**ITALY**

**

***Ministry of Foreign Affairs and international cooperation***

*Inter-ministerial Committee for Human Rights (CIDU)*

***Italy’s Remarks, In accordance with UN Doc. A/HRC/32/14***

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 *To the attention of the following:*

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Following your query, Italy is in a position to provide the following information:

1. The 1948 Basic Law determines the political framework for action and organization of the State. The fundamental elements or structural principles of the constitutional law governing the organization of the State are as follows: Democracy, as laid down in Article 1; the so-called *personalistic* principle, as laid down in Article 2, which guarantees the full and effective respect for human rights; the importance of labour, as a central value of the Italian community (Arts. 1 and 4); the principle of solidarity (Article 2); the principle of equality, as laid down in Article 3 (it is also the fundamental criterion applied in the judiciary system when bringing in a verdict); the principles of unity and territorial integrity (Article 5); and overall, the principles of social state/welfare, the rule of law and the respect for human rights and fundamental freedoms. Among the “Fundamental Principles”, Articles 10 and 13 of the Italian Constitution set forth as follows: “*The Italian legal system conforms to the generally recognised principles of international law. The legal status of foreigners is regulated by law in conformity with international provisions and treaties. A foreigner who, in his home country, is denied the actual exercise of the democratic freedoms guaranteed by the Italian constitution shall be entitled to the right of asylum under the conditions established by law. A foreigner may not be extradited for a political offence*”; *“Personal liberty is inviolable.
No one may be detained, inspected, or searched nor otherwise subjected to any restriction of personal liberty except by order of the Judiciary stating a reason and only in such cases and in such manner as provided by the law. In exceptional circumstances and under such conditions of necessity and urgency as shall conclusively be defined by the law, the police may take provisional measures that shall be referred within 48 hours to the Judiciary for validation and which, in default of such validation in the following 48 hours, shall be revoked and considered null and void.
Any act of physical and moral violence against a person subjected to restriction of personal liberty shall be punished. The law shall establish the maximum duration of preventive detention”.*

2. Although large migratory movements have started in 2013-2014, as recently recalled by UNHCR, “*Persecution, conflict and poverty forced over 1 million people to flee to Europe in 2015. Many came seeking safety for themselves and their families, risking their lives and facing a treacherous journey*”.

3. Italy, through the Navy, Coast Guards and Revenue Guards Corps (*Guardia di Finanza*), is at the forefront of search and rescue activities at sea (SAR), along with the other Forces involved in the Frontex Triton Plus operation.

4. According to data made available by UNHCR, during the month of July 2016, 93% of people who disembarked in Europe have been registered in the Italian Regions of Sicily, Calabria, Apulia, Sardinia, and Campania.

5. According to recent data made available by the Ministry of Interior, between September – October 2016, about 27,000 migrants have applied for asylum (www.interno.gov.it).

6. From January through July 2016, 256,319 migrants reached Europe via sea. In particular, between April – July 2016, 75,000 migrants reached the Italian shores; monthly peaks of over 20,000 people have been registered in June-July 2016. In the course of the third week of July 2016, following SAR operations, 5,243 people, mainly from Nigeria, Eritrea, and the Sudan, in distress and need of specific help disembarked at Sicily. As of August 1, 2016, about 140,000 migrants are accommodated in the Italian reception Centre**s**.

7. As of June 30, 2016 unaccompanied minors (UAMs) amounted to 12,241[[1]](#footnote-1) - 21 new ad hoc Centres have been made available. Since 2014 Italy has started a new immigration policy on UAMs. A Special Unit has been established by Interior Ministerial Decree, dated 29 July 2014. The system thus envisages: first-assistance reception in governmental highly-specialized centres; and a second-assistance within the enhanced SPRAR system. Pursuant to Act 190/2014, the National Fund has been fed with 90 million Euros for 2015, and 170 million Euros, for 2016. Moreover, the former distinction between asylum-seeker minor and non-asylum seeker minor has been removed so as to ensure an adequate reception to all minors arriving in Italy. Legislative Decree 142/2015 has further defined UAMs’ reception. Act 160/2016 enables Prefets to put into operation temporary reception centres “ when massive and constant flows of UAMs arrive”. Finally, Joint Ministerial Decree published on September 8, 2016 sets up the procedures and services for UAMs reception

8. Moreover, UAMs are hosted in gender-sensitive facilities: since 2015, the Ministry of Interior has launched 15 projects to deliver services to 50 UAMs per day, during a period of 60 – 90 days (in Basilicata, Calabria, Campania, Emilia-Romagna, Lazio, Liguria, Puglia, Sicilia e Toscana until 22 august 2016, in collaboration with project partners such as OIM, Italian red Cross, Save the Children, ANCI (Association of Italian Municipalities) and UNHCR). The aim is also to ensure adequate transition to the second level of reception under SPRAR. Since August 2016, 21 more reception centres have been gradually operating also within the SPRAR system (second level).

9. In the course of the year 2016, the endless arrival of irregular migrants, asylum-seekers and refugees in the Italian coasts has been continuing - even at a faster pace, if comparing it with the previous years.

10. Migration remains a priority of a specific complexity and urgency. In this regard, we recall the last relevant UN Secretary-General’s report (UN Doc.A/70/59), which stresses the need for, “*Comprehensive responses and enhanced responsibility-sharing for refugees*”.

11. From a normative standpoint, on April 23, 2015, during an extraordinary European Council meeting, the leaders of EU Member States, recognizing the humanitarian emergency in the Mediterranean, adopted a number of initiatives, aimed at dealing more effectively with migration flows, on the basis of renewed solidarity among EU countries[[2]](#footnote-2).In line with the European Migration Agenda - setting three main strategies for the management of migration flows, i.e. relocation and international resettlement, return, readmission, and cooperation with countries of origin and transit - the European Commission presented a series of concrete measures, to give an immediate response to the current crisis.

12. By EU Decisions No.1523 of 14 September 2015 and No.1601 of 22 September 2015, the EU Council and the European Parliament, on the basis of the emergency response system provided for by Article 78, para. 3, of the TFEU, adopted a number of temporary measures in the field of international protection for those countries that like Italy have been facing a growing number of asylum-seekers.

13. In accordance with the above-mentioned EU Decisions, Italy submitted to the European Commission a “*Road-map*”, aimed at measures - mostly already adopted - to: improving the capacity, quality and efficiency of the Italian system in the field of asylum, first reception, and repatriation; and ensuring adequate measures for the implementation of the above Decisions. To this end, Italy has put in place a new approach, called “*Hotspot*”, aimed at channeling arrivals of nationals from third countries at selected disembarking harbors.

14. At *Hotspot* areas, Italian Authorities, supported by EASO, Frontex and Europol officials, carry out the following operations: health-care screening; identification of those being most in need of aid; pre-identification; information activities; identification of requests for international protection; identification of potential candidates for relocation procedure.

15. By Legislative Decree No. 142/2015 (published in the Official Bulletin, on 09.15.2015), Italy has implemented Directive 2013/33/EU, on standards for the reception of applicants for international protection ("recasting" Directive 2003/9/EC), and Directive 2013/32/EU on common procedures for granting and withdrawing international protection status ("recasting" Directive 2005/85/EC) - thus completing the transposition of the main provisions of the common European system of Asylum.

16. Within this framework, mention has to be made of the Agreement (*Intesa*) at the State-Regions Conference, dated 10 July 2014, which establishes and has made operational a relevant integrated strategy between different levels of the national and local Government, besides approving the first National Plan to deal with the extraordinary flow of Non-EU citizens, adults, families and unaccompanied minors. This Agreement (*Intesa*), to be considered as a policy reference document, has been expressly confirmed in the Legislative Decree No. 142/2015.

17. Article 8 of Legislative Decree No. 142/15 stipulates that the Italian reception System for international protection applicants is based on cooperation between the various levels of Government concerned, in accordance with national and regional coordination forms referred to under the following Article 16, which establishes and defines the powers and functioning of both relevant national and regional working groups.

18. Article 16 provides for the national and regional coordination working modalities. The national working group (also known as the National Coordination Committee) is set up within the Ministry of the Interior (See Article 29 of Legislative Decree No. 251/2007, as amended), with the aim, among other things, to improving the reception system of international protection. This WG is tasked with drafting the National Plan for the reception and identification of the reception capacity/availability at the regional level and the relating distribution - to be later determined in consultation with the above Conference (*Conferenza Unificata*). In terms of governance, at the territorial level, there are regional WGs established at the main local Prefectures, with the task of implementing the plans elaborated by the above national WG.

19. To sum up, Article 8, para.2, indicates the facilities for rescue and first assistance. Article 9 defines the measures for the first reception; Article 14 confirms the role of the SPRAR system (standing for, the System of protection of asylum-seekers and refugees) as the only system for the so-called second level of reception. Article 11 identifies the extraordinary and temporary measures of reception (the so-called CAS, standing for Extraordinary Reception Centres), should accommodations in the above-mentioned facilities lack. Articles 18 and 19 provide for principles and pathways for the reception of minors.

20. With regard to the domestic recepetion, it is worthy of note that the overall picture of the first reception, from 2014 onwards, has gone through an evolutionary process, both with regard to the number of the facilities concerned and the functions performed. In terms of best practices, in implementing the SPRAR system locally, in collaboration with third sector, local Authorities guarantee “integrated reception measures”, which go beyond the mere supply of food and accommodation. Indeed, they also include complementary orientation and accompanying measures of a legal and social nature, in addition to individual pathways of inclusion and socio-economic integration. In this regard, SPRAR places have increased: from 3,000 in 2012 to 32,000, in the first months of 2016. In this context, the capacity of “*turn over*” within the SPRAR system is of the utmost importance, meaning how many times the same place can be used by more than one beneficiary, in a year. Data indicates a nine-month long stay in 2015: this is an improvement, compared to the previous year, when the average stay in the reception system was of an 11 month-term.

21. By strengthening the second level of reception, the Authority responsible of the Fund for Asylum, Migration, and Integration has envisaged specific support actions for individuals entitled to protection, through the definition and implementation of an individualised plan, including targeted interventions of a socio-economic integration nature, which supplements the pathway undertaken under the SPRAR circuit. The latter, to be put in place through all “other relevant stakeholders” enrolled in the Register referred to under Article 42 of the Immigration Act (in mandatory partnership with local Authorities adhering to SPRAR network) includes the implementation of actions aimed at rehabilitation and socio-economic integration for beneficiaries of international protection (also to conclude the inclusive pathway previously initiated under SPRAR).

22. As part of the second level of reception, mention has to be made of the action, entitled "Protecting the health of applicants and beneficiaries of international protection under psychological vulnerability, including by means of strengthening the institutional capacity". Within SPRAR – though still on an experimental basis -, we have tested in some cities (Turin, Asti, Parma and Fidenza) hosting family-related initiatives for persons who have been already involved for some time in the SPRAR system.

23. In May 2014, the Department for Civil Liberties and Immigration of the Ministry of Interior indicated to the Prefectures the possibility of signing memoranda of understanding in order to facilitate asylum-seekers integration, by proposing to them to carry out either charity work or community services. The 2016 Stability Law also envisages specific support for the above initiatives, by establishing, on an experimental basis, for the years 2016 and 2017, at the Ministry of Labor and Social Policy, a Fund designed to reintegrating the INAIL mandatory insurance against diseases and injuries. At the end of 2015*,* seven regional MoUs and more than fourteen provincial and 70 municipal protocols have been signed.

24. As above reported, Italy is implementing interventions, aimed at increasing the whole UAMs reception system (first and second level of reception), with the aim to a well-defined system based upon highly specialized structures in addition to the SPRAR facilities (second level of reception), in accordance with Legislative Decree No. 142/2015 and Article 1-ter, entitled “*Extraordinary reception measures for unaccompanied minors under Article 1-ter of the Bill, converting into law, Decree-Law No. 113/2016, concerning urgent financial measures for the local Authorities and the territory*. Thus, the second level of reception of UAMs is arranged within SPRAR. Should places be lacking, local Authorities provide for reception. At the age of eighteen, UAMs can apply for a permit, to remain in Italy. In order to support UAMs’ integration once they come of age, the Italian Ministry of Labour and Social Policies launched a project in 2015, aimed at promoting individual grants to enable children to attend vocational and educational courses. This project is also in line with relevant actions under the new EU Funding Operational Programme, 2014-2020 (*Support to social and labour market integration of unaccompanied minors in transition to adulthood*).

25. Our health-care system, based on the principles of universality and solidarity, provides assistance to everyone (Article 32 of the Italian Constitution). On 20 December 2012, it was approved a State-Regions Agreement, which provides guidelines for the proper implementation by the Regions and Autonomous Provinces, of the specific regulations on health-care, to be applied to foreign population, namely regular migrants, those who temporarily stay for various reasons in Italy, as well as irregular migrants. The above Document, as a result of the two-fold need to both ensure that the immigrant population can have equal access to care and facilitate the work of health-care workers, provides an overview of existing national and regional standards (One of the most relevant highlights is the compulsory enrolment in the National Health-Care Service (NHS), with the attribution of a paediatrician of one’s choice or the general medicine physician’s to all foreign minors being on the national territory, regardless of their legal status).

26. On a more specific note, Italy guarantees all citizens from Non-EU countries who legally reside in Italy, to be enrolled in the National Health-care Service along the lines of the Italians. Therefore, equal treatment and full equality of rights and duties is secured with regard to health-care assistance. This is also extended to family members who depend on those who regularly reside in Italy. Furthermore, the National Health-care Service guarantees foreign nationals in the national territory, who are not compliant with the rules on entry and residence, both outpatient care and urgent or essential hospital care measures, including “continuing medical care (*medicina continuativa*)” and preventive medicine - to safeguard both the individual and collective/public health. Furthermore, mention has to be made of the specific guarantees concerning: the social protection of pregnancy and motherhood, on par with Italian women; and the health-care protection of foreign minors in Italy, regardless of their legal status, on an equal footing with Italian citizens.

27. More generally, the Ministry of Health performs its international preventive function by making use of its Office of Maritime, Air and Border Health (acronym in Italian, USMAF). This Office (recently renamed, USMAF-SASN) includes an outpatient network for health-care to those travelling by sea and air, with its own presence at the main harbours and airports of the country and the specific task of implementing all those oversight-related measures, aimed at cross-border prophylaxis, in accordance with the International Health-Care Regulation. This working modality helps prioritise measures according to the needs of each and every migrant.

1. http://www.lavoro.gov.it/notizie/Documents/Report%20MSNA%2030-06-2016.pdf [↑](#footnote-ref-1)
2. Excerpt from « The reception plan – 2016 ». [↑](#footnote-ref-2)