



Organisation of asylum and migration policies in Italy

EMN National Contact Point for Italy
within the European Migration Network (EMN)

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1. Introduction: purpose and methodology

This Report is aimed at presenting the situation of asylum and migration policies in Italy in a correct but simple way, so that it could be understandable to non-specialized readers as well as to non-Italian ones. It meets the requirements of EMN programme, which intends to promote at the EU level the knowledge of the experiences of the different national contexts.

Such a large and general analysis also reveals another challenging purpose: emphasizing the role of the EMN network, whose juridical basis was established by the Council Decision of May 14, 2008 (2008/381/EC). In Italy, the Ministry of Interior is the responsible body for this EU program. Its technical support is represented by the IDOS Study and Research Centre, which comprises the editorial staff of the Caritas/Migrantes “Statistical Dossier on Immigration” – the first statistical report on immigration published in Italy.

The methodology is both socio-statistical and juridical. We tried, in fact, to analyze the current policy measures on migration and, when necessary, evaluate their implementation by examining the available data.

Presenting and summarizing the contents of this edition has been quite problematic. In fact, it is intended not to join the political debate on migration, which notoriously is a controversial issue, but to simply present the situation by taking into account in-depth examinations by researchers and the institutions themselves, in order to find out their “minimum common denominator”.

The bibliography examined for this report derives from institutions: it includes periodical publications edited by relevant bodies, such as the Ministry of Interior, the Central Service of the Protection System for Asylum Seekers, the CNEL and others.

Furthermore, we had the possibility to make use of other in-depth examinations and analyses conducted during the last years by the Italian National Contact Point for the EMN network: such publications examined various aspects, such as irregular migration, return migration, the social impact of migration, highly qualified migration, the reception system for asylum applicants, etc. Some of these studies became largely spread due to their press or online publication (www.emnitaly.it), in particular among the various structures, researchers and other persons involved (stakeholders).

Some institutional web pages (first of all the website of the Ministry of Interior www.interno.it), the review of the main Italian papers and other sources of information turned out to be very useful in completing a precise and updated framework.

This Report is an updated and partially renewed version of the previous Report published three years ago by the Italian National Contact Point for the EMN network (EMN Italy, 2009).

2. Overview of the political, legislative and institutional framework

The Italian migration policy, prefigured by the Consolidation Act on Immigration (Legislative Decree no. 286/1998), has two main purposes. On the one hand, it tends to improve the reception, inclusion and integration conditions of regularly residing foreigners, by developing intervention measures to promote the integration of foreign citizens in all the aspects of the social, cultural, economic and working life of the country. On the other hand, it has to adopt measures to fight irregular immigration, thus guaranteeing public order and security. This double perspective affects both the specific regulations established by the legislative power and the organizational aspects of the institutional system.

2.1. Organization of the Structures

For a better presentation of the organizational aspects regarding the attribution of jurisdictions to the various structures of the State, this paragraph has been divided into three parts: general aspects and coordination, jurisdictions of the Ministry of Interior and jurisdictions of other Ministries.

2.1.1. General aspects and coordination

The migration policy consists of various jurisdictions attributed to different Ministries. That is why the Consolidation Act on Immigration (Legislative Decree no. 286/1998, Art. 2 bis) established the Coordination and Monitoring Committee for the regulations regarding migration, which is chaired by the President or the Vice-President of the Council of Ministers or by a delegated Minister, and is composed of the relevant Ministers, depending on the issues under discussion at each meeting, and of a representative appointed by the Conference of Regions and Autonomous Provinces.

The Committee is supported by a Technical Working Group constituted within the Ministry of Interior, which, in addition to the Ministry of Interior, includes the legal representatives of other Departments (Regional Affairs, Equal Opportunities, EU Policy Coordination, Innovation and Technology, Foreign Affairs – whose jurisdictions also include the Italians in the World, Justice, Economic Development, Instruction University and Research, Labour and Social Policies, Defence, Economy and Finances, Agricultural Policies, Goods and Cultural Activities) and three experts appointed by the Unified Conference (the State-Cities Conference and Local Authorities, ex Art. 8 of the Law Decree 281/1997).

The Technical Working Group prepares the issues concerning the activities of the Coordination and Monitoring Committee and is an open inter-institutional forum (representatives of any other relevant public administration, as well as representatives of workers' and employers' organizations may be invited to participate in the meetings) for the analysis and evaluation of problems related to migration and possible solutions in support of national policies.

2.1.2. Jurisdiction of the Ministry of Interior

2.1.2.1. Jurisdiction of the Ministry of Interior at the central level

As regards the organization of the Ministry of Interior at the central level, the coordination of migration policies is entrusted to the Department for Civil Liberties and Immigration and the Department of Public Security.

The jurisdiction of the Department for Civil Liberties and Immigration is typical of the Ministry of Interior, namely protection of civic rights, including the rights concerning asylum and migration. For its functions related to migration policies, this Department avails itself of the Central Directorate for Immigration and Asylum Policies, the Central Directorate of Civil Services for Immigration and Asylum and the Central Directorate for Civil Rights, Citizenship and Minorities.

Within the Department for Civil Liberties and Immigration is the “National Commission for the Right of Asylum”, the major State agency dealing with the right to asylum and recognition of the status of international protection. This Commission, replacing the Central Commission for the Recognition of Refugee Status (which had exclusive jurisdiction for the whole Italian territory on the recognition of refugee status), outlines and coordinates the activities of the “Territorial Commissions for the Recognition of International Protection” and has decisional powers over suspension and cessation of the status granted by the Territorial Commissions themselves.

In outlining and coordinating the activities of the Territorial Commissions, the task of the Central Commission consists in proposing guidelines for the evaluation of asylum applications, periodically organizing vocational trainings and refresher courses for the members of the Territorial Commissions and providing them with a permanent information service on the current socio-political situations in the countries of origin of asylum applicants – also through a specific online database (the so called “ARIF project – Refugee Agency”, which was managed by the Italian Council for Refugees – CIR – and ended in 2006). In the area of asylum, the National Commission also cooperates with other institutional bodies and similar organizations in EU Member States in the field of asylum matters.

The Department of Public Security, headed by the Chief of Police – Director-General of Public Security, is structured in Central Directorates, Offices and Services - including the Central Directorate for Immigration and Border Police, which is structured in Office of General and Legal Affairs, Immigration Service, Foreigners and Border Police.

The Central Directorate for Immigration and Border Police focuses on developing strategies to prevent and fight irregular migration and dealing with any issue arising from the presence of foreign nationals of the Italian territory. Furthermore, the Directorate is in charge of monitoring, preventing and fighting irregular migration by sea, in collaboration with the Italian navy, police forces and harbour authorities. The Office of General and Legal Affairs, which is structured in three sectors (management-organization, administrative-accounting, and juridical-normative sectors) is in charge of collecting, elaborating and analyzing data on migration. The Immigration Service deals with irregular migration, manages the operative and administrative activities regarding the fight to irregular migration and coordinates the actions related to the international cooperation of the police. Finally, the Foreigners and Border Police, which deals with security issues at border areas, is in charge of public security in harbours and airports; furthermore, it coordinates all the activities regarding residence permits, by dealing with cases of citizenship acquisition and recognition of the right to asylum

and refugee status. Last but not least, the Foreigners and Border Police coordinates the Immigration Offices operating within the Italian Police Headquarters.

2.1.2.2. Organization of the Ministry of Interior at the decentralized level: the Territorial Councils for Immigration

As already noted, public intervention in matters of immigration does not only regard the necessary control of migrants' entry and stay in the territory, but involves many other areas which both the Government and the Regions are responsible for.

That is why the Consolidation Act on Immigration (Law Decree 286/1998, art. 3, par. 6) provided for the establishment of Territorial Councils for Immigration whose tasks consist in analyzing the needs and promoting actions to be implemented at local level.

The Territorial Councils are made up of representatives from the relevant local administrations of the State, of the Regions, of Local Bodies, of Organizations and Associations involved in assisting migrants, of workers' and employers' organizations.

These bodies were established by the Decree of the President of the Council of Ministers of December 18, 1999. Their contribution were accompanied by recurrent circulars, up to the standardization of the monitoring processes of their activities, whose most consistent version was realized in the Report of 2007 and the subsequent ones of 2008 and 2009, of which we will discuss later on.

The Territorial Councils for Immigration, which are headed by the Prefect, are functional for the development of a link between centre and periphery which would improve the knowledge system and promote the most appropriate operational decisions in order to remove the obstacles in the process of economic, social and cultural integration of migrants.

These bodies were considered to be the most appropriate means to manage the coordination between public and private structures dealing with migration field, and to provide support for the Government.

They are in charge of monitoring the territorial needs as well as promoting and coordinating initiatives on the basis of a functional connection between centre and territory (Regions, Provinces, Municipalities and Social Organizations)

In their own area of expertise, the Territorial Councils are the relevant bodies for migration, integration and social cohesion issues, which work in interconnection with institutional and non-institutional subjects, in order to promote integration initiatives.

2.1.2.3. Jurisdiction of other Ministries

Although the Ministry of Interior is the main body dealing with migration issues, other Ministries also deal with the organization of migration and asylum policies: in particular, the new Ministry for International Cooperation and Integration, the Ministry of Labour and Social Policies and the Ministry of Foreign Affairs.

In order to improve the integration measures, after a period of emergencies, the Ministry for International Cooperation and Integration was assigned with the following duties: international cooperation; integration; family, youth and anti-drug policies; civil service; international adoptions; measures against racism and discriminations.

Within the Ministry of Labour and Social Policies, the General Directorate for Immigration deals with two different aspects of this matter. The first consists in managing the

entry of non-EU citizens for work reasons through the annual planning of entry flows, the management and monitoring of the entry quotas and the bilateral cooperation with the countries of origin. The second aspect concerns insertion and social cohesion policies, such as cultural mediation activities, linguistic alphabetization, civic formation, etc., in connection with the jurisdiction of the Ministry of Interior and the CNEL – i.e. the Council of Economy and Labour, an auxiliary state agency provided for by art. 99 of the Italian Constitution. Within the General Directorate for Immigration there is also the “Committee for Foreign Minors”, which promotes protection measures for foreign minors, either unaccompanied or temporarily hosted in the Italian territory. Finally, as regards the jurisdictions of the Ministry of Labour and Social Policies, we should mention those related to the issuance of the authorizations for the employment of foreign workers (such as the verification of unavailability of Italian workers through the Territorial Labour Offices - *Direzioni Provinciali del Lavoro*).

The Ministry of Foreign Affairs, through the General Directorate for Italians Abroad and Migration Policies, is in charge of some important jurisdictions on migration. In particular, the General Directorate deals with consular affairs and matters regarding foreign citizens in Italy, in addition to the analysis of social and migration issues in connection with international organizations and agencies. There are two main Offices within the General Directorate: the Office for Migration and Asylum Policies (number V) and the Visa Office (number VI). The V Office handles juridical and administrative matters regarding foreign citizens in Italy as well as asylum applicants and refugees; it cooperates in the field of the planning of migration flows and contributes to the promotion of bilateral agreements on migration. The VI Office, instead, deals with the visa questions for foreign citizens as well as the relevant entry regulations.

Furthermore, it is important to underline that within the CNEL itself is an area dedicated to migration. Furthermore, among the CNEL departments also is the “National Body for the Coordination of Foreign Citizens Social Integration Policies at Local Level”, provided for by the Legislative Decree no. 286/1998 (in particular by the paragraph 3 of the article 42).

More recently, in spring 2011, the reception of migrants from North-African countries was planned and managed by the National System of Civil Protection of the Department of Civil Protection (a structure of the Presidency of the Council of Ministers), with the support of the Regional Directorates of Civil Protection.

2.2. Legislative aspects

The Italian system of migration and asylum policies refers first of all to the Italian Constitution that is the first juridical basis. Par. 3 of Article 10, considered one of the fundamental principles, provides the asylum right in the Italian territory to the foreigner who has been prevented from the “effective execution of democratic liberties”, as well as determining that the condition of the foreign national must be regulated by law.

As to the historical-normative development we recommend the relevant parts of this Report. We consider necessary to underline the relevance, in the matter of immigration, of the Legislative Decree no. 286 the of July 25, 1998 (published on the *Gazzetta Ufficiale* no. 191

of August 18, 1998), containing the “Consolidation Act on Immigration and the condition of the foreigner”. Afterwards, the matter was partially modified by Law no. 189 of July 30, 2002, (published on the *Gazzetta Ufficiale* no. 199 of August 26, 2002), that became fully effective beginning from 2005, and by the so called “security package” (Law no. 94 of July, 15, 2009).

2.3. Other agencies operating in the field of migration and asylum policies

In addition to the institutional agencies provided for by the Italian ordinance (among them we should also mention the network of Italian Municipalities and their national association, ANCI, which is organically linked with the Ministry of Interior), other bodies are also involved in migration issues, both from the operative point of view and by carrying out researches and studies on migration issues.

The UNHCR branch office is operative in Italy since 1953 and its representatives participate both to the National Commission for Asylum Right and to the Territorial Committee for Immigration.

In order to carry out its various operative programs, the Italian Government collaborates with the International Organization for Migration (IOM), which operates in Italy since its establishment, in 1951.

Moreover, there is also a large network of NGOs and humanitarian associations which deal with various aspects of the migration phenomenon. Some of them are responsible for both first reception (also in terms of legal and administrative assistance) and integration measures (social insertion, as well as socio-economic and socio-cultural cohesion).

As the amount of organizations involved in these activities is very significant, we hereby mention only some of them: the Italian Council for Refugees (CIR), Caritas, Arci, Acli, Migrants Foundation and the Jesuit Centro Astalli Foundation, other ecclesiastical organizations, Trade Unions (CGIL, CISL, UIL and UGL) and Workers’ Patronages (which the Ministry of Interior has charged with the task of providing assistance for the necessary practices for the granting or renewal of residence permits).

3. Historical-legislative overview

3.1. Development of the migration phenomenon in Italy

The history of immigration in Italy, which is shorter than that of Central and Northern European countries, can be divided in two parts. The first phase consists in the beginning and first development of the phenomenon, and was marked by an atmosphere of emergency. The second part is characterized by the propensity to create a stable system and by a strong need of social and political cooperation. Such aim, however, still has to be completely reached.

First migration flows started to be visible in Italy from the mid-Seventies and continued in a mild manner through the Eighties (the first immigration Law appeared in 1986). During the Nineties, after the Berlin wall's fall and the end of the two political blocs in Europe, the migration flows became a mass phenomenon. At the beginning of the Nineties, however, the flows were still quite low due to two factors: in the Eastern European countries the liberalization of the rigid Marxist legislative system was quite slow, and Italy faced a difficult economic situation. Some years later strong migration flows started, which have continued until now. In that period, Eastern Europe became the area mainly represented in Italy (IOM, 2011).

The number of immigrants (both EU and third-country nationals) reached half a million in 1987. 10 years later, they were over one million. In the following years the number of immigrants continued to grow: 1.5 million in 2002, 2 millions in 2004, 3.5 millions in 2006, nearly 5 millions in 2010. Similar trends, which are proportionally higher than those in the USA, were observed in Spain, which also changed from being a country of emigration to a country of immigration.

3.2. The historical-legislative development

From a legislative point of view, the Italian system regarding migration and asylum policies refers in the first place to the Republican Constitution. Among the “fundamental principles” which the Constituent Assembly particularly emphasized is paragraph 3 of article 10, where the right to asylum in the Italian territory is granted to any foreigner “prevented” – in the country of origin – “from the democratic liberties guaranteed by the Italian Constitution”. The actual application of such right is regulated by the ordinary law. The article 10 of the Constitution refers to ordinary law also regarding the juridical condition of the foreigner, although always “in accordance with the international norms and treaties”.

However, for a long time the right to asylum has been applied incompletely. It was completed little by little, not only on initiative of the national legislator but also on the basis of EU Directives or following the interventions of the Constitutional Court or the Supreme Court: for instance, only in 1997 a sentence of Court of Cassation singled out the Ordinary Court as the relevant body for the granting of asylum, in accordance with the Constitution.

It has to be noticed that, whereas the article 35 (paragraph 4) of the Constitution provides for the recognition of the “freedom of emigration” (thus reflecting the Italian reality of the period after World War II), there is only one article (no. 117) - modified by the Constitutional Law of October 18, 2001 no. 3: “Modification of title V of the second part of the Constitution” – which explicitly considers migration one of the matters regarding which

the State has to exercise its legislative power exclusively (without the participation of the Regions), whereas the Regions play the main role as far as integration is concerned.

At the end of 1951 – when the International Refugee Organization (IRO) was dissolved – an estimated 20,000 refugees resided in Italy. In 1953, a branch office of the UNHCR was established in Rome. In 1954, the Law no. 722 of July 24 ratified the Genève Convention of July 28, 1951, although it contained the “geographic limitation”, which limited the recognition of the refugee status to European refugees only. This limitation was in force until December 31, 1989. It was abolished by the Decree Law no. 416 of December 30, 1989, then converted into Law no. 39 of February 28, 1990. In 1997 the responsibility for the assistance to asylum applicants and refugees was attributed to the Ministry of Interior, in particular the Division of Refugee Assistance (part of the Directorate General for Civil Services).

Due to the Law no. 943 of December 30, 1986 the first regularization (the so-called “sanatoria”) of non-EU migrants was adopted. Thanks to that Law, the situation of a large number of refugees changed. The annotation “waiting for emigration”, in fact, was the most frequent in the permits of stay issued by the territorial Police Headquarters. Such formula, however, clearly indicated that at the time Italy was still perceived as “transit migration country” rather than “final destination”.

About four years later, the already mentioned Law no. 39 of February 28, 1990 (known as “Martelli Law”) introduced into the Italian regulation system “Urgent norms in matter of asylum, entry and stay of non-EU citizens and regularization of non-EU and stateless citizens already present in the territory of the State”. The recognition of refugee status was treated in the article 1. These were the first regulations on asylum and refugees, which introduced a new procedure and a new assistance mechanism. On the basis of the new procedure on asylum established by the Law no. 39/90 and by the Presidential Decree no. 136 of May 15, 1990 (enforced in March 1991 as a consequence of the so-called “Albanian emergency”), the task of the refugee status recognition passed from the Joint Committee on Eligibility (operating in that year in the “prorogation” regime) to the Central Commission for the Granting of Refugee Status.

It should be underlined that in 1992, on the occasion of the phenomenon of refugees arriving from the territories of the former Yugoslavia (as a consequence of the Balkans war), the Law no. 390 of September 24 was passed, converting into Law the Decree Law no. 350 of July 24, 1992 (with some modifications) in order to facilitate the extraordinary humanitarian interventions for the refugees.

In 1995, instead, the Decree Law no. 489 of November 18 (the so-called “Dini Law”) was proposed without being approved (apart from the provisions regarding regularization), in order to establish urgent measures regarding migration policies and regulations of entry and stay of non-EU citizens in the national territory.

Only in 1998 a new organic regulation on migration was finally passed: the so-called “Turco Napolitano” Law. This Legislative Decree (no. 286 of July 25, 1998), which was published on the *Gazzetta Ufficiale* (Official Journal) no. 191 of August 18, 1998, contained the “Consolidation Act of provisions related to immigration control and rules on the condition of foreigners”. This measure did not make substantial modifications to the Law no. 39/1990 (the so-called “Martelli Law”) in matters of asylum. The article 18 of the above-mentioned “Consolidation Act” is particularly important because it establishes the granting of residence permits for humanitarian social protection. Subsequently, the Presidential Decree no.

394/1999 formalized the regulations for the implementation of the Consolidation Act.

In September 2002 the Law no. 189 of July 30, 2002 (the so-called “Bossi-Fini Law”) came into force. This measure modified the regulations on migration and asylum, and became fully effective only in 2005, after the regulation on the procedures for the recognition of refugee status (Presidential Decree no. 303 of September 16, 2004), which was published on the *Gazzetta Ufficiale* no. 299 of December 22, 2004.

As regards asylum, the Law no. 189/2002 introduced, in addition to the ordinary procedure, a simplified one regarding asylum seekers hosted in identification centers: it halved the waiting time for the interview (from 30 to 15 days). Furthermore, it concerned the establishment of Territorial Commissions in charge of evaluating the refugee status, and a National Commission with coordination tasks.

Moreover, the Law no. 189/2002 acknowledged the issue of “humanitarian protection” regarding people in particular need of protection as escaping from war or conditions of widespread violence, even in cases where they are not considered “refugees” according to the criteria expressed by the Genève Convention of 1951.

In the matter of asylum, the Law no. 189/2002 also disciplined the institution of the so-called “National Fund for Asylum Policies and Services”, which guaranteed the protection of asylum applicants and refugees - such activities had been already implemented the previous year by means of the National Action Plan on Asylum (PNA). That program started as a result of the cooperation between the UNHCR, the Ministry of Interior and the National Association of Italian Municipalities (ANCI). As there was not any national action plan, the aim of this initiative was the establishment of a reception network for asylum seekers as well as an inclusion and integration program for people granted refugee status. As a consequence of the Law no. 189/2002, the PNA was incorporated into the Protection System for Asylum Seekers and Refugees (SPRAR), coordinated by the Central Service (instituted by the Ministry of Interior and managed by the ANCI under contractual conditions). As regards “integrated reception” activities (board and lodging, work and social insertion, juridical assistance), the Central Service makes use of the operational contribution of the network of Local Bodies, in collaboration with the organizations of the so-called “third sector”. Lately, the recent economic difficulties have reduced the financial support for the SPRAR; furthermore, since 2011 the assistance of North-African refugees escaping the so-called “Arab Spring” and the Libyan political changes has been attributed to the Civil Protection.

In 2005, with the Cabinet President Law (D.P.C.M.) of February 4, the National Commission for the Right to Asylum was instituted. On December 7, 2006 the Directive on Unaccompanied Minor Asylum Seekers was promulgated. As regards the year 2007, we should mention the Ministry of Interior Decree of April 23, promulgating the so-called “Charter of Values of Citizenship and Integration”, as well as the Decree Law no. 249 of December 29, which provided for urgent measures regarding expulsion and removal for terrorism and urgent public safety reasons.

During the last years Italy implemented various EU Directives regarding asylum and migration policies: among them, the Directive 2003/9/EC (implemented through the Legislative Decree no. 140 of May 30, 2005) which stabilizes the basic norms concerning the reception of foreigners applying for the recognition of refugee status in the Italian territory.

During the meeting of the Council of Ministers of November 9, 2007, the Italian Government has approved two Legislative Decrees proposed by the then Minister of Interior, Giuliano Amato, in order to implement in the Italian law system two European Directives on

Refugees and Asylum. The Directives in question are the following: 2004/83/CE (so called “Qualification Directive”), on minimum standards for third country nationals or stateless persons as refugees or as persons who otherwise need international protection; and 2005/75/CE (the so called “Procedures Directive”) on minimum standards on procedures in Member States for granting and withdrawing refugee status. With the implementation of these two important Directives, the Government introduced the Centers for reception of Asylum Seekers (CARA) to replace the Centers of Identification (CIE) introduced by the law 189/2002. The legislative decrees in question have also introduced a new form of international protection, the subsidiary one, which can be granted to the asylum seeker under specific conditions.

Besides, the Legislative Decree no. 24 of January 25, 2007 implemented the Directive 2003/110/EC regarding measures on expulsions by air, and specifically the assistance during the transit process. On January 8, 2007, instead, the Legislative Decrees no. 3 and no. 5 implemented respectively the Directives 2003/109/EC and 2003/86/EC: the first one concerned the long-term resident status of third-country nationals; the second one regarded the right to family reunification (which the European Commission recently reaffirmed in the “Green Paper” on the right to family reunification of non-EU citizens, approved in November 2011). Moreover, the Legislative Decree no. 30 of February 6, 2007 implemented the Directive 2004/38/EC regarding the right of EU citizens and their family members to free circulation and stay in the territory of EU Member States, whereas the Directive 2004/114/EC (concerning the admission conditions for third-country nationals for study reasons, school exchanges, voluntary or unpaid stages) was implemented by the Legislative Decree no. 154 of August 10, 2007.

In August 2009, a new restrictive legislation on public safety, mainly (but not only) regarding irregular immigration, came into force: it was the already mentioned Law no. 94 of July 15, 2009, also known as the “security package”, which introduced the controversial crime of illegal entry and/or stay, punishable by a fine of from 5,000 and 10,000 euro. This crime involves both foreigners who enter Italy without the proper authorization, and those who, following an inspection, are found to be irregularly residing in the country. In April 2011, the European Court of Justice decided to delete the crime of illegal immigration introduced in Italy, because it was determined to be in conflict with the European Directive on return of third-country nationals, which provides for the voluntary departure of the non-EU citizen, or his/her forcible transfer, but through the least coercive means possible. That Directive also prohibits any national legislation that punishes with imprisonment a third-country national, irregularly staying in the country, who has not complied with the expulsion order. The Court of Justice explained that the punishment provided for by the Italian law compromises the realization of a proper and efficient policy of expulsion and return, which should be respectful of the fundamental rights.

Other changes introduced by the “security package” (a few of which were subject to a declaration of unconstitutionality) which mostly affect the immigrants, are:

- the extension from 60 to 180 days of the maximum period of detention at the Centers for Identification and Expulsion (CIE);
- the extension from 6 to 12 months of the length of imprisonment for the foreigner who fails to produce his/her documents upon request of the police;

- the reduction from the 4th to the 2nd degree of kinship, for the rule that forbids the expulsion of the irregular foreigner who lives with a family member holding Italian citizenship;
- the institution of a specific “Repatriation Fund”, meant to finance the return of foreign citizens to their countries of origin;
- the introduction of a 200 euro fee for every citizenship application, as well as a fee from 80 and 200 euro for the issuance or renewal of the residence permit (these costs were implemented by Decree of the Ministry of Economy and Finance of October 6, 2011, in collaboration with the Ministry of Interior, titled “Residence permit issuance and renewal fees”);
- the modification, in a restrictive sense, of certain provisions regarding family reunification;
- the introduction of a specific Italian language test for whoever applying for a long-term EC residence permit.

In 2010, after the experience of a few Member States and the Veneto Region, the Italian Government introduced the so-called “Integration agreement” (provided for by the “security package”) by means of the Decree of the President of the Republic no. 179 of September 14, 2011 (published on the *Gazzetta Ufficiale* no. 263 of November 11, 2011 and came into force on March 10, 2012). According to this agreement, which is going to be translated in 19 languages, any foreigner aged over 16 entering the country for the first time who applies for a residence permit for no less than 1 year, is bound to sign a specific “Integration Agreement” for the duration of 2 years. This agreement, which regulates the so-called “Point-based Permit of Stay”, consists in a commitment, by the foreigner, to learn the Italian language, at least at the Level A of the Common European Framework of Reference for Languages; to have sufficient knowledge of the Italian culture and civic life, especially with regard to healthcare, schooling, social services, labor market and fiscal obligations; to abide by the duty to educate his/her children; to learn the organization of the Administration. Once the Integration Agreement is signed between the foreigner and the Prefect, the foreign citizen will be awarded 16 credits, and will be required to earn at least 30 credits within 2 years. Credits may be acquired or lost by the foreigner, according to his/her activities and behavior: for instance, credits may be obtained by demonstrating certain knowledge of Italian language or activities (like, for instance, vocational trainings, etc.) or, on the opposite, credits may be lost by the foreigner if convicted of a crime or a serious administrative or fiscal violation, etc. After two years, the Agreement signed with the foreigner is verified in order to determine the acquisition of at least 30 credits. If not, the Agreement is extended for one year. In case the foreigner reaches zero or less credits, the agreement is canceled and the foreigner expelled from the country.

With regard to learning the Italian language, according to a Decree of the Ministry of Interior of June 4, 2010 (published on the *Gazzetta Ufficiale* no. 46 of June 11, 2010), Italian language tests are now compulsory in order to obtain a long-term EC residence permit (formerly known as “carta di soggiorno” or residence card). In addition to an explanation of the operational mode for the accomplishment of the test, this decree explains that such tests should verify in the candidate the “basic knowledge of the Italian language, which allows him/her to understand various commonly used Italian phrases and expressions, corresponding to Level A2 of the Common European Framework of Reference for Languages, approved by the Council of Europe”. To this end, the following steps have been taken:

- a website of the Ministry of Interior (<http://testitaliano.interno.it>) where the applicants may submit their application to participate in the test;
- a help desk for the submission of the application;
- a TV program titled “Cantieri d’Italia – l’italiano di base per costruire la cittadinanza” (Italian yards, basic Italian for building up citizenship) in collaboration with RAI-Radiotelevisione Italiana, and a website of support and information for language training of non EU-citizens (www.cantieriditalia.rai.it).

In the session of November 5, 2010, the Council of Ministers approved the so-called “Second security package”, a set of new regulations (partially introduced by a Law-Decree, and partially by a Legislative Decree), which affect the entry and residence policies for foreign nationals (Law Decree no. 187 of November 12, 2010, adopting “Urgent measures on Security Matters”, together with the Conversion Law no. 217 of December 17, 2010, published on the *Gazzetta Ufficiale* no. 295 of December 18, 2010). With these decrees, the Government provided for the possible expulsion of EU citizens residing in the national territory for more than 90 days without having a job or adequate means of livelihood, as well as the expulsion of foreign prostitutes. Moreover, the same law calls for a long-term initiative which will require further legislative decisions on the matter (a decision of great importance from the operational point of view) in order to reduce the workload of the Police Headquarters by attributing the task of renewing the residence permits to the Municipalities (whereas the Police Headquarters will continue to be responsible for their first issuance).

Although part of these measures are still to be implemented, these new regulations are quite relevant, and should be seen in the light of what is going on in Europe, where in the last decade the attitude towards immigrants has become more restrictive. If, on the one hand, we should not underestimate the need for immigrant workers (as proven by socio-demographic studies as well as by mid and long-term projections), on the other hand, governments’ attitude to introduce new integration plans and welcoming policies for immigrants has drastically diminished.

The Conversion Law no. 129 of August 2, 2011 (relating to the Law Decree no. 89 of June 23, 2011) on residence and expulsion of EU citizens, which implemented the EU Directive on return of irregular non-EU citizens, amended the Legislative Decree no. 30/2007 (in order to complete the implementation of Directive 2004/38/EC on EU citizens’ right to free movement within the Union), and the Consolidation Act on Immigration, approved by Legislative Decree no. 286/1998, in order to make it consistent with the Directive 2008/115/EC on return of irregular third-country nationals. The most important changes introduced by law no. 129/2011 are the following:

1) in order to verify that EU citizens enrolled in courses of study, or unemployed, or not being family members, have sufficient economic resources to live in the country, it is necessary to evaluate the situation of the person concerned, especially with regard to expenses related to his/her housing, whether it be rented, loaned, owned or held by other subjective rights;

2) art. 32 of the Consolidation Act on Immigration, in its section regulating the conversion of the residence permit at the attainment of the age of majority of unaccompanied minors, has been modified: minors who cannot prove to be living in Italy since at least 3 years, and who have not participated in an integration project for at least 2 years, may obtain a

residence permit at the attainment of the age of majority, only if placed under foster care or guardianship, after a positive evaluation by the Committee for Foreign Minors;

3) detention measures against the same non-EU national expelled or rejected cannot exceed a total period of 18 months, even if due to subsequent administrative expulsions caused by other reasons;

4) foreigners pending either extradition request, or European arrest warrant or an international arrest warrant by the International Criminal Court cannot benefit from assisted voluntary return programs.

4. Organization of policies

4.1. Asylum and immigration

4.1.1. Entry procedures

On October 27, 1997, Italy joined the “Schengen system”, a free movement common area between the participating States which remove border controls, provided they previously met certain requirements concerning effective control of external borders: the creation of a national section of the Schengen Information System; cooperation in the policies on asylum; the harmonization of visa policies; the approval of national legislation on the protection of national data; the respect of the Convention on Narcotic Drugs.

Citizens of a non-Schengen country, with a regular visa issued by the network of diplomatic and consular offices authorized by the Ministry of Foreign Affairs, may enter into our territory for tourism, study, family reunification, work and other reasons. The visa is a special “stamp” or “sticker” that, affixed to the applicant's passport or other valid travel document, grants to a foreigner the authorization to enter the territory of the Italian Republic. As a rule, foreign citizens do not have an “automatic right” to be granted a visa, but at most a “legitimate interest” to move.

According to the Schengen Common Consular Instruction, visas are divided into 4 main categories:

1. *Uniform Schengen Visa* (VSU), valid for entry and free circulation within the national territory of countries applying the Schengen Agreement, issued for Airport Transit (Type A); Transit type (Type B) has been abolished by the Visa Code (EU Regulation no. 810/2009 of July 13, 2009, in force since April 5, 2010), and has been merged with Type C); valid for up to 90 days, for tourist or business purposes, and for single or multiple entry.

2. *Limited Territorial Validity Visa* (VTL), only valid for the Schengen State whose representative issued the visa (or in particular cases for other Schengen states where specifically named) without any possibility of access to or transit through the territory of any other Schengen States.

3. *National Visas* (NV or Type D): issued according to each Member State's regulations, this visa is valid only for visits longer than 90 days, and allows the holder to circulate freely in other Schengen countries. The UE regulation no. 265/2010, which came into force on April 5, 2010, established a new EU Visa Code for a common visa policy with regards to third country nationals. According to this Code, the owners of a Type D visa (National visa) will be able to circulate freely in the Schengen Area for 90 days per half-year, and only if the visa is valid.

The Decree of the Ministry of Foreign Affairs of May 11, 2011 (published on the *Gazzetta Ufficiale* almost 7 months later, on December 1, 2011), implementing the new EU Regulation, partially amended the visa policy introduced by the Inter-ministerial Decree of July 12, 2000. The new Decree still contains 21 different types of visas, some of which have been redefined: Adoption, Business, Medical Treatment, Diplomatic, Sports, Invitation, Self-employment, Employment, Mission, Family reasons, Religious Reasons, Re-entry, Elective Residence, Research, Sturd, Airport Transit, Tourism, Transportation, Voluntary Work, Working holiday.

Visa applications must be submitted in writing on a specific form, and accompanied by one passport-size photograph. As a rule, foreigners applying for visas must personally go

to the diplomatic or consular offices to be interviewed on the reasons and circumstances of the visit.

In order to obtain a visa, foreign nationals should prove that they possess sufficient means of subsistence by showing liquid cash, bank guarantees or equivalent credit instruments, or other sources of income, etc.

Except where otherwise provided by the regulations mentioned above, the foreign national must prove the existence of appropriate accommodation in Italy and the availability of sufficient funds for repatriation or a return travel ticket. No visas can be issued in the event of failure to produce evidence of means of subsistence; in the event that such evidence cannot be produced to the Border Police, the foreigner will be formally rejected at the border. A foreigner already regularly residing in a Schengen State is exempted from the verification of the above mentioned means of subsistence.

Once the visa application is accepted on the basis of the documentation produced by the applicant (a valid travel document, information about the purpose of the visit, means of transportation and for the return travel, means of subsistence during the journey and stay, accommodation arrangements) as well on the results of the interview, the Diplomatic or Consular Office must verify that the visa applicant is not included in a special database of the SIS (Schengen Information System), and is not considered a threat for the public order, national security or the international relationships with one of the Schengen Member States.

After conducting the necessary investigations, the diplomatic-consular office issues the visa, usually within 90 days from the date of application (30 days for employment, 120 days for self-employment), as provided for by art.5, par. 8 of Presidential Decree no. 394 of August 31, 1999, amended by Presidential Decree no. 334/2004.

Once entered regularly in Italy, if a foreign national intends to stay longer than 90 days, he/she is required to apply for a residence permit, which will be issued for the same reason and duration of the visa. The foreign national requesting the residence permit will be fingerprinted. Third country nationals who travel to Italy for tourism, business, and study for periods not exceeding three months, are not required to apply for a residence permit.

Under Schengen rules, a residence permit issued by local police authorities to holders of a long-stay visa, allows the foreign national with a valid passport or equivalent travel document, to enter and leave the Schengen area, and to travel freely for a period of no more than 90 days in any 6-month period, within the territories of the other Schengen member States. In any case, foreigners are required to report their presence to the police authorities in the territory of any other Schengen States, within 3 working days from their entry.

The failure to comply with these procedures on the part of the third country national, will determine his/her expulsion. This sanction will be applied even in case the foreigner has remained in Italy over three months (or the shorter period specified in the visa).

4.1.2. Entry conditions

The conditions to entry into the territory may vary according to various factors: the country of origin (EU or non-EU) of the foreigner, the duration of the stay and the reasons for the request to enter the country. As regards third country nationals, there is a fundamental distinction between refugees or asylum seekers, and third country nationals applying for residence permit for other reasons.

Entry conditions according to the duration of stay. As we have already observed, first of all the admission of third country nationals in Italy varies according to the duration of the stay. Due to innovations brought by Law no. 68 of May 28, 2007, third country nationals who intend to stay in Italy for less than three months for study, visits, tourism and business reasons, since June 2, 2007 are no longer obliged to apply for a residence permit. They need only to declare their presence on the Italian territory, according to the measures established by the Decree of the Ministry of Interior of July 26, 2007. In case of a period of stay in the Italian territory longer than three months, third country nationals are obliged to apply for a residence permit (within 8 days, for persons coming to Italy for the first time). Third country nationals already residing in Italy are required to apply for the renewal of their residence permit within 60 days from the expire date of the permit (90 days if the permit was valid two years).

Third country nationals applying for a permit of stay or its renewal for minors entrusting, asylum application or stateless status, elective residence, study (for more than 3 months), religious reasons, missions, professional trainings and stages, waiting for employment or citizenship reacquisition, family or work reasons, are required to apply to the so called “Sportello Amico” of *Poste Italiane* (a specific Help Desk of the Italian post offices), where they can obtain and fill in the necessary forms. The same procedure applies to third country nationals who plan to transform their permit of stay into an EC residence permit for long-term residents. All the documentation is then transferred to the Single Desk operating in the “Prefettura” (the Territorial Governmental Office). The application for the residence permit may be sent by post in the following cases: statelessness, asylum, medical treatments, sporting events, justice, minors integration, humanitarian reasons, minor age, work holidays.

Entry conditions for refugees and asylum seekers. In the Italian law system, in accordance to the Genève Convention of 1951, in order to be accepted as a refugee, the applicant must have experienced direct persecution for politic, religious, ethnic reasons or because of his/her national or social affiliation, and he/she must be in concrete danger of persecution in case of return to his/her country of origin. The application can be submitted at the Border Police offices, at the moment of entry; in case of their unavailability, the application may be submitted at the Immigration Offices operating in the local *Questura* (Police Headquarters). Moreover, to be granted refugee status, the applicant must not have been already granted the same status in another country. The refugee status can be denied also if the third country national has come to Italy after a relatively long stay in another country (not his/her country of origin) which adopted the Genève Convention, without applying in that country for a refugee status. Besides, the applicant must not have been condemned in Italy for serious crimes, like those against the person, the public order and the state security. Obviously, the applicant should not be responsible for war crimes, crimes against peace and humanity.

The evaluation of the application is made by the relevant Territorial Commission for Refugee Status Recognition. The task of this Commission is to summon the applicant for an interview. Then, after three days, the Commission is obliged to adopt one of the following four options: granting refugee status (which has a validity of 5 years); granting subsidiary protection status (which has a validity of 3 years and is renewable); rejecting the request (in this case, the applicant will receive the order to leave the country by the relevant local Police Headquarter); rejecting the application but at the same time, taking into consideration the danger of possible return, applying to the Police Headquarters for a special residence permit

for humanitarian reasons, valid for one year and renewable.

After the application for refugee status recognition has been submitted, the relevant Police Headquarter is required to issue a permit of stay valid for three months, renewable until the final decision by the Territorial Commission. In case the refugee applicant does not have the necessary documents, including his/her personal ID, he/she is hosted in a reception centre for identification. If the refugee status is denied, the applicant is authorised to present, within five days from the rejection, a request for a re-examination of the application, which is forwarded to the head of the Commission in order to include any new element of evaluation which was not considered during the first audition. In any case, within 15 days from the decision notification, the applicant may file an appeal to the ordinary tribunal.

Persons who have been granted refugee status are not allowed, for any reason, to return to their countries of origin, an event which could cause the revocation of their refugee status. This measure is applicable also if the person who has been granted refugee status applies for a passport at the diplomatic offices of his/her country operating in Italy.

The last aspect regards the so called “contributo di prima assistenza” (basic assistance contribution), which is conferred only to indigent refugees who cannot access to the National Fund for Asylum Policies and Services. People granted refugee status, in fact, in accordance to the decision of the territorial Commission for the recognition of international protection, may receive the “contributo di prima assistenza” which can be used for personal maintenance, studies, work insertion, medical treatments.

Entry conditions for foreign minors. Foreign minors receive all the guaranties provided by the New York Convention of November 20, 1989 concerning children rights; the convention was ratified and became effective in Italy with Law no. 176 of May 27, 1991. With Law no. 77 of March 20, 2003, Italy ratified and implemented the European Convention on the Exercise of Children’s Rights, signed in Strasbourg on January 25, 1996. To verify the conditions of stay of foreign minors, who have been temporarily admitted into the Italian territory, as well as to coordinate the administrative activities, the “Committee for Foreign Minors”, an inter-ministerial organism chaired by a representative of the Ministry of Labour, has been established.

Regarding the entry conditions for foreign minors, we need to distinguish between accompanied and unaccompanied minors. The first category is formed by minors entrusted to relatives within third degree (regularly residing) by official measures. To the second category belong minors staying in Italy without parents or other adult persons officially responsible for their assistance and representation.

Foreign minors staying in Italy are granted the rights to education, health care and all the protections applied to Italian minors in the field of work (for instance, they can be employed only if over the age of 16, and only upon finishing compulsory education). Moreover, foreign minors are granted other protection and assistance measures: reception in a secure place, non expulsion, right to obtain a special permit of stay for minors and the possibility of protection and guardianship.

Particular attention should be paid to the problem of unaccompanied foreign minors seeking asylum. In their case, the Directive of the Ministry of Interior of December 7, 2006 is applied. According to this Directive – which actually recalls norms already in force in Italy, like Law no. 39 of February 28, 1990 and the Presidential Decree no. 303 of September 16, 2004 – the foreign unaccompanied minors “have the right to receive all the necessary

information concerning their asylum application and the consequences related to this procedure, in accordance to the current legislation, as well as the right to express their opinion on the matter”. To achieve these objectives, the assistance of a cultural mediator or translator is provided.

The asylum request made by an unaccompanied minor, once presented to the Juvenile Court, has to be confirmed by a guardian appointed by the Tutelary Judge. During this period, since the minor cannot receive the assistance and protection provided by the Protection System for Asylum Applicants and Refugees (SPRAR), he/she is hosted and assisted by social services of the Municipality of residence (in cooperation with other structures belonging to or managed by the so called “third sector”). The Municipalities must report immediately the presence of the minor to the Central Service of Protection System for Asylum Applicants and Refugees, in order to make use of the protection provided by the System and financed by the National Fund for Asylum Policies and Services.

The asylum protection application concerning unaccompanied foreign minors is guaranteed by the Border Police, by public security offices in the Reception Centres and by the local Police Headquarters, in collaboration with UNHCR and other organizations operating in the field of protection for asylum seekers.

Now that we have explained the entry procedures for refugees, asylum-seekers and foreign minors, we will now deal with those regarding the application for a residence permit for family reunification, studies and long term EC residents (a specific chapter is dedicated to the access to the labour market).

Entry conditions in case of residence permit for family reunification. In order to facilitate the cohesion and family unity of third country nationals residing in Italy, the current law system provides for that foreign citizens holding a residence permit valid for at least one year, issued for work reasons (employment or self-employment), for asylum, studies, religious reasons or subsidiary protection, as well as holding a long-term EC residence permit, can be reached by close relatives. In particular: the spouse, if adult and non legally separated; unmarried minor children; adult children still dependent on parents, only if unable to provide autonomously to their means of subsistence due to health problems; dependent parents, unless other children in their country of origin are able to assist them. The so called “Single Desk for Immigration”, instituted by par. 18 of Law no. 189 of July 30, 2002, which operates in every “Prefettura” (Territorial Office of the Government or UTG) deals with all the procedures for family reunification (receiving the application, summoning the applicants for an interview, verifying their documents, etc).

Apart from the above mentioned characteristics, entry conditions for family reunification depend on two factors: the availability of accommodation and a basic income. Regarding the accommodation, the applicant must provide a certificate proving that the accommodation is congruent with the house building standards, by means of a certificate released by the local authority office or the certificate of sanitary and hygienic suitability released by the local health service. With regards the second factor, the applicant must prove an annual minimal income, deriving from legal sources, which has to be no lower than the annual amount of the social allowance, plus half that amount per each relative living with him/her. Anyway, if the applicant has not at his/her disposal such an income, also the income produced by the relatives living together with the applicant will be considered.

Once all the conditions are verified, the Single Desk for Immigration has the duty to

issue, within 180 days from the receiving of the application, either the authorization (*nihil obstat*) for the reunification or the denial. Within 8 days from his/her arrival in Italy, the relative needs to handle the authorization to the Single Desk in order to activate the procedures to obtain a residence permit. Lastly, the applicant should go to a Post Office entitled to these services, in order to forward the residence permit application issued by the Single Desk for Immigration. Once the residence permit is granted, the family member is allowed to work (employment or self employment), to start studying and obtain the benefits of the National Health System.

The above described procedure is valid also for relatives arriving in Italy together with the applicant, provided that the latter is a holder of a visa for employment (with at least a one year contract) or permanent self-employment, as well as for religious and study reasons. Lastly, for foreign family members of Italian or EU citizens there is no need of an authorization issued by the Single Desk; they should apply for a simple visa at the Embassy.

Entry conditions in case of residence permit for study reasons. Access to instruction should be treated differently for foreign citizens already residing in Italy, as opposed to third country nationals entering the country for this specific purpose.

Generally, in matters of education, the same rights and duties of Italian citizens are extended to foreign citizens residing in the country. All foreign minors already residing in Italy have the right to compulsory education, just like every other Italian minor. In case of lack of regular documentation concerning the identity of the minor, parents or tutors are required to formally declare the personal data of the minor. Foreign adult citizens regularly staying in Italy have the same right to education. First of all, they can attend alphabetization courses at different levels, which would help them learn Italian. Moreover, general education courses may be attended in order to achieve a licence or a secondary school diploma.

The current Italian law system allows foreign citizens residing abroad to attend high school or technical and professional courses. In such case, the foreign citizen may apply for an entry visa for study reasons at the Italian Embassy or other Italian consular authorities operating in his/her country of origin. Moreover, the holder of a residence permit for study reasons is also allowed to be employed, although for no longer than 20 hours a week, if previously authorized by his/her educational institution, and only if child labour regulations are strictly enforced.

As regards the residence permit for study reasons, particular attention should be given to the attendance at universities. At the end of the calendar year, Italian Universities are required to calculate the maximum number of slots reserved to foreign students enrolment, for the following academic year. The foreign students admission requires a declaration, issued by the relevant Italian diplomatic or consular offices, on the validity of local academic qualifications and degrees obtained in their country of origin. The same authorities are also responsible for issuing the entry visa for study reasons, which allows the foreign student to apply for an appropriate residence permit. Third country nationals already regularly residing on the Italian territory are subject to the same conditions, as Italian students, regarding admission to universities.

Entry conditions in case of application for an EC long-term residence permit. Holders of a long-term residence permit and regularly residing in Italy for at least 5 years may apply for the EC long-term residence permit, provided that they have a basic income equal to the

annual amount of the social allowance. The amounts vary according to the family composition. Moreover, the type of relatives for whom it is possible to apply for an EC long-term residence permit is equal to that regarding family reunification.

This particular type of residence permit, provided the existence of the above mentioned conditions, has no expiration date and allows the circulation within the EU without any further visa obligation; it also allows its holder to work and to benefit of all the services and facilities supplied by the public administration.

From January 8, 2007, the EC long-term residence permit has substituted the old and similar permit which was introduced by Law 40/1998, called “Residence Card” (*Carta di soggiorno*). As we have seen, law no. 94 of July 15, 2009, introduced a specific Italian language test for third country nationals applying for a long-term EC residence permit.

4.1.3. Regular residence

Need for a wider participation. A foreign citizen who wants to integrate in the social and cultural heritage of his/her country of destination, rightfully expects to be supported in his/her integration process, as well as find a concrete support to his/her social participation. The integration concept itself, even if subject to different interpretations, is undeniably connected with the level of immigrants’ social participation – which is deeply influenced by the structural characteristics of the hosting country, that can facilitate or hinder it.

Among immigrants (9 out of 10 cases), the prevalence of permits issued for work or family reunification reasons highlights how long-term and definitive migration projects are common in Italy. These projects are based on the economic and social stability and foresee the necessity of building or purchasing a house, the creation of a family or its reunification and children’s education.

Welcoming of immigrants as well as their social insertion and integration are not always an easy task, not only conceptually but also financially. This part of the study will highlight the most significant measures aimed to provide support to immigrants’ family and social life.

Permanence and permits of stay: the need to streamline procedures. The foreign citizen already residing in Italy whose residence permit is expiring should request the renewal at least 90 days before its expiration date, if the residence permit is valid for 2 years; 60 days if valid for 1 year, 30 days in the remaining cases.

Law no. 189/2002 directly linked the permanent settlement of immigrants to the demands of an increasingly flexible labour market. If the employment contract is permanent, the maximum duration of residence permits for work reasons is 2 years. The reduced duration of the permits, the long period of time needed to obtain their renewal and the resulting impact on bureaucracy are very challenging factors for the immigration population.

Issuance and renewal of residence permits cause considerable bureaucratic delays for all public offices involved and make immigrants permanence in our country quite stressful. The recent new regulations which have reduced the validity period of the permit of stay, together with the economic crisis, made immigrants’ life in our country much harder and precarious - including those who have been living in Italy for many years, having chosen it as their country of adoption. In the last years, the Government, and particularly the Ministry of

Interior, adopted a series of measures in order to mitigate the problem. Here are some of them.

Together with the new procedure for the issuance and renewal of residence permits and residence cards at the so-called “Sportello Amico” (Help Desk) of *Poste Italiane* (Legislative Decree no. 30/2007), the Ministry of Interior, in collaboration with the ANCI and nine administrations (Ancona, Brescia, Florence, Lecce, Padua, Prato, Ravenna, the Consortium of Municipalities of Portogruaro and the Autonomous Province of Trento) launched a three-year experimental project, aimed at transferring the administrative jurisdiction on the renewal of residence permits to Municipalities. Aside from this experimental project, a new “online network for assistance with residence permit renewal” was created; in November 2011, it was joined by more than 450 Municipalities, and their number is constantly growing. As an alternative to paper forms, the foreign citizen may submit his/her application to any Municipality (or Patronage) enabled to process the online submission. These experiments are likely to anticipate a future in which the single Municipalities will be responsible for migration issues. The interest in a joint effort between the Ministry of Interior, ANCI and the Municipalities is also evidenced by the “integrated training program” – launched in 2008 and now at its second edition – which addresses managers and the operators of Municipal services who are specifically involved in migration issues (demographic and social services, Municipal police), also in consideration of the new powers granted to Municipalities and mayors on the matter (laws no. 125/2008 and no. 94/2009).

As part of the measures to streamline and accelerate the procedures for the issuance and renewal of residence permits in electronic format, the Ministry of Interior has developed an automated system for the presentation of foreign citizens to the Police Headquarters for the validation or delivery of their residence permits. This system, which is already active in some Police Headquarters, was launched nationally on September 27, 2011, and consists in sending a text message to the foreign citizen, inviting him/her at the police headquarters on the date indicated. In February 2012, the Italian Minister of Interior Anna Maria Cancellieri, together with the Minister for the International Cooperation Andrea Riccardi, proposed an extension to the duration of the residence permits.

These steps go in the right direction (streamlining procedures, saving money, being equitable) and are of the benefit to both migrants and public offices.

4.1.4. Integration

4.1.4.1. Jurisdiction of the Ministry of Interior

It is worth noting that even though the Ministry of Interior deals about immigration in terms of security, it also considers immigrants’ integration to be a fundamental part, and not a marginal one, of its jurisdiction. This perspective has been expressed clearly, when commenting the “Multiannual Programme” of the European Fund for the Integration of Third-country Nationals (2009-2013): “The need to avoid the social exclusion and the economic uncertainty of the immigrant rises from the conviction that exclusion and closure generate social conflicts, increasing the fragility and vulnerability perceived by the individual and leading to hardship, which often become social pathology, illegality, criminal behaviors and

the exploitation of the immigrants by criminals. Moreover, the principles on which the Consolidation Act on Immigration is based are the migration flows, the fight against irregular immigration and the integration of regular immigrants.

The fundamental principles of the Italian law, focused on the main issues related to immigration, have been proposed within the so called “Charter on the Values of Citizenship and Integration” (published on the *Gazzetta Ufficiale* no. 137 on June 15, 2007). The charter, which is a Directive of the Ministry of Interior, has been translated in the most important languages, and presented to various communities.

The activity of the Ministry of Interior has been more and more characterized by regularity and integration; in April 2010, the Ministry of Interior published the document titled “Iniziativa dell’Italia - Sicurezza, Immigrazione, Asilo” (Italian Initiatives: Safety, Immigration, Asylum), documenting the main initiatives undertaken on the matter, and the results obtained.

Along these lines is the “Plan for Integration in Security” titled “Identity and Encounter”, approved by the Council of Ministers of June 10, 2010, which defines the main lines of action and tools to be adopted in order to promote a successful integration process of immigrants, thus meeting the needs for both security and reception. This Plan, promoted by the Ministry of Labour and Social Policies, the Ministry of Interior, the Ministry of Instruction, University and Research, is based on five basic principles of integration: education and learning, work, housing and local administration, access to the most essential services, integration of minors and second generations. In order to implement this Plan, in August 2010 the Central Directorate for Immigration of the Ministry of Labour and Social Policies signed an agreement with the ANCI (the representative body of the Italian Municipalities). Among the other things this agreement, which was funded by the Ministry with 74,012,000 euro in February 2011, provides for the analysis and exchange of good practices promoted at the local level, by means of a series of integrated and coordinated actions.

Together with the Plan, the “Integration Agreement” between the foreigner and the State is one of the operational tools provided for by the “security package”.

We should also not forget one of the objectives of the European Fund for the Integration of Third Country Nationals (2009-2013), of whose elaboration and implementation is in charge the Department for Civil Liberties and Immigration: “the effort [...] is entirely focused on composing and harmonizing various identities in a social and civil structure which, in turn, is considerably complex and articulated, within a balanced framework that shall ensure social cohesion and security”.

This program (established by the EU Council Decision no. 2007/435/EC of June 25, 2007) allocated considerable resources to the Department for Civil Liberties and Immigration for the promotion of integration activities: for the entire period 2007/2013, the European Fund for the Integration of Third-country Nationals (EIF) has contributed with about 130 million euro, while Italy co-financed the program at a national level with 42,852,987 euro, for a total of 146,218,883 euro. For the implementation of the 2010 program, the funding amounted to 19,411,860 euro, with other 7,396,486 euro co-funded by Italy. For the 2011 program, the EIF allocated 27,136,905 euro, integrated by 11,486,905 co-funded by Italy (for the previous

years, see EMN Italy, 2009)¹.

The main priorities for the activities of the EIF are:

- language formation and civic orientation;
- work orientation and professional formation;
- school orientation and insertion;
- awareness, information and communication;
- definition and promotion of the role of cultural mediator;
- actions in behalf of women, foreign minors and second generations;
- actions to promote family reunifications;
- innovating programs to ensure the access to the necessary information and facilitate the information processes.

The first three of these actions are considered priorities also by Regions, Territorial Councils for Immigration and Associations, as outlined by the “Consultazione nazionale 2011 sui fabbisogni territoriali di integrazione” (2011 National consultation on the territorial needs for integration), promoted by the General Directorate for Immigration and Asylum Policies of the Ministry of Interior (Ministry of Interior, 2001b). In order to improve information exchange and best practices regarding integration, a new editorial project consisting of a bi-monthly magazine titled *Libertà civili* (Civil Liberties) has been launched by the Ministry of Interior in 2010. This magazine is widely distributed and contains articles written by researchers and operators in the field of migration.

We should also remember that the new Monti Government (which took office on November 16, 2011), with the institution of a new Ministry for International Cooperation and Integration, gave a clear signal of an innovative interpretation of the relationship between cooperation, migration and co-development, of which Italy is in great need: the simple division Italy/foreign is thus overcome, and the presence of migrants is finally seen as an important factor.

4.1.4.2. Municipal elections: a perspective

Still doubts about the voting rights in Municipal elections. According to a prevailing legal hypothesis, art. 48 of the Italian Constitution recognizes the right to vote only to Italian citizens or naturalized one; there is another minority hypothesis, however, which considers the term “citizen” more extensively, including in it not only people with Italian citizenship; based on the latter hypothesis, therefore, the political rights should be extended to third country nationals as well. At present, only Italian citizens have the right to vote, while EU citizens may vote only in the local and European Parliament elections. However, laws have been proposed in order to recognize the right to vote in local government elections for non-EU citizens residing in Italy for several years.

¹ Other funds have been granted by the PON – National Operational Program “Security for Development – Objective: Convergence 2007-2013” to 4 Southern Italian regions (Sicily, Calabria, Campania and Apulia), specifically for the implementation of migratory measures called for by the Operational Objective 2.1, Axis II, “Spreading Legality”. Out of a total of € 269,253,803 granted for the implementation of the activities called for by Axis II, €8,077,614 have been dedicated to specific measures in the field of migration. Further transversal measures in favor of various other categories, including immigrants (information and communication technologies and other social structures), have received a total funding of € 215,403,042.

With regards to other international instruments, the Strasbourg Convention (1992) provided both for the assignment of the right to vote, as well as for the constitution of advisory bodies (or the implementation of other dispositions at an institutional level), in order to ensure an adequate representation of resident immigrants in the local communities; however, without taking into consideration the right to vote, Italy ratified the convention only by establishing a specific Committee and an additional councillor. The Committee is a collegial body, whose members are elected by foreign residents, in a number proportional to the relevance of third country nationals in the territory; the elected representatives have the responsibility to talk to the institutions and express a non-binding opinion. Additional councillors perform similar functions. An extensive network of organizations representing immigrants at a local level (Committees, Councils, Additional Councillors) has been operating in Italy for more than 10 years; even if without any decision power, they ensure a certain degree of visibility to the needs of foreign citizens. The consultative participation, even if considered very important by the immigrant communities, is deemed an intermediate solution before the long-sought right to vote. These experiences of consultative participation, however, have shown severe limitations, and are now in deep crisis and in the process of revision.

4.1.4.3. Cultural mediation

Cultural mediation: waiting for an official recognition. The Italian legislation on immigration considers cultural mediation as a very important activity, meant to be, with a rather fitting expression used by the National Council of Economy and Labour, “the *measure* of integration policies”.

Cultural mediation is carried out by mediators: they are professionals employed mainly by local authorities – mostly in the educational and healthcare services – but also by national and local public institutions (like police headquarters, prisons, etc.) in various other fields, all over the territory.

Mediators’ main task consists in overcoming the communication barriers (both linguistic and cultural) that can occur while interacting with migrants, by acknowledging the many important elements of the “migrant identity” (migration project, family reunification, socialization, cultural changes related to long-term migration, etc.). A mediator is not only an interpreter of language and culture, but his/her duty also consists in supporting the socio-cultural interactions and relationships, as a point of contact between the Italian culture and that of the country of origin of immigrants, refugees and asylum seekers.

Thanks to its many ways to mediate conflicts, cultural mediation is taking a strategic role in urban regeneration projects: cultural mediators, in fact, by providing information and interpretation services, can play an important role in support of the social mediators. According to old estimates, in Italy there are about 4-5 thousand cultural mediators; most of them are immigrants, and 75% are women (with a high turnover rate).

At the European level, cultural mediators’ role is still unclear: they are not present or legally recognized in every country, and their tasks are not clearly defined by national legislations. In Italy, cultural mediation has been discussed since the end of the ’80s; the first document mentioning it officially dates back to 1990. While at a national level, rules and directives regarding cultural mediation have been fragmented or totally undefined, at a regional and local level there have been a series of rules (characterized by lack of homogeneity and coherence) with regard to prerequisites for access, training, jurisdiction, and

other aspects.

Although cultural mediators (both male and female ones) are more and more relevant for the integration process, they have not obtained the recognition or legitimization of their role yet. The various official initiatives launched in 2009 (either by the Ministry of Interior, CNEL, the Conference of Regions and Autonomous Provinces, as well as by many Parliamentary Bills) which aimed at obtaining the official recognition of cultural mediators' professional role, have not been successful. Although a country of immigration like Italy should intrinsically be able to mediate with newcomers through its own laws, institutions and officers, the positive role of mediators during this intermediate phase is undeniable.

4.1.4.4. School and university

In 2010, foreign minors amounted to 993.000; for the school year 2010/11, 711.046 of them (7.9% of the total student population) enrolled in schools of all levels. The analysis of school attendance trends shows that the number of students of non-Italian citizenship (CNI students, according to the ministerial definition) enrolled in Italian schools has increased over the last three years (although at a lower rate than in the previous decade), and now amounts to 40,000 units every year (MIUR – Ministry of Education, University and Research, 2011). This growth rate should most probably continue also in the future.

If, on the one hand, the number of “foreign” students born in Italy increases (during the school year 2009/10 they were 34.7% of the total, whereas during the school year 2010/11 they reached 42.1%), on the other hand the number of newcomers (that is, those minors who enroll in Italian schools for the first time, mostly after family reunification) decreases. In 2009 newcomers represented about the 7% of the total CNI students enrolled in Italian schools; in 2010, instead, they represented the 5%. According to a survey by Eurostat, Italy (alongside with Spain) is the country with the highest number of minors reunified with to their families: in 2010 there were 160,200 reunifications for family reasons, 70,336 of which involving children (this figure, which is higher compared to the total number of visas granted for family reasons, evidently refers to EU citizens as well).

In Italy, however, the presence of newcomer students (or students enrolled for a short time) in secondary schools is still very relevant. In particular, in the course of the last years, there has been an increase in enrollments in the Upper Secondary School by newcomers reunified with their families or by minors who had attended the Lower Secondary School for only one year. Their integration is often complex and critical due to the specific problems of adolescence, which is affected by personal and psychological variables, as pointed out by several studies and researches.

The high vulnerability of the CNI students (in particular those who enroll late in the Italian school) involves many aspects, including: an initial difficulty of insertion for those who enroll after the age of 14, which means (for some of them), bouncing around from school to school, looking for a welcoming environment; an educational delay at the beginning of their studies; a significant school failure rate, unfortunately twice as worse as the Italian average one; difficulty in continuing their higher education courses; a limited number of schools to choose from – usually only Professional and Technical schools. With regard to the latter point, the circular of the Ministry of Instruction, University and Research (MIUR) no. 2 of January 8, 2010, which introduced a limit of 30% to the presence of foreign minors in each class in order to avoid the formation of “ghetto” classes or schools (based on the national average of foreign students, which currently is 8%), caused a rather heated debate. However,

even if amendments to this circular have been proposed (in order to exclude from that limit both foreigners born in Italy and those students who already know the Italian language), for the majority of Italian schools, due to the very small presence of foreigners in most of their classes, its contents were almost irrelevant. On the other hand, and for opposite reasons, in small cities or municipalities characterized by a higher concentration of immigrants, the limits introduced by the circular were hard to be implemented.

Also, the presence of foreign students (mostly females) at the Italian universities has become quite relevant, and now amounts to 62,000 units (more than 12,000 new enrollments in 2009/10, but still only 3.6% of the total university population, if compared to the 7% of the OECD countries).

The cultural richness of foreign students is also expressed by their own languages (in 2001, the University for Foreigners of Siena counted 150 of them). These foreign languages are not only rich and useful for their own contents and for the support to the cultural identity of their countries of origin, but are also a driving force for business.

4.1.5. Citizenship

Immigration and citizenship: an open question. Acquisition of citizenship is still regulated by Law no. 91 of February 5, 1992, at a time when Italy still considered itself a country of emigration, rather than of immigration. Since then, acquisitions of citizenship have increased from 3,500 in 1991 to significantly higher levels, although still lower than in other European countries (in 2010, for instance, cancellations at the Registry Office due to acquisitions of citizenship amounted to 66,000).

In order to obtain Italian citizenship, foreigners residing in Italy have two main options: marrying an Italian citizen, or continuously residing in the country for a certain amount of years. In the first case, only six months of residence in Italy since the date of the marriage are required (if the marriage has been celebrated abroad, three years are necessary). Currently, 1 out of 10 marriages regards foreign citizens (21,300 in 2009), and mixed couples, which now amount to more than 260,000 (without considering civil unions, whose quantification is hard because they are not defined by the Italian law system), are fundamental in the process of intercultural transformation of the country.

In the second case, instead, 10 years of regular and uninterrupted residence in Italy for the non EU citizens and the registration at the registry office are required; proofs of an adequate income and the knowledge of certain language and culture prerequisites, are also necessary. According to the law, the examination procedures to evaluate the naturalization should last 730 days: actually, the waiting time is much longer and there is great need to streamline procedures.

Given the prevalence of the *jus sanguinis* (Latin words for “right of blood”), the law provides that immigrants’ children born in Italy can become Italian citizens if they have been promptly registered at the Registry Office at the time of birth and if they have also lived in Italy, regularly and uninterruptedly, until they attain the age of majority. In this case, they have to submit a request of Italian citizenship to their Municipality of residence; this procedure needs to be completed before they are nineteen.

The debate about giving the possibility of accessing citizenship rights to non-EU residents – with regard to both children of immigrants born in Italy and their parents who have been residing in Italy for a long time – has gradually become of unusual importance within the Italian context, which is traditionally not too keen to consider residing immigrants

as “new citizens”, and is characterized (as we have already seen) by rather restrictive laws on immigration. The issue of citizenship rights has been usually obscured by the attention that politicians and mass media pay almost exclusively to security issues, but it is now getting more and more visibility thanks to the ever-growing presence of the second generation of immigrants (estimated at about 600-650 thousand units). They are children of immigrants born, raised and educated in Italy, who are still “foreigners” from the legislative point of view – at least until they attain the age of majority.

In the last years, many parliamentary bills have been proposed with the objective to rewrite the rules on citizenship and naturalization, but so far none of them have completed the necessary parliamentary procedures to be approved. Moreover, despite the request of substantial modifications, all the non-governmental organizations working in the field of immigration are promoting a common awareness-raising campaign on the matter. More than once, the Italian President of the Republic Giorgio Napolitano has expressed – even explicitly – his opinion on the subject: on November 22, 2011, during a meeting with the Evangelical Churches in Italy, Mr. Napolitano said: “I hope that the Parliament will address the matter of the citizenship of children born in Italy to immigrated parents. Refusing it would be crazy, absurd. All the more so because the children want it”.

For these minors, there is an obvious gap between their legal status and their personal identity, which is gradually built by acquiring a linguistic and cultural heritage, as well as social ties. A whole new generation of children is at risk of growing as foreigners in a country they feel as their own, where they were born and have been educated, and where they intend to build their own future. The refusal to grant them citizenship means, therefore, a condition of alienation and distance, which does not correspond to the experience of children and young people used to speak the Italian language, eat the same food and share the same tastes and habits of their peers. This causes marginalization in their daily lives, as well as difficulties in accessing basic services and exercising their rights. Young people of immigrant origin could represent a great potential for our country, as long as they are not discriminated and receive soon the recognition of a true and full (not just juridical) citizenship. The Minister of Interior Anna Maria Cancellieri has proposed the enhancement of the *jus soli*, combined with years of regular residence of the parents, as an intermediate solution, which could be approved by the majority of the Parliament. Furthermore, as proposed many times by the Minister for International Cooperation and Integration Andrea Riccardi, when taking into consideration the requirements for the acquisition of citizenship we should rather talk of *jus culturae*, and start granting citizenship to children born to migrants who study in Italy.

4.1.6. Access to the labour market

The Italian legislation regulates the access to the labour market for foreign citizens, based on the workers’ country of origin (EU or non-EU), their particular status (asylum seeker or not), the kind of work (self-employment, subordinate employment, related to special projects, etc.), their place of residence at the time of the contract (foreign workers residing abroad or already residing in Italy) and the migration flows, set every year by the specific decrees.

Access to the labour market for asylum seekers. Due to the absence of an organic law regarding asylum, the Italian law system, as regards access to employment for asylum seekers and refugees, refers to the content of the Legislative Decree no. 251 of November 19, 2007.

This specific decree, which came into force on January 19, 2008, implements the Directive 2004/83/EC of April 29, 2004. This Directive establishes the minimum standards for third country nationals or stateless persons as refugees or as persons who otherwise need international protection, as well as the basic contents of the granted protection.

In particular, Chapter V, art. 25 (“Access to work”) of the above-mentioned Decree, titled “Content of international protection”, establishes that a foreign citizen in legitimate possession of a refugee and subsidiary protection status “is entitled to the same rights of Italian citizens in terms of employment, self-employment, subscription to professional bodies, professional training and internship in the workplace.” Moreover, art. 25, par. 2, recognizes the “access to public employment, with the same conditions applied to EU citizens, to whomever is granted refugee status”.

The same Legislative Decree, art. 23, par. 2, allows the job insertion to people granted subsidiary protection status, who are issued a “residence permit [...] whose three-year validity is renewable after the verification of the permanence of conditions which granted subsidiary protection”.

A recent parliamentary debate, particularly within the III and XIV Senate Permanent Commissions, has examined the possibility of further strengthening the protection of asylum seekers, by adopting two specific measures: the first one concerns the possibility of “accessing employment, after a maximum of six months from the date of submission of the application for international protection”; the second one, instead, relates to the national conditions of access to the labour market, which “should not unduly restrict the access of asylum applicants in that market”. These proposals derive from the conviction of the Parliamentary commissions, that an “easier access to employment could reduce the social exclusion of asylum seekers in the hosting society, thus promoting their integration”.

Access to employment for non-EU foreign citizens residing abroad. The provisions of the “Consolidation act of provisions related to immigration control and rules on the condition of foreigners” contained in the Legislative Decree no. 286 of July 25, 1998, amended by Law no. 189 of July 30, 2002, are valid for immigrants non applying for refugee status, who are requesting to enter the Italian labour market.

Every year, the Italian legislation, by means of a Decree of the President of the Council of Ministers (the so called “flow-decree”), specifies the general criteria for defining the entry quotas into the Italian territory and establishes that the annual evaluations are the basis for the calculation of their total amount.

In order to plan the migration flows to Italy for 3 years, the Consolidation Act on Immigration makes reference to a Policy Document issued by the Government (provided for by the Consolidation Act itself).

As regards dependant workers with a part-time, full-time or seasonal contract, and more specifically non-EU workers residing abroad, the procedure establishes that the employer, within the quotas determined by the “flow-decree”, has the responsibility of going to the Single Desk for Immigration at the Prefecture of the province where the work should be carried on. The same employer, in case he/she knows the employee to hire, needs to apply for a specific authorization to work, providing additional documents which certify the existence of a suitable accommodation for the worker as well as the residence contract proposal.

In the last years, for certain kinds of contract the Ministry of Interior, through the Department for Civil Liberties and Immigration, has created a service that allows employers to apply online for those authorizations.

Once the existence of all legal requirements has been verified according to the legislation (and in collaboration with the Police and the provincial Labour Office), and in case of a favorable opinion, the Single Desk on Immigration issues the authorization certificate to the employer, sending online the documentation to the consular offices in the worker's country of residence. The worker will then have 6 months to apply for an entry visa and, once arrived in Italy, within 8 days he/she will have to attend to the competent Single Desk in order to receive his/her own tax code, sign the residence contract and fill in the application form for a residence permit for employment purposes. This form can be filled in - when possible - with the free assistance of the Municipalities or the Patronages, and will have to be mailed at a special post office counter called "Sportello Amico". The police, after taking pictures and fingerprints, will then deliver the residence permit for employment purposes.

The Circular no. 4848 of July 27, 2010, of the Ministry of Interior, Department for Civil Liberties and Immigration, Central Directorate for Immigration and Asylum Policies, introduced new procedures for the implementation of art. 1, par. 22, letter r of the Law 94/2009 for the entry of highly-qualified foreign workers. This law provides for the possibility of replacing the application for work permission with a communication of the employer to the Single Desk on Immigration, containing the proposal of a residence contract for the purpose of employment. The above-mentioned Circular introduced a specific protocol of agreement which the requesting companies and universities need to sign with the Ministry of Interior, in order to have access to the new procedure.

Moreover, a new Law Decree on the conditions of entry and residence of highly-qualified third-country national workers (which implements the EU Directive 2009/50 of May 25, 2009) will be published within June 2012.

It must be noted, however, that from a social security and insurance point of view foreign and Italian employees are granted the same protections.

Access to seasonal employment. The matter is expressly covered by article 20 of Law no. 189/2002, which replaced article 24 of the Consolidation Act of 1998. The above-mentioned procedure is also valid for the seasonal employment of a foreign worker residing abroad. The validity of the permit is obviously related to the kind of seasonal work, but it cannot be less than 20 days and more than nine months.

A valid residence permit for seasonal employment may be converted into a residence permit for employment only after the second entry of the foreign citizen for the same kind of activity, and after he/she returned to his/her country of origin at least once. In any case, the conversion is possible only under specific conditions, and within the employment quotas established by the specific "flow decree".

As regard social security and assistance to seasonal workers, article 25 of the Consolidation Act of 1998 provides that, given "the limited duration of contracts and their specificity, in accordance with the standard regulations of the areas of activity, foreign citizens in possession of a residence permit for seasonal work are provided the following forms of mandatory assistance and social security: a) invalidity, old-age and survivors insurance; b) insurance against accidents at work and occupational diseases, c) health insurance; d) maternity insurance". Furthermore, as stated by paragraph 5 of that article: "in

the event of a subsequent re-entry, it is possible to resume contributing to the pension fund” by adding the number of years previously accrued.

Access to self-employment. This issue is specifically covered by article 26 of the Consolidation Act on Immigration, introduced by the Legislative Decree no. 286 of July 25, 1998, partially amended by Law no. 189 of July 30, 2002.

In Italy, non-EU citizens may exercise self-employment in the industrial, professional, craftwork and trade sector, by creating a joint-stock company, a commercial partnership or accessing to managerial position, as long as the activity itself is not reserved by law to Italian or EU citizens.

In addition, the regulation establishes the same moral and professional requirements applied to self-employed Italians, including - if necessary - the prerequisites for professional bodies and associations. Furthermore, foreign citizens have to prove that their income is sufficient and coming from legitimate sources, that their accommodation is appropriate, and that the resources for their activity in Italy are adequate.

In case the foreign citizen wants to practice a profession in Italy, the current regulation requires that their professional qualifications, obtained in a non-EU country, need to be previously recognized. In particular, for health professions (even if occasional) a previous approval by the Ministry of Health is needed. The Ministry of Justice supervises professions such as: exchange agent, agronomist, social worker, lawyer, biologist, chemist, accountant, job consultant, geologist, surveyor, journalist, engineer, agricultural technician, technical engineer and psychologist.

The Italian Embassies or Consulates abroad check all the prerequisites established by law, and then issue an entry visa for self-employment explicitly stating the activity for which the visa itself is issued. This visa is valid for 180 days, and will allow the worker to apply for a residence permit for self-employment.

Access to labour market for other categories of foreign workers. This area encompasses all the work categories, listed in details in paragraph 1 of article 27 of the Consolidation Act on Immigration of 1998, which are not contemplated by the annual entry quotas. These are particular work categories within the fields of culture and scientific research, sports and entertainment, business and highly specialized professions like: business executives; university professors and researchers; translators and interpreters; correspondents accredited in Italy; circus performers, musicians, actors, dancers, etc.

In general, for these categories of foreign workers, the appropriate Single Desk issuing the work authorization is the one pertinent to the area where the activity will be carried on. However, for some workers (such as artists to be employed in musical bodies or theatres), applications should be directly submitted to the General Directorate of labour market (Employment Office for show-business employees), and not to the Single Desk. The same goes for third country nationals who intend to play professional sports: in this case, the work authorization is replaced by the so called “Declaration of personal assent” issued by the Italian National Olympic Committee (CONI). In any case, for all the above-mentioned examples, the General Directorate of Labour Market and CONI are the responsible bodies for sending the appropriate notification to the Single Desk, in order to obtain the residence contract.

Other particular categories of foreign workers are represented by non-EU foreigners

involved in special projects, as well as professors of foreign schools and universities working in Italy. As regards the latter, employers (foreign educational institutions, branches of foreign universities or institutes at a university level) are required to submit to the Single Desk a “personal and numbered application for the authorization to subordinate employment”, as per Law no. 103 of May 24, 2002.

Access to labour market for foreign workers already regularly residing in Italy. So far we have examined cases of employment of non-EU foreign workers residing abroad. In addition, the Italian law allows to stipulate contracts with third country nationals who already regularly reside in the country.

The provisions of the Circular of the Ministry of Labour no. 9 of March 8, 2005 regulate the case of a new residence contract stipulated between a foreign citizen worker, who is regularly residing in Italy, and a new (or additional) employer. The contracting parties have to independently stipulate a new contract of residence, but the employer is also required to submit the documentation to the Single Desk for Immigration.

In addition to the above-mentioned cases, a foreign citizen who is already residing in Italy may obtain a contract of subordinate employment or self-employment either when he/she holds a residence permit for study or professional training, or when he/she holds a residence permit for seasonal work and can obtain a permanent employment contract.

Access to labour market in case of conversion of a residence permit. We have already mentioned the possibility of converting a residence permit for seasonal work into a residence permit for subordinate employment. In addition, in some specific cases, foreign citizens already holding a residence permit for purposes different from employment - and therefore already residing in Italy for other reasons - are given the possibility of converting their permit into a residence permit for subordinate employment or self-employment purposes.

This is the case of conversion of a valid residence permit for study or training purposes into a new one issued for employment purposes. The same thing applies to a permit holder who has graduated in Italy. In case of a permit for subordinate employment, the availability of entry quotas is not previously verified, although the number of converted residence permits for study or training purposes is subtracted from the entry quotas established by the flow-decree of the following year.

With regards to the fight against undeclared work, the Ministry of Labour and Social Policies, the social insurance institutes (INPS and INAIL) and the Financial Police have the authority to carry out work environment inspections.

4.1.7. Return

EU Directives. The “Charter of Fundamental Rights of the European Union” of December 7, 2000, article 19 paragraph 2, has formally established the principle that no person may be removed, expelled or extradited to a State where there is a serious risk of capital conviction, torture or other inhumane and degrading treatment and punishment. The principle that the return should take place in conditions of safety, respect for human rights and dignity of the person concerned has been emphasized with regard to victims of human trafficking by article 16 of the “Convention on Action against Trafficking in Human Beings” ratified by the Council of Europe on May 16, 2005.

Regarding the implementation of a European return policy, two Council Decisions and three Council Directives should be mentioned:

- Council Decisions 2004/191/EC and 2004/573/EC; the first on regards the compensation criteria for costs arising from the mutual recognition of expulsion decisions (according to Directive 2001/40/EC); the second regards the organization of joint flights.
- Directive 2001/40/EC on mutual recognition of decisions on the expulsion of citizens from third countries, and Directive 2003/110/EC on mutual assistance in cases of transit for air removal;
- Council Directive 2008/115/EC laying down rules and procedures applicable in Member States for the return of third country nationals whose stay is irregular.

The latter, in particular, was the result of a long negotiation between the European Parliament and the Council of Europe; it lays down minimum standards on the duration and conditions of detention and the prohibition on re-entry, as well as setting a series of legal guarantees for the irregular immigrants.

Landings. The Mediterranean Sea which surrounds Italy has always been a fundamental element for cross-border movement, but when the migration flows and the restrictive immigration policies increased, it became a sort of immense cemetery.

According to a cautious estimate by Fortress Europe (<http://fortresseurope.blogspot.com/>) – an organization that documents the death occurred during unauthorised border crossings, there were 18,050 confirmed victims, the time period from 1998 through December 2011, of which only 2,251 from the beginning of 2011 (1,400 in the Strait of Sicily in the first 5 months of 2011).

To the tragedies occurring in the Mediterranean Sea (the so called *Mare nostrum*) we should add those which took place in the Atlantic Ocean off the coasts of the Canaries Islands, or while crossing the Strait of Gibraltar towards Spain, which involved immigrants departing from the coastlines of North Africa (Morocco, Algeria, Mauritania and Senegal).

Before reaching the sea, many of these migrants are forced to travel through the dangerous Sahara desert, by trucks and off-road vehicles, following paths and roads between Sudan, Chad, Niger and Mali on one hand, Libya and Algeria on the other hand.

The irregular flows in Italy have gone through different phases: in the early years of the millennium they had started to decrease; partly as a result of the strict controls established in Ceuta and Melilla, there was a new increase (over 30,000 in 2008); then as a result of legislative changes in 2009 (Law 94/2009), a sharp decline was reported. However, in 2011, the operative network tackling irregular immigration by sea set up by the Italian government, and in the framework of the agreement signed with Libya on joint maritime patrols, was stopped. The political tumult sweeping the countries of North Africa since early 2011 also has generated exceptional migratory pressure, in particular from Tunisia. If during 2010 on the Italian coast 4,406 people had landed, in 2011 over 60 thousand migrants arrived in Italy, of which about 24 thousand of Tunisian origin; among them, 50 thousand migrants landed on the coast of Lampedusa and Linosa.

As is known, it is difficult to have a coordinated approach to tackling trafficking in labour based on respect for human rights. On February 23, 2012, the European Court of Human Rights in Strasbourg unanimously condemned Italy for its refoulement of migrants back to Libya. Particularly in the case of Hirsi Jamaa and others, arising from an incident in

2009, Italy failed to comply with articles 3, 4 and 13 of the European Convention on Human Rights (ECHR), for exposing the applicants to the risk of inhuman or degrading treatment in Libya and the danger of being sent back to their countries of origin. It was also decided that Italy had violated the law against mass expulsions, and it was recognized the right of the victims of such measure to appeal to the Italian courts. Therefore, the ongoing renegotiation of the agreements between Italy and the transitional government in Libya is set in light of this recent ruling. Greater involvement of the European Union has also been called for, so that Italy and other border States of EU will not be left alone with this problem.

It is necessary to control the coast to prevent that they become the docking of labour traffickers and the centre of lucrative trade routes. However, this rigor must be combined with respect of the right to seek asylum and humanitarian aid, which people fleeing desperate situations and life threatening continue to need. In fact it must be taken into account that about half the people landing by sea achieved the recognition of refugee or subsidiary protection status, or a residence permit for humanitarian reasons; therefore it should not be claimed that all the people involved are landing irregularly.

Tackling migrants landing should not leave behind that the vast majority of irregular stayers are those who regularly entered in Italy, with or without a visa: tens of millions of foreigners who come for tourism, business, on visit and other reasons. The majority of irregular immigrants, therefore, consists of the so-called “overstayers”, people who have had a residence permit which was not renewed after its expiry. Many of them have entered Italy by regularly crossing the Schengen borders (France, Austria, Greece and Slovenia), and then irregularly remained in Italy after the expiration of their permit.

Land borders are more frequently used, but this doesn't equate in less tragedies compared to the ones happening offshore. Hundreds of people from different countries (Albania, Austria, Bosnia, Croatia, France, Germany, Great Britain, Greece, Slovenia, Turkey, Afghanistan, Ireland, Italy, The Netherlands, Spain and Hungary) in fact, have died while travelling hidden inside tractor-trailers (from asphyxia or crushed by the goods), beneath the trains or even in the landing gear of the aircrafts; others died by crossing mountain border posts, rivers and minefields, either struck down, frozen to death, or by any other accident.

Refusals at the border. Border police can refuse third country nationals who try to enter without the necessary requisites, which include valid documents, a valid entry visa and appropriate documentation to prove the purpose of the stay and the availability of suitable means of subsistence. The accompaniment to the border, instead, is for any foreign national who entered Italy without the proper documentation and was stopped soon after his/her entry (or after being temporarily admitted just for first aid needs).

In the past, the migration pressure of Romanians was particularly intense, but it started to decrease after 2001, when Romanian citizens were authorized to enter Italy, without a visa, for a maximum of 90 days. Afterwards, once Romania joined the EU, migration flows from other East European countries, as well as from Africa and Asia, started to increase.

Law no. 189/2002, article 10, gives to the Central Directorate for Immigration and Asylum Policies of the Ministry of Interior the task to coordinate enforcement actions by sea (“Inter-ministerial Decree regarding irregular flows enforcement” of July 14, 2003). In particular the Central Directorate gathers and analyzes any information related to surveillance, prevention and combating of irregular migration by sea, coordinating the operational

interventions carried out by Navy, Police and Harbour Authorities.

Expulsions. While the function of refusals is to prevent irregular migration, expulsions are legal or administrative measures which fight the irregular residence in the territory. Depending on the circumstances, expulsions are enforced with or without the escort to the border. As it is easier to fight irregular migration at the borders, by means of refusals, in the past this was the most frequently used method for removals. Law no. 189/2002 increased the forced expulsions and reduced the amount of expulsion orders; moreover, the application of the readmission and cooperation agreements with departure States has improved bordered controls.

The implementation of expulsions and returns under readmission agreements, subject or not to the detention at CIE - *Centri di Identificazione ed Espulsione* (Identification and Expulsion Centres), after experiencing an increase in numbers for some years, it has now fallen and the current level is the same as at the one recorded at the end of the '90s. In 2010, just over 7 thousand people were being held in custody in the 13 CIE.

Also in 2010, only 40.0% (20,287) out of 50,717 irregularly staying persons identified by the police was effectively returned, number just slightly over the level recorded in 2009, when the number of irregularly staying persons amounted to about 53 thousand.

In general terms, the recourse to expulsions can presumably be explained by the phenomenon of regular entries to Italy with valid residence permits (even acquired in other Schengen countries), which are not subsequently renewed. Specifically, when immigrants come from distant countries, they have probably entered the country through airports, where avoidance of controls is much more difficult. In case of nationalities whose presence in Italy is of long standing, such as Moroccans and Tunisians, the slight predominance of expulsions over refusals clearly proves that irregular staying is often subsequent to a failure to renew the permit of stay. This happened even more frequently for Poland and Romania, whose citizens - before joining the EU - were able to avoid refusal because they were not required to produce a visa upon entry, but were not able to avoid expulsion if found without permit.

Forced returns. There are people who, after receiving the order of expulsion or the order from the *Questore* (the police commissioner) to leave Italy (5 days after being released from the Temporary Residence Centre or CPT), do not carry out the order; these people increase the number of irregularly staying immigrants and expose themselves to the risk of forcible accompaniment to the border, if intercepted again by police

The return policy could exert its full effect only after the conclusion of bilateral agreements between Italy and the migrants' countries of origin. These agreements provide for bilateral cooperation to combat irregular flows through the involvement in the measures of return of the Countries of departure while Italy is allowing a preferential quota to their nationals in the flow decrees.

It was found that the average number of persons actually removed (removed with immediate accompaniment and refused to the border) has been decreasing. This number varies according to the location from where the immigrant was expelled: in regions that are close to the borders or where a Centre of Identification and Expulsion (or CIE, the former Temporary Residence Centre or CPT) is present, an increase of returned people is almost "physiological", due to the fact that returns are carried out from those specific regions.

With regards to the nationality of returned immigrants, the proportion is similar (with

some little differences) to the one regarding expulsions and refusals at a national level. The incidence of returns over the total amount of third country citizens also varies according to their nationality.

As we will see, in addition to the forced return, an “assisted voluntary return” has been implemented, provided to those wishing to return to their country of origin; it does not have any connection with a decree of expulsion or a refusal measure.

Assisted Voluntary Return. In Italy, assisted voluntary return was first formally provided for by Law no. 286/1998 “Turco/Napolitano” for trafficking victims, and then by Law no. 189/2002 “Bossi/Fini” for other categories; eligible groups for the assisted voluntary return programmes could be easily divided into two large categories:

a) *Humanitarian emergencies and asylum:* holders of a permit for temporary humanitarian protection and displaced persons, asylum applicants, refugees, as well as people who have renounced applying for asylum or who have been denied the status of refugee or another form of temporary protection as well as former Dublin Convention cases;

b) *Trafficking victims and humanitarian cases:* groups of migrants in a state of vulnerability, trafficking victims, humanitarian cases, unaccompanied minors and stranded migrant workers.

In August 2011, taking into account the changes that a judgment of the Court of Justice in Luxembourg has enacted on immediate coercive measure premises for irregularly present persons to constitute an offense, the Decree Law no. 89 extended the assisted voluntary return likewise to irregular aliens, if the person concerned is granted by the Prefect a term of 7 to 30 days to return in the country of origin. However there are excluded those: who endanger public order and national security; who are at risk of absconding; who are subject to a removal order of the court; who violate the security measures imposed by the “questore” (public security authority at provincial level); who violate the terms of voluntary return.

Although in the past this area of application has been denied to irregular migrants, the latter – if falling into the category of cases which are particularly vulnerable (elderly, single mothers, people with mental or physical illness) - were taken into account firstly with the measures for assisted voluntary return organized by Ministry of Interior – Department for Civil Liberties and Immigration and, therefore, by the European Return Fund (established by Decision no. 575/2007/EC of the European Parliament and of the Council of May 23, 2007 and in force since 2009). The latter has allocated funds to Italy thus divided for the period 2008/2013: 6,029,379 euro in 2009, 6,769,510 euro for 2010, 6,921,174 euro for 2011 and 9,066,985 euro for 2012. Therefore, having the “Return Directive” entered into force in Italy, voluntary returns can now be applied also to irregular migrants.

The total number of people who have benefited from assisted return programmes issued between 1991 and today is equal to more than 8 thousand. Until 2001 the largest part of those assisted concerned people involved in humanitarian emergencies in the Balkans in the early ‘90s and subsequently in Kosovo in early 2000 (a total of over 70%). In recent years, the number stood at around 100 departures per year (EMN, 2010b).

Assisted voluntary return programmes are managed by the International Organization for Migration (IOM) and sometimes also by non-governmental organizations and local institutions. Assisted voluntary return is not just the return travel to the immigrant’s country of origin, but it envisages three main phases: activities prior to the departure (information,

arrangements, interviews with the person applying for return assistance, organizational and logistical procedures, counselling); travel and accommodation on arrival in the country; and finally various programmes for reintegration at final destination. It is important to also emphasise the fact that generally, by pursuing the voluntary return option, there is no ban on returning to the Italian territory.

With the establishment of the European Return Fund this measure is no longer performed as a project in itself, but the victims can get assistance and integration within the various Programmes of assisted voluntary return, with or without reintegration measures for returnees in the country of return. Since June 16, 2009 to December 31, 2011 there were assisted 1,057 citizens of third countries (including 833 through the Program Partir, 80 with Parivul; 124 with Rivan; 13 with Remploi and 7 Odysseo), of which about 75% benefited from reintegration support in the country of origin.

The cost of assisted voluntary return may vary from 1,500 to 5,000 euro per returnee, depending on the project's objectives, the country of return and the characteristics of the beneficiary. In the case of victims of trafficking, in fact, costs may be higher, since the reintegration process is usually more complex.

The reintegration procedure begins once the foreign citizen has returned to his/her country of origin: this may include a reintegration grant, the launch of micro-enterprise projects (or, in alternative, training or professional re-qualification courses), support for the purchase of equipment for profession activities, and other basic reinsertion needs.

The last step is the monitoring phase, that is the verification of the effective reintegration. The sustainability of return cannot be pursued in those cases where the beneficiary perceives his/her own return as just the result of the failure of a migratory project, often due to the returnee's family disappointment, which can further increase frustration and wish to leave again.

Among other things, as evidenced by the Italian Association of National Municipalities, assisted voluntary return costs are 1-fourth of forced return ones (although cost saving should not be the only factor to be considered). The cited "security package" (Law no. 94/2009) has introduced a new article providing for the introduction of the Return Fund established at the Ministry of Interior, in order to finance the expenses for the return of foreigners to their countries of origin or provenance. The Fund, once effectively established, will be assigned half of the proceeds of the contribution that immigrants have to pay for the issuance and renewal of residence permit (Law 94/2009 and Decree of the Ministry of Economy and Finance of October 6, 2011) and the contributions allocated by the EU.

4.1.8. Reception

4.1.8.1. Reception of asylum seekers

The above-mentioned Protection System for Asylum Seekers and Refugees (SPRAR) was established by Law no. 189/2002; it manages a network of local reception projects, created by local authorities to give assistance and protection to asylum seekers, refugees and persons under humanitarian protection by using the resources of a specific national fund created by the Ministry of Interior.

The Central Service of SPRAR has been assigned to the National Association of Italian Municipalities (ANCI). The Central Service, which supports local projects and provides them with information, promotion, advice and assistance, is a privileged instrument used to study the people who have taken refuge in Italy, as well as to analytically find out the socio-demographic profile of the refugees.

The adopted model, both in terms of collaboration and purposes, is the “integrated hospitality”; it is carried out in synergy with tertiary sector bodies, central institutions and local authorities, and its goal is to receive immigrants with a series of guidance, assistance and integration services. This goes far beyond the mere distribution of board and lodging: complementary measures, in fact, include also legal and social advice, as well as the creation of personalized socio-economic integration patterns.

In 2010, the SPRAR reception projects implemented at local level were 151 (there were 115 in 2008) belonging to 128 local authorities, for a total of 3,146 sleeping accommodation, 500 of which are intended to accommodate persons with special vulnerabilities (unaccompanied minor who are asylum seekers, lone parents and those who need specialised health care on long term, victims of torture and violence, persons with mental health problems) (SPRAR, 2011).

In recent years, providing social assistance, mediation and health care services were, in percentage, the kind of services most frequently guaranteed by the local projects of SPRAR, even more frequently guaranteed than finding employment and housing.

4.1.8.2. North Africa disaster management capacities

The year 2011 was a “warm front” for immigration in Italy, after the mass exodus of thousands of migrants from North Africa, following the riots of the “Arab spring” and the Libyan conflict. A situation that has led the Government to declare, last February 12, 2011, the state of humanitarian emergency in the country, subsequently extended until December 31, 2012 (with Cabinet Decree of October 6, 2011).

To cope with the reception of both refugees and migrants arrived from the countries of North Africa from January 1 to April 5, 2011 – to whom a temporary residence permit has been granted (Cabinet Decree of April 5, 2011) – it was required the intervention of National System of Civil Protection. Under this mandate Civil Protection Department of the Presidency of the Council of Ministers has provided a working group with the regional directorates of civil protection, representatives of the UPI (Union of Italian Provinces) and ANCI (National Association of Italian Municipalities), which defined the modalities of operational involvement of regional and local bodies. The working group has prepared a plan for each region to manage the reception of migrants that includes several stages of implementation, taking into account the assignments already made, so as each phase is ensured fair distribution on the national territory.

The document has provided that migrants who arrived after April 5 also should be ensured health care and essential treatment. The reception was followed with the start of the return procedures for unauthorized immigrants while those belonging to other categories were allocated over the Italian territory. Migrants who demand the benefits provided for by art. 20 of the Consolidation Act on Immigration are now guaranteed food, basic shelter and essential primary health care. Asylum seekers and unaccompanied minors are provided with protection and assistance in accordance with the national legislation implementing international conventions and EU Directives.

Different regional plans for the implementation of assistance measures at local level start from the National Plan. Appropriate internal structures, at national and local level, care coordination activities regarding the measures foreseen in the Plans.

The National Civil Protection Plan has proposed a model of modular accommodation to ensure maximum assistance to 50 thousand migrants entered Italy between January 1 and April 5, 2011 in dedicated facilities usable immediately or at short notice. At December 30, 2011 there were 22,300 refugees. The reception system developed by the Regions, Provinces and Municipalities needs to better coordinate – as stated by Angela Pria, Head of Department for Civil Liberties and Immigration of the Ministry of Interior – as to integrate with the system of reception centers for asylum seekers (CARA) and with the SPRAR system – the latter is managed by the Ministry of Interior, in agreement with the ANCI – National Association of Italian Municipalities.

At the same time, the Italian Government has signed a cooperation agreement with Tunisia, on April 6, 2011 to deal with the constant landings of immigrants from the Tunisian coast. The agreement aims, first, to strengthen cooperation for the activities of control of the coast and sea to avoid new departures and, secondly, return people in an irregular situation, to be more precise those who arrive in Italy after the entry into force of the decree granting the temporary residence permit (the Decree of the President of the Council of Ministers of April 5, 2011).

4.1.9. EU citizens

In the past, EU nationals were just considered European citizens who move within Europe; however, when the European Union was joined by 10 new countries in 2006 and then by Romania and Bulgaria in 2007, immigration experts realized that EU citizens, even if protected by a broader regulation, are often still in need of protection, and sometimes share the same life style of non-EU citizens.

This irregularity, previously referred only to non-EU citizens, now refers to EU ones as well, and not only in Italy. Eastern Europeans continue to be, since the mid-90s, the main actors of the migration flows in Italy, and lately Romanians are the largest group among EU citizens while Ukrainians and Moldavians provide the highest number of non-EU foreigners.

The strong propensity of Romanians to settle in Italy, where they have built their biggest community abroad, has not been hindered by the maintenance of the weak moratorium regarding the free movement of people introduced in 2008 (and extended to December 31, 2011 with a joint circular no. 707 of the Ministries of Interior and Labour and Social Policies of January 31, 2011, with a view to the full liberalization of subordinate employment), which actually allowed them to access the most important sectors of the labour market: domestic, seasonal, construction, engineering, as well as to highly skilled jobs.

Unfortunately, the growth rate of Romanians has not been followed by an equivalent degree of acceptance by the Italian society, which, starting from some regrettable facts of crime, has been led to almost criminalize the entire Romanian society. This worrisome process (pointed out by a study published by Caritas Italy in 2008), fortunately seems to be drastically decreasing.

This situation is a matter of mutual interest, since EU citizens living in Italy, who are far more numerous today than in the past, according to the Law no. 52 of February 6, 1996 and to the Legislative Decree no. 197 of April 12, 1996 (implementing the Directive

94/80/EC) are not only potential voters in European Parliament elections (where they can stand as candidates) but also in Municipal and District ones (where they can be elected as councillors). Due to their number, in fact, they could affect the election results even in big cities.

The remarkable number of immigrants and their electoral participation will surely pacify the relationship between them and our society.

4.2. Links with other policy areas

Include the legislative changes in a shared tradition. The third edition of the Index of the policies for the integration of regular immigrants (out in February 2011), better known as MIPEX/Migrant Integration Policy Index, places Italy in 10th place ranking out of 31 states (along with the EU Member States plus Norway, Switzerland, Canada and USA) for effectiveness and quality of treatment of immigrants perceived by the legal rules, after Sweden, Portugal, Canada, Finland, Netherlands, Belgium, Norway, Spain and the United States (British Council, 2011). It is a substantially positive result for Italy but it also brings to light some areas for improvement in relation to policies for the promotion of political participation of migrants (Italy ranks 14th place), education (14th place), removal of discrimination (15th place). The survey reported Italy's improvement of the regulatory environment concerning labour market mobility (in 10th position) and family reunification (6th place).

This evaluation of Italy is satisfactory in itself, but experts in the sector are more cautious, being aware that integration is an extremely complex concept whose evaluation requires that many other factors are taken into account. To this regard, The National Council for Economy and Labour (CNEL) has given a primary contribution, in its Eight Report: Migrants' Integration Index in Italy (February 2012). The Report, as stated by Prof. Giorgio Alessandrini: "provides decision makers at all institutional levels with information on more or less favourable conditions for development and success of the integration processes in different Italian regions and provinces, urging them to identify critical issues, to check and compare them in order to take best advantage of new actions". The annual Report measures the potential for integration in every single local context, without compromising the strengths of case-oriented analysis both to the other territories, and to the conditions of the native population in the same territory.

Another important factor to be taken into consideration when referring to the Italian context is the constant alternation of political parties and their actions on this matter; opposite to what happens in other countries, this situation does not allow to strengthen and improve the basic features of a common policy, if not just partially.

A regular development of the migratory phenomenon should necessarily proceed towards its consolidation and, as hoped by CNEL, should also ensure that newcomers have the same privileges as local citizens, in order to avoid their social marginalization which hinders their complete development as well as their full contribution to the hosting country.

A spirit of mutual interest should be at the basis of possible future legislative developments – from the reform of legislation on citizenship (considered too restrictive, especially against the second generation of immigrants) to the extension of the right to vote in

local elections (as already happens for EU citizens) – in the belief that a citizen born in another country can, at the same time, be a citizen of the hosting country.

The administrative impact of regulation changes. The right and duty of the public structures to monitor the position of non-EU citizens is constantly called upon to find the right balance between “laissez faire” and rules too rigid and difficult to be implemented, whose complexity creates discomfort for immigrants and undermines the basic image of Italy as a friendly country.

This consideration is of particular importance in Italy, where the increased number of immigrants has been marked by growth rates that have never been experienced throughout the European Union, if not in Spain. Such growth rates are the cause of considerable distress to the offices competent for examining migrants’ documents.

The need for this difficult balance has been particularly felt during the regularization of 2002, when 704,000 applications were submitted (300,000 in 2009), and has become urgent in the second half of the 2000: it’s not a case that in occasion of annual quotas set for the entry of new workers from abroad, more than 1.5 million job applications have been submitted just in a three-year period (2005-2007).

In order to respond to this red tape, since December 11, 2006 an agreement was signed between the Ministry of Interior and *Poste Italiane*, which has a network of thousands of post offices spread throughout the country. Other various initiatives undertaken by the Ministry of Interior, the National Association of Italian Municipalities (ANCI), as well as by Patronages and other Italian municipalities are trying to change the matter of residence permits more and more into a civil law matter.

This proves that the management of residence permits for immigrants is not only a matter of law or public order, but also of normal coexistence between newcomers and the hosting country.

Specificity of asylum seekers. Within Europe, in the last years Italy has not been characterized by a high number of asylum applications. The number of people requesting international protection in Italy dropped significantly in 2010. If in 2008 there were over 31,000 persons, in 2009 the applications dropped by almost half (17,603 claims or - 42.3% compared to 2008) and in 2010 this trend continued. At the end of 2010, refugees in Italy were little more than 56 thousand, while the number of new asylum applications submitted to the Local Commissions was below the previous year of 31%, or 12,121. In 2008 Italy was the fifth largest “recipient” of asylum seekers among the group of 44 industrialized countries, and in 2010 it became the fourteenth (SPRAR, 2011). This is a consequence of the ratification of the “Treaty on friendship, partnership and cooperation” with Libya, approved by Parliament in February 2009, which led to the intensification of border controls to combat irregular immigration, and a decrease in arrivals by boat and, in fact, it brought limited channels of access to international protection.

Since early 2011, as a result of the political tumult sweeping the countries of North Africa and the Libyan crisis, the operative network tackling irregular immigration was stopped. The increase of landings due to the political situation in North Africa subsequently affected the number of individuals seeking asylum in 2011, so that in the course of the year 37,350 claims for asylum in Italy have been submitted, figures increased by almost 300% compared to 2010 (12,120).

Italy, with the enactment of a Legislative Decree no. 25 of January 28, 2008, completed in March 2008, has implemented an important Council Directive on minimum standards on procedures for granting refugee status (2005/85/CE), thus filling some serious gaps in its legislation. This was considered a positive evolution.

By analyzing the submitted applications, over 50% of them is accepted at first instance, and about a third of the rejected ones is accepted by the court of appeal - proving how important is a second instance and, mostly, how important is not to perform rejections at sea before having analyzed first every single case.

Nevertheless in 2011, following the political situation in North Africa, 63,000 people arrived by boat in Italy, of which more than 33,000 asylum seekers, strong growth compared to previous years.

5. Analysis and final evaluation

Starting from the European context. By this overview we will try to link up the elements that already emerged and take into consideration additional factors, in order to outline a comprehensive scenario of what happened and what can happen in the future in Italy. Since Italy is a Member State of the European Union, it is preferable to start this analysis at a European level, where the total number of immigrants is 30 million, out of which the irregularly resident ones are 8 million (this estimate is provided by the European Commission). In Italy, immigrants amount to 4 million and the irregularly resident ones are estimated between 500 and 800 thousand (EMN Italy, 2012).

Both in Italy and in the European Union, foreign citizens without identification papers are a minority, and yet they attract the majority of attention, receive much criticism and this negative perception ends up involving the entire immigrant presence.

In a globalized world devastated by wars and famine, where the imbalances between North and South of the world are becoming more and more evident, migration and asylum are structural and permanent phenomena; restrictive measures, therefore, should be part of more far-seeing policies.

The European Union is an important actor on the global stage and it should play a key role whose importance has been fully recognized by the Treaty of Lisbon. Therefore it is necessary and logical that EU assumes increased responsibilities in order to set a path towards a consistent framework of the Global approach to migration, without neglecting any aspect of migration trends.

As defined in the Stockholm program - i.e. the EU legislative agenda in the area of justice, immigration and security for the period 2009-2014 - Europe, in the sign of responsibility, solidarity and partnership in migration and asylum matters, promotes the five basic commitments adopted in the European Pact on Immigration and Asylum: 1) organize regular immigration to take account of the priorities, needs and reception capacities determined by each Member State, and to encourage integration; 2) control unauthorized immigration, in particular by ensuring that irregularly staying immigrants return to their country of origin or to a transit country; 3) make border controls more effective; 4) construct a Europe of asylum; 5) create a comprehensive partnership with the countries of origin and of transit to encourage the synergy between migration and development. Unexpectedly, the period 2010-2011 was marked by some of the most bitter intra-European conflicts in recent decades, particularly in relation to the Schengen agreements and to emergency situation of flows of immigrants arrived on Italian shores - and in particular in the island of Lampedusa - following the riots in Tunisia and Libya.

Complexity of the Italian context. When analysing the migration policy, public order (which is rightly pursued) is obviously something that cannot be guaranteed solely or mainly by the law and its sanctions; it requires at the same time adequate social measures, although many complex factors are involved in this process.

First of all, the growth rate of the immigrant population may act as a barrier. An analysis of the migration flows, which characterized Italy since 1951 to today, and its transformation from a country of emigration into a country of immigration are the main themes of the report “1951-2011 – Migration in Italy, between the past and future”, published by the International Organization for Migration (IOM), in collaboration with Idos Study and

Research Center, in occasion of its 60th anniversary. The increase by 300-350 thousand people a year in the last decade, which has been the result of demographic and employment needs, creates real functionality issues, and is higher even than the significant number of Italian emigrants abroad in the immediate post-war period (that event was defined a “biblical phenomenon” at the time, because – probably more than today – people perceived the exceptional nature of that transitional phase).

Economy may also be a barrier, given that some peculiarities of the Italian system inevitably affect the structure of the social services and, consequently, also the reception of immigrants and asylum seekers. Italy’s debt, in fact, has exceeded the amount of the Gross Domestic Product (GDP). This difficult situation drastically reduces the possibilities of improving social welfare. Immigrants in Italy, although still predominantly employed in the least qualified jobs, provide a higher percentage of production of wealth, compared to the Italians; this is due both to their higher activity rate and to the fact that, since they are on average 12 years younger and still far from retirement, they are positively contributing to the social security system.

Another element of complexity is represented by the geographical situation of our peninsula, which has previously served as a bridgehead for people coming from the Balkans, North Africa and even from the Sub-Saharan region. Throughout the centuries, the Mediterranean Sea has always served as a vital communication tool between countries, and today it continues having this same function between the countries of departure and Italy (although these flows are not always desired). People involved in these migration flows might be driven by necessity or work reasons, and it is impossible to include them in the official entry quotas. However, as it is happening more frequently, many of these immigrants – often with minor children – are people who are fleeing from war, persecution and other threats, and therefore, according to the international conventions, have to be granted protection. Even if all migrants need our understanding, providing admission and reception to asylum applicants and persons under humanitarian protection is a duty.

In order to cope with the phenomenon Italy has applied a series of international instruments with the Northern shores of Africa and with the countries of Sub Saharan Africa: today, Italy is the European country that has concluded the largest number of agreements on “readmission” (over 30) that establish specific methods and procedures for the identification and return of irregular migrants, according to the principles of international law and taking into account the specificities of each State involved.

The issue of Africa should be addressed as people of an entire continent consider Europe a land of redemption: that is where the main flow of irregular immigration starts. The International Centre for Migration Policy Development (ICMPD) estimated that each year around 830 thousand migrants move from the African continent to European Union countries: about 120 thousand of them have attempted to cross the entire Mediterranean to reach Europe’s Southern shores.

The Mediterranean as a whole is a boundary for the entire European Union and this should be perceived at EU level: a place of exchange and dialogue, and an area of external border. Therefore it is important to have a strategic vision on the centrality of the Mediterranean. If not addressed with high support of economic policy from the European Union, along with the entire international community, the issue of Africa threatens to explode into unmanageable dynamics of migration.

It is essential that the EU strengthens the mechanisms of financial solidarity towards

those Member States facing situation of mass refugees influx, as happened in Italy. As stated by Angela Pria Head of Department for Civil Liberties and Immigration of the Ministry of Interior, “Europe should support Italy’s effort to ensure that immigration is a matter of choice and not of necessity for people who live in Africa; that the cry for democracy and freedom that echoes from across the Mediterranean changes into better living conditions and higher levels of well-being for those living there” (*Libertàcivili*, no. 1/2011).

Another continent that has become increasingly important in the migration to Italy is Asia, with migrants from China, Philippines, India, Pakistan, Bangladesh and Sri Lanka, as evidenced by the Conference on Asian Migration promoted in Manila by Immigration Statistical Dossier Caritas/Migrantes from January 16 to January 20, 2012, entitled “Asia-Italy: Migration Scenarios” (the documents are available on the corporate website www.dossierimmigrazione.it/eventi.php?qc=11). Asia, in the context of international migration, is a very interesting case because, together with the contribution given by the Eastern European countries, it is the continent that has contributed most to changes in the human mobility in Italy, so that the presence of Asian migrants in the country is approximately one sixth of the 5 million foreign nationals.

Irregular and regular ways of immigration. While migration is a good thing in itself, irregular immigration is not. Irregular flows, especially during periods of crisis, imply two negative phenomena: black labour market and delinquency.

The irregular migration obscures the positive aspects of migration, makes people subjected to exploitation and serious violations of their rights, underestimates their skills and reduces the range of goods and services the migrant can benefit from. In other words, the contribution of immigrants to the economic growth of the welcoming country is compromised, whereas criminal organizations can make huge profits, by involving irregular immigrants in their illegal activities. This way people who move to another country cannot experience that certain degree of gradualness, which would allow them to get used to each other, in harmony, without the pressure of a continuing emergency.

The network involved in the smuggling of migrants has a great influence in the management of these flows: at least 450 thousand migrants purchase services from the smugglers’ network resulting in large financial gain. ICMPD has evaluated a total turnover of around 4,200 billion euro. The international migration annual report - IOM evaluates costs of 1,800/3,200 euro to be paid for a one-way ticket from Africa to Spain.

On the one hand, there is the increased demand for mobility of people and, on the other hand, increased restrictions in the country of destination that respond with tighter border controls and policies of reception; thus there is an increasing role of organized criminal networks to display the ability to ensure non-authorized mobility.

If, as has been noted by many, in the short term is certainly useful “to secure” the borders, in the medium term it will be more appropriate to pursue to remove the benefits of human traffickers, and to have a long-term action plan to prevent people from migrating.

Some employers are only interested in using irregular immigrant workers in order to make a profit out of their contributory, wage and union rights. Therefore, we should do more so that legality will prevail.

Regular ways of immigration, in order to have an educational and motivating value, should be easy both in theory and in practice, but on this matter also we should do much more. Scholars have struggled to create innovative solutions to value different aspects:

flexibility on quotas, possibilities of matching employer and employee, period of time made available for finding a new job (under the auspices for an extension of time not to force immigrants to leave or to recourse to irregular employment practices, since they are already well integrated and able to find a job after the crisis).

To reduce the creation of pockets of irregularities it is necessary that migratory flows match the real demand for labour, avoiding, as happened in the past, that people move out of irregularity into the formal inclusion through regularizations (5 regularization in the last 15 years, the last one in 2009). However, the flow Decree for the year 2010 has allowed 98 thousand non-EU nationals to entry in Italy for non-seasonal work (compared to over 400 thousand applications received), in view of rising unemployment and negative economic growth rate.

Furthermore, irregular migration is generally linked to delinquency; unfortunately, the two terms are too often considered synonymous, which means we have paid little attention to the worse life conditions of immigrants and to their limited access to measures other than imprisonment. In Italy, the fear of crime began to spread among the population of major cities, during the '70s, a long time before immigration became a mass phenomenon; the claim that crime rate has increased at the same pace as the immigration one is false, although it is true that the two are linked whatsoever, and that the lack of all benefits deriving from regular residence may induce a number of irregular immigrants to commit crimes for necessity. Due to these facts, the main target of countermeasures should be the criminal organizations involved in illegal activities at an international level.

A need for greater attention to the development of international cooperation. From the second half of 2008, civil society in Italy has helplessly witnessed the gradual weakening of the Italian cooperation in favour of less developed countries. Budget law after budget law, the Official Development Assistance managed by the Directorate General for Development Cooperation of the Ministry of Foreign Affairs has undergone drastic reduction in funding, which is in clear contradiction with statements demanding commitment from Italy to the fight against global poverty. It has been said that the collapse of aid was an inevitable effect of economic and financial crisis and in a time of recession it is unrealistic to expect that the level of public funding for the South of the world may be maintained, if not increase. However, cuts made on the cooperation budget in Italy – actually started before the global crisis – have not been registered in other countries such as France and Great Britain, that even in difficult times kept their commitments.

However, as international organizations do, the premise to support the development of the world should never miss when it reflects on migration issues. It is known that development assistance does not have an immediate effect so as to reduce migration flows. Nevertheless, such a commitment is a duty because it helps those leaving from their countries of origin to have reasons to hope; it also helps to reduce disparities in income and living conditions. In the long term, without these conditions fulfilled, it will not be possible for migration to be less dramatic and dangerous.

The creation of a Ministry for International Cooperation and Integration set up by the new Italian Government (November 2011) represents a radical departure from past practice, a recent overall view on global issues and an acknowledgement of the crucial role of cooperation and its link with the themes of integration and co-development.

A very promising trajectory has the relation between return migration and

development, which is not only about the return of migrants but also related to the provision of financial resources (remittances), entrepreneurial creativity and professional skills.

Ways of the future. In general, not only in Italy but throughout the European Union, the framework of much of the immigration policies, so far seen mainly from an economic and securitarian point of view, must be completed with a more comprehensive approach, that besides being important part of the guarantee of fundamental human rights and the rights of citizenship, must insist on the promotional aspects on-site and in the countries of origin. The models from the past need updating, and for this reason, there are delays, and difficulties and cooperation at European level becomes increasingly necessary so as to establish the path to follow. The Inter-Ministry Plan for Integration – “Identity and Meeting” that Italy has approved in June 2010 goes in the first direction and it should be implemented with determination and foresight and, above all, with the necessary funding. Although there are many dimensions to reconstruct and many different interests, attention must be given to policy and operational objectives operating in an appropriate manner, to be supported by effective and transparent procedures and adequate statistical information.

However, since immigration to Italy began at least thirty years ago, we should carefully evaluate the current situation and be better prepared for the future. Both Italians and immigrants are starting to perceive more clearly - at least theoretically - the aspects of cohabitation; moreover, it is expected that the respect of cohabitation laws may comprise an open-minded attitude towards the differences brought by immigrants (Censis, 2011b).

This process is helped by the fact that immigrants usually do not challenge their adaptation to the host country and the traditions of their country are not considered a rigid reference, wishing, indeed, to be leaders in the host country so as to give their contribution. In a recent survey (2011) commissioned by the Ministry of Interior to ISPO – *Istituto per gli Studi sulla Pubblica Opinione* (Institute for the Study of Public Opinion), the majority of immigrants (more than eight out of ten) said that in Italy they are getting on “well” or “fairly well”. Among the most appreciated aspects: school, relations with the Italians, the greater freedom than in their country of origin. Among the most critical aspects: the economic situation, the relationship with the bureaucracy, the lack of recognition of skills and qualifications acquired at home and discrimination. With respect to the latter aspect, the findings contained in some reports edited by European (FRA, 2009) and national institutions (UNAR, 2011) are of great concern.

As for the Italians, several investigations (including *Transatlantic Trends Immigration*, now in its fourth edition in 2011) have emphasized that there is primarily a problem of “perception” of immigrants: they are 7.5% of the population but the public opinion estimate they are around 25%, and almost half of Italians think immigrants are too many and believe that immigrants increase crime. However, for some time, the awareness about immigrants as a complementary workforce has increased (three quarters of Italians think that immigrants perform tasks which otherwise would be vacant) and it is believed that they enhance a culturally rich community (60%).

It may be added that the large presence of immigrants and their consistent growth rate are factors that now operate rather as an obstacle to the reception, while in the future these can foster greater awareness. According to ISTAT (Italian National Statistical Institute) estimates, immigrants are expected to become more than 12 million in 2050 and over 14 million in 2065. Helping to meet the demographic requirements and production, they will constitute a

necessary condition for the future welfare of the country.

Good governance, as argued by Howard Duncan, Executive Head of the International Metropolis Project, “also requires an equally effective communication with the public, to enable everyone to understand what happens in their society and what are the effects. Once again, public confidence is important to achieve good results”. Communication, especially institutional communication, plays a leading role - for information and knowledge - in the paths of social inclusion and the Italian Government is aware of it as evidenced by, among others, the numerous campaigns undertaken on immigration, the “immigration section” of the portal www.interno.it, and the new “Integration Portal” of the Ministry of Labour and Social Policies, a virtual space that facilitates access to information for all actors dealing with integration policies. On this front, every effort is successful (see, also, IOM, 2011).

Immigration is, in short, the issue of our time. Progress is needed not only in political and legislative frames - including those concerning citizenship and enhancing new citizens participation, especially those born in Italy - but also concerning mind-changing. This would allow to correctly assess the new multicultural society, with its inherent differences and, above all, possible new synergies, thus overcoming prejudices and paving the way for new citizens, that Italy needs to meet the future.

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