

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report –

Universal Periodic Review:

ITALY

I. BACKGROUND INFORMATION

Italy ratified the *1951 Convention relating to the Status of Refugees* and acceded to its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*). Full effect of the Convention was secured in 1990, when the law abolishing the geographical limitation¹ was enacted. Since then, Italy has participated actively in efforts of the European Union to harmonize asylum and migration policies and to establish a Common European Asylum System. Furthermore, Italy ratified the *1954 Convention Relating to the Status of Stateless Persons* (the “*1954 Convention*”) in 1962, but has not yet acceded to the *1961 Convention on the Reduction of Statelessness* (the “*1961 Convention*”).

Italy's exposure to the arrival of the many refugees and migrants who reach the country's shores every year in the context of “mixed migratory movements” is due to its geographical location in the Mediterranean. An estimated 4-5 million third-country nationals, including 64,000 recognized refugees live in Italy, which has a total population of 60 million.

In past years, the majority of asylum-seekers arrived in Italy by sea in mixed migratory movements. Since 2008, the number of sea arrivals, whilst fluctuating over time, has averaged 25,000 persons per year. In 2011, the number of new arrivals was particularly high, with 63,000 persons reaching Italy by sea in an irregular manner, as a result of movements prompted by events in North Africa, in particular in Libya. Included within the arrivals by sea are persons departing from Turkey and Greece and arriving at the coasts of the regions of Calabria and Apulia, whose numbers have been relatively steady since 2010, with respectively 2,000 and 3,000 persons arriving per year. In 2012, the number of sea arrivals was 13,267, which constituted a 80% decrease compared to 2011. In November 2013, over 42,000 persons arrived by sea to Italy, marking the second largest mixed migratory flow of the past ten years. Nationals from Syria and Eritrea made up for more than half of the total sea arrivals in 2013.

While the number of asylum applications (not every new arrival asks for asylum in Italy) in the last six years has averaged 20.000, it has increased in 2013, reaching approximately 20,000 persons already by September. Asylum-seekers originate mainly from Sub-Saharan countries and the Horn of Africa. An increase of asylum-seekers originating from Syria, and arriving by sea or by air, has also been registered, although proportionally significantly less than the total number of arrivals since many of them continue their journey north to join family members in other European countries.

¹ The *1951 Convention* was originally limited in its geographical scope to refugees originating from Europe. Today, most signatory States have lifted this geographic limitation, extending rights to international protection to refugees from all parts of the world. See <http://www.unhcr.org/pages/49da0e466.html>.

The public perception of asylum-seekers and refugees appears to be generally negative. Asylum and migration topics still evoke emotional responses and suffer from polarized presentation in the political and media debate. Migrants, asylum-seekers and refugees are often portrayed as a potential threat, particularly in times of a widely felt economic crisis.

UNHCR's Representation for Southern Europe (RRSE) has recently issued an updated advocacy paper '*UNHCR Recommendations on Important Aspects of Refugee Protection in Italy, July 2013*², providing an overview on Italy's asylum system and summarizing UNHCR's main recommendations to Italy. Key aspects, in which significant improvements are needed, concern the reception system for asylum-seekers as well as integration, including targeted integration support, to persons determined in need of international protection (as refugees or beneficiaries of subsidiary protection). In particular, the reception system (capacity and conditions), is an aspect of the Italian asylum-system of particular attention and scrutiny, not only in discussions within Italy but also by other EU Member States and European institutions and agencies.

Political context and debate on asylum

The Italian political context continues to be marked by significant instability. The former government led by Prime Minister Berlusconi (May 2008 – November 2011) had pursued a rather restrictive policy on immigration and asylum *inter alia* by adopting the so-called “push-back policy”, by which from May to September 2009, Italian State vessels, operating in international waters, intercepted 8 boats carrying irregular migrants, including asylum-seekers, and obliged them to return to the presumed country of departure, *i.e.* Libya.

In February 2012, the Grand Chamber of the European Court of Human Rights (ECtHR) in Strasbourg decided the case *Hirsi Jamaa and Others v. Italy* (“Hirsi”), regarding a group of 24 persons intercepted on high seas by Italian State vessels and returned to Libya in May 2009. The Court condemned Italy for violation of Articles 3 and 13 of the *European Convention of Human rights* and Article 4 of the *Additional Protocol N. 4*. Italian Government ministers confirmed in 2012 that the ‘push-back’ policy - *de facto* no longer applied since October 2009 – would not be repeated and the decision of the court respected, but concrete measures remain to be adopted.

Following national elections in February 2013, the new Government in Italy has primarily continued to engage in addressing Italy's difficult economic and financial situation. Migration and asylum, considered as “divisive”, were not on the agenda, until President Napolitano's appeal for a political focus on asylum, in the wake of the tragedy off the shores of Lampedusa in October 2013, which accelerated legislative and policy developments. On the one hand, the Government asked the Parliament a delegation to issue a consolidated act on asylum, including all law decrees transposing the relevant European Directives; on the other, the Democratic Party requested an accelerated procedure to the Parliament with regard to a draft law proposal on asylum. In this context, the transposition of all the recast EU Directives on asylum is likely to be finalized within 2014.

II. ACHIEVEMENTS AND BEST PRACTICES

Over the last few years, Italy has undertaken far-reaching and commendable efforts to save lives at sea. Most recently and following the shipwreck tragedies in October 2013, Italy launched the *Mare Nostrum* operation, which contributed, until the end of February 2014, to rescuing more than 10,000 migrants.

A decentralized international protection status determination procedure with adequate safeguards and outcomes was established. Since 2005, UNHCR is fully engaged in the **asylum procedure** in Italy focusing its activities on capacity-building, through on-the-job training and the organisation of

² UN High Commissioner for Refugees (UNHCR), *UNHCR Recommendations on Important Aspects of Refugee Protection in Italy*, July 2013, available at: <http://www.refworld.org/docid/522f0efe4.html>.

training courses at the local level, in collaboration with the Territorial Commissions as well as the National Commission. In 2013, the number of asylum applications increased by almost 50% compared to the previous year, reaching over 28.000 applications. Some 26.700 applications were examined, with a 12.6% 1951 Convention Status recognition rate, 22.4% Subsidiary Protection and 30% Humanitarian Protection.

Finally, the transposition of the EU Qualification Directive has entailed a number of significant positive developments in the normative framework on the definition of international protection status and of the rights attached thereto. In particular, the decree transposing the aforementioned Directive foresees an Integration National Plan for the beneficiaries of international protection, to be issued biannually with UNHCR contribution. Furthermore, the Decree foresees that the favor clauses concerning the exemption of income and housing requirements provided for refugees be extended to the beneficiaries of subsidiary protection.

III. KEY PROTECTION ISSUES AND RECOMMENDATIONS

Issue 1: Legislation on Asylum

Italy does not have a comprehensive asylum legislation. However, various amendments to the *1990 and 1998 Immigration Acts* and the transposition, through the relevant Legislative Decrees, of the asylum-relevant EU directives (Qualification, Asylum Procedure and Reception Conditions) provide for an almost complete, although fragmented, legal framework. The fragmentation of the legislative framework corresponds to a division of competence among the various institutions involved, where different relevant actors often operate without adequate coordination. Regarding the asylum reception system, the emergency approach should be abandoned in favor of – adequately funded - regular planning based on needs assessments and the identification of appropriate interventions.

There is no specific law on integration of refugees and the competences of the new ministry for Integration are not yet fully defined. The socio-economic integration of beneficiaries of international protection is *de facto* delegated to the regions. The regions have far ranging competences to legislate on welfare policies. Overall, the level of integration of refugees is very different among the regions and municipalities; the overlap between national, regional and local administrations and the lack of clarity about the responsibilities makes it difficult to identify the competent counterparts to address concrete proposals. Furthermore, the current economic crisis led to a series of legislative reforms that have also imposed budgetary cuts, with immediate negative repercussions on the social assistance and welfare for beneficiaries of international protection.

UNHCR encourages the Italian authorities to consider establishing a coordinating body tasked with streamlining and optimizing resources allocated to the various components of the system, ensuring adequate standards and coordinating initiatives to foster the social and labour market's inclusion of beneficiaries of international protection. Any such body requires the prior establishment of a multi-level governance of asylum, involving the relevant Ministries as well as regional governments, local authorities and non-profit organizations.

Recommendations:

UNHCR recommends that Italy:

- Strengthen efforts to address the issue of asylum in a strategic and more systematic manner;
- Establish a coordinating body tasked with streamlining and optimizing resources allocated to the various components of the asylum system.

Issue 2: Access to the territory and the principle of *non-refoulement*

On 3 April 2012, Italy entered into a new *Processo Verbale* with Libya to combat the unauthorized departures of migrants from Libya.³ This bilateral framework for Italian – Libyan cooperation contains limited concrete safeguards aimed at strengthening Libya’s normative and institutional capacities for the protection of human rights of third country nationals. In particular, the agreement does not include specific protection safeguards for asylum-seekers and refugees.

Following the landmark judgment of the Grand Chamber of the European Court of Human Rights in the “Hirsi” case, UNHCR, in August 2012, submitted a set of recommendations to the Italian government⁴ concerning the execution of the European Court of Human Rights’ decision. A number of these recommendations remain unimplemented, in particular those on the inclusion of protection safeguards in any agreements between Italy and Libya, on the provision of information to all potential asylum-seekers in a systematic manner as well as on the modalities of lodging an asylum application.

The response capacity of information services at official entry points as foreseen by law (Art. 11 Par. 6 of the *Consolidated Text on Immigration, Legislative Decree No. 286/98*) and managed by NGOs, selected through a formal selection procedure by the competent Prefectures, has been affected by budget cuts in 2012-2013. These cuts constrained the already limited possibility to provide information to persons, including potential asylum-seekers at international airports (Rome, Milan, Bari, Venice) and at official entry points on the Adriatic Coast (Venice, Ancona, Brindisi, Bari). Furthermore, cooperation between the NGOs managing the information services and the border police varies, also due to the lack of standard operating procedures.

Since 2010, UNHCR and *Praesidium*⁵ partners (IOM, Save the Children Italy and the Italian Red Cross) have repeatedly voiced their concerns⁶ that hundreds of Egyptian and Tunisian migrants, except those who had arrived in Lampedusa, have been repatriated pursuant bilateral readmission agreements negotiated with Egypt and Tunisia, without having systematically met with the humanitarian organizations providing them with basic information to all new arrivals by sea. Regarding readmissions to Greece, in accordance with the readmission agreement signed in 1999, UNHCR continues to remain concerned that persons, including those intending to seek asylum, who arrive in an irregular manner in Adriatic ports - now in lower numbers compared to previous years - are reportedly returned to Greece, including children as young as 13,⁷ without their protection needs being properly assessed.⁸

³ See also Paragraphs 46-47 of Human Rights Council, ‘Report by the Special Rapporteur on the human rights of migrants, François Crépeau, on his mission to Italy’ (29 September–8 October 2012), A/HRC/23/46/Add.3, 13 April 2013. The report is available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-46-Add3_en.pdf

⁴ Recommendations by UNHCR concerning the execution of the Grand Chamber judgment of the European Court of Human Rights in the case of *Hirsi Jamaa and others v. Italy* - (Judgment of 23 February 2012, Application No. 27765/09), UNHCR Regional Representation for Southern Europe, 24 August 2012.

⁵ *Praesidium* is a multi-agency project, operational since March 2006, currently in Sicily, Apulia and Calabria, which aims at improving the reception conditions of persons arriving in Italy by sea in mixed migratory movements. In the context of *Praesidium*, UNHCR aims to ensure, by strengthening the response capacity of information services, access to the asylum procedure of refugees who reach Italy by sea, as well as to monitor reception conditions within all governmental reception facilities. More information is available at: <http://www.unhcr.it/news/dir/168/view/1312/il-progetto-praesidium-131200.html>

⁶ See, for example, UNHCR, IOM and Save the Children Italy Press Release, *Le Organizzazioni Umanitarie chiedono di incontrare i migranti egiziani e tunisini che sbarcano sulle coste italiane*, 30 Aprile 2013.

⁷ Human Rights Watch, *Turned Away – Summary Returns of Unaccompanied Migrant Children and Adult Asylum Seekers from Italy to Greece*, pg. 33, January 2013.

⁸ See Paragraphs 50-55 of Human Rights Council, ‘Report by the Special Rapporteur on the human rights of migrants, François Crépeau, on his mission to Italy’ (29 September–8 October 2012), A/HRC/23/46/Add.3, 13 April 2013. The report is available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-46-Add3_en.pdf. See also Medici per i Diritti Umani, *Unsafe Harbours. Report on the readmissions to Greece from*

Information services provided for in the *Immigration Act* (Article 11, Para 6 of Decree 286/98), currently implemented in the Rome-Fiumicino and Milan-Malpensa airports as well as at the main Adriatic ports, need to be strengthened. Good practices⁹ developed by the *Praesidium* project could provide useful elements for the establishment of an effective information and assistance system.

Furthermore, the Committee on the Elimination of Racial Discrimination reiterated that Italy “*has the obligation under its international human rights law to respect the principle of non-refoulement and to ensure that migrants are not subject to collective expulsion*”.¹⁰

Recommendations:

UNHCR recommends that Italy:

- Ensure that bi-lateral readmission and cooperation agreements in relation to irregular immigration include adequate protection safeguards for asylum-seekers and refugees;
- Ensure that all border control mechanisms effectively guarantee respect for the principle of *non-refoulement*;
- Increase training activities for border personnel focusing specifically on the international protection of refugees and give border personnel appropriate training to ensure that asylum-seekers are identified and referred to the relevant asylum authorities prior to the application of any removal measures;
- Strengthen information and assistance services in all locations where there regularly are arrivals in mixed migratory movements.

Issue 3: Access to the asylum procedure

Efforts were undertaken by the competent authorities in 2012, through a new online system and internal instructions, to expedite the registration procedure of asylum applications, to improve the management of individual cases throughout the procedure, and to monitor and immediately address delays between the time a person expresses the intention to apply for asylum and the formal registration of an application.

Despite these positive developments, there continued to be reports indicating that the registration of asylum applications is, in some cases, scheduled several weeks after the asylum-seeker has expressed the intention to apply. This practice also affects transferees to Italy under the Dublin Regulation,¹¹ who, having previously transited through Italy without registering an asylum application, had applied for international protection in other European countries. This delay may result in late access to reception conditions, as well as a lengthier timeframe before their cases are determined.

Italian ports and the violations of the migrants' basic human rights, November 2013, available at: <http://www.mediciperidrittumani.org/en/unsafe-harbours-report-readmissions-greece-italian-ports-violations-migrants-basic-human-rights-2/> and Pro-Asyl and the Greek Refugee Council, *Human Cargo – Arbitrary readmissions from Italian sea ports to Greece*, July 2012, available at: http://www.proasyl.de/fileadmin/fm-dam/p_KAMPAGNEN/Flucht-ist-kein-Verbrechen/humancargo_01.pdf

⁹ Available at: <http://www.unhcr.it/news/dir/90/view/1070/raccomandazioni-e-buone-prassi-per-la-gestione-dei-flussi-migratori-misti-in-arrivo-via-mare-107000.html>

¹⁰ Committee on the Elimination of Racial Discrimination, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Italy, 09 March 2012, CERD/C/ITA/CO/16-18, 80th session.

¹¹ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

Since 2011, there have been instances in which Egyptian and Tunisian nationals, who had arrived in Lampedusa in an irregular manner by sea and who had expressed the wish to apply for asylum, were only admitted to the asylum procedure following interventions by *Praesidium* partners, NGOs or lawyers. Arrivals of these nationality groups have regularly been transferred to CIEs (closed Detention Centers) rather than Reception Centers for Asylum-Seekers (CARA), even in cases where the intention to seek asylum had been expressed prior to the transfer.

With regard to the application of the Dublin Regulation, UNHCR notes that the procedures in Italy for the determination of the state responsible under the Regulation are very lengthy and regularly in excess of the timeframes stipulated in the relevant provisions. The procedures may last up to 24 months, seriously affecting the well-being of asylum-seekers, including of persons with special needs and UASC. Reportedly, these long delays are due to limited human resources. Following the European Court of Human Rights judgment *MSS vs Belgium and Greece*, no returns under the Dublin Regulation to Greece were implemented in practice. However, asylum-seekers fingerprinted in Greece are still considered as ‘Dublin cases’ until a decision from the Dublin Unit declares Italy to be competent.

Recommendations:

UNHCR recommends that Italy:

- Ensure that registration of asylum claims is carried out immediately without restrictions and that asylum-seekers are issued with information regarding the asylum procedure;
- Ensure that asylum-seekers have access to documentation attesting their status, immediate access to health care and other basic social services and access at all times to legal counselling and interpretation services for the purpose of registering asylum claims;
- Strengthen the unit in the Ministry of Interior dedicated to the management of ‘Dublin cases’ in order to ensure that decisions on transfers or on assumptions of responsibility as per the Dublin Regulation are taken without delay and ensure that all asylum-seekers subject to the application of the Dublin Regulation enjoy the right to an effective remedy;
- Ensure that UNHCR personnel and staff of other qualified bodies are granted access to all potential asylum-seekers at all times, regardless of where these persons are and of their nationality, race, gender and age, so as to enable these actors to provide information on the right to apply for asylum and to support the identification of persons with special needs, such as UASC or victims of torture or trafficking.

Issue 4: The quality of the refugee status determination procedures

Asylum applications are examined through a decentralised, single procedure that was established in 2005, and is currently regulated by national legislation transposing the EU Asylum Directives, namely by *Legislative Decree No. 251/2007* and *Legislative Decree No.25/2008*.

UNHCR continues its full-fledged participation in the asylum procedure in Italy, with a representative in each Territorial Commission, focusing its activities on capacity-building, through on-the-job training and the organisation of training courses at the local level, in collaboration with the Territorial Commissions as well as the National Commission.

In 2012, the number of asylum applications decreased to 17,352, compared to 34,100 applications in 2011. While additional Sections of the Territorial Commissions were established in order to cope with the increase of applications and the consequent backlog, waiting times for first instance decisions have further grown and vary significantly from one Territorial Commission to another. Delays are greater, where Territorial Commissions are located in large reception centers (Mineo, Crotone), or in large cities (Rome, Milan). Currently, as an average and based on UNHCR

observation, an asylum-seeker may wait approximately 4 to 6 months from registration of the asylum application until the decision from a Territorial Commission. In some cases, waiting periods lasting over 12 months have been reported.

UNHCR remains satisfied with the overall protection standards in the context of the asylum procedure and the work of the Territorial Commissions, including in terms of recognition rates for persons in need of international protection. Due consideration is paid to UNHCR positions and guidelines, for example in relation to specific countries of origin or to legal aspects, such as fear of persecution for reasons of membership of a particular social group. However, a mechanism of systematic quality monitoring, aimed at ensuring a harmonized approach in all Territorial Commissions and minimum quality standards, particularly on procedural aspects, still needs to be put in place, including standardized procedures for the identification and referral of asylum-seekers with special needs, including children, victims of torture¹² and victims of trafficking. Some aspects of the procedure still require improvements, in particular, with regard to the specialization through induction and regular compulsory training of members of the Territorial Commissions and interpreters. Members of Territorial Commissions are not required by law to possess prior experience and expertise in the field of asylum and they sometimes fill other positions during their tenure as members of Territorial Commissions. Since 2012, no training events have been organized at central level by the National Commission for Right of Asylum due to financial constraints.

Appeals against negative decisions of a Territorial Commission in first instance have to be made within 15 days from the date of communication of the decision, in cases in which the applicant is hosted within a CARA or CIE, and within 30 days in all other cases, to the geographically responsible Civil Court (*Tribunale*). Appeals have automatic suspensive effect except for a number of categories provided by law¹³, in which the suspension of the legal effects of the negative first instance decision can be requested to the judge by the applicant. While official data is not available, lengthy delays in the judicial procedure from the date of an appeal to a decision by the courts are frequently reported, including in cases pertaining to the Dublin Regulation. Positive decisions by courts are directly enforced by the Police Immigration Office, which issues the permit of stay. UNHCR appreciates the efforts made by the Superior School of Magistrates to promote specialization of judges in the field of asylum. In 2012, UNHCR received some reports of cases in which asylum-seekers detained in CIEs were expelled to their countries of origin during the period foreseen by law to appeal a negative first instance asylum decision, or while waiting for a decision by the judge on their request for suspension of the legal effects of the negative first instance decision, made in conjunction with the appeal. Such practices could create a risk of *refoulement* for people who are in need of international protection.

Recommendations:

UNHCR recommends that Italy:

- Further improve the asylum procedure through the establishment of an independent administrative authority, in charge of the asylum procedure, which would build on the positive aspects of the current system;
- Adopt the necessary legislative measures (including through the adoption of a Regulation implementing *Legislative Decree 25/2008*) to ensure that members of Territorial

¹² The 'Italian Network for Asylum-Seekers who Survived Torture' (NIRAST), which provided for standardized identification procedures for victims of torture was discontinued in 2012 due to budgetary constraints.

¹³ Inadmissible or manifestly unfounded applications, asylum requests made after interception for avoiding or attempting to avoid border controls, after interception for unauthorized stay, following an expulsion order, or when a decision is made after the applicant left the CARA unauthorized.

Commissions are selected on the basis of their experience and knowledge in the field of asylum, that members undertake regular and systematic training activities and that they occupy the position as members of Territorial Commissions full-time;

- Improve the quality of interpretation by envisaging adequate training for interpreters of Territorial Commissions and by strengthening the verification of their qualifications;
- Ensure that regular training activities on international protection be made available to the judiciary and that a database of Italian asylum case law be established and maintained;
- Adopt legislation aimed at ensuring that asylum-seekers whose claims to international protection have been denied are guaranteed access to legal remedies, including also legal counselling particularly in the case of asylum-seekers with limited financial means;
- Adopt specific provisions to ensure that asylum-seekers who have appealed against negative decisions at first instance and have requested that the execution of the decision they are challenging is suspended are entitled to remain in the country pending a ruling on the suspension;
- Strengthen monitoring and ensure harmonized approach for the identification and referral of asylum-seekers with special needs.

Issue 5: Reception conditions for asylum-seekers

While Italy has invested significant efforts and financial resources to respond to the unexpected number of sea arrivals in 2011, the emergency reception plan put in place in response to the ‘North Africa Immigration Emergency’ highlighted longstanding flaws in the reception system. Despite some targeted improvements, the response capacity of the Italian system had been, however, outpaced by growing reception needs. Since 2000, an average of 19,000 asylum applications per year had revealed the limits of the emergency approach of the Italian Government and the lack of strategic and structural planning. The gaps which have emerged over time placed additional strain on the reception system as a whole, leaving Italy unprepared to respond adequately to emergency situations when they occurred. In UNHCR’s view, this illustrates the need for a consolidated and coordinated national reception system.

Reception standards in government centers (CARAs, CDAs and CIEs) deteriorated also because of serious funding constraints, contributing to a situation in which, since 2011, contracts for the management of these facilities have been awarded exclusively on the basis of the lowest-priced offer for the provision of services, with quality considerations not being taken sufficiently into account. In addition, significant differences in reception continue to exist in different parts of Italy, depending on facilities and local practices. Given the structural differences between the various types of facilities (CARAs, CDAs, SPRAR projects, metropolitan area facilities and facilities established in the context of the emergency reception plan), the current approach could be reviewed in order to ensure adequate standards for all asylum-seekers. Such a review should also examine ways to avoid hosting asylum-seekers in large facilities for long periods.

In part to respond to longstanding gaps, at the end of 2012, the Ministry of Interior has agreed to set up, in the context of the *Praesidium* project, a pilot monitoring scheme in government centers. In each location where government centers are located, a monitoring Commission has been established, chaired by the local Prefecture and comprised of the Provincial Police HQs and *Praesidium* partner organizations. In UNHCR’s view, this is an initial attempt to develop more systematic monitoring and quality control systems, which would require a strong ownership by the Prefectures and willingness of the Ministry of Interior to ensure adequate follow-up.

Furthermore, on 18 September 2013, the Ministry of Interior has published a decree, which brings the reception capacity of the reception system (SPRAR), as of 1 January 2014, for the next three-year period, from the current 3,000 to 16,000 places, with the possibility of further increases. This important decision is expected to address one of the main flaws of the Italian reception system, *i.e.*

its lack of capacity. It also signals a significant change of attitude, as the level of reception capacity now envisaged was the result of a needs-based planning exercise conducted by the National Coordination Group, established as a permanent body in July 2013, entrusted with the management of irregular mixed migratory movements and tasked to plan and coordinate interventions on reception and integration.

Recommendations:

UNHCR recommends that Italy:

- Ensure adequate reception capacity for asylum-seekers throughout the country, including when significant numbers of arrivals occur, so that all asylum-seekers lacking the means to provide for themselves are able to access adequate reception, in line with provisions of the *EU Directive on Reception Conditions*;
- Ensure that the reception system is more flexible in order to respond to fluctuations in the numbers of asylum applications and to the actual length of the asylum procedure;
- Ensure that reception conditions and standards in all reception facilities are harmonized at an acceptable level of quality;
- Take necessary measures to ensure services provided to asylum-seekers and refugees are tailored to their distinct needs, offering the former the assistance they need pending a decision on their status, whilst providing refugees with the support they require to facilitate their integration in Italian society;
- Upgrade the measures aimed at providing specific support to individuals with special needs, such as victims of torture and of sexual and gender-based violence, UASC, single or pregnant women and the disabled and adopt Standard Operating Procedures (SOPs) for the referral of the different categories of persons with special needs to the relevant reception facilities, so as to ensure adequate care and follow-up by qualified services.

Issue 6: Local integration of refugees

Integration prospects for beneficiaries of international protection in Italy continue to be seriously limited and constitute therefore one of the most problematic areas of the Italian asylum system. Italy lacks a comprehensive strategy and specific measures for their local integration. Italy's current economic crisis exacerbates integration challenges, with the result that a significant number of beneficiaries of international protection are leading deprived and marginalized lives.

According to the relevant provisions in international and European law, beneficiaries of international protection are to be granted access to a number of rights that are key to integration, including self-reliance, in the country of asylum on an equal footing with Italian or EU citizens. However, there are shortcomings in both Italian legislation and practice, which hinders refugees to becoming self-reliant.

Responsibility for integration is decentralized, mainly handled by local authorities (regions and municipalities). In the absence of reliable coordinating mechanisms at the central level and with local authorities, this causes significant discrepancies at the different sub-national administrative levels (regions, provinces and municipalities), both in integration programmes and services offered, which are thus dependent strictly on the political priorities and economic means of the local authorities.

Budget cuts following the government spending review further strained the welfare system, increasing the dependency of persons with little or no income on informal social networks. Furthermore, the current legal framework does not foresee the implementation of measures geared at addressing the specific administrative hurdles refugees face. Many refugees, for instance, lack

documents or certificates which they are unable to obtain from their countries of origin. Nonetheless, these documents are often requested by the Italian authorities to be able to exercise a number of rights, including residence registration, recognition of their educational and professional qualifications, or the right to marriage. Requests for documents proving family links as well as delays in assessing applications for family reunification also pose obstacles to family reunion.

Refugees and stateless persons benefit from more favourable legal provisions for naturalization, as they are required to demonstrate that they have been residing in the country for five years, as opposed to the ten years required in cases of other third country nationals. They might, however, face a number of practical problems in actually benefiting from naturalization, *inter alia*, due to the fact that the procedure is often lengthy and that the criteria for granting Italian citizenship leave a considerable margin of discretion.

Recommendations:

UNHCR recommends that Italy:

- Engage in a comprehensive review of the legal framework and adopt measures aimed at removing the obstacles in administrative procedures that have a significant impact on the integration prospects of refugees;
- Introduce measures of affirmative action to support newly recognized refugees at the initial stage of their integration process;
- Adopt a provision envisaging an integration action plan and consider streamlining the procedure for family reunification;
- Adopt specific and tailored measures to support the integration of beneficiaries of international protection, presently living in destitute condition, including in so-called ‘hot spots’;
- Ensure that all newly recognized beneficiaries of international protection are able to benefit, as needed, from specific support measures in the first phase of their integration process, in particular with regard to housing;
- Include, in the asylum legislation, a provision aiming at defining the scope of Article 25 of *1951 Convention*, in particular with regard to requests of relevant documents issued by the authorities of their country of origin;
- Review the legal requirements for citizenship in order to avoid discretionary approaches to the granting of citizenship to refugees and to facilitate the process of obtaining citizenship. Furthermore, UNHCR recommends the same favourable legal requirements for naturalization to be extended also to the beneficiaries of subsidiary protection.

Issue 7: Protection of unaccompanied or separated children (UASC)

Italian law is particularly attentive to the rights of unaccompanied foreign children. They are protected from expulsion as children and must be issued with a residence permit. Should age determination procedures not be conclusive, the benefit of the doubt must be applied. Italian legislation provides for a number of additional safeguards for unaccompanied foreign children, including proper accommodation, rapid appointment of a guardian and fast-track determination of international protection needs for those who apply for it.

In practice, there is considerable scope for improving the application of these provisions. In some cases, for instance, unaccompanied and separated children remain in precarious conditions for prolonged periods of time before being transferred to adequate facilities.¹⁴ In addition, the

¹⁴ Available at:

http://www.savethechildren.it/informati/comunicati/lampedusa_continua_a_mancare_un_piano?year=2013

appointment of a guardian (generally the local mayor or a municipal officer) may be a mere formality, with duties being delegated to social workers who struggle to provide individualized assistance due to the high numbers of unaccompanied foreign children assigned to them. Lengthy waiting times of 2-11 months¹⁵ for the appointment of guardians also often delay access to international protection procedures and/or the timely identification of the appropriate support required by each of the children and the drafting of a tailored integration plan.

Previous research carried out by UNHCR as well as the outcome of an EU funded project "Protecting children on the move"¹⁶ revealed that many UASC, even when properly informed, decide to move on to other countries due to a variety of factors, including pressure by smugglers and families, presence of relatives in other EU Member States, delays in accessing the asylum procedure and the lack of integration prospects in Italy.

In UNHCR' view, a correct and reliable age determination is key to ensuring the protection of unaccompanied foreign children, also considering that the vast majority of registered unaccompanied foreign children in Italy is between 16 and 17 years of age. Italy still lacks an adequate multidisciplinary age determination procedure, a necessary precondition to ensure that children are treated in line with the *Convention on the Rights of the Child* and are granted forms of protection tailored to their specific needs. The procedure should be conducted by independent experts with specific knowledge of the ethnic and cultural background of the concerned children and the ability to take all relevant factors, such as the individual's physical, psychological, cultural and social development, into account.

The Italian system lacks a central body responsible for coordinating actions for UASC in need of international protection, promptly identifying their needs and providing adequate responses. UNHCR hopes that the Ombudsperson for Children, an institution established in July 2011, will also contribute, among its broader competencies, to strengthening the protection responses to unaccompanied or separated children as well as to improving coordination between relevant stakeholders. Moreover, national and international legislation make systematic reference to the principle of the best interests of the child (BID). Italy still lacks a dedicated mechanism to put the principle into practice, with the result that, since no BID procedure is in place, the principle's implementation remains rather limited.

The Committee on the Rights of the Child recommended that Italy "*introduce comprehensive legislation ensuring the assistance and protection of unaccompanied children, drawing upon the principles set out in general comment No. 6*".¹⁷ In particular, the Committee recommended that Italy "*establish a specific and permanent national authority to oversee the condition of unaccompanied children, identify their needs and address challenges in the current system, and to develop operational guidelines on unaccompanied children, including on reception, identification, needs assessment and protection strategy*". The Committee further recommended that "*the State party adopt a unified age-assessment procedure for unaccompanied children that is multidisciplinary and fully upholds the principle of the benefit of the doubt*".

Recommendations:

¹⁵ See report by Save the Children Italy "La situazione dei minori stranieri non accompagnati in Italia" (page 11), 25 July 2013, available at:

http://risorse.savethechildren.it/files/comunicazione/Ufficio%20Stampa/DDI%20MNA_DATI%20E%20STORIE_25lug2013.pdf

¹⁶ UN High Commissioner for Refugees (UNHCR), *Protecting children on the move*, July 2012, available at: <http://www.refworld.org/docid/522852c34.html>

¹⁷ Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Italy, 31 October 2011, CRC/C/ITA/CO/3-4, 58th session.

UNHCR recommends that Italy:

- Identify a single national body focusing specifically on UASC, including those in need of international protection, in order to facilitate the coordination among the various state institutions and other relevant actors, and oversee the timely identification of their needs and the provision of adequate responses to them;
- Ensure that the best interests of the child are the basis for all decisions pertaining to the child, inter alia, by establishing formal processes, with strict procedural safeguards, designed to assess and to determine the child's best interests in particular when identifying durable solutions, including a mechanism for evaluating results¹⁸;
- Adopt a multidisciplinary age determination procedure;
- Enable the prompt and informed access of the UASC to the international protection procedure, also by ensuring the timely appointment of an independent guardian with the necessary expertise and competence.

Issue 8: Statelessness

Italy is Party to the *1954 Convention* (ratified by law no. 306 of 1 February 1962), but has not acceded to the *1961 Convention*. It has signed, but not ratified the *European Convention on Nationality of 1997*. It is considered that the citizenship legislation in force includes a number of provisions with the purpose to prevent and reduce statelessness and is generally in compliance with the provisions of Article 1, co.1 of the *1961 Statelessness* and of Article 6, co. 2 of the *1997 Nationality Convention*. However, accession to the *1961 Convention* would establish a stronger framework to prevent and reduce statelessness and avoid the detrimental effects of statelessness on individuals and society by ensuring minimum standards of treatment for stateless persons. It would further underscore Italy's commitment to Human Rights and the reduction of statelessness.

An administrative statelessness determination procedure has been established under the Citizenship Department of the Ministry of Interior. The determination of the status of statelessness, however, is accessible only to persons residing lawfully in Italy, is not regulated by sufficiently clear and transparent procedures, and may last particularly long, in some cases up to 10 years.

There are no precise or official figures available on the presence in Italy of stateless persons but it can be reasonably assumed that the largest group of de facto stateless persons can be found among the Roma and Sinti communities originating from former Yugoslavia and having lived in Italy for many years. According to available and reliable estimates, approximately 15.000 persons, including children born in Italy, may be stateless or at risk of statelessness.

The Italian Ministry of interior, in cooperation with UNHCR and non-governmental organizations, should raise awareness and publicize the existence of statelessness determination procedures to enhance stateless persons' access to these mechanisms.

Recommendations:

UNHCR recommends that Italy:

- Accede to the *1961 Convention on the Reduction of Statelessness*;
- Clearly regulate by law statelessness determination procedures, and improve them in terms of efficiency and transparency with a view to ensure full and effective access to the set of rights provided by the *1954 Convention*;
- Raise awareness and publicize the existence of statelessness determination procedures.

¹⁸ Available at: http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf

**Human Rights Liaison Unit
Division of International Protection
UNHCR
March 2014**

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures Reports

- Universal Periodic Review:

ITALY

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Italy.

I. Treaty Bodies

Committee on the Elimination of Racial Discrimination

CERD/C/ITA/CO/16-18, 80th Session

9 March 2012

B. Positive aspects

3. The Committee notes with interest the upcoming revision of Law No. 482/1999 to allow the recognition of Roma, Sinti and Camminanti communities as minorities.

8. The Committee welcomes the adoption on 24 February 2012 of the National Strategy for the Inclusion of Roma, Sinti and Camminanti communities within the European Union Framework covering relevant key sectors such as education, employment, health and housing.

C. Concerns and recommendations

11. The Committee takes note of the statistical data provided on foreigners and on UNAR's activities but regrets the absence in the report of data on the ethnic composition of the population. It is also extremely concerned by the census which took place further to the state of emergency imposed in May 2008 and the "Nomad Emergency Decree" (NED) regarding the settlements of nomad communities in Italy. It is concerned by the information that this census, in the course of which fingerprints and photographs of camps' residents Roma and Sinti including children have been collected. The Committee notes the declaration made by the State party that data has since been destroyed.

The Committee invites the State party to compile disaggregated data on the ethnic composition of its population. In view of its general recommendation No. 8 (1990) on identification with a particular racial or ethnic group, the Committee wishes to recall that the ways in which individuals are identified as members of racial or ethnic groups should be established on a voluntary and anonymous basis, and on the basis of self-identification by the individuals concerned. The Committee also recommends that the State party refrain from conducting emergency censuses targeted at minority groups.

The Committee strongly recommends that the State party inform the communities concerned that data from the previous emergency census have been destroyed.

12. The Committee regrets that the equality provisions of Article 3 of the Italian Constitution do not include non-citizens nor is it clear to the Committee that the offence of racial discrimination in the State party's legislation includes both the purpose and the effect of prohibited acts (art. 1).

In view of its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee urges the State party to ensure that non-citizens enjoy equal protection and recognition before the law. The Committee recommends that the State party ensure that its

legislation and policies do not discriminate, in purpose or effect, on grounds of race, colour, descent, or national or ethnic origin. The Committee draws the attention of the State party to the importance of ensuring that legislative guarantees against racial discrimination apply to non-citizens regardless of their immigration status.

15. The Committee deplores the targeted evictions of Roma and Sinti communities which have taken place since 2008 in the context of the NED and notes with concern the lack of remedies provided to them despite the ruling of the Council of State in November 2011 annulling the NED. It is concerned that forced evictions have rendered several Roma and Sinti families homeless and regrets the ways in which security personnel and video-controlled access to some of these camps are used. As indicated in its previous concluding observations, the Committee is concerned that the Roma, Sinti and Camminanti populations, both citizens and non-citizens, are living in a situation of *de facto* segregation from the rest of the population in camps that often lack access to the most basic facilities. The Committee takes note of the statement of the delegation on the intention to apply a new housing policy in favour of Roma and Sinti (art. 3).

The Committee encourages the State party to take the necessary measures to avoid forced evictions and provide adequate alternative housing to these communities. It also urges the State party to refrain from placing Roma in camps outside the populated areas without basic facilities such as health-services and education. Bearing in mind its general recommendations No. 27 (2000) on discrimination against Roma and No. 30 (2004) on discrimination against non-citizens, as well as the National Strategy for the inclusion of Roma, Sinti and Caminanti communities, the Committee encourages the State party to intensify efforts to avoid residential segregation of Roma and Sinti communities, both citizens and non-citizens, and to develop social housing programmes for them. In view of the ruling of the Council of State, the Committee recommends that the State party take appropriate measures to provide effective remedies to members of Roma and Sinti communities for all the negative effects that followed the implementation of the NED, including by providing appropriate housing for them, and ensuring that segregated camps are not the only housing solution available to them.

17. The Committee is extremely concerned by the prevalence of racist discourse, stigmatization and stereotypes directed against Roma, Sinti, Camminanti and non-citizens. The Committee is concerned that in the few cases where politicians have been prosecuted for discriminatory statements, stays of execution have allowed those prosecuted to continue their political activities and to stand for election. The Committee notes that the fundamental right to freedom of expression does not protect the dissemination of ideas of racial superiority or incitement to racial hatred. The Committee is also concerned that racial discrimination is increasing in the media and on the internet, particularly on the social networks (arts. 2 and 4).

The Committee recommends that the State party:

a) take appropriate measures to prosecute individuals, including politicians, for the acts referred to in Article 4, and to ensure that the legal principle of stay of execution does not prevent justice from prevailing. The Committee wishes to underline that the fundamental right of freedom of expression should not subtract from the principles of equality and non-discrimination as the exercise of the right to freedom of expression carries with it special responsibilities, among which is the obligation not to disseminate ideas on racial superiority or hatred.

b) reinforce the mandate of the Authority which monitors the media to ensure that racist statements are prosecuted and victims granted reparations. The Committee recommends that the State party ensure that the media do not stigmatize, stereotype or negatively target non-citizens and ethnic minorities. It encourages the State party to invite the media to strictly respect the Rome Charter in order to avoid racist, discriminatory or biased language. It also encourages the State party to consider ratifying the Additional Protocol to the European Convention on Cybercrime concerning the criminalization of acts of a racist and xenophobic

nature committed through computer systems.

c) raise awareness among media professionals of their responsibility not to disseminate prejudice and to avoid reporting incidents involving non-citizens, members of Roma and Sinti communities in a way that stigmatizes such communities as a whole, bearing in mind its general recommendations No. 27 (2000) on discrimination against Roma and No. 30 (2004) on discrimination against non-citizens.

18. The Committee is deeply concerned about several cases of racist violence and the murders of a number of migrants, including people of African descent and members of Roma and Sinti communities. It is also concerned at racist violence manifested against members of these groups, including destruction of their property (arts. 2, 4 and 6).

Bearing in mind its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party ensure the security and integrity of non-citizens, and of Roma and Sinti, without any discrimination, by adopting measures to prevent racially motivated acts of violence against them, and ensure prompt action by the police, prosecutors and judges and make sure that perpetrators, including political authorities do not enjoy *de jure or de facto* impunity. It also recommends that the State party systematically collect data on racist hate crimes.

19. The Committee regrets that Roma, Sinti and Camminanti communities continue to experience severe marginalisation and discrimination. It expresses regret that measures such as the NED have fostered stereotypes, prejudices and negative attitudes towards these communities. The Committee regrets the persistence of stereotypes associating ethnic minorities and non-citizens with criminality, and Islam with terrorism (arts. 3 and 5).

In view of the National Strategy for the inclusion of Roma, Sinti and Camminanti communities, the Committee recommends that the State party initiate consultations with these communities as well as organizations representing them for the implementation, monitoring and evaluation of this strategy. Particular attention should be given to the enjoyment of their economic, social and cultural rights as well as awareness-raising activities on tolerance, respect for diversity, social cohesion and non-discrimination in Italian society. The Committee, bearing in mind its general recommendations No. 27 (2000) on discrimination against Roma and No. 30 (2004) on discrimination against non-citizens, invites the State party to keep it informed regarding the implementation and impact of the actions under the above mentioned Strategy.

Bearing in mind the intersectionality of racial and religious discrimination, the Committee recommends that the State party increase its efforts to prevent and combat racial discrimination against Muslims and foster dialogue with Muslim communities.

20. The Committee expresses its concern that children of Roma and Sinti communities continue to experience discrimination with regard to access to education. It is concerned by the information that forced evictions and inadequate housing conditions have negatively affected school enrolment and attendance of children from these communities. The Committee is also concerned about the high school drop-out rate and the low number of Roma and Sinti children enrolled in secondary schools and about the fact that very few of them progress to higher education (art. 5).

The Committee encourages the State party to intensify its efforts to ensure effective access to education by Roma and Sinti children and other vulnerable groups. The Committee recommends that the State party take all necessary measures to facilitate the inclusion of all Roma and Sinti children in the school system. In this regard, the Committee encourages the State party to avoid implementing policies which may indirectly discriminate against these groups or affect their school attendance. It recommends that the State party ensure that the

administrative measure limiting to 30 % the number of children with non-Italian nationality in each class does not negatively affect the enrolment in education of children from the most vulnerable groups.

The Committee encourages the State party to recruit school personnel from among members of Roma and Sinti communities, to promote intercultural education in schools and to provide training to school staff and awareness-raising activities for Roma and Sinti parents.

21. The Committee regrets the lack of information on the situation of migrant women and women belonging to Roma and Sinti communities. It is concerned that the already lamentable situation of these groups as regards their enjoyment of human rights in Italy may be worse for women belonging to these communities (art. 5).

Bearing in mind its general recommendation No. 25 (2000) on gender- related dimensions of racial discrimination, the Committee recommends that the State party provide data on difficulties experienced by Sinti and Roma women as well as migrant women, and that it provide information on measures taken to guarantee to these women equal enjoyment of their rights under the Convention.

22. The Committee is concerned that, despite its previous recommendations, the precarious conditions in assistance, reception and identification centres have worsened with the arrival of migrants from North Africa, particularly in recent years. The Committee is concerned by the information according to which migrants are more likely to be arrested and often receive harsher sentences than Italians. This situation may also have been aggravated by Law No. 94/2009 which criminalized undocumented entry and stay in Italy, and Law No. 129/2011 which allows the detention of undocumented migrants for up to 18 months. The Committee is concerned by breaches of international norms regarding protection of refugees or asylum-seekers as demonstrated by the judgement of the European Court of Human Rights of 23 February 2012 against the State party on the collective expulsion of 24 Somalian and Eritreans (arts. 2 and 5).

The Committee recommends that the State party:

a) take the necessary measures to ensure that conditions in centres for refugees and asylum-seekers meet international standards. The Committee notes the State party's declaration that preliminary steps are being taken to implement the European Court of Human Rights' judgment including bilateral agreements with North African countries so as to avoid similar human rights violations in the future. The Committee wishes to reiterate that the State party has the obligation under its international human rights law to respect the principle of non-refoulement and to ensure that migrants are not subject to collective expulsion.

b) seek to eliminate the discriminatory effects of some of its legislation and prevent arrests and harsher sentences based solely on the origin or status of individuals on its territory and to monitor and punish racial discrimination by law enforcement officials.

c) adopt a comprehensive long-term strategy for the protection of refugees and asylum-seekers in addition to any emergency measures in accordance with the 1951 Convention and the 1967 Protocol relating to the Status of Refugees.

23. The Committee notes the difficulties experienced by non-citizens in accessing some social services provided in particular by local authorities. For example, according to Law 133/2008 they cannot access rent reimbursements offered by the State party without providing a certificate of residence for a minimum of ten years. The Committee expresses its concern that discrimination against non-citizens in the labour market persists. It is also concerned by the lack of appropriate legal protection for migrants, in particular against exploitation or abusive working conditions.

In line with its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party remove obstacles that hinder the enjoyment of economic, social and cultural rights by non-citizens, in particular their rights to education, adequate housing, employment and health. The Committee recommends that the State party

amend its legislation to allow undocumented migrants to claim rights arising out of previous employment and to file complaints irrespective of immigration status. It also recommends that the State party take all other measures to eliminate discrimination against non-citizens in relation to working requirements and conditions.

The Committee recommends that the State party review some of its administrative policies and organize awareness-raising activities for regional and local authorities on the prohibition of racial discrimination, including non-discriminatory access to social services.

24. The Committee notes that a number of Roma who came to Italy following the dismantling of the former Yugoslavia have lived in Italy for many years without citizenship, a situation which also affects their children. The Committee notes that citizenship for children born in Italy whose parents are foreigners is still to be granted (art. 5).

The Committee recommends that the State party take measures to facilitate access to citizenship for stateless Roma, Sinti and non-citizens who have lived in Italy for many years, and to pay due attention to and remove existing barriers. Bearing in mind 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness, the Committee also recommends that the State party take measures to reduce statelessness, in particular statelessness among Roma and Sinti children and children born in Italy.

25. The Committee notes the persistently low number of proceedings and convictions for racial discrimination despite many manifestations of racial or ethnic discrimination and stereotypes. While noting that a revision of Law No. 654 is under consideration to increase effective remedies for victims of racial discrimination, it is concerned that the State party has not taken effective measures to raise awareness of legal remedies available to victims as well as to reduce the costs of court proceedings (arts. 2 and 6).

The Committee requests that the State party provide statistical data on complaints, prosecutions and convictions relating to acts of racism and xenophobia, as well as on compensation provided to the victims of such acts. The Committee also recommends that UNAR continue its collaboration with non-governmental organizations in assisting victims of racism and encourages the State party to review the system of registration so as to facilitate the inclusion of non-governmental organizations on the “list”, allowing them to initiate legal action on behalf of victims.

The Committee recommends that the State party raise awareness among the population, including the most vulnerable social groups, about legal and administrative remedies and increase free legal services for such groups. It requests that the State party include additional information on measures taken to improve redress for victims of racial discrimination in its next periodic report.

Committee on the Rights of the Child

CRC/C/ITA/CO/3-4, 58th Session

31 October 2011

The Committee’s previous recommendations

6. The Committee welcomes efforts by the State party to implement the Committee’s concluding observations on the State party’s previous report (CRC/C/15/Add.198, 2003) and on the initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ITA/CO/1, 2006) and the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/ITA/CO/1 and Corr.1, 2006). However, the Committee regrets that

many of its concerns and recommendations have not been addressed or have been insufficiently addressed.

7. The Committee urges the State party to take all measures necessary to address the recommendations that have not been implemented or sufficiently implemented, including those related to coordination, allocation of resources, systematic training on the Convention, non-discrimination, the best interests of the child, the right to an identity, adoption, juvenile justice, and refugee and asylum-seeking children, and to provide adequate follow-up to the recommendations contained in the present concluding observations.

Data collection

16. The Committee takes note of the creation of a national information system on the care and protection of children and their families, to be concluded in 2012. Nevertheless, the Committee remains concerned at the limited data available on the enjoyment of children's rights, notably statistics on child victims of violence, children deprived of their family environment (including children in foster care), child victims of economic exploitation, children with disabilities, adopted children, and refugee and asylum-seeking children. The Committee expresses concern at the significant discrepancies in the capacity and effectiveness of regional data collection mechanisms.

17. The Committee urges the State party to ensure that the national information system on the care and protection of children and their families becomes fully operational and has the human, technical and financial resources necessary to be effective in gathering pertinent information throughout the country to strengthen the State party's ability to promote and protect children's rights. In particular, the Committee recommends that the State party ensure a fully consistent approach across all regions to effectively measure and address regional disparities.

Non-discrimination

24. The Committee is seriously concerned at policies, laws and practices that discriminate against children in vulnerable situations in the State party. In particular, the Committee is concerned at the following:

(a) Discrimination against Roma, Sinti and Camminanti children (hereinafter termed Roma children) with respect to, inter alia, the fulfilment of their rights to health, education, an adequate standard of living, and social security;

(b) Amendments to the Criminal Code that reduce sentences for propaganda advocating racial or ethnic superiority, in contravention of the Committee's earlier recommendation (CRC/C/15/Add.198, para. 21 (b));

(c) Remaining disparities in the treatment between children who are legitimate, legitimized or biological and children who are born out of wedlock. In this regard, the Committee regrets that the State party has not ratified the European Convention on the Legal Status of Children Born out of Wedlock of the Council of Europe. The Committee takes note of and welcomes the information provided during the dialogue on proposed legislation in this regard.

25. In the light of article 2 of the Convention, the Committee urges the State party to ensure that all children in the State party enjoy equal rights under the Convention without discrimination on any ground, and to this end:

(a) **Expediently take all measures necessary to ensure the effective elimination of any form of discrimination against children of Roma origin, in particular in the education system and the provision of essential services, in line with recommendations of the Committee on the Elimination of Racial Discrimination (CERD/C/ITA/CO/15, para. 20);**

(b) **Effectively adopt a comprehensive national action plan on the prevention of racism, racial discrimination, xenophobia and intolerance, taking into full account all the relevant provisions of the Durban Declaration and Programme of Action, with particular emphasis on article 2 of the Convention on the Rights of Child;**

(c) **Strengthen the mandate of the National Office against Racial Discrimination, in particular**

- in the systematic collection of data on racist and xenophobic acts against children;**
- (d) Incorporate the aggravating circumstances of hate motivation into article 61 of the Criminal Code;**
 - (e) Take appropriate legislative measures to eliminate any remaining discrimination between children born in marriage and children born outside marriage;**
 - (f) Expedite the ratification of the European Convention on the Legal Status of Children Born out of Wedlock.**

Registration and nationality

28. The Committee is concerned at legal and practical restrictions with respect to the right of children of foreign origin to be registered. In particular, the Committee is concerned that Act No. 94/2009 on public security makes it compulsory for all non-Italians to show their residence permit in order to obtain civil records. The Committee is further concerned at the situation of de facto stateless children, including reports of a few hundred stateless Roma children.

29. **The Committee, recalling the State party's acceptance of recommendation No. 40 under the universal periodic review to implement Act No. 91/1992 on Italian citizenship in a manner that preserves the rights of all children living in Italy (A/HRC/14/4/Add.1, p. 5), recommends that the State party:**

- (a) Ensure by law the obligation of, and facilitate in practice, the birth registration of all children born in and living in Italy;**
- (b) Undertake awareness-raising campaigns on the right of all children to be registered at birth, regardless of social and ethnic background and the resident status of parents;**
- (c) Facilitate access to citizenship for children who may otherwise be stateless.**

Violence against children, including abuse and neglect of children

43. The Committee is seriously concerned at the absence of a nationwide common system and framework for the protection and prevention of children from all forms of physical and mental violence and a corresponding monitoring and coordinating body for implementation. In this regard, it notes with serious concern results from a survey indicating that the majority of children aged 14-17 years, mostly in northern and central Italy, have experienced or witnessed child ill-treatment. In particular, while encouraged by positive experiences in some regions with respect to data collection (Piemonte and Veneto) and prevention (Emilia Romagna), the Committee is concerned at:

- (a) The lack of a comprehensive national data collection system and register on all forms of violence against children;**
- (b) Regional disparities in terms of the existence and implementation of guidelines on violence against children, and with respect to prevention, treatment and eradication of violence;**
- (c) The abandonment of children by mothers in difficult situations.**

44. **The Committee reiterates its previous concerns and concluding observations (CRC/C/15/Add.198, paras. 37 and 38) and, drawing its attention to general comment No. 13, recommends that the State party:**

- (a) Prioritize the elimination of all forms of violence against children, including by ensuring the implementation of the recommendations of the United Nations study on violence against children (A/61/299), taking into account the outcome and recommendations of the Regional Consultations for Europe and Central Asia (held in Ljubljana, Slovenia, 5-7 July 2005), and paying particular attention to gender;**
- (b) Provide information concerning the implementation by the State party of the recommendations of the above-mentioned study in its next periodic report, particularly those highlighted by the Special Representative of the Secretary-General on violence against children, in particular:**
 - (i) The development of a national comprehensive strategy to prevent and address all forms of violence and ill-treatment against children;**
 - (ii) The introduction of an explicit national legal ban on all forms of violence against children**

in all settings;

(iii) The consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence and ill-treatment against children.

Children in migration situations

62. The Committee recognizes the particular geographic location of the State party and the constraints inherent therein and appreciates the efforts and measures that, in a situation of emergency and without any kind of assistance, the State party has recently had to adopt and implement in order to face the unexpected and unprecedented arrival of thousands of refugees fleeing wars, political disruptions and poverty in their countries of origin. However, the Committee remains concerned that this situation is harmful to children, whether they are refugees, unaccompanied minors or migrants, in view of the rights to which they are entitled under the Convention.

Asylum-seeking and refugee children

63. The Committee welcomes the prohibition to expel or return persons under the age of 18 years and pregnant women under the immigration laws of the State party. It notes with concern, however, that children of foreign origin can be expelled from the country for reasons of public order and State security and that the State party, in implementing the 2009 interception policy of migrants (“push-back” policy), has returned children, including unaccompanied children, without examining the individual circumstances of each child or providing each child with a possibility to request asylum. The Committee is deeply concerned that some of the migrants pushed back have been identified as requiring international protection, in violation of the State party’s non-refoulement obligations. It is further of serious concern to the Committee that the State party has detained children with their families when forcibly returning migrants, without the possibility to seek asylum.

64. While noting Legislative Decree 25/2008, the Committee is concerned that the State party lacks a framework law on political asylum. It is concerned at the limited capacity and availability, overcrowding, and very poor conditions of reception centres for children, resulting in the placement of children in reception centres not intended for persons under 18. It notes with particular concern reports of substandard reception and living conditions for migrants, especially children, who arrived in Lampedusa and other locations during the spring and summer of 2011.

65. In the light of the above, the Committee recommends that the State party:

(a) Ensure that each child under its jurisdiction, whether on the high seas or on its territory, who seeks to enter Italy has the right to an individual examination of his or her circumstances and to be provided with prompt access to asylum procedures and other relevant national and international protection procedures;

(b) Review domestic law and ensure that it prohibits the expulsion of persons under the age of 18, even for reasons of public order and State security, where there are substantial grounds for believing that there is a real risk of irreparable harm to the child;

(c) Put in place without delay an effective data collection and information storage system with respect to all children, including asylum-seeking and refugee children, with protection needs;

(d) Draw upon the Committee’s general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin in the implementation of the above recommendations.

Unaccompanied children

66. The Committee is concerned at the lack of a holistic and common approach in the State party with respect to unaccompanied children, including the absence of comprehensive guidelines and legal framework on unaccompanied children. It is concerned that existing legal protection and procedures for appointing guardians and issuing residence permits for unaccompanied children are unevenly applied across regions of the State party. The Committee notes the efforts by the

Committee for Foreign Minors to improve the conditions for minors temporarily hosted in Italy, but notes that the Committee's competence is limited to children who do not apply for asylum. It is a matter of concern also that a medical approach is increasingly used to determine the age of unaccompanied children, which jeopardizes in practice the application of the principle of the benefit of the doubt.

67. The Committee recommends that the State party introduce comprehensive legislation ensuring the assistance and protection of unaccompanied children, drawing upon the principles set out in general comment No. 6. In particular, the Committee recommends that the State party establish a specific and permanent national authority to oversee the condition of unaccompanied children, identify their needs and address challenges in the current system, and to develop operational guidelines on unaccompanied children, including on reception, identification, needs assessment and protection strategy. The Committee recommends that the State party adopt a unified age-assessment procedure for unaccompanied children that is multidisciplinary and fully upholds the principle of the benefit of the doubt.

Children of migrant families

68. The Committee expresses deep concern at restrictions in terms of access to health care, education and other social services for children of irregular migrants, noting that families without a residence permit have no right to social services. It is particularly concerned in this regard at the promulgation of Act No. 94/2009 on public security, which criminalizes undocumented entry and stay in Italy and which has a serious negative impact on the enjoyment of economic and social rights of children and families not legally resident in the State party. The Committee, noting the significant increase in the number of children of migrant families in the State party, further regrets that financing for the Fund for the Social Inclusion of Immigrants was cut in 2008 and 2009. The Committee also notes with serious concern reports that children of families not legally resident in the State party may be held in identification and expulsion centres and that domestic law does not regulate the presence of children in such centres.

69. The Committee reminds the State party that the rights stipulated in the Convention should not be limited to children who are citizens of a State party but must extend to all children irrespective of their immigration status, and recommends that the State party:

(a) Review the Immigration Act with a view to ensure migrant children equal rights to education, health and other social services, in line with the Constitutional Court ruling of July 2010;

(b) Ensure in law and practice that the best interests of the child will always be of paramount consideration in deciding on residence permits for foreigners.

Children in armed conflict

70. The Committee is concerned that the State party has not implemented its previous recommendations: (a) to expressly criminalize in domestic legislation the recruitment and use in hostilities of persons under the age of 15 by the armed forces and armed groups (CRC/C/OPAC/ITA/CO/1, para. 12); and (b) to define "direct participation" in domestic legislation (CRC/C/OPAC/ITA/CO/1, para. 11), in line with articles 1 to 4 of the Optional Protocol on the involvement of children in armed conflict.

72. The Committee, recalling its earlier recommendations, urges the State party to intensify its efforts to implement the Optional Protocol on the involvement of children in armed conflict, and:

(d) To include the recruitment and use of children in armed conflict as a ground for refugee status in domestic legislation;

Sexual exploitation

73. The Committee welcomes the creation of the Observatory for the Fight against Paedophilia and Child Pornography, the National Centre for Combating Child Pornography on the Internet, and the

Observatory on Prostitution and Related Crimes, and notes as positive the adoption of Act No. 11/2009, which makes sexual acts perpetrated against children an aggravating circumstance. The Committee is concerned, however, at the lack of resources and a plan to coordinate and fund their activities. In this regard, and noting the increase of street prostitution in major cities in the State party, the limited data on and activities focusing on eliminating child prostitution is of considerable concern to the Committee. While further noting as positive the strengthening of domestic legislation against sexual exploitation, child pornography and child prostitution (Act No. 38/2006), the Committee regrets that it still does not define child pornography as required under the Optional Protocol on the sale of children, child prostitution and child pornography.

74. The Committee is concerned that funding for the implementation of the Optional Protocol has been reduced by half since 2000, and that the focus is primarily on trafficking. The Committee is further concerned at the limited number of programmes aimed at the prevention of sexual abuse and exploitation of particularly vulnerable groups of children, and at difficulties in the identification of victims of child pornography and child prostitution.

75. The Committee strongly recommends that the State party:

(a) Fully harmonize national legislation with the Optional Protocol on the sale of children, child prostitution and child pornography, in particular by introducing a definition of child pornography into its Criminal Code;

(b) Develop and implement a strategy for the prevention of sexual exploitation and abuse, focusing on vulnerable groups of children, including Roma children;

(c) Identify and protect victims, including by providing specialist training for and enhanced resources to the Specialist Unit for the Analysis of Child Pornographic Material;

(d) Ensure the effective functioning of the Observatory for the Fight against Paedophilia and Child Pornography, including appointing its members, and operationalize the database to monitor this crime;

(e) Reconstitute the Observatory on Prostitution and Related Crimes or entrust its mandate and activities to an existing body, with a view to ensure monitoring of child prostitution and abuse.

Children belonging to minority groups

79. The Committee is seriously concerned about the poor health of Roma children, as manifested in higher infant mortality rates, a higher incidence of chronic and infectious diseases, and low vaccination rates, and that limited access to health care and other social services is, to a certain extent, considered to be self-imposed. The Committee is further concerned at the very limited number of Roma children enrolled in primary and especially secondary school. Noting the deplorable economic situation and social exclusion of the Roma community, the Committee is alarmed that the State party is addressing their situation primarily through security measures (Security Pacts of 2006, emergency decree of 2008) rather than concerted social inclusion measures based on participation. In this respect, the Committee is deeply concerned that the living conditions of Roma have further deteriorated pursuant to measures taken under the emergency decrees, exacerbating de facto segregation through the construction of “temporary housing containers”. The Committee notes with utmost concern the death of six children in the past year in “illegal” Roma camps with very poor conditions, as well as evictions, deportations, and government efforts to remove Roma children from their parents for their protection. The Committee also expresses its concern at the increase in begging, particularly among Roma children, and at the nexus between child begging and organized crime. The Committee is further concerned at reports of the prevalence of early marriage among Roma in Italy and at the limited information from the State party on measures to address this.

80. The Committee recommends that the State party:

(a) Discontinue the state of emergency in relation to settlements of nomad communities and the Ordinances of 30 May 2008;

- (b) Develop and adopt, with the participation of affected communities, a national plan of action for the genuine social integration of Roma in Italian society, taking due consideration of the vulnerable situation of Roma children, in particular in relation to health and education;**
- (c) Allocate adequate human, technical and financial resources to ensure sustainable improvement in the socio-economic conditions of Roma children;**
- (d) Adopt measures to address harmful practices such as early marriage;**
- (e) Develop relevant guidelines and provide training for government officials to enhance understanding of Roma culture and prevent discriminatory and stereotypical perceptions of Roma children;**
- (f) Ratify the European Charter for Regional or Minority Languages.**

81. The Committee recommends that the State party ratify the core United Nations human rights treaties and the Optional Protocols thereto to which it is not yet a party, namely, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the 1961 Convention on the Reduction of Statelessness.

Committee on the Elimination of Discrimination against Women

CEDAW/C/ITA/CO/6, 49th Session

2 August 2011

Temporary special measures

20. The Committee is concerned that the State party's understanding of the concept of temporary special measures, as expressed in its report, is not in accordance with the Committee's interpretation of these measures as set out in its general recommendation No. 25 (2004), and that such measures are not systematically applied as a necessary strategy to accelerate the achievement of de facto or substantive equality between women and men in all areas of the Convention.

21. **The Committee calls upon the State party to:**

- (a) Familiarize all relevant officials with the concept of temporary special measures according to article 4, paragraph 1, of the Convention and as interpreted in the Committee's general recommendation No. 25;**
- (b) Take into account the fact that long-term and definitive measures alone could be insufficient to comply with the State party's general obligation to fulfil women's right to non-discrimination and to the enjoyment of equality with men and that temporary special measures are "appropriate means" for achievement of gender equality, in particular in employment;**
- (c) Apply temporary special measures in various forms in areas where women are underrepresented, such as legislative, executive, administrative and political bodies, or disadvantaged, in particular with the aim to further improve the situation of rural, migrant, older, Roma and Sinti women, and women with disabilities, and allocate additional resources where needed to accelerate their advancement.**

Violence against women

26. The Committee welcomes the adoption of Act No. 11/2009, which introduced a crime of stalking and mandatory detention for perpetrators of acts of sexual violence, the national action plan to combat violence against women and stalking and the first comprehensive research on physical, sexual and psychological violence against women, developed by the National Statistics Institute. However, it remains concerned about the high prevalence of violence against women and girls and

the persistence of sociocultural attitudes condoning domestic violence, as well as by the lack of data on violence against immigrant, Roma and Sinti women and girls. The Committee is further concerned about the high number of women murdered by their partner or ex-partner (femicide), which may indicate a failure of the State party's authorities to adequately protect the women victims from their partners or ex-partners.

27. In accordance with its general recommendation No. 19 (1992) on violence against women and the views adopted by the Committee under the Optional Protocol procedures, the Committee urges the State party to:

- (a) Put emphasis on comprehensive measures to address violence against women in the family and in society, including through addressing the specific needs of women made vulnerable by particular circumstances, such as Roma and Sinti, migrant and older women and women with disabilities;**
- (b) Ensure that female victims of violence have immediate protection, including expulsion of the perpetrator from the home, a guarantee that they can stay in secure and well-funded shelters, in all parts of the country, and that redress, including compensation;**
- (c) Ensure that public officials, especially law enforcement officials and professionals in the judiciary, health care, social work and education are systematically and fully sensitized to all forms of violence against women and girls;**
- (d) Enhance the system of appropriate data collection on all forms of violence against women, including domestic violence, protection measures, prosecutions and sentences imposed on perpetrators, and conduct appropriate surveys to assess the prevalence of violence experienced by women belonging to disadvantaged groups, such as Roma and Sinti, migrant and older women and women with disabilities;**
- (e) Further pursue, in collaboration with a broad range of stakeholders, including women's and other civil society organizations, awareness-raising campaigns through the media and public education programmes to make violence against women socially unacceptable, and disseminate information on available measures to prevent acts of violence against women among the general public;**
- (f) Ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence, in a timely manner.**

Trafficking and exploitation of prostitution

28. The Committee commends the State party for the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings, the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and for efforts undertaken to provide social assistance to identified victims of trafficking, and to prosecute trafficking offenders. However, the Committee is concerned that the application of article 18 of Legislative Decree No. 286/1998, which provides for a special residence permit for victims of trafficking and exploitation for social protection purposes, may, if restrictively interpreted, deprive women, who were trafficked in another country and then led to Italy for the purpose of trafficking, of adequate protection. The Committee is further concerned that a "security package" adopted by the Government in 2010 has seriously prevented law enforcement authorities from adequately identifying potential victims of trafficking.

29. The Committee calls upon the State party to:

- (a) Take into account the transnational dimension of the crime of human trafficking, as acknowledged in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and standardize identification and referral procedures for potential victims;**
- (b) Expedite the process of adopting the national action plan against trafficking;**

(c) Ensure that interpretation of article 18 of Legislative Decree No. 286/1998 does not deprive women who were trafficked in another country of adequate protection.

30. The Committee notes that several bills (including AS 1079 of 2008, criminalizing prostitution in public places), as part of a more general package of measures to eradicate prostitution and sexual exploitation, are under discussion in the State party. However, the Committee is concerned by the acknowledgment, by the State party, that one of the purposes of the proposal to criminalize prostitution in public spaces is to ensure public security and decorum in urban life and that, apparently, the rights of women involved in street prostitution, the vast majority of whom are immigrants, have not been considered in the formulation of such measures. The Committee also noted that the State party considers prostitution a hidden and unknown phenomenon that tends to be practiced in closed places. The Committee is concerned about the absence of assistance and support programmes for women wishing to leave prostitution and who were not victims of exploitation.

31. The State party is encouraged to:

(a) Undertake an impact assessment of the proposed measures criminalizing street prostitution with the aim of identifying potential risks for the exploitation of women who may move from outdoor prostitution circuits to indoor prostitution, where, as recognized by the State party, prostitution remains a hidden and unknown phenomenon;

(b) Continue formulating strategies and programmes to prevent women from entering prostitution and to establish programmes of support and rehabilitation for women who wish to leave prostitution, including by providing information on, and support in relation to, alternative livelihood options. Education

34. The Committee is concerned about the high dropout rates of Roma and Sinti girls and women from school and that they remain in a vulnerable and marginalized situation with regard to access to education.

35. The Committee calls on the State party to:

(a) Implement measures to decrease dropout rates among Roma and Sinti girls and to reintegrate them into the educational system;

(b) Provide information, in its next report, on concrete projects directed at the education of Roma girls and women, under the Decade of Roma Inclusion 2005-2015.

Employment

36. The Committee notes the adoption of various measures taken by the State party to support the participation of women in the labour market and facilitate the reconciliation of family and work life, such as the plan "Italy 2020" and the directive on measures to implement the principle of equality and equal opportunities between men and women in public administration. It continues to be concerned about the situation of women in the labour market, which is characterized, in spite of women's high level of education, by a persistent high rate of female unemployment. The Committee wishes to draw the State party's attention to the disadvantaged situation of women who interrupt their careers for family reasons and the related consequences for retirement and old-age pensions, the concentration of women in low-paid sectors of employment, the wage gap between women and men and the fact that a significant number of women leave the workforce after childbirth and that only 10 per cent of parental leave is taken by fathers. The Committee notes the intention of the State party to adopt a national reform plan that foresees, by 2020, a 12 per cent increase in women's employment and introduces incentives for stable work. In this regard the Committee brings to the State party's attention its obligation to ensure uniform results of such a reform throughout the country.

37. The Committee urges the State party to:

(a) Continue to take concrete measures to ensure de facto equal opportunities for women and men in the labour market, including through temporary special measures in accordance with

article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25;

(b) **Take concrete and proactive measures to eliminate occupational segregation, both horizontal and vertical, including through education, training and retraining and effective law enforcement mechanisms;**

(c) **Develop and apply job evaluation systems based on gender-sensitive criteria and collect sex-disaggregated data regarding the type and extent of wage differentials, in order to eliminate the practice of women receiving unequal pay for work of equal value;**

(d) **Monitor the impact of the use of fixed-term and other flexible contracts and increase incentives for employers, when appropriate, to counteract possible adverse consequences of such contracts for women, especially in regard to their job security, salary levels and pension and retirement benefits;**

(e) **Enhance its efforts to ensure reconciliation of family, private and professional responsibilities and for the promotion of equal sharing of domestic and family tasks between women and men, including by increasing the incentives for men to use their right to parental leave and taking concerted efforts to provide for additional childcare facilities for children of different age groups, in particular in regions with few childcare facilities.**

40. The Committee is also concerned about the difficulties experienced by immigrant women and women with disabilities regarding their integration and participation in the labour market.

41. **The Committee calls upon the State party to mainstream the issues of immigrant women and women with disabilities, who may suffer multiple forms of discrimination, into its employment policies and programmes, and to intensify its efforts, including with the adoption of temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, aimed at achieving de facto equal opportunities for immigrant women and women with disabilities in the labour market.**

Disadvantaged groups of women

52. While noting measures taken with the aim of enhancing the integration of migrant, Roma and Sinti women into Italian society, the Committee is deeply concerned that they are subject to multiple forms of discrimination with respect to accessing education, health and employment. The Committee also remains concerned at the violence and discrimination on the grounds of sex that such women face in their own communities, such as early marriage. It also notes the prevalence of female genital mutilation among migrant women. The Committee is further concerned that the State party's report contains insufficient information on measures taken to improve the situation of older women and that older women may be marginalized, in particular immigrant older women.

53. **The Committee urges the State party to:**

(a) **Intensify its efforts to eliminate discrimination against Roma, Sinti, immigrant, refugee, asylum-seeking and older women, with respect to accessing education, health and employment;**

(b) **Collect statistics on early marriages among Roma and Sinti girls;**

(c) **Take measures to prevent discrimination against women belonging to disadvantaged groups, both within their communities and in society at large, to combat violence against them and to increase their awareness of the availability of social services and legal remedies, as well as familiarize them with their right to gender equality and non-discrimination;**

(d) **Design awareness-raising programmes involving health service providers, community and religious leaders and women's organizations, and launch specific culturally sensitive information campaigns to prevent discrimination against Roma, Sinti and migrant women;**

(e) **Ensure the full implementation of legislation prohibiting female genital mutilation, including the prosecution of perpetrators, with a view to eliminating this harmful practice;**

(f) **Conduct regular and comprehensive studies on discrimination against immigrant, refugee, asylum-seeking and older women, to collect statistics on their employment, education, health**

situation and on all forms of violence that they may experience, and to submit such information in its next periodic report.

Refugee and asylum-seeking women

54. The Committee remains concerned that a gender-sensitive approach has not been mainstreamed throughout the process of granting asylum and/or refugee status, and by the absence of laws and policies concerning women asylum-seekers and refugees, including the lack of recognition of gender-related forms of persecution in determining refugee status.

55. **The Committee recommends that the State party fully integrate a gendersensitive approach throughout the process of granting asylum/refugee status, including in the application stage, and recognize gender persecution as a ground for recognition of refugee status, according to the Convention relating to the Status of Refugees, adopted in 1951.**

II. Special Procedures

Report by the Special Rapporteur on the human rights of migrants, François Crépeau

Addendum: Mission to Italy
Human Rights Council, 23rd Session
A/HRC/23/46/Add.3, 30 April 2013

VII. Conclusions and recommendations

58. **While Italy has developed a large apparatus of laws and policies directed towards managing irregular migration and border management, much remains to be done in order to ensure the full respect for the human rights of migrants in Italy.**

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

91. **Develop a comprehensive national system of data collection, analysis and dissemination regarding immigration policies and practices, which should be used as a foundation for rights-based policy-making on migration. The data collection should include migrants in detention and deportations.**

93. **Ensure the establishment of a fully independent national preventive mechanism, in accordance with the Optional Protocol to the Convention against Torture, which is mandated to visit all places where migrants may be deprived of their liberty.**

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

B. Border management

95. **Fully respect the human rights of migrants in relation to the implementation of all readmission agreements entered into.**

96. **Ensure that readmission and cooperation agreements, aimed at, inter alia, combatting irregular migration, include safeguards to fully respect the human rights of migrants as well as ensure adequate protection of vulnerable migrants, including asylum seekers and refugees, in particular with regards to the principle of non-refoulement.**

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

98. Revoke the declaration (Ordinance of 24/09/2011) of Lampedusa as not being a safe place for the disembarkation of migrants rescued at sea in order to maintain an effective system of search and rescue at sea.

99. Set up information services (providing information on international and national protection mechanisms in all landing points.

C. Bilateral agreements

100. Ensure bilateral agreements are negotiated and published in full transparency, with clear human rights protections integrated at all stages.

101. Ensure that migration cooperation with Libya does not lead to any migrant being returned to Libyan shores against their will, either by Italian authorities, or by Libyan authorities with the technical or logistical support of their Italian counterparts.

102. Prohibit the practice of informal automatic “push-backs” to Greece.

103. Ensure that “quick return” agreements, such as those with Tunisia and Egypt, adequately safeguard the human rights of migrants, and ensure proper and systematic individual screening for protection concerns, as well as guarantee full access by international and civil society organizations, including Praesidium project members.

104. Ensure that all the agreements are negotiated with the principle of transparency, and made publicly available.

D. Detention

105. Ensure that migrants are detained only because they present a danger for themselves or others, or would abscond from future proceedings, always for the shortest time possible, and that non-custodial measures are always considered first as alternatives to detention.

106. Improve enforcement of the regulation with regard to the management of Government centres for irregular migrants, drawing from the best practices observed in the present network of CIEs and in other facilities in Europe and around the world, and in accordance with relevant standards espoused by international human rights law.

107. Ensure that all detained migrants have access to proper medical care, interpreters, adequate food and clothes, hygienic conditions, adequate space to move around and access to outdoor exercise.

108. Systematically inform detained migrants in writing, in a language they understand, of the reason for their detention, its duration, their right to have access to a lawyer, the right to promptly challenge their detention and to seek asylum.

109. Seek to ensure the early identification of migrant prisoners to avoid further detention in CIEs.

110. Ensure that all migrants deprived of their liberty are able to promptly contact their family, consular services and a lawyer, which should be free of charge.

111. Guarantee the full access by international organizations, including UNHCR and IOM, civil society organizations, doctors, journalists and lawyers to all areas where migrants

are held or detained, at all stages of the procedure, including in temporary reception centres.

112. Develop comprehensive human rights training programmes for all staff who work in such centres.

113. Ensure full and proper access to justice for all detainees, including a more accountable system for lodging complaints within detention centres.

114. Establish a fairer and simpler system for migrant detainees to be able to challenge expulsion and detention orders.

115. Provide explicit training for the Justices of the Peace on international human rights law and international refugee law.

116. Reduce the maximum period of immigration detention for the purposes of identification to 6 months.

E. Asylum seekers

117. Ensure that all detained persons who claim protection concerns are, without delay, adequately informed of their right to seek asylum, have access to registration of asylum claims and can communicate with UNHCR, lawyers and civil society organizations.

118. Ensure that all decision-makers within the Territorial Commissions are adequately trained in asylum and human rights law in order to appropriately determine asylum claims.

119. Ensure that those migrants awaiting a judicial decision on their request to suspend repatriation procedures, following a negative decision made by the competent Territorial Commission, not be repatriated before the aforementioned decision is made.

F. Cross-cutting concerns

120. Provide access to basic services to everyone living in the Italian territory, regardless of their immigration status, in accordance with international human rights standards.

121. Take all necessary measures to execute of the judgment of the European Court of Human Rights in the *Hirsi* case.

122. Fully implement the EU Employers' Sanctions Directive, including through developing comprehensive measures to sanction Italian employers who abuse the vulnerability of migrants by paying them low or exploitative wages.

123. Effectively sanction landlords who exploit migrants by housing them in inappropriate and unsanitary conditions.

124. Use terminology that doesn't reinforce prejudices against migrants and refrain from using charged expressions such as "illegal migrant" or "*clandestini*", as well as take a leadership role in developing a political discourse that stresses the necessary protection of human rights for all, including migrants, whatever their administrative status.

125. Support, both technically and financially, civil society organizations which offer services and support to migrants, regardless of their administrative status, and especially those which help migrants defend their rights.

G. Recommendations to the European Union

126. Ensure that EU frameworks do not contribute to the restriction of human rights protections of migrants in Italy.

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

128. Ensure that the cooperation with FRONTEX takes full account of the human rights of migrants, rather than focusing only on security-related aspects.

129. Support, both technically and financially, civil society organizations in Italy which offer services and support to migrants, including those which help migrants defend their rights.

130. Promote the family reunification among unaccompanied minors (both asylum seekers and not) with their relatives regularly resident in other EUMS.

131. Ensure the full implementation of responsibility sharing between EU member States in the management of its external borders, taking into full account the geographical position of Italy that renders its coastlines particularly exposed to migration flows.

Report of the Working Group on Arbitrary Detention

Addendum: Mission to Italy

Human Rights Council, 10th Session

A/HRC/10/21/Add.5, 26 January 2009

118. Italy should ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

119. The Government should implement the proposals made in the De Mistura report with regard to centres holding asylum-seekers and migrants.

120. With regard to first reception centres for asylum-seekers (CDAs), the deprivation of liberty in them, at present de facto, needs to be provided with a legal basis. If the detention of asylum-seekers in CDAs until the issuance of the document certifying their status as asylum-seekers is maintained, it must be limited by strict and tight timelines.

121. Detention in Identification and Expulsion Centres should be based on more careful examination of the individual case on the basis of criteria enshrined in law. Where a person files an asylum claim while detained in a CIE, continued detention in the CIE should not be automatic. Measures to promote the voluntary repatriation of expellees should be given more consideration. Where the expulsion of a migrant is ordered by a criminal court, preparations for the deportation should be carried out while the migrant is in prison, to avoid detention in a CIE. Legal aid to persons detained in CIEs should be strengthened.