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MIGRATION: HUMAN RIGHTS OF IRREGULAR MIGRANTS IN ITALY

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1. The paper presents an overview of the current situation of irregular migrants coming into Italy through smuggling routes. A literature review has been conducted, with a special focus on their human rights. Main assumptions have been checked through an empirical research, with a series of in-depth interviews with key actors (irregular migrants) and observers (journalists, social workers, experts, police officers) in Sicily, within the province of Ragusa, one of the main entry points for irregular migrants, and in Rome¹.

MIGRATION, IRREGULAR MIGRATION AND SMUGGLING: THE ITALIAN CONTEXT

2. Traditionally a country of emigration, only recently Italy has changed into a receiving country. Currently, the total population of immigrants is around 2,8% of the total population, which is the lowest percentage in Europe (ECRI 2002)². Immigration flows became important during the second half of the 1980s, when they were estimated at more than 100,000 people per year. From the beginning of the 90s onwards the high structural demand for unskilled labour in Italy met with an increasing migration pressure, resulting from the insurgence of wars, ethnic cleansing and civil strife in the Balkan and other areas (Middle East, Africa), and the economical and social distress in Eastern European and ex USSR countries. The OECD (2004) reported that despite low economic growth and an unemployment rate of about 10%, the Italian economy continues to attract incoming migrants.
3. Due to its geo-political position, in two decades Italy has become a destination area and a transit country for migrants directed toward other European countries, as well as to the USA and Canada. According to the current Italian Ministry of Interior, 75% of migrants coming into Italy are effectively moving toward other European countries³. For these reasons, restrictive policies

¹ The author thanks Ferruccio Pastore of Cespi, the “*Medici Senza Frontiere*” mission in Ragusa, Cristina Talens, Sally Berman, Lisa Paglietti, Gennet Meskel; gratitude also goes to all interviewed persons.

² Regular migrants are 2,193,999, according to the Ministry of Interiors (Caritas 2044:499).

³ See www.interno.it

to control irregular migration have been solicited and supported by the EU, which “since 1997, with the entry into force of the Schengen Treaty, requested to Southern European states to impose a stricter border control, particularly on the” blue borders. Italy – with 7,600 kilometres of coasts - is one of the most vulnerable frontiers of Europe. There are 257 check points on the Italian borders, controlled by more than 5,500 border guards and other specialised police units: to go beyond these check points is a violation of the law (Camera dei Deputati, 2003). As coastal lines and mountain borders are very difficult to patrol, a strong smuggling industry has grown for the transportation of irregular migrants by land and sea. Means of transportation and kind of services sold by smugglers have been diversified over the time, allowing an increasing number of persons to enter into Italy irregularly. With the assistance of the smuggling organisations, smuggling routes to Italy have been developed from very distant places, and the range of the countries of origin of illegal immigrants has been progressively enlarged. According to official estimates the undocumented entries has been recently declining, as a response to the reactive policies adopted by the Italian Governments. Nevertheless the problem is still high on the national political agenda (Monzini, Pastore, Sciortino 2004).

LEGAL AND POLICY FRAMEWORK

Migration and irregular migration as a legal issue

4. The illegal migration issue started to be perceived as an important problem to be solved at the end of the 90s. The state capacity to deal with it has been increased by the Consolidated Text on Immigration, law 40/1998 (Turco-Napolitano Act) in 1998. It introduced a clear distinction between migrants provided with a legal status, to be integrated, migrants who have not a legal status, to be the object of rejections (if apprehended at borders) or expulsions (if caught on the territory), and asylum seekers and other humanitarian cases that have to be assisted.
5. In Italy “irregular migrant” is a person who is not resident in the EU and who has not a valid documentation to enter or stay in the country (passport, visa, and/or stay permit). Restrictions to the entry in the Italian territory are subjected to the possession of valid documents and of a minimum sum of money, established by decree by the Ministry of Interiors in 2000. Moreover, before being allowed to enter into Italy, not-EU citizens are also submitted to checks of identities through the SIS system, to verify the existence of previous criminal backgrounds (Camera dei Deputati, 2003). Currently the number of irregular migrants living in Italy is supposed to be around 200,000-300,000 persons (ECRI 2002).
6. Current research (Sciortino 2004, Giacca 2004) shows that the legal framework in Italy has not encouraged the entry of migrants through legal channels: a “back door” policy tends to prevail. In the 80s few migrants entered Italy holding a permit to work and to reside (Migrinf, 1999) and only in the 90s provisions have been progressively introduced to allow the legal admittance of not-EU citizens and to create legal channels of entry or to facilitate the lawful labour of migrants. Currently opportunities to legally enter the country are envisaged for people with a guarantee job through a quota system. The system has received strong criticism for not reflecting the actual needs of the Italian economy neither the size of the migration pressure. The other two pillars of the current Italian policy on migration are Firstly, the granting of general amnesties, or legalisation acts, which from time to time reduce the amount of irregular migrants living in Italy; and secondly, the implementation of stricter border controls and the introduction of stronger penalties for undocumented entry and stay. Main measures adopted in Italy to manage regular migration and reduce irregular migration have been disciplined by the two legislative acts: Law

No. 286/98 (Turco-Napolitano Act 1998), and Law No. 189/2002 (Bossi-Fini Act, 2002) ⁴, and they are the following:

Legal entry and / or residence: the regulation of flows

i) Quotas. A “quota system” for foreign labour, a large part being for seasonal workers, was introduced in 1998. Quotas are set by Decree on a yearly basis which is signed by the President of the Council of Ministers. The annual size of quotas for the years 1998/99 was 58.000 and less than 90.000 in the following years (Calisi, Fayealy, 2004). The last decree which was signed in February 2005 allowed the release of 159.000 permits, half of them for migrants originating from the new EU states⁵. Quotas are divided up by region, job category, and nationality and are preferably assigned to countries that co-operate with Italy in the fight against illegal migration. According to this procedure, the employer has to establish a contractual relationship with the immigrant whilst he/she is still abroad. In this agreement the employer commits to providing housing and covering the travel expenses for the person’s return to his/her country of origin. However it has been observed that the recruitment of migrants from abroad is too bureaucratic and is perceived as a kind of amnesty (Calisi, Fayealy, 2004). In most cases, employers recruit immigrants when they are already living irregularly on the Italian territory: generally the selected persons are irregular migrants who have to go back to their origin countries to get the requested documentation, and then came back again in Italy to their employer to get the contract⁶.

ii) Sponsored entries. A system of sponsored entries for job seekers was introduced in 1998, but was recently suppressed by the Bossi-Fini Act (2002).

iii) Amnesties. To date, 5 legalisation acts have been realised by the Italian Governments. The last one in December 2003 was the largest never recorded in Europe, with the regularisation of 634,728 migrants. Applicants had to pay three months’ pension contribution, and prove that they had been in continuous employment for their applications to be accepted. Most of the applicants were from Romania, Ukraine, Albania and Morocco. According to most observers, amnesties have the unexpected consequence of attracting new illegal migrants, who trust that there will be future legalisation acts. In other words, a conspicuous population of irregular migrants, both seasonal and long term, enter illegally and live trying to avoid controls, while waiting for the next legalisation act. Tables 1 and 2 present some interesting numbers on residence permits and legalisation acts: they show how the number of “legalisations” permits issued since 1986 is around 2/3 of the total number of persons who currently are provided with residence permits.

Tab. 1 – Residence permits 1990-2003

Year	1992	1995	1990	1997	1998	2002	2003	%
Total	925.172	991.419	781.138	1.240.721	1.033.235	1.512.324	2.193.999	+ 181

Tab. 2 – Legalisation Acts

Year	1986	1990	1995	1998	2002	Total
Total	105.000	222.000	246.000	215.000	700.000	1.488.000

Source: Palidda, 2004: 7

⁴ Bossi-Fini Act, law 30 July 2002, n. 189, has been published in “Gazzetta Ufficiale” n. 199, 26 August 2002. <http://www.gazzettaufficiale.it/index.jsp> 76

⁵ See Elsa Vinci, “La corsa verso il permesso”, in la Repubblica, 4 February 2005.

⁶ Bossi-Fini Act, law 30 July 2002, n. 189, has been published in “Gazzetta Ufficiale” n. 199, 26 August 2002. <http://www.gazzettaufficiale.it/index.jsp> 76

iv) Residence permits renewal. Non-EU citizens need a temporary residence permit for work reasons in order to have a regular working contract. Work and residence permits are interdependent, and their compatibility is not facilitated by the short duration of residence and/or work permits, with a maximum of 9 months for seasonal work, and 1/2 years for other reasons. Authorisation to work may be issued only for some kind of jobs and/or only in particular geographical areas. Requests for the renewal of residence permits has to be presented within 2 months, and in order for the application to be considered, the migrant has to prove that they have work, or alternatively have a source of continuous income⁷. If they are unemployed at the time of renewal, they have a period of six months within which to find a new job. According to interviewees, migrants often fall back into an irregular situation due of the loss of their job at the time of renewal⁸. An absence of measures aiming at the support for the integration of the immigrant population already living regularly in Italy has been recorded (see Zincone, Di Gregorio, 2002). The Bossi-Fini Act reduced the opportunities for family reunification permits defined by the previous law, and it increased the requirements to obtain citizenship from 5 to 10 years of living in a regular situation on Italian territory. The time span is reduced to 5 years for refugees and stateless persons, to 4 years for EU citizens and 3 years for descendants of persons born Italian citizens and for non-country nationals born in Italy. Provincial immigration offices manage all the existing procedures on migration issues.

The fight against irregular migration

7. The fight against irregular migration is an important pillar of the Italian policy on migration, and it has become a priority issue for the Ministry of Interior since the end of the 90s. The complex set of measures to combat and prevent irregular migration includes effective deportation policies for irregular migrants, penal sanctions for facilitators and smugglers, and actions to prevent undocumented migration that are implemented in co-operation with transit and origin countries. The basic principles of the legal framework can be summarised as follows:

i) Sanctions of irregular migrants. The domestic legislation do not criminalise the irregular migrants entering Italian territory: they are breaking an administrative rule, not a penal law. In this respect, they can not be accused and detained in jail, but expelled or rejected at the borders, and eventually detained in special administrative detention centres. Decrees of expulsion were applied to undocumented migrants in 1990, when the Law No. 39/90 (Martelli Act) was approved by the Parliament. Expulsion and rejection measures allowed the quick repatriation of thousands of Albanian nationals as soon as they landed in Italy with old, big ships, in the summer of 1991. It was the very beginning of the arrivals of large numbers of undocumented migrants on overloaded ships. Repressive measures have become more effective with the 1998 and 2002 Acts. Currently migrants who are apprehended at the borders without documents can be rejected (repatriated within 48 hours), if they are identified, or they can be detained in special administrative detention centres until their identities are verified, in order to be later expelled. The Bossi-Fini Act introduced higher penalties for irregular migrants caught on Italian territory after having received an expulsion order: they can be incarcerated from 6 months to 1 year if apprehended for the first time, and from 1 to 4 years if intercepted a second time. A migrant who has been expelled does not have the right to return to Italy for a period of 10 years.

ii) Detention centres. Centri di Permanenza Temporanea (CPT), have been opened in 1998: at the moment there are 13 centres located in 7 regions (mainly in the Southern regions), and 4 Centres for the Identification of asylum seekers. They hold irregular migrants who have to be identified in order to be expelled or readmitted into their country, or who will receive a refugee status. Originally (1998) migrants could be detained in CPTs for 30 days, but the recent Bossi-

⁷ For detailed information on residence permits see www.passaporto.kataweb.it

⁸ Interviews n. 5, 6.

Fini Act extended the period up to 60 days. The policy based on detention of irregular migrants seems to be expensive and not successful: according to data presented by Dossier Statistico Immigrazione (2004: 122), over a total population of 13,863 detained people, only 50,6% have been repatriated after their detention. The cost of keeping a migrant for one day in a detention centre ranges between €38 in Lampedusa's center to 63.40 in Caltanissetta's center. Social hostility to these centres is high and the building of new centres is generally met with strong opposition from the local population.

iii) Border controls. An agreement to improve the interception of boats on the high seas was signed by police forces in 2003, in which new technological instruments, such as radar and biometric scanning devices, were introduced to check the land and sea borders. Joint international efforts to patrol the Mediterranean sea include Malta, Great Britain, Slovenia and Portugal (with the operation "Nettuno"). The building of specialised centres to co-ordinate maritime operations is foreseen in Malta and Cyprus. A stronger collaboration with police forces of Slovenia and Albania (joint border controls) has caused a visible reduction of the migration flows from these two countries. On the 14 September 2004 the Ministers of Interior of Austria, Slovenia and Italy signed an agreement to create a joint border Guards Office.

iv) Control of migrants' identities. Stricter individual controls are made through the Eurodac programme, which introduced the mandatory recording of finger-prints for all migrant coming into Italy and established a computerised data storage, to be updated both on a national and European level.

v) Sanctions of facilitators. Laws on immigration in 1998 and 2002 introduced higher sanctions, thus allowing the pursuit and prosecution of smugglers and facilitators. The EU framework decision of 2002 (Council Framework Decision 2002/629/JHA of 19th July 2002) proposes the granting of a limited stay permit to foreign nationals (victims) who co-operate in the fight against organised criminal groups connected with the facilitation of illegal immigration (Delicato, 2004). To date such initiative has not been taken.

vi) Bilateral agreements. Since 1998, the Italian government has signed various specific agreements with transit/origin countries with the objective of intercepting and stopping migration flows at the points of departure. The signing and effective implementation of readmission agreements with non-EU countries is another important tool to reduce the irregular migration flows: since 1998 Italy has signed 28 readmission agreements⁹. The Bossi-Fini Act ties international aid programmes with the implementation of co-operation in the fight against undocumented migration. The policy has resulted effective in the case of Albania, Tunisia and Egypt: the departure of irregular migrants from those countries has been drastically reduced through the implementation of the agreements (Monzini, Pastore, Sciortino 2004). Bilateral agreements to regulate seasonal work with Albania and Tunisia have also been signed. A more recent agreement was signed with Libya (July 2003) which includes financial and technical support to combat smuggling rings by strengthening sea rescue operations, carrying out training courses for the police force of Libya and the provision of Italian support in the construction of detention centres¹⁰. The agreement has been severely criticised since it was not made public and was not approved by the Parliament.

8. All in all, policies to manage migration into Italy are increasingly focused on repression measures, more so than on support activities. The recent restrictive approach is mirrored in a sharp increase of resources committed to repressive mechanisms. As mentioned in a report by the Corte dei Conti (2004), in the year 2002 the total amount of public resources for the migration sector was

⁹ See Camera dei Deputati 2005 for a detailed description of main results of that policy. A list of the governmental agreements is available at <http://itra.esteri.it/default1.asp>.

¹⁰ See www.interno.it/news/pages/2003/200310/news_000018919.htm

divided into two main parts of appreciatively the same size: around €65,500,000 for repression activities, and around €63,500,000 for support activities. In 2003, with the application of the Bossi-Fini reform, the amount more than tripled for repressive measures (€165,000,000) and reduced to €38,600,000 for support activities - with a balance of 81% and 19%, respectively (see Palidda 2004). However this re-distribution of resources did not result in an effective increase of the repressive measures undertaken. Data on control activities at the borders (total number of rejections) and inside the country (total number of expulsions) are declining. In 2003 and 2004, despite the high increase of resources, a sharp decline in the number of expulsions and rejections was recorded, with a total of 65,153 persons rejected in 2003 (61% of persons apprehended) and 42,317 persons expelled or rejected in 2004 (up to 15 September)¹¹. The numbers are low if compared to those of the previous years. In 2000 those measures involved 69,263 irregular migrants (53% over the total population of identified irregular migrants) in 2001, 77,699 persons (58%), in 2002, 88,501 persons (59%) (Palidda 2004).

Asylum seekers

9. Even though Article 10 of the Constitution expressly recognises the right of asylum, Italy has no specific legislation on asylum. The Italian legal system manages the issue through a number of different legal instruments. Section 1 of the Martelli Act expanded the asylum protection to non-European refugees and set out the regulations and procedures for the examination of applications and the treatment of asylum seekers while awaiting a decision. The 1951 Geneva Convention (integral part of Italian domestic law) and the National Commission for the Recognition of Refugee Status define the rights of refugees in Italy. Section 28 of the Turco-Napolitano Act introduced humanitarian asylum or temporary protection permits in circumstances where there were extraordinary arrivals of individuals caused by war, natural disasters or other particularly serious events. In 1999 18,000 persons coming from Kosovo received these special permits (Hamilton 2002). From 1990 the Dublin European Convention establishes which member state is responsible for examining asylum applications. The Bossi-Fini Act has introduced a number of changes to legislation, with the aim of preventing “bogus” asylum requests, and it has reduced the already scarce opportunities for assistance and the integration of asylum seekers in many ways (Giacca 2004: 16 ss.). Short time scales have been set for the decision to be taken and reviewed by the National Commission (streamlined procedure). Officers of the UNHCR will be members of the 7 local commissions which will replace the national body previously in charge. Periods of detention for the purposes of identification of up to 20 days have been established whereby asylum seekers are kept special “Identification Centres”. It is believed that the entry into force of the new measures will oblige at least 90% of asylum seekers to be detained in specialised centres. This new procedure will be in force since May 2005. Currently, asylum seekers wait for up to 20 months in order to have the answer from the Commission. The time they have to expose their situation in front of the Commission is between 5 and 15 minutes at total. And, as noted by a social worker, during the interview they are not able to explain their position unless they have been trained before¹².
10. At the moment, the type of assistance offered to asylum seekers in Italy is rather limited. Asylum seekers are provided with a short amount of money for the first 45 days; after which, pending the decision of the Commission, only a part of them will be eligible for further assistance. A national programme, called “Programma Nazionale Asilo” (PNA), a network among ANCI (the

¹¹ See www.interno.it

¹² In one case, 35-40 people were interviewed, in Rome, between 9:00 and 14:00 (interview n.3). A special session of the Commission was held in Palermo, in January 2005. On that occasion 308 asylum seekers were listened to in 2 days and a half: as a result 12 refugee permits, and 45 humanitarian permits were released at total (interview n.15). People interviewed by the Commission generally feel not having been understood or listened to seriously (interview n.9).

association of municipalities), UNHCR, and the Ministry of Interior was created in 2001, and it finances 80 projects all around the country to assist asylum seekers and refugees with housing, legal and psychological counselling, language courses, professional training services. Between 2001 and June 2004 the network provided direct assistance to 4,739 persons, 68% of them are adult males. At the moment, 2,231 persons are assisted (Caritas, 2004: 500). Because of its reduced budget, at the moment the network can only assist 10% of the total population of asylum seekers present on Italian territory¹³.

11. Difficulties for asylum seekers are reflected in the declining number of applications. Compared to other European countries, the number of asylum seekers in Italy is very low, representing 0,56% of the foreign citizens population of Italy (Caritas, 2004:499). However, France received 50,000 applications in 2003; Germany processed over than 70,000; and Great Britain around 110,000. It is indicative that in Italy, 33,364 applications were recorded in 1999, 15,564 in 2000; 9,620 in 2001, and 7,281 in 2002 (of which 1/4 are females). Between 2001 and 2002 this represented a decrease of -24,3%, while in contrast the average decrease in Europe remained at -1,7% (Giacca 2004:17). In 2003, 11,323 applications were received by the Commission, and only 726 have been accepted (Caritas 2004: 499).

Smuggled and trafficked persons

12. In Italy smuggled and trafficked persons are differentiated in terms of status and the type of assistance available for them. Smuggled persons are considered as irregular migrants who have no right to remain on Italian territory. They are not entitled to any form of protection from the Italian state, except for emergency assistance, identification, and the issuing of travel documents. If they are not asylum seekers, or if they can not benefit from a temporary humanitarian permit, they are not allowed to stay on the territory and are repatriated, or sent back to the transit/origin countries. There is no current framework to facilitate permits or assistance to smuggled persons who decide to co-operate with the police and judiciary in the investigation of smuggling rings.
13. On the other hand, the fight against trafficking in human beings has been mostly driven and dependent on the collaboration of victims of trafficking and the need for witnessing accounts (Gruppo Abele 2004). Since 1998, Article 18 of the Turco-Napolitano Act provides that there will be a right to state assistance and protection, as well as the release of temporary 6-month residence permits for the victims of trafficking. Trafficking victims are the beneficiaries of protection initiatives that are managed at a local level, by NGOs dependant on public contribution and the social and health services (providing shelter, legal and psychological counselling, housing, training courses). Between 2000 and 2004, 6,800 women were assisted through 269 local projects and almost 4,300 “social protection” permits were issued. Part of the financial resources for the provision of these services comes from the judicial seizures made from condemned traffickers. The main nationalities of women receiving assistance are Nigerian, Moldovan, Ukrainian, Romanian, and Albanian. The average age of the beneficiaries is declining, and 6,7% of the total are minors¹⁴. It is important to note that victims have a right to access these benefits even if they do not denounce the traffickers and if they do act as witnesses in eventual trials against the exploiters. According to the law, a recognised trafficking victim can apply to the social protection programmes. However, recent research suggests that (Gruppo Abele 2004), the large majority of permits are issued to victims who collaborate with the judiciary. Programmes for the voluntary return and reintegration of victims of trafficking in their origin countries has also sponsored by the Italian Minister of Interior since 2001 and is implemented through programmes managed by the IOM (160 persons have been repatriated in two years).

¹³ Interview n.9.

¹⁴ See Redattore Sociale, n.933, 15 March 2005.

14. The introduction of protection instruments for these victims has been followed by a strengthening of the instruments to criminalise persons benefiting from their exploitation and traffickers. On 11 August 2003 the definition for the specific crime of trafficking in human beings was updated in the criminal code within article n.228/2003, and high penalties introduced for traffickers. Even if Italy has not yet ratified the Palermo protocols, law considers trafficking and smuggling as two distinct and different kinds of crimes. The first is a crime against the fundamental rights of human beings and includes the recruitment, transportation or transfer of persons, including harbouring and subsequent reception of and the exchange of control over him/her with the purpose of exploitation in the provision of services or the production of goods. The second is a crime against the state: it implies the facilitation of unauthorised entry and transit in the country. Penalties are different: for the crime of trafficking, ranging from 8 up to 20 years, whilst for facilitators of undocumented entries penalties are up to 3 years and a fine of €15,000 for each person involved; for smuggling, that is the facilitation of illegal entry for profit purposes, up to 12 years plus the financial penalty are envisaged. Penalties are higher if the smuggled persons have been exposed to danger or inhuman or degrading treatment.
15. The fight against the networks which promote the irregular entries is one of the most important issues in the Italian public arena, and anti-mafia structures have been involved in this endeavour. Several trials have been pursued, but according to magistrates, middle-men are arrested far more frequently than the managers of the illicit business. Judicial investigations are difficult to carry out due to the scarce judicial co-operation with transit and origin countries. Even if the smuggling organisations are often compared to mafia groups, to date, no large crime syndicates have been dismantled. The smuggling organisations are working with flexible structures and are not hierarchical. As regards the treatment received by migrants, it is generally supposed that migrants turn into victims exploited at various degrees by the criminal organisations which smuggle them into the Italian territory. According to recent enquiries this is not really the case. Very often smugglers are involved only at the transport phase, and the cost of the travel is paid half in advance, and half on the arrival.

PUBLIC PERCEPTIONS OF IRREGULAR MIGRATION

The debate in Italy

16. In Italy, as Sciortino wrote (2004a), the debate on migration is mainly driven by politicians, not by experts in the field and it is highly ideological and contradictory. In the words of the Minister of Interior, “we are now stopping illegal migration (..) It is a phenomenon that will last at least 50-60 years”¹⁵.
17. Employer associations and trade unions criticise the current approach, as they would prefer a system of legal entries based on the effective needs of the local economies. Even if the workforce in some industrial districts and agricultural areas is mainly sustained by the work of immigrants, labour quotas for entries are not decided in agreement with the local actors, but in agreement with transit countries, “trying to reduce the transit of irregular migrants, rather than basing this on a work-planned approach” (Sciortino, 2004a). According to different observers (lawyers, sociologists, politicians), the main deficiency in the current law lays in its application: there is a large use of *discretion* especially because most of the rules are difficult to apply. The implementation of the rules is fragmented as the agencies do not have the appropriate organisational and financial resources to realise them entirely.

¹⁵ See <http://www.interno.it/salastampa/comunicati>

18. Moreover, several points of the recent law have been deemed to be in contradiction with some basic *settlements of Constitution*¹⁶. As noted by Nascimbeni (2004), the laws on migration management in Italy have often been controversial, and often accused – in some parts – to be not legitimate. The Bossi-Fini Act has reached an all time record in the history of Italy, with over 750 recourses at the “Constitutional Court”. Often lawyers are able to discharge migrants because of a disagreement with the basic principles of Constitution¹⁷. Reforms on the recent law have already been made, but results are considered limited by the political opposition and public officials. For example, the text has been revised to introduce a control over the prefecture order/decreed of expulsion by honorary Judges, who since now were not competent to decide on issues concerning the personal freedom of individuals. The rule is criticised by police officials and human rights specialists who are uncomfortable with the fact that their work is not controlled by competent magistrates. In the words of a journalist, if a honorary judge can decide about the life of a person, it implies that this person is not protected by the normal judicial system, but to a lower one.
19. In Italy, public debates on migration issues tend to cover the “emergency” and “functionalist” approaches, which often prevail on the human right approach. More precisely, “an emergency attitude tackles immigration on a case by case approach whereas an emergency and a functionalist attitude considers immigrants as a work force which is useful to the national economy, ignoring the problem of their social and cultural integration” (Zincone, Di Gregorio, 2002: 5). The irregular migration issue, the core of the public rhetoric on migration, is a very controversial one. Public analysis and official reports often consider irregular migration in terms of human trafficking and smuggling, with an accent on the criminal side of the issue. Even if Italian emigrants in the past experienced hard discrimination in other countries, the widespread approach is that irregular migrants are persons who do not have the right to remain in Italy because often they are criminals (Delle Donne 2004). As recently pointed out by the Italian Ministry of Interior (Camera dei Deputati 2004): “90% of migrants detained in jail are irregular migrants: it means that they are part of the criminal economy”. Moreover, in Italy there is the tendency of the media to overestimate the importance of smuggling and the presence of undocumented migrants which contributes to the creation of a “invasion syndrome” and reinforces xenophobia. Often debates are managed in a discriminatory manner, especially by the Northern League, a political party that considers the fight against immigration as one of its central issues. In the newspapers irregular migration often overlaps with clandestine entries; smuggled persons are presented as illegal aliens, and mass media generally ignore that people irregularly travelling by sea are coming to Italy as asylum seekers. As the refugee dimension is ignored, little is known on the number of potential refugees mixed up with irregular migrants. According to the Ministry of Interior, the main problem is smuggling, and the anxiety for the spread of smuggling is strictly related to the anxiety on terrorism, and drug trafficking, even if there are no strong evidences on those links¹⁸. The attention on smuggling as a criminal matter maintains a strong alarm on irregular migration and thus support the use of repressive measures.
20. Military rule has been declared to combat smuggling in migrants by a decree of the president of the Council of Ministers on 22 March 2002, and it has been renewed up to the 31 December 2005. The decree allows the president of the Council of Ministers to appoint a special commissioner for the co-ordination of measures against irregular migration¹⁹.

¹⁶ See for example http://www.interno.it/salastampa/comunicati/pages/2004/200407/c_000000579.htm

¹⁷ For example if the state is not able to repatriate a person, due to shortage of vehicles or shortage of funds/other resources, how could this person be forced and be able to go back to his/her country in a 5 days time-span with his/her own means? Interview n. 4.

¹⁸ See www.interno.it/news/pages/2003/200310/news_000018919.htm

¹⁹ See www.cittadinolex.kataweb

21. The 2002 ECRI report on Italy records a rather negative climate concerning non-EU citizens. The public perception of irregular migration is defined as a negative one. "Opinion polls suggest that non-EU immigration features increasingly high in the list of concerns of the Italian population. ECRI believes that this situation is closely connected to the widespread presence in public debate of stereotypes, misrepresentations and, in some cases, inflammatory speech targeting non-EU citizens. (...) public figures and leaders have made regrettable statements, which contribute, in ECRI's view, to the creation of this climate. (...) The vast majority of information in the Italian media touching upon immigrants or immigration appears to be connected with crime" (ECRI 2002).
22. On the other hand, several non-governmental actors are working to claim a rights-based approach to irregular migration and in particular to asylum seekers. Since 2001 Amnesty International and *Medici Senza Frontiere* have been carrying out a campaign to promote the rights of refugees and asylum seekers. They are trying to promote the adoption of a specific law on the right of asylum in Italy. As for the detention centres, two newspaper reporters did an excellent job by denouncing the conditions of life within these establishments. In January 2000 a journalist went to the police claiming to be a Romanian national without papers: he was held in the CPT in Milano, where he could document the treatment the migrants received in the pages of *Corriere della Sera*, one of the main Italian newspapers. A debate arose after the publication of the report, but in 2004 the journalist was found guilty of having provided the authorities with a false identity, and successfully prosecuted. Another journalist in Sicily pretended to be an Afghan national without documents, and on 22 October 2004 he was put into a CPT. As reported by the journalist, at the arrival in the CPT migrants were obliged to strip naked in front of police officials, and they were the target of insults by the same officials, who were sure not to be understood. The journalist was given a 15-day prison sentence. A more detailed complaint of the deficiencies in the management of the centres for the detention of immigrants was recently made by *Medici Senza Frontiere*, which in 2004 published a detailed report. The dossier describes a series of shortcomings, with accuracy and a wealth of data documenting the inadequacy of housing and services, scarce contacts with the public health system, inadequacy of psychological and legal support, too much intervention of police forces in the centres. After the publication of the report in January 2004 the organisation was denied further access to the CPTs, and a Minister accused the association of "disloyalty"²⁰.

Who are irregular migrants and smuggled persons?

23. According to UNHCR (Giacca, 2004) 75% of irregular migrants in Italy are between 20 and 30 years of age. They are mostly men, but the female percentage is on the increase, especially for some nationalities such as Ukrainian and Romanians. Neither the size of the irregular migrant population, or the percentage of persons which used some form of professional assistance (smuggling) to enter Italy, can be estimated carefully.
24. According to data recently presented by police sources, "15% of the illegal migrants in Italy enter the territory crossing borders with false documents or else concealed inside means of transportation; 10% is made up of illegal aliens landed on Italian shores, 75% are overstayers" (Delicato, 2005: 4). These numbers demonstrate how the popular alarm on smuggling and the focus put on smugglers is an oversimplification of the problem of irregular migration. As noted by Sciortino (2004: 19 mio paper), "it is taken for granted that irregular migration is equal to clandestine migration, that clandestine migration takes places mostly across the Mediterranean (now, to Sicily), and that clandestine migration is promoted by mafia-like groups of smugglers, or criminal cartels". The reality is quite different from this. The largest share of irregular migrants entered the country through the abuse of visa conditions rather than through clandestine means.

²⁰ Interview n.9.

They mostly come from Eastern European countries. Among rejections at borders, the main percentages in 2003 concerned immigrants from Romania (19,8%), Bulgaria (10,9%), and Albania (7%) (Caritas 2004: 119), that usually do not enter through the blue border. All the data show that while the newspapers focus on the blue border crossings, the major part of smuggling activity into Italy goes through the green borders, and a greater share come with fraudulent documents or tourist visas. In that sense, Italy is not an exceptional case in Europe: migrants are using the same channels as in the rest of the European countries.

25. Currently, the use of services by smugglers seems to be on decrease in Italy. Rejections at the blue borders has declined from 23,719 in 2002 to 14,645 in 2003: 98% in Sicily (Caritas 2004: 120). Up to 15 September, in 2004 they have been 9,707. The lower number of expulsions is partially a result of the legalisation act which reduced the amount of undocumented migrants.
26. According to governmental sources the lowering of the irregular migration pressure, a trend started in 1999 has been a result of the implementation of the quota system policy in main sending countries (Camera dei Deputati, 2005: 50). Moreover, the strengthening of police controls and border patrolling are increasing the risks of interception for smugglers, who need to invest more in corruption and means of transportation in order to successfully manage their business. As a result, prices for the services of smugglers are increasing. However, smuggled people are those migrants who can not obtain a visa or could not afford to pay for fake documents: prices offered by smugglers should be convenient, they have to be achievable for the clients, the cheapest of those requested to enter into Italy with more secure means, as corruption, or fake documents. As recently smuggling routes have become more risky and expensive, they are used by people without other opportunities to enter into Europe. "Boat people" coming in big, old ships are mainly asylum seekers and these human smuggling routes are fuelled by war and civil conflict situations. In Italy currently they are originating from the Horn of Africa and West Africa (Monzini, Pastore, Sciortino 2004).

Status of irregular migrants

27. According to their status in Italy, three categories of irregular migrants can be singled-out, and smuggled persons fall within each of these categories. They do not constitute the bulk of irregular migration and, as their status can change over time, the mobility from one group to another is recorded.
 - Irregular migrants not recorded as such by the state authorities
 - Migrants who come with a short permit of entry. Often they obtain a tourist visa and subsequently overstay. The majority belong to countries enjoying a liberal visa regime.
 - Migrants who had enough financial resources and connections to buy fake papers (residence/work permits) or corrupt officials.
 - Non-intercepted migrants entered into Italy with the help of facilitators or with their own means, illegally crossing land borders hidden in vans, truck, trains or through sea borders. To this group belong people who entered irregularly with the intervention of smuggling operators avoiding the authorities interceptions, thus becoming "clandestine".
 - A part of the migrants belonging to this category can afford to celebrate faked marriages or become regular with other means, such as legalisation acts (Sciortino 2004: 30).
 - Irregular migrants recorded as such by the state
 - Migrants who have been intercepted while entering through irregular means (unauthorised border crossing), or while they are irregularly on the Italian territory. They constitute the bulk of the statistics that include those repelled at borders, expelled or returned voluntarily. If they are not repatriated they can receive an order to leave the

Italian territory within 5 days and generally they decide to stay irregularly in Italy. The migrants belonging to this group can be intercepted on the territory only through investigations and random checks by the police or labour inspections, and expelled. With the introduction of mandatory fingerprints, migrants who enter into contact with the state structures are all recorded.

28. Exceptions to the rule (special residence permits): irregular migrants who obtained the right to stay with reference to the harm or threat they are exposed to in Italy or on their eventual return. The human rights approach prevails on the punitive, law enforcement provisions when protective measures are taken. Three different categories are included in these special agreements:
- Irregular migrants which are able to claim asylum: they file their claim voluntarily, as soon as they enter Italy, or when intercepted by the police on the Italian territory.
 - Irregular migrants that cannot be repatriated or expelled according to the *non-refoulement* clause of the Geneva Convention, because of the danger to which they would be exposed returning to their origin country. They have a situation similar to that of the asylum seekers; they have the right to stay in Italy, but do not have an official access to the labour market.
 - Irregular migrants, almost all women, who are granted of a temporary permit of residence because they have been recognised as trafficking victims.

THE REALITIES FACED BY SMUGGLED MIGRANTS

Travels of smuggled migrants

29. Smugglers offer a wide variety of services for migrants to enter illegally into Italy, with different modalities and prices. In the past years the main target groups were Kosovars and Kurds refugees, together with Balkan and Eastern European migrants. Migrants from the Far East (especially China) and Middle East have been smuggled through main entry points at land and sea borders. They are usually concealed inside means of transportation, particularly commercial vehicles, or transported by clandestine boats. Land smuggling routes through Slovenia, one of the main passages to Italy, are generally used by undocumented migrants coming from Eastern European and Balkan countries. For people coming from Romania or Moldavia the price of the travel can be around €250-400 (Caritas 2004: 120)²¹. Illegal crossings of “green borders” are organised to a lesser extent at borders with Austria and France. As regards the blue borders, in the last ten years specialised smuggling routes have moved migrants from the eastern Mediterranean to the south-eastern and south-western side of the Italian coasts. Migrant trafficking via maritime routes has seen a rapid and impetuous increase during the 90s for two main reasons: it satisfies the demand coming from the most “urgent” migratory pressures and it is the cheapest sector of the market for illegal immigration. It has been estimated that for example, the cost of a journey from an African transit point to a European airport using forged documents can be around 7,000 dollars. The same journey overland, ending in the crossing of the Sicily Channel, takes much longer (months or even years, with several stages and stopovers), but can be done at the cheaper price of less than half (Monzini, Pastore, Sciortino, 2004: 42)²².
30. Main departure points for landings in Italy have been respectively in Albania (with rubber dinghies and boats), in Turkey and in other countries such as Lebanon and Syria (with big ships).

²¹ For a detailed study on the irregular migration flow from Slovenia see Sciortino, in Monzini, Pastore, Sciortino, 2004.

²² It is difficult to calculate the cost of travel from Africa if it takes months. The average price of travels of interviewed migrants who directly went to Libya from the Horn of Africa was about 700-1,000 dollars.

The Canal of Suez has been another important transit point for large ships coming from Sri Lanka. In the decade 1991-2001 the highest incidence of the landings has been recorded on the Apulian coast; most recently the Southern and Eastern coasts of Sicily have become the most congested landing areas. A progressive shift in landing places from the coast of Apulia to that of Calabria²³, and then to Sicily, has been recorded as well as a trend towards the use of larger vessels to transport migrants. After many clashes between traffickers and police and several deaths in sea, since 2002 the flow from Albania has ceased. The dismantling of the small organisations carrying out the sea crossings with the complicity of Italian middlemen for the inland transportation has been accomplished by Italian and Albanian police forces. In addition, since 2003 the flow from Turkey, which was nourished by Kurds migrants, has sharply declined. In both cases the international co-operation has had the effect of increasing risks, and therefore costs, for trafficking organisations. In general, the most effective countermeasures have been ones involving diplomatic agreements and extradition treaties, which have brought about direct intervention and greater controls on the part of some countries (Albania, Tunisia, Egypt, Turkey). The chance of passing through the Suez Canal and the Straits of Gibraltar appears very slim these days. In some cases flows of migrants have been notably reduced when the countries of origin have started to intervene by stopping ships from leaving and, probably, reducing internal corruption. The recent willingness of Albania and Turkey to re-examine and strengthen their policies of migration control is certainly connected to internal factors, as well as a policy of opening up internationally and increasing relations with their European partners²⁴.

31. However, the flow from North Africa to Sicily in last few years has grown and diversified, with a growing presence of people coming not only from the North African countries, but increasingly from the Horn of Africa and West Africa. Departing points have been moved from Tunisia and Malta to Libya. In this country, which is a transit and stopping-off point, not a place of origin of migration, the “technical” skills relating to maritime passages have been developed only recently, in response to international traffickers seeking new outlets. Generally migration flows adapt to the availability of opportunities and crossable routes. Migrants arrive independently, with or without smuggling organisations, to departure points in Libya where arrangements are made with maritime traffickers who are generally not of the same nationality as the migrants. Differently from landings in Apulia and Calabria, where smuggling organisations were able to offer facilities to continue the travel, in Sicily the migrants do not have the assistance of smugglers when they arrive in Italy. Only the passage to the Italian shores is sold to them and recently, as controls are more stringent, traffickers have increased the prices. From Libya a cross to Italy now costs around 1200 dollars, whereas it was around 800 dollars two years ago. Irregular travels from Tunisia to Sicily cost around 250-500 \$ in mid-late 90s²⁵.
32. Because of the high probabilities to be repatriated as soon as they land, people coming from countries which have signed bilateral repatriation agreements with Italy usually do not enter Italy by these means. Generally migrants who are taken on board into the so-called “*carrette del mare*” (boats in poor condition) are migrants who have the real possibility of being accepted in Italy as asylum seekers or because they come from very distant places and their repatriation is too expensive: they are usually nationals of Ghana, Eritrea, Somalia, Sudan, Liberia, Ivory Coast. Their travels take place without any attempt on the part of the traffickers to prevent police interceptions.
33. Crossings are very dangerous as the old vessels, without flag and name, are driven by migrants themselves, who are not professional seamen and do not know the waters of the Sicily Channel.

²³ In the three years from 1999-2001, even the Ionic coast of Calabria became the destination for numerous landings of very old and big ships.

²⁴ See in Monzini, Pastore, Sciortino, 2004 for a detailed analysis of the interaction among smugglers, migrant flows, and the authorities responses.

²⁵ Interview n.5. Prices reported in current newspaper articles are approximately the same.

The risk of shipwreck between Italy and African shores is very high. The boats are sometimes not even supplied with enough fuel to get the Italian coasts of Lampedusa, or the southern shores of Sicily: smugglers assume that the passengers will be rescued by the Italian authorities. According to official statistics, around 300 persons have died in the Sicily Channel, in 2003. In 2002, 195 persons died, 82 of them were dispersed in the sea (Monzini, Pastore, Sciortino, 2004: 42)²⁶. On occasion of deaths political and media attention grows: deaths demonstrate the weakness of policies to control migration, and at the same time, a difficulty in protecting vulnerable migrants. Many accidents remain unknown and after the sinking of boats, human bodies are recovered in the sea by fishermen. A major shipwreck has happened in the Christmas night of 1996 and it caused the death of 283 persons, mainly nationals of Bangladesh, India, Sri Lanka and Pakistan. The sinking was caused by the collision in high sea between a big ship, the Yohan, and a smaller one which also had to land migrants in Sicily. The captain had loaded on the Yohan 400 persons in some Eastern Mediterranean ports (Adana, Alessandria, Damasco) a month before, and he had the task of transporting them to Sicily. After the accident Italian authorities were not able to find the rests of the ship, which have been discovered years later by a courageous journalist of "la Repubblica". He recently wrote a book to describe the horrifying story (Bellu, 2004).

34. As far as Sicily is concerned, numbers of landed boats and intercepted migrants are currently declining: 18,225 landed persons were apprehended in 2002; 14,017 in 2003, and 10,472 up to the 30 of September 2004 (Camera dei Deputati 2004).
35. Most of those thousands of migrants did not know the organisational asset of smuggling operations. They looked for the right contacts, paid for the travel, and were loaded on crowded boats. When the migrants are in Italy, they always remember their sea travel as a very hard one. All of them felt sick and weak on the boats, because of the big waves and the strong smell of fuel. They often talk of how water and food were scarce, the biting cold was terrible, and the boats were so crowded that they felt insure not to fall into the water²⁷. Judicial investigations found that during longer travels with big ships, from Turkey or from Sri Lanka, once on board the migrants were effectively treated like goods. They were divided up according to sex and ethnic group and locked in the hold of the ship. Food and water, often in insufficient quantities, were distributed through small holes. Conditions of hygiene and lack of space created conditions of terrible hardship for the passengers, and favoured the spread of disease. Cases of sexual abuse of women migrants were also recorded (Monzini, Pastore, Sciortino, 2004:66).
36. According to information collected through interviews, even travels through Africa imply very harsh treatments. At their arrival in Italy, migrants coming from Sub Saharan Africa often remember their journey across the desert as being the most dangerous part of their odyssey²⁸. In main cities bordering the desert, such as Agades, specialist travel agencies collect up to 100 people at a time for desert crossings by lorry. In Dirkou, the last stage before Libya, journeys are carried out using large lorries in convoys of up to 160 people, or more expensively, in minibuses for 25-30 people. The jeeps, vans and trucks which cross the desert are always overloaded, and on the trucks it is frequent that someone fall off and be left behind in the desert. At the borders payments to corrupt officials as well as violent acts from their part are a routine. Besides having to face thirst, hunger and hypothermia, the migrants also have to defend themselves from border

²⁶ According to other sources, 4500 persons died trying to get European countries have been identified since now. See www.unitedagainstracism.org. A report describing the main sea accidents which involved smuggled immigrants in Italy is available at www.terrelibere.it (Immigrazione Italia, Naufraghi. Cronache a Sud della Fortezza), Antonello Mangano - ottobre 2003.

²⁷ Interviews 1,2,3, 6.

²⁸ See "Cattedrali mobili attraverso il Sahara" di Stefano Liberti, Il Manifesto,16 October 2004. Interviews 3,4.

guards and well-organised groups of bandits. Journeys often end tragically: dozens of abandoned wrecks of lorries have been found in the desert, but there are no data on that. In one reported case, a 23 years men bought a passage from Khartoum, in Sudan, to Tripoli, in Libya, for 700 dollars. They were 7 persons on a car, and it took a week to get the destination. The men was escaping from Eritrea to avoid forced military service. He was supported by a large sum of money he received from his rich uncle before departure. Nevertheless, he had to stay in Tripoli for almost 6 months, waiting for the embarkation to Italy, to Lampedusa. According to him, one of the hardest situations he faced was the racism in Libya. He told that he and the other black people he met were worried by the treatment they received in this country: they continuously felt menaced and racism in Libya is among the worst experiences he can remember of his travel from Eritrea to Italy²⁹.

Treatment at arrival

37. Smuggled migrants who arrive in Italy and succeed to get around the authorities' controls live with much wariness. "I had a contact in Como, a cousin, and I had the money to get a train to go there. I was really scared being caught by police during my travel to Milan and I always tried to hide my face. Everything was a danger for me and I could not speak a word of Italian. In Milan my cousin came to the railways station. He was living in Italy in a regular position since 2002 and he and his family supported me for long time. I lived for four months in my cousin's home and slowly I got acquainted with Italy"³⁰. Conversely, regarding apprehended irregular migrants, as soon as they arrive, they receive the specific treatments foreseen by the law. In case of arrivals by large boats, passengers are gathered in a first aid centre³¹, where they are assisted with something to eat and drink, new clothes, blankets and a mattress, and where they undergo a medical check (without interpreter). Some voluntary associations generally are allowed to participate in this first assistance phase³². Then their declarations about their name and nationality are taken by police officers. Generally migrants coming from countries that have signed readmission agreements are easily rejected: if there is the availability of the transport means (aeroplanes, boats), they are effectively deported within 48 hours³³. "We finally were in Italy but it was like in a nightmare. Everything was fine, I was finally arrived, but it was not as I had imagined before. It was a strange condition, I felt sick and confused, with all these people, without knowing what was going on: I just remember I was very confused and scared about the future. I was asked about my generalities, and I received a number. I was not sure to be accepted in Italy. Nobody knew anything. I realised Europe is not the Greenland, and it is not true that human rights here are respected"³⁴. If the migrant caught in proximity of a border can not be deported within 48 hours, it is the national Immigration Service of the Ministry of Interior which after having received all information from local police offices, decide where the migrant has to be detained. Migrants are transported by plane or by bus to a CPT, to be identified, or to a CI, if they are asylum seekers (Camera dei Deputati 2003). "The travel by bus to Crotona was really difficult, we were all exhausted and people started to be aggressive one another"³⁵.
38. Provincial police headquarters and prefectures are the principal offices that manage, respectively, the rejection and expulsion measures (Camera dei Deputati, 2003), and which organise the transport to CPTs. However it is well known that local authorities are not always able to

²⁹ Interview n.1.

³⁰ Interview n.6.

³¹ It is generally a hangar in proximity of the port

³² Interview n. 9, 10. According to them and to an activist (interview n.15), in first aid centres official interpreters work only for police goals, not for medical or other kind of assistance to migrants

³³ It was impossible to interview people who have been deported.

³⁴ Interview n.5.

³⁵ Interview n.5.

effectively implement the directives, even official sources report the scarcity of resources in local police offices (Camera dei Deputati, 2003). In some localities it is very expensive to organise the travel to a far CPT, especially if only one or two persons have been apprehended. According to official sources, the solution would be to create a CPT in each region, or province, so that all migrants can be detained (ibid. 2002). However, it would be too costly. According to a social worker³⁶, due to the shortage of funds, time, or personnel, the local police officers can avoid the difficult and expensive travel to a CPT by proposing that the migrant claim for asylum. Conversely, in several cases, when hundreds of migrants are caught and their collective repatriation or transfer to CPT is organised quite easily, with coaches or aeroplanes on loan, they are even not informed about the possibility to claim for asylum. Due to these practices, often, human right activists have denounced the high degree of discretion in the hands of the first officers who come into contact with the migrants.

39. According to interviewees, the first authorities they met had a great power in deciding on their status. For example, an interviewed migrant reported to have been rescued by a very kind policeman, who assisted him and two other migrants landed in the surroundings of Ragusa (Sicily). The officer escorted them in the local hospital and in the police headquarters, all night long, without going home for 20 hours³⁷. He informed them about the asylum procedures as they were not informed about their rights at all. He would like to meet him again to express his gratitude. On the other side, another migrant who landed in Lampedusa reports a harsh treatment and a scarce respect of his human rights by local police personnel. He did not receive any information until he was in the Crotone CPT and did not have the chance of speaking with an interpreter. He was really upset by the extremely rude ways the Italian authorities dealt with him and the others migrants therein and the scarcity of information he received about his near future. He was unsure even about the destination of the travel to the CPT in Crotone, and as he was provided with an identification number, he felt that he was considered a number, and not as a human being³⁸.
40. Sometimes all the CPTs are filled to maximum capacity, and no more immigrants can be held therein. In these circumstances, the Central Immigration services inform the local police local offices, and the irregular migrant receives the order to leave Italian territory within 5 days at his/her own expenses. The same happens when migrants are released from CPTs because they have not been identified, or travels have been not organised because they are nationals of very far countries: for them deportations are seldom implemented, as they are too expensive³⁹. After having been detained in CTP for up to as much as 2 months, they are released with the order to leave Italian territory within 5 days at their own expenses. They usually stay in Italy without any assistance, and several cases of persons detained in CPTs because they can not be identified have been recorded (up to 6 times for a single person)⁴⁰.
41. Practices of detention in CPTs often undermine migrant's rights. According to a directive of the 30 of August 2000, minimal standards of treatment have to be assured, and they are explained in a charter of rights for persons detained in CPT. Among basic rights are the freedom of communication (availability of public telephones and distribution of telephone cards, use of mobile phone allowed, distribution of stamps), the possibility to receive visits upon specific request, and the assistance of cultural mediators and interpreters. Services of legal counselling should be provided, at least by voluntary associations. Nursery spaces and leisure and sport premises are also envisaged. Actually, in some of the centres none of these services are available and these rights are not respected at all. As described in a report by MFS (AA.VV.2004), often

³⁶ Interview n.11.

³⁷ Interview n.3.

³⁸ Interview n.2.

³⁹ Interview n.14.

⁴⁰ Interview n.9.

the detained people are obliged to live in very poor conditions, without any possibility to communicate with persons outside the centre, no language facilities and no opportunities to get legal advice. In several cases the access to lawyers is denied. Competent linguistic translation services are not always available. Repeatedly human rights activists and parliamentary representatives of the opposition parties denounce the impossibility for visitors to enter in these places. According to the statements of persons who have entered in the centres to monitor the actual living, the conditions are much harsher than in jail⁴¹.

42. Some witnesses who could enter reported the daily practices of lunches without a table, and with armed policemen in front of detained people. A Chinese national was desperate as he had no possibilities to communicate in any other language but Chinese, and there were no interpreters for him (Nigrizia 2004).
43. Generally the Red Cross manages the centres, but services offered are very different. Discretion in the management of these centres loom large and persons can be totally unprotected. In Turin, for example, detained persons do not have the possibility to have a counsel for a defence and it is very hard for lawyers to organise the defence. In some centres the legal counselling is in the hands of a voluntary person. Often magistrates uphold the detention order for the person concerned and the verdict of expulsion is reversed when the person has been already repatriated.
44. As denounced by the political opposition, the current laws are applied with discretion. Abuses of the fundamental human rights of migrants are increasingly reported on the detention phase, as far as the right to defence is concerned, and on the ways deportations are implemented (Calisi, Fayealy 2004: 20).
45. Interviewees are not willing to speak about their condition in CTP and during the interviews most of them prefer not to report about the treatment they received. Exceptionally, a 34 years old woman from Eritrea provided a very detailed report. Together with her 5 children she was held for 40 days in the CPT of Crotona, the largest in Europe. She declares not to have received any special care, neither for herself (she was pregnant at the sixth month), neither for her children. She arrived in Lampedusa after a three months travel from Somalia, sleeping in refugees camps and on the ground and paying for private bus and car passages. She describes her situation in Crotona's CPT, where she was transported, as awful. She had to stay in a small bungalow, under the summer sun, all day long and she and her children could not exit to enjoy the open air because of the presence of mosquitoes. They had to stay all day within their bungalow, and the children got sick and were screaming all the time. They could just eat and sleep, and everything was dirty. Around 1,000 people were detained in the centre. She asked several times to be put into contact with an interpreter, without success. She explained that she received information about the asylum procedures very late, and she could leave the centre only when the centre authorities put her and the babies on a train, to reach a PNA centre in Ragusa where she and her children are now living, waiting for the response from the Commission since 7 months⁴².
46. According to several reports, as soon as they enter into CPTs most migrants fall into depression. They easily receive anti-depressive and sedative medicaments, and acts of self-injury are frequent. The presence of police forces is constant in the detention centres. In some CTPs, administrative people are dressed like policemen, so that for migrants it is difficult to identify their different roles. The presence of a high percentage of former prisoners in CPTs who are not separated from the newcomers (up to 60% of detained people in some centres) makes life conditions particularly uneasy for newcomers. As noted by a report by *Medici senza Frontiere* daily contacts with these persons may not offer behavioural models suitable for the most recent arrivals” (AA.VV., 2004: 4).

⁴¹ Interview n.15.

⁴² Interview n.4.

47. Expulsions and transfers are often done at night, for fear of rebellion⁴³. On 28 December 1999 during a protest, a fire caused the death of 6 people in the Trapani CPT: the local Prefect has been recently condemned for this episode. In March the director of a CPT in Apulia, a priest, has been arrested as he is accused of violent acts against detained people.
48. Moreover the differences between CPT, CI and other kind of centres are not clear enough⁴⁴. For example, hundreds of people have been directly repatriated from the centre in Lampedusa, even if it is not a centre for identification, but a first aid centre. The description of this centre, recently made by two parliamentary representatives and a human rights specialist, is quite impressive. For security reasons there are no doors at the bathrooms (there are 8 toilets at total), and when massive landings arrive mattresses are placed all over the grounds, even in the courtyard and in the canteen. There is a strong smell of rubbish and excrements everywhere. Beds are bare mattresses without sheets, and toothbrushes are not distributed as they could be used for offensive purposes. There is no interpreter for the English language, and it is not possible to claim for asylum. Furthermore, the public telephone (only one) is broken. The director of the centre claims that when the number of the held persons is too high, it is impossible to inform them about their rights to claim for asylum. The deputies themselves provided the migrants with telephone numbers of possible defendants and also collected claims for asylum⁴⁵.
49. As regards minors, they have a right to be assisted by the Tribunal for Minors, and to be sheltered by assistance organisations. However, there are reports that sometimes they are not recognised as minors because of a scarcity of attention.

Beyond the borders: working and living conditions

50. Smuggled migrants who stay irregularly in Italy (because they are not intercepted, or they are released) can usually find only low paid work for long hours in “3D jobs”: dangerous, dirty, difficult. As flexible workforce, they are vulnerable to situations of exploitation and are often abused from the employers. Underground economy is deeply rooted in Italy and it has been calculated to be as high as 17.4%, with around 3.5 million Italian and foreign workers irregularly employed, mainly in Southern regions⁴⁶. In Rome the percentage of the labour grey markets is around 24.8% (Caritas 2004: 338). All over the country most concerned sectors are agriculture (over 60% of the grey labour markets) and construction industry (over 33%), the garment industry, repair firms, transport and entertainment (Migrinform, 1999: 70). According to recent estimates, irregular migrants are 16,9% of the total population of irregular workers (Caritas, 2004:336). In Italy it seems that migrants are employed in sectors which are refused by national workers. One example is prostitution. At least 25,000 immigrant women, 90% of them with an irregular status, are supposedly working as prostitutes in Italy, often in hard exploitative situations. Prices of the sexual services of newcomers are really low (even €20) if compared to those requested by nationals and by naturalised women. For them organisational assets of prostitution are different as well: immigrant prostitutes work mainly on the streets and they can be exploited by both immigrants and indigenous people (Monzini 2002).
51. In all sectors irregular migrants are recruited with verbal contracts by native people or by other immigrants of the same or other nationalities, and in both cases their treatment can be

⁴³ Interview n.15.

⁴⁴ Interview n.15.

⁴⁵ See Francesco Terracina, “Lampedusa, la buona accoglienza”, *Diario*, 7 ottobre 2004 and “Una normale giornata di deportazioni, parte II: Ancora dentro il Campo di Lampedusa”, 9 ottobre 2004. Resoconto della Rete Antirazzista Siciliana dell'8 ottobre 2004. See also Dossier Lampedusa, Rete antirazzista siciliana, October 2004.

⁴⁶ See www.istat.it

exploitative. Street-vendors, for examples, generally work for small scale businesses mainly owned by migrants themselves. Recently, 7 Bangladesh nationals have been arrested in Ancona because they were exploiting 27 co-nationals as streets-vendors on local beaches. The street sellers were living in 3 crowded apartments owned by the criminal group, which organised their trip to Italy, where they arrived by boats, hidden in trucks⁴⁷. More frequently employers of Chinese sweatshops are brought to court because they exploit their co-nationals. Their workmen are obliged to live with all their entire family in working places (usually workshops for the production of leather clothes or handbags), in degrading conditions, in order to pay for their travel debt.

52. As regards Italian employers, it has been estimated that firms which more likely employ migrants are the less productive firms, which offer low wages, and have a low level of unionisation and computerisation (Caritas 2004: 335). According to Dal Lago, “employers risk less by hiring and, of course, not registering, migrants who do not hold a permit than by failing to register migrants in possession of a permit. In the former instance, detection of this irregularity leads to a criminal lawsuit and the employer risks being charged a modest fine, but the related evasion of social security contributions and taxes is not taken into account (Italy, however, recognises undocumented migrants’ social security rights). In the latter case, an administrative lawsuit would concentrate on the avoidance of these charges, which are much more expensive. Moreover, undocumented migrants are less likely than holders of a permit to ask labour inspectors to perform checks as they generally intervene only by request” (Migrinform 1999: 79-80).
53. According to recent researches, inspections on the labour markets in Italy are seldom done, and they are scarce compared to those of other European markets (Giacca 2004: 9). Sanctions on employers who take advantage of the irregular position of workers to exploit them with long working hours and low salaries have to be enforced more effectively.
54. The gathering of migrants for seasonal agriculture works in the last decade has spread all over the Southern Italy countryside. It has been calculated that they are currently around 12.000, half of them irregular migrants, and around 2,5000 asylum seekers⁴⁸. Entire old, abandoned villages without electricity and water in summer are given new life with the arrival of these seasonal peasants. Usually they move from one place to another according to the local needs (interview n.: *Medici Senza Frontiere* organised a tour for giving them assistance). By “word of mouth”, they are informed of on the places (bars or squares) where they can be recruited for a single working day or for weeks. In summer, they leave cities looking for those opportunities⁴⁹.
55. In 2003 and 2004 at the harvest time in Cassibile, a village close to Siracusa (Sicily), a population of around two hundred regular and irregular migrants, as well as asylum seekers met for the potato harvest. The work lasted almost 2 months, with a wage of €25 for 10 working hours a day. Workers lived under the olive trees at the border of the potatoes’ fields, without water and toilet services. *Medici Senza Frontiere* asked for assistance to the local Prefecture. Official meetings were organised with police forces and the other local authorities, and as a result an intervention of the civil defence was decided. Tents were supplied and workers were allowed to make use of the facilities of the local sporting centre: 200 persons could then benefit from 2 toilets and 2 showers. Moreover, the local church organised free dinners for 15 days⁵⁰.
56. In this area both regular and irregular migrants accept working conditions which indigenous workers are not willing to accept. In Vittoria (Ragusa), the migrants from Tunisia and Morocco

⁴⁷ Il Messaggero, 4 July 2004.

⁴⁸ See the report by *Medici senza Frontiere* presented in Rome on 31 march 2005, with title “I frutti dell’ipocrisia. Storie di chi l’agricoltura la fa. Di nascosto”.

⁴⁹ Interviews n.9 and 10.

⁵⁰ Interview n.10.

work in the greenhouses for a salary of €20-30 a day (around 9 hours, with a break of 15 minutes for the lunch). The migrant population is composed by young adult males who mostly stay for 3-4 months. During the summer the heat they suffer in the greenhouse where vegetables are cultivated is described as terrible (up to 60 degrees). They report two brothers of Tunisian origin died last summer because of these harsh working conditions⁵¹. Another difficulty, which has been reported, is related to the intense competition amongst new immigrants coming from other European countries, such as Romania and Poland. The newcomers accept to work at a lower salary, €15 a day, thus creating an unfavourable contractual background. As the workers are recruited for short periods (days, weeks, or months), they are always in a weak position: they are afraid to lose the opportunity to work. Employers are local people, greenhouses and small farmer's owners. The migrants should receive their pay on Saturdays, but often the owners are very late with payments. Moreover, migrants claim that they have to pay a sum of money to the owner in order to be selected, and recruited for a regular job⁵².

57. Asylum seekers and refugees are also included in the local underground economy based on seasonal work. In some localities, as in the Ragusa area, they do not have the right to work in a regular position as the decision depends on the local labour offices (unclear – what decision?). According to a recent research, in Calabria, another Southern region, asylum seekers can earn up to €25-30 a day, for 8-9 hours of irregular work. In Calabria, it has been recorded a complete lack of services aimed at creating communication between demand and supply in the labour market, and recruitment is only made through informal networks, always personal and ethnic connections (Della Corte 2003).
58. Another important sector for irregular migrants is the construction industry. In this sector health and safety standards at the work place are often not respected even for indigenous workers. The sector especially employs people from Romania and Eastern European countries, at very low wages. Employers can be of the same nationality, but more often they are Italian. Excessive overtime is common, as well as unfair dismissals⁵³. For them safe conditions are not assured, as demonstrated by recent researches⁵⁴. Generally, when an accident occur, the irregular worker do not denounce his/her employer because he/she afraid of losing the job. Even employers try to avoid the denounces. In Perugia, in August 2004, a workman from Morocco had an accident while working: his employer, together with his son, believed he was dead and they decided to throw him in a ditch. He was rescued after three days, and taken to the hospital.
59. Smuggled people face the same problems as other irregular migrants. They have to live avoiding controls and they always try not to be visible: in Ragusa some of them report that when they do not work, they usually stay at home and sleep⁵⁵. They prefer not to expose themselves to the danger of being apprehended by the police therefore they avoid situations where they can be detected. All the interviewees in Vittoria were really worried about the lack of work opportunities, and they claim that the legal or illegal status makes no difference in finding a job unless you are not introduced to the job network. However, according to one of them “when we work we are sure not to be apprehended as illegal migrants, but if we are not working, and if we are always going around, we become too visible, we feel unsafe and be possible targets for police raids”⁵⁶.

⁵¹ Interviews n.5 and 6.

⁵² Interviews n.6 and 5.

⁵³ Interview n.7.

⁵⁴ “Lavoratori immigrati e rischi infortunistici”, ricerca dell’Istituto Italiano di Medicina Sociale, in collaborazione con Caritas, Roma, 2002.

⁵⁵ Interviews n.5 and 6.

⁵⁶ Interview n.6.

60. Local immigrant communities are crucial in their daily life. Through personal contacts they have an access to informal jobs and a safe housing situation. Housing can be very expensive: as renting to illegal immigrants is a law violation, rents charged by landlords are higher than standard rates. As noted by Sciortino (2004) “in the case of housing, as well as services, an irregular status does not mean exclusion, but rather inclusion at a (far) higher price”. According to migrants, health followed by money are their highest priorities: “to send money at home, and because money always helps in staying in Italy”⁵⁷. In their view, money can help to regularise their position: buying faked documents, or obtaining a regular job and thus applying for an amnesty or to enter in the “quota system”. According to the interviewees, in Ragusa the housing is generally very poor. In this geographical area, it seems common to live in abandoned houses, or with the farmers who employ them. Apartment rents are not high if compared to the national average⁵⁸; however they are higher for undocumented people. In Rome, asylum seekers are living in awful conditions as “squatters”, in big buildings which host up to 400 people⁵⁹. Hundreds of them are living in public gardens, under the ruins of the Roman Empire, in large squares or in proximity of the river bridges, without toilets and with the only assistance of some catholic associations that offer them free meals.
61. As regards to health, irregular migrants in Italy have the right to access to basic medical care without being reported to the police. However, the irregular population is not well aware of this entitlement. Mostly, as said by migrants and social workers, they tend to approach the Italian health system only for emergency cases, and they do not seem aware of the right to preventive treatment. The 1998 Turco-Napolitano Act has introduced a sanitary card called SPT, expressly made for irregular migrants who need to receive general and specialist medical cares. Nonetheless, the development of public services expressly aimed at the irregular population is scarce. In most places the personnel of the local health services have not implemented the law and the related facilities for irregular migrants have not been introduced yet⁶⁰.
62. As regards to education, the free access to primary school is granted to all children. Children of irregular migrants are accepted into the national school system without problems due to the absence of a legal status.

Return

63. According to official data, in 2004, up to the 7 October, 54 flights to transit and origin countries left Italy (44 to Libya and Egypt, with 4.751 undocumented migrants). Flights are on the increase: in 2003 they were 33, and in 2002 they were 26 (Camera dei Deputati, 2004). According to experts, it is well known that police raids are organised in apartments and in the streets in order to fill up the flights: as soon as a flight to a specific country is planned, a raid is made to catch nationals of that country⁶¹. A recent research on repatriation from Italy states that “the rapidity with which expulsions orders are carried out seems to have a negative effect, at least in some cases, on the human and constitutional rights of migrants. There have also been some reported cases of lack of the recognition of the asylum right and repatriation of people at strong risk in their country of origin” (Coslovi, Piperno, 2005: 19).

⁵⁷ Interview n.6.

⁵⁸ An interviewee pays €140 per month, for a small apartment for three persons. Another pays €230 per month, in the town of Ragusa.

⁵⁹ Here the situation is described as “very very very harsh”: interview n.1.

⁶⁰ For that reason Medici senza Frontiere is supporting the development of the SPT system in some of the regions with the higher percentage of irregular migrant’s population (Sicily, Campania).

⁶¹ Interview n.14.

64. Particularly, one of the worst violations of the migrants' human rights is to repatriate people at strong risk in their country of origin and to deny them the access to asylum. For smuggled people the violation of the *non-refoulement* principle at the arrival in Italy is assumed to be frequent and not visible due to the lack of specific services at the entrance points (interpreters, legal advisors, logistics) (Calisi, Fayealy 2004: 126). Moreover, it has been reported several times that personnel of diplomatic consulates are introduced into CPT to interview people who have to be identified. Sometimes this happens before asking the detainees if they intend to apply for asylum, thus creating a dangerous situation for these persons: they are obliged to declare a false identity in front of the authorities of their country of origin⁶².
65. In October 2004, some Italian parliamentary representatives denounced specific breaches of the national and international rules on the right to asylum.
66. In three days 1209 persons, all gathered in the Lampedusa centre whose capacity is mere 190 people, have been sent back to Libya, the transit country. According to the political opposition, no regular identification has been made⁶³. Migrants were repatriated on the assumption of their nationality, without an accurate control of their identities, and they did not have the possibility to claim for asylum⁶⁴. It seems that no lawyers and no embassy personnel were involved the identification operations. None was admitted to monitor the ways the identification was carried out. A UNHCR high officer was denied the access to the centre in Lampedusa for four days; finally when he was allowed to visit it most of the boat people had already been repatriated. According to activists, a discriminatory policy has been adopted in the selection process of deportation and admission into the Italian territory, without a clear definition of the principles which have been applied. The migrants have been deported with military and commercial aeroplanes to Tripoli with their hands closed in plastic hand-cuffs.
67. However, there are not specific agreements on the treatment of returned migrants to Libya, a country which has not signed the 1951 Geneva Convention and which do not have a functioning asylum system.
68. The further repatriation of these persons from Libya to Egypt has been made with the assistance of Italian technical (flights with Italian aircrafts) and financial means⁶⁵. Similar episodes have been repeated in March 2005. The recent reaction of the UNHCR has been clear: on 18th March 2005, in the Geneva headquarters spokesperson Ron Redmond declared "there is a real risk that refugees who are in need of international protection may be forcibly returned to their homeland (...). UNHCR deeply regrets the continued lack of transparency on the part of both the Italian and Libyan authorities, and regrets that as a result suspicions that one or both countries may be in breach of international refugee law will be hard to put to rest. UNHCR also regrets that the Italian authorities have, despite recent experiences, made no attempt to enlarge the reception centre in Lampedusa. With a capacity of a mere 190, the centre is easily overwhelmed, creating an air of crisis that is perhaps not strictly necessary. We believe there are currently more than 630 people in the centre (...) UNHCR, which has a senior staff member on the island, had requested access to the reception centre, in order to ensure that anyone who wishes to make an asylum claim has the possibility to do so, and that any claims that were made are properly and fairly assessed. That request, which was made in accordance with UNHCR's mandate to protect

⁶² Interview n. 14.

⁶³ The identification procedures are particularly difficult: only few countries, like Tunisia, are provided with a system of identification based on fingerprints (interview n.14).

⁶⁴ According to an interviewee (n.15), who was a witness during the deportations, the interpreter of the Lampedusa centre had a very important role in deciding what nationality was to be attributed to each of them. A strong discrimination emerged during the decision about the destination of those migrants, and the criterion of such decisions has not been clarified during parliamentary interrogations (see). According to journalistic reports, all these persons were identified in few days only with the help of an interpreter and a cultural mediator.

⁶⁵ see la Repubblica, 22 October 2004

refugees – including access to asylum seekers and monitoring of asylum systems – has so far been refused by the Italian authorities”⁶⁶.

69. Last summer, another episode came to the attention of the international public opinion. On 20 of June 2004 a ship of a German humanitarian NGO, named “Cap Anamur” rescued at sea 37 Africans and some of them had identified themselves as refugees from Sudan's Darfur region. After a long delay, due to an absence of authorisation coming from the Italian authorities, and after long international consultations, they have been admitted to dock in Sicily on 12 July. Finally, they have been repatriated after a long odyssey: the Minister of Interior identified them as coming from Nigeria (6) and Ghana (31), and did not recognise them the right to claim asylum. Activists and the political opposition strongly criticised the Government because of the lack of transparency in the practices of identification as well as the difficulty to access these persons for organising their defence. The captain of the Cap Anamur and the other activists have been accused of facilitating the illegal crossing of the national borders, and for this they spent some days in prison: at the end, the NGOs representatives who rescued the 37 people were arrested⁶⁷. As pointed out by an article by Martin Kreickenbaum, “The criminalisation and defamation of the Cap Anamur serve only one purpose: to set an intimidating example. Anyone providing assistance to refugees in distress will be punished. The only permitted response is to sail right past their sinking boats”⁶⁸. Cap Anamur's odyssey raises the question of which state is responsible for the asylum seekers who are onboard in the high seas. According to the anti-landings decree of the Ministry of Interior (19 June 2003), in international waters the Italian navy can identify boats and can reject them if found by the proximity of the territorial waters of the departure port. The measure has been criticised as it implies the application of a collective measure, which has to be taken without a previous identification of the individuals on board and of their specific positions.
70. In Italy, another problem regards the repatriation practices of trafficked victims. All irregular migrants apprehended in the country by police should be informed about the opportunity to declare himself/herself as a victim of trafficking. However, the actual dissemination of the information about the protection law for trafficking victims is not as spread as it could be. Therefore, the granting of protection to the victims often depends on the information the authorities provide to them, the persons who may be eventually concerned. Particularly, activists report that the repatriation procedure happens too hastily for those women who belong to countries which signed readmission agreements with Italy. They often are not connected with social workers and cultural mediators neither they are informed about the opportunity to denounce their victim situation before being deported⁶⁹. According to recent reports, at least half of the women repatriated as irregular migrants from Italy to Albania are then assisted as trafficking victim in this country which highlights the lack of protection under the Italian law. In a reported case, a Bulgarian woman has been repatriated to Albania, supposing she was Albanian, and she was separated from her 2 months old daughter (IOM 2004).
71. Non documented migrants that are deported to their country of origin face several obstacles⁷⁰. A forced return is more difficult for former prostitutes than for other migrants. At their return, prostitutes that have been exploited in Italy generally do not have any savings. Often they are not welcome in the origin family, and due to the social stigmatisation they receive, and the lack of available resources, they generally have to decide to go back to traffickers. No provisions from

⁶⁶ See www.unhcr.org

⁶⁷ Several articles on the Cap Anamur case are available at <http://www.meltingpot.org/archivio509.html>

⁶⁸ See Martin Kreickenbaum, “European governments make an example of Cap Anamur refugees”, 22 July 2004, available <http://www.wsws.org/articles/2004/jul2004/anam-j22.shtml>

⁶⁹ Interview n.9.

⁷⁰ See the recent CESPI research on repatriated migrants from Italy to Nigeria, Albania and Morocco (Coslovi and Piperno), 2005.

the government of their origin country are made to assist these persons and the assistance networks set up by NGOs and international organisations in most countries are still weak. As note a recent research, “the fact that thousands of expelled foreigners, not finding the means to reintegrate in their home countries, contribute to the number of social outcasts in countries which are already poor, are a burden on their nuclear families, and increase the total amount of poverty, instability and possibly also local criminality, does not appear to cause real widespread concern in Europe” (Coslovi, Piperno, 2005: 7).

Some final remarks

72. In Italy the rights of smuggled migrants are not always respected and several “bad practices” have been recorded during this enquiry. Two different kinds of violation can be singled out. First, the human rights have been violated by the authorities: in this cases violations depend on “how” authorities apply the law. Second, the human rights have been violated by others, and the state apparatus did not reacted. In these cases the state is responsible of the lack of protection for irregular migrants, due to a general scarcity of integration services⁷¹.
73. As regards to the application of the law, it has been noted that police officers that assist the migrants at their arrival have a great decisional power upon their lives. Practically, different local offices apply the laws with a high degree of discretion. In order to develop a human right approach aiming at reducing such discretion, human right training courses directed to the law enforcement personnel dealing with immigrants should increase. Other critical areas appear to be the arrival and deportation operations. As regards to life in CPTs, a strengthening of the use of cultural mediators and translators is needed as well as a more efficient control on how these centres are managed. The right to defence within the centres should be assured and monitored. As for the asylum seekers, the Commission often take a decision on the base of a not-accurate enquiry on the life of the examined person: interviews last few minutes and interviewed people are not assisted by a lawyer before the examination. As for the issue of the living and working conditions for the asylum seekers, who receive a humanitarian permit, or has a asylum seeker status, has not the right to work regularly, and most of these people are not assisted at all. Even if they are not irregular, no policy of integration is envisaged for them. They live in a “limbo”, and after one year from their arrival – even if they have the documents - they may have the same integration profile they had when were just landed. However, as human activists say, human beings are never illegal. The respect of legality at the borders and inside the country would be better promoted by adopting a European common policy on migration, which should state clear rules on integration and the management of flows.

⁷¹ Interview n. 14.

BIBLIOGRAPHY

Associazione Centro Astalli, 2003

“Storie di diritti negati. I risultati di un’attività di monitoraggio sulla condizione dei richiedenti asilo a Roma”, special issue in *Quaderni*, 3, settembre

AA.VV., 2004

Stranieri! I centri di accoglienza temporanea in Italia, Manni Editori (partially available at: www.msf.it/msfinforma/dossier/missione_italia/CPT_FINALE.pdf)

Battistella, G. (ed.), 2004

“Migrazioni e diritti umani”, special issue, *Quaderni Sismi*, n.1, Urbaniana University Press, Rome, November

Bellu, G.M.,

I fantasmi di Portopalo. Natale 1996: la morte di 300 clandestini e il silenzio dell'Italia, Milan, 2004

Calisi, G., Fayealy, B., 2004

Libro Bianco sulla Bossi-Fini, Rome

Camera dei Deputati, Senato della Repubblica, 2003

Resoconto stenografico del Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione, Rome

Camera dei Deputati, 2004

Resoconto stenografico della seduta n.675 del 14 ottobre 2004, Aula, Legislatura 14esima, Rome, 14 October 2004c

Camera dei Deputati, 2005

Richiesta di parere parlamentare su atti del Governo, sul documento programmatico relativo alla politica dell'immigrazione e degli stranieri nel territorio dello Stato per il 2004-2006, Rome, 7 Febbraio

Caponio, T., Pastore, F., 2004

“Dal Programma nazionale asilo al Sistema di protezione per richiedenti asilo e rifugiati (2001-2004). Bilancio di una esperienza di governo territoriale dei flussi migratori”, Cespi, Roma, ottobre

Caritas, 2004

Immigrazione: dossier statistico 2004. Caritas/Migrantes, Centro studi e Ricerche, Roma

Colombo A., Sciortino G. (eds.), 2004

Gli immigrati in Italia. Gli immigrati, gli italiani, le politiche, Il Mulino, Bologna

Corte, M.,

“Noi e gli altri. L’immagine dell’immigrazione e degli immigrati sui massmedia italiani”, CESTIM Centro Studi Immigrazione Onlus, Verona, 2002

http://www.cestim.it/08media_corte-articolo-univr.doc

Corte dei Conti, 2004

Gestione delle risorse previste in connessione al fenomeno dell'immigrazione. Regolamentazione e sostegno dell'immigrazione. Controllo dell'immigrazione clandestina, 25 maggio

Coslovi, L., Piperno, F., 2005

Forced return and then? Analysis of the impact of the expulsion of different categories of migrants. A comparative study of Albania, Marocco and Nigeria, Cespi, Centro studi politica internazionale, working paper n.13

Creti, P.,

“L’esperienza della Croce Rossa Italiana al Centro Accoglienza Profughi di Ponte Galeria”, in *Le stelle e la rana. La salute dei migranti: diritti e ingiustizie*, 2000, pp. 220-222

Delicato, V., 2004

“National legislation and good practices in the fight against illegal migration: the Italian model”, Central Directorate of Immigration and Border Police, Ministry of the Interior, Cards Programme, Rome, 1st October

Della Corte E., 2003

“Inserimento socio-economico di richiedenti asilo e rifugiati in Calabria”, paper, Iniziativa comunitaria Equal - *Progetto Asylumisland*, Università della Calabria, Dipartimento di Sociologia e di scienza politica, Rende, maggio

Delle Donne, M., 2004

Un cimitero chiamato Mediterraneo. Per una storia del diritto d’asilo nell’Unione Europea, Derive e Approdi, Roma

ECRI, 2002

European Commission against Racism and Intolerance, Council of Europe,

“Second report on Italy”, adopted on 22 June 2001 and made public on 23 April 2002

http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Italy/CBC2-Italy.asp#P77_3936

Fondazione ISMU, 2004

Nono rapporto sulle migrazioni 2003, Franco Angeli, Milano

Giacca, G.

“Clandestini ou le problème de la politique migratoire en Italie”, in *New issues in Refugee Research*, Working Paper No. 101, Evaluation and Policy Analysis Unit, UNHCR, United Nations High Commissioner for Refugees, Geneva

Gruppo Abele, 2004

Rapporto di ricerca, Progetto Equal Life. Libertà femminile, November

Hamilton, K., 2002

“Italy’s Southern Exposure”, in mpi, migration information source, May, www.mpi.org

Kosic, A., Triandafyllidou, A., 2002

Making Sense of Italy as a Host Country. A Qualitative Analysis of Immigrant Discourse, downloadable from www.iue.it/RSC/IAPASIS, Florence

ILO, 2003

International Labour Organization, “La discriminazione dei lavoratori immigrati nel mercato del lavoro in Italia”, *International Migration Papers*, Gruppo ricerca di FIERI, Employment Department, Geneve, September

IOM 2004

International Organisation for Migration, Counter-Trafficking Service, *Changing patterns and trends of Trafficking in persons in the Balkan Region, Assessment carried out in Albania, Bosnia and Herzegovina, the Province of Kosovo, the Former Yugoslav Republic of Macedonia and the Republic of Moldova*, Geneva, July

Masellini Francesca, 2003

“Immigrazione clandestina a Pantelleria”, in *Affari Sociali Internazionali*, n.3

Migrinf, 1999

“Migrants’ insertion in the informal economy, deviant behaviour and the impact on receiving societies. The comparative report”, European Commission, DG XII – Science, Research and Development, TSER Program Contract No. SOE2-CT95-3005, January

Monzini, P., 2002

Il mercato delle donne. Prostituzione, tratta e sfruttamento, Roma

Monzini, P., Pastore, F., Sciortino, G., 2004

“L’Italia promessa. Geopolitica e dinamiche organizzative del traffico di migranti verso l’Italia”, working paper n.9, Cespi, Centro Studi di Politica Internazionale. English version available at <http://www.cespi.it/pubblicazioni.htm>

Nascimbeni, B. (ed.), 2004

Diritto degli Stranieri, Cedam, Padova

OECD, 2004

Organisation for Economic Co-operation and Development, *Trends in International Migration*, Annual Report, 2003 edition, Paris

Palidda, S. 2004

“Migrazioni e dominio del disordine liberista globale”, unpublished paper, Università di Genova

Pastore, F., 2002

Written evidence for the thirty-seventh report to the Select Committee appointed to consider European Union documents and other matters relating to the European Union, *A common policy on illegal immigration*, House of Lords, London, 5 November 2002

Reyneri, E., 1998

“The Role of the Underground Economy in Irregular Migration to Italy. Cause or Effect?”, in *Journal of Ethnic and Migration Studies*, 24, no. 2, pp. 313–331

Romani, P., Pastore, F., Sciortino, G., 1999

L’Italia nel sistema internazionale del traffico di persone : risultanze investigative, ipotesi interpretative, strategie di risposta, CeSpi, Centro studi di politica internazionale, Commissione per le politiche di integrazione dipartimento per gli affari sociali, Presidenza del Consiglio dei Ministri, working paper n.5, Rome, December

Sciortino, G., 1997

“Troppo buoni? La politica migratoria tra controlli alle frontiere e gestione del mercato del lavoro”, in *Sociologia del lavoro*, n. 46

Sciortino, G., 2004

“Between Phantoms and Necessary Evils. Some Critical Points in the Study of Irregular Migrations to Western Europe”, in *IMIS-Beitrage*, Special issue on Migration and the Regulation of Social, Universitat Osnabruck, July, pp. 17-44

Sciortino, G., 2004 a

“Migrazioni. Dimensioni sociali e policy making”, in *La rivista delle politiche sociali*, n.3, luglio-settembre

Sossi, F., 2002

Autobiografie negate. Immigrati nei lager del presente. Libro-denuncia sui Centri di Permanenza Temporanea, Manifesto Libri, Roma

UNHCR, 2002

”I rifugiati in Italia”, <http://www.unhcr.it>

Zincone, G., Di Gregorio, L., 2002

“The immigration policy process in Italy: an integrated scheme of interpretation”, paper presented at the International and European Forum of Migration Research (FIERI) Workshop on *Immigration Policies: between centre and peripheries*, Turin, 22-27 March

Zordan R., 2004

“Quel che Pisanu non dice. Centri di Permanenza Temporanea”, in *Nigrizia*, November, pp. 8-11

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RELEVANT WEB SITES

www.mininterno.it
www.cnel.it
www.cestim.it
www.fieri.it
www.stranierinitalia.it
www.meltingpot.org
www.digilander.libero.it/asgi./italia
www.anolf.it
www.arci.it
saveriani.bs.it/cem
www.roma.intercultura
www.cies.it
www.caritasroma.it
www.ismu.org
www.lunaria.org
www.jesref.org
www.naga.it
www.dirittoasilo.it
www.migranews.it
www.sanspapier.net
www.mondomigrante.it
www.clandestinos.it
<http://www.programmanazionaleasilo.it/>