD 142/2015 that has deleted Article 21 of the Procedure Decree and introduced new provisions. According to Article 14(3) of the Consolidated Act on Immigration, the chief of the Questura orders the detention and the decision must be validated within 48 hours by the competent judge of peace (*guidici di pace*). In practice, as reported by lawyers in the CIE in Trapani and Roma, these time-limits are usually respected.

The judicial review of the lawfulness of detention is carried out in the presence of a lawyer, assisting the person concerned, and an interpreter. In general, detainees appear before the judge of peace both for the judicial review of the detention order issued by the Questura and for the extension of the detention period. The judge should verify both procedural and substantive elements of the complaint and in theory they have the possibility to proceed with an independent and rigorous scrutiny.

The ECtHR actually specifies in the *Suso Musa v Malta* ruling that:

> "[U]nder Article 5(4), an arrested or detained person is entitled to bring proceedings for a review by a court bearing upon the procedural and substantive conditions which are essential for the lawfulness of his or her detention".[464]

460 Article 7(1) LD 142/2015.
461 Article 6(4) LD 142/2015.
462 Article 7(5) LD 142/2015.
463 Article 14(5)-(7) LD 286/1998, as amended by L 129/2011.
464 ECtHR, *Suso Musa v Malta*, Application No 42337/12, 23 July 2013, para 50.

This review should be wide enough to rule on those conditions that are essential for the lawful detention of a person according to Article 5(1) ECHR. Moreover, the ECtHR added that the right of *habeas corpus* encompasses the right to a speedy judicial decision concerning the lawfulness of the detention.[465]

In practice, some legal experts have argued that the validation hearings before the lay judge or judge of peace are deeply flawed and are really a mere formality.[466] As reported by lawyers working in the CIE of Rome (Ponte Galeria) and Trapani (Milo),[467] the judicial review of the detention order issued by the Questore should be motivated by law, but in practice it is based on the expulsion order and on the detention order. Therefore, the decision by the judge of peace to confirm the detention does not take into consideration the personal circumstances of the case. The judicial review is usually a procedural assessment, since it is quite rare that the judge evaluates the merits of the case and personal circumstances that could prevent detention. Moreover, the hearing before the judge of peace is always carried out in an expedient and superficial manner and an adversarial procedure is often not guaranteed.[468]

However, it must be emphasised that, on 11 July 2014, the Italian Cassation Court issued an outstanding sentence on this issue. In its judgment, the Court has ruled that the judicial review of the detention order issued by Questore should not be limited to a mere assessment of formal conditions, but has to be extended to an assessment of the lawfulness of detention in its merit.[469]

Moreover, contrary to similar proceedings for EU citizens, the judge deciding the expulsion and detention of non-EU migrants is a lay judge (*giudici di pace*) without any particular expertise on immigration issues.[470]

Another critical aspect consists in the fact that often lawyers do not have enough time to provide adequate documentation against the decision of expulsion and detention, lawyers have to collect all the necessary documentation within the 48 hours foreseen by law before the judge takes a decision to validate the detention. In addition, a lawyer who assists migrants detained in the CIE of Trapani stated that on the basis of his (long) professional experience, lawyers are usually informed about the judicial review of the lawfulness of detention only a few hours (2 hours) before the adoption of the decision.

After the initial period of detention of 30 days, the judge, upon the request by the Chief of the *Questura*, may prolong the detention in CIE for an additional 30 days.[471] After this first extension, the *Questore* may request one or more extensions to a lower civil court, where it is decided by a judge of the peace, in case there are concrete elements to believe that the identification of the concerned third country national is likely to be carried out or that such delay is necessary to implement the return operations. The assessment concerning the duration of such an extension lies with the judge of the peace who decides on a case-by-case basis. The third-country national has the right to challenge the detention. The Consolidated Immigration Act, in fact, provides the right to appeal a detention order or an order extending detention.[472] According to one source, in many cases the appeals are done inside CIE and statistics on the number of appeals are not available.[473]

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465 *Ibid*, para. 51.

466 S Iyengar et al., *A Legal Guide to Immigration Detention in Italy: an English overview of the Italian, European and international legal framework that governs immigration detention in Italy*, April 2013, available at: http://bit.ly/1jCAxdY.

467 Lawyers interviewed by CIR on 11 March 2014.

468 LasciateCIEntrare, *Mai più CIE*, 2013, 34.

469 Court of Cassation (6th Civil Section), Sentenza 17407 of 11 July 2014, available in Italian at: http://bit.ly/1cl0ESG.

470 UN Special Rapporteur on the human rights of migrants, *Report drafted following his third country visit in Italy during his regional study on the human rights of migrants at the borders of the European Union*, 8 October 2012, available at: http://bit.ly/1HOsjqm.

471 Article 3 L 161/2014.

472 Article 14(6) LD 286/1998.

473 Global Detention Project, *Italy Detention Profile*, November 2012, available at: http://bit.ly/1Rcp7by.

In practice, as reported by lawyers assisting migrants detained in the CIE of Rome and Trapani, third-country nationals are informed on the modalities to challenge the expulsion, deferred rejection, and detention through the written notification of these acts, which are drafted in Italian and also contain a translation in English, French, Spanish. The law indicates these languages "as those that should be understood" by persons concerned, although in reality this is not the case.

It should be underlined that the LD 142/2015 has introduced the possibility for the asylum seeker detained in CIE who made an appeal against decision issued by the CTRPI to remain in these centres up to 12 months.[474] It will be seen how this Decree, which entered into force 30 September 2015, will be applied in relation to the judicial review.

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention		
1. Does the law provide for access to free legal assistance for the review of detention?	☒ Yes	☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?	☒ Yes	☐ No

The detainee is free to appoint a lawyer of his or her choice. In practice, as reported by lawyers working in the CIE of Rome (Ponte Galeria) and Trapani (Milo),[475] there are no difficulties in contacting lawyers, because those migrants who live in Italy for many years usually know a lawyer of reference, while third-country nationals after their arrival are informed by other detainees in the CIE of the possibility to contact a lawyer and are provided with their number.

As reported by lawyers interviewed by CIR on the basis of their experience, migrants and asylum seekers detained in the CIE of Rome (Ponte Galeria) and of Trapani (Milo) may always contact their lawyers/legal advisors in order to schedule meetings, as prescribed by law.[476] These meetings are held in private rooms inside the CIE and their frequency is decided by the lawyer together with their client depending on the needs of the specific case concerned. However, in the centre of Ponte Galeria, migrants can only meet their lawyers or legal advisors from 3 to 6 pm.

In some circumstances, however, due to the broad discretion of each Prefecture in authorising access to CIE (see section on Detention Conditions above), even lawyers may have problems in entering these detention structures.[477]

Under the Consolidated Act on Immigration, free legal aid must be provided in case of appeal against the person's expulsion order, on the basis of which the asylum seeker can be detained.[478] In this case, the asylum seeker concerned can also request a court-appointed lawyer. In practice, lawyers appointed by the State have no specific expertise in the field of refugee law and they may not offer effective legal assistance due to lack of interest in preparing the case. In addition, according to some legal experts, assigned attorneys may not have enough time to prepare the case as they are usually appointed in the morning of the hearing.[479]

474 Article 6(8) LD 142/2015.
475 Interviewed by CIR on 11 March 2014.
476 Article 13(5-bis) LD 286/1998.
477 LasciateCIEntrare, *Mai più CIE*, 2013, 7.
478 Article 13(5-bis) LD 286/1998.
479 S Iyengar *et al.*, *A Legal Guide to Immigration Detention in Italy: an English overview of the Italian, European and international legal framework that governs immigration detention in Italy.*

Legal assistance inside the CIE should be provided by the body running the centre, which however does not often guarantee this service and usually provides low-quality legal counselling.[480] In this regard, it emerges that there is a lack of sufficient and qualified legal assistance inside CIE.[481]

Another relevant obstacle which hampers migrants detained in CIE to obtain information on their rights and thus to enjoy their right to legal assistance is the shortage of interpreters available in the detention centres, who should be provided by the specific body running the structure.

480 Lawyers working in the CIE of Rome (Ponte Galeria) and Trapani (Milo) interviewed by CIR on 11 March 2014.

481 Extraordinary Human Rights Commission of the Senate, *Rapporto sui centri di identificazione e di espulsione in Italia*, September 2014, 30.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	21 February 2014	Decreto Legislativo 21 febbraio 2014, n. 18 "Attuazione della direttiva 2011/95/UE recante norme sull'attribuzione, a cittadini di paesi terzi o apolidi, della qualifica di beneficiario di protezione internazionale, su uno status uniforme per i rifugiati o per le persone aventi titolo a beneficiare della protezione sussidiaria, nonche' sul contenuto della protezione riconosciuta"	<http://bit.ly/1LElVBj> (IT)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	15 September 2015	Decreto legislativo 18 agosto 2015, n. 142 "Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale"	<http://bit.ly/1Mn6i1M> (IT)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	15 September 2015	Decreto legislativo 18 agosto 2015, n. 142 "Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale"	<http://bit.ly/1Mn6i1M> (IT)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013		N/A	