



ADDENDUM TO

NANSEN NOTE 20-2

**The situation of beneficiaries  
of international protection in  
Italy**

The NANSEN NOTE is a thematic tool aimed at legal practitioners and lawyers assisting people in need of international protection. It provides a legal framework and analysis of a practice that affects access to and effective enjoyment of international protection as well as the right to liberty and standards of protection in detention. Particular attention is paid to vulnerability, detention and effective access to quality legal assistance.

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## Table of Content

<b>Part. 1 Introduction</b> .....	<b>2</b>
<b>Part. 2 Living conditions</b> .....	<b>4</b>
<i>2.1 Housing</i> .....	<i>4</i>
<i>2.2 Social welfare</i> .....	<i>6</i>
<i>2.3 Employment</i> .....	<i>8</i>
<i>2.4 Poverty</i> .....	<i>10</i>
<b>Part. 3 Medical and psychological care</b> .....	<b>10</b>
<b>Part. 4 Societal exclusion and violence</b> .....	<b>12</b>
<i>4.1 The Salvini Decree (Decree Law 113/2018, implemented by Law 132/2018 on the asylum system)</i> ...	<i>12</i>
<i>4.2 Trauma</i> .....	<i>13</i>
<i>4.3 Equal treatment</i> .....	<i>16</i>
<i>4.4 Integration</i> .....	<i>18</i>
<b>Part. 5 Children</b> .....	<b>18</b>
<i>5.1 Living conditions</i> .....	<i>18</i>
<i>5.2 Healthcare</i> .....	<i>19</i>
<i>5.3 Education</i> .....	<i>19</i>
<b>Part. 6 Vulnerability</b> .....	<b>20</b>
<i>6.1 Victims of rape and sexual exploitation</i> .....	<i>21</i>
<i>6.2 Victims of torture</i> .....	<i>23</i>
<b>Part. 7 Covid-19</b> .....	<b>24</b>
<b>Part. 8 Conclusion</b> .....	<b>25</b>
<b>Bibliography</b> .....	<b>26</b>
<i>Law</i> .....	<i>26</i>
<i>Cases</i> .....	<i>27</i>
<i>Reports</i> .....	<i>27</i>
<i>Articles</i> .....	<i>28</i>
<i>Books</i> .....	<i>29</i>
<i>Internet sources</i> .....	<i>29</i>

## **Part. 1 Introduction**

The present addendum has been written to supplement the NANSEN Note 19-3 which focusses on the legal situation of people who have been granted international protection in Italy, whether refugee status or subsidiary protection, but have then travelled onwards and re-requested international protection in Belgium.<sup>1</sup>

People who have been granted an international protection in a Member State of the European Union – hereinafter referred to as “status holders” – are granted rights by the Geneva Convention and the Qualification Directive 2011/95/EU<sup>2</sup>, such as the right to access employment, education, social welfare, healthcare, accommodation and integration facilities, from which derive several positive obligations for the Member State in which the protection has been obtained.

From the principle of mutual trust between Member States of the European Union stems the presumption that the rights deriving from an international protection are fully ensured in all Member States, making all of them equally safe countries for status holders. As a result, article 33, §2, a) of the Procedure Directive 2013/32/EU<sup>3</sup> provides an inadmissibility procedure according which a person who has been granted the refugee status or benefits from a subsidiary protection in one Member State cannot request an international protection in another Member State, since the former is presumed to offer a protection equal to the latter, and if it is the case, he or she will be returned to the country in which he or she obtained protection in the first place.

However, the Court of Justice of the European Union (C.J.E.U.) has stated, in the *Ibrahim* case, that the principle of mutual trust and the presumption of equal protection of status holders deriving from it can be rebutted if it is demonstrated that there are serious and proven risks that the status holder will suffer from an inhuman or degrading treatment if returned to the Member State in which he or she has obtained international protection, in violation of article 4 of the Charter of Fundamental Rights of the European Union (CFR). In other words, it means that a status holder who has a protection status in Italy and lodges an application for international protection in Belgium will only see his or her application declared admissible if he or she rebuts the presumption that the status in Italy offers him or her full protection. This implies to reach a high threshold by demonstrating that “*the indifference of the authorities of a Member State would result in a person wholly dependent on State support finding himself, irrespective of his wishes and his personal choices, in a situation of extreme material poverty that does not allow him to meet his most basic needs, such as, inter alia, food, personal*

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<sup>1</sup> Note: Italy provides three types of protection, namely refugee protection, subsidiary protection and special protection for persons who do not fulfill the criteria for refugee or subsidiary protection but nevertheless suffer from social fragility, such as victims of domestic violence or exploitation in the workplace. The present addendum will only concern the case of people who have been granted an international protection in Italy, i.e. refugee protection or subsidiary protection.

<sup>2</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

<sup>3</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection.

*hygiene and a place to live, and that undermines his physical or mental health or puts him in a state of degradation incompatible with human dignity”.*<sup>4</sup>

The European Court of Human Rights (ECtHR) has also examined this question under article 3 of the European Convention on Human Rights. From the case law of the Court<sup>5</sup>, it can be deduced that a breach of article 3 of the European Convention on Human Rights (ECHR) will also lead to a rebuttal of the principle of mutual trust and the presumption of equal protection of status holders deriving from it. The threshold to demonstrate that article 3 has been breached is high and similar to the one set by the C.J.E.U., since it is necessary to prove the total dependence of the status holder on the state, his or her situation of severe deprivation or need incompatible with human dignity, and the indifference of the state’s authorities in the face of his or her situation.

However, there are contradictions between the case-law of the ECtHR and the C.J.E.U. While the former has held that the violation of one of the rights laid out in the Qualification Directive by a Member State could result in a breach of article 3 ECHR and a rebuttal of the principle of mutual trust<sup>6</sup>, the latter does not take into account breaches of the rights set out in the Directive to evaluate whether article 4 CFR has been breached.<sup>7</sup> In addition, the ECtHR considers that the protection offered by article 3 ECHR is independent of any conduct of the person invoking it and it thus doesn’t take into consideration the activities of the status holder when evaluating whether article 3 has been breached<sup>8</sup>, while the C.J.E.U. considers that article 4 CFR can only be breached if the status holder has made sufficient efforts to seek employment, housing, social and medical assistance, and so on.<sup>9</sup>

Since article 4 CFR and article 3 ECHR have to be interpreted in parallel<sup>10</sup>, NANSEN considers that the C.J.E.U. should also take into account violations of the rights set out in the Qualification Directive to evaluate whether the status holder would be subject to a degrading treatment in violation of article 4 CFR. As for the second contradiction, NANSEN recommends seeking a preliminary reference to the C.J.E.U. to determine whether the individual conduct of the status holder must be taken into account or not to determine whether article 4 CFR has been breached.

This addendum provides an overview of the current situation for status holders in Italy during the period August 2019 to June 2020, focusing on living conditions (part. 2), medical and psychological care (part. 3), societal exclusion and violence (part. 4), children (part. 5), and vulnerability (part. 6). The aim is to demonstrate that certain status holders in Italy, in particular vulnerable ones, suffer from a violation of several of their rights under the Qualification Directive and other international conventions, meaning that Italy fails to ensure them a full

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<sup>4</sup> C.J.E.U., 19 March 2019, *Ibrahim, Sharqawi e.a. and Magamadov*, C-297/17, C-318/17, C- 319/17 and C-428/17, §90.

<sup>5</sup> ECtHR, 21 January 2011, *M.S.S. v. Belgium and Greece*, n°30696/09; ECtHR, 4 November 2014, *Tarakhel v. Switzerland*, n°29217/12.

<sup>6</sup> ECtHR, 21 January 2011, *M.S.S. v. Belgium and Greece*, n°30696/09.

<sup>7</sup> C.J.E.U., 19 March 2019, *Ibrahim, Sharqawi e.a. and Magamadov*, C-297/17, C-318/17, C- 319/17 and C-428/17, §92.

<sup>8</sup> ECtHR, 15 November 1996, *Chahal v. United Kingdom*, n°22414/93, §80; ECtHR, 21 January 2011, *M.S.S. v. Belgium and Greece*, n°30696/09, §259.

<sup>9</sup> C.J.E.U., 19 March 2019, *Ibrahim, Sharqawi e.a. and Magamadov*, C-297/17, C-318/17, C- 319/17 and C-428/17, §90.

<sup>10</sup> Article 52, §3, Charter of Fundamental Rights of the European Union.

protection, resulting in a degrading treatment in breach of article 4 of the Charter of Fundamental Rights and article 3 of the European Convention on Human Rights. Consequently, the principle of mutual trust can be rebutted, and they can qualify to obtain a new international protection in Belgium in accordance with the case-law of the C.J.E.U. and the ECtHR.

## **Part. 2 Living conditions**

The Belgian Council of Alien Law Litigation (CALL) has ruled that degrading living conditions in the state in which the status holder has obtained an international protection, such as life on the street, absence of appropriate medical care and insufficient means of subsistence<sup>11</sup>, can lead to a rebuttal of the principle of mutual trust between Member States.

However, the CALL also held that these degrading living conditions cannot result from the will, behaviour or choices of the status holder. In a decision of the 16 March 2020, it held that the fact that the applicant spent money on lottery games and stayed in Italy for 7 years demonstrated that he was not living in a situation of extreme material deprivation, although he claimed to not have a permanent accommodation and revenue in Italy and to have health issues.<sup>12</sup> In other decisions, the CALL rejected the recourse of applicants who had opportunities to work in Italy, although their revenue was very low and insufficient to have an adequate standard of living.<sup>13</sup> Lastly, the CALL held, in a decision of the 22 January 2020, that the fact that it was difficult for the status holder, who had a physical disability, to find a job in Italy was not in itself sufficient to conclude that she did not have access to the labour market since she didn't prove that she searched for works that didn't require her to be physically active and could suit her disability.<sup>14</sup>

Many status holders in Italy suffer from precarious living conditions, namely a lack of access to proper housing, social welfare and employment, many of them thus living in a situation of extreme poverty, resulting from the indifference and lack of action of the Italian state.

### **2.1 Housing**

In Italy, status holders face a severe lack of protection concerning accommodation, with the result that many of them live in the street or in informal settlements.<sup>15</sup>

The UNHCR, IOM, and other humanitarian organizations and NGOs reported that thousands of legal and irregular foreigners, including status holders, were living in abandoned, inadequate, or overcrowded facilities in Rome and other major cities.<sup>16</sup> Moreover, the presence of status holders within illegal occupations of buildings, both public and private, has increased.<sup>17</sup> Many of them live in spaces of insecurity, and violence.<sup>18</sup> They are unable to access not only territorial social and health services, but also the most basic goods such as

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<sup>11</sup> Council of State, n°211 220, 18 October 2018.

<sup>12</sup> CALL, n°234 072, 16 March 2020.

<sup>13</sup> CALL, n° 234 521, 26 March 2020; CALL, n°232844, 19 February 2020; CALL, n°231 052, 9 January 2020.

<sup>14</sup> CALL, n° 231 641, 22 January 2020.

<sup>15</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 17.

<sup>16</sup> United States Department of State, *Italy 2019 Human Rights Report*, 2019, 11.

<sup>17</sup> TERLIZZI, A., "Reception Policies, Practices and Responses. Italy Country Report", *Working Papers Global Migration: Consequences and Responses*, 2020, 32.

<sup>18</sup> MENDOLA, D., and Busetta, A., "Health and Living Conditions of Refugees and Asylum Seekers: A Survey of Informal Settlements in Italy", *Refugee Survey Quarterly*, 2018, 477, 482.

water, food, electricity.<sup>19</sup> They live on the margins of society without any prospect of improving their situation. Their everyday life consists of covering their basic needs, such as searching for food and a place to sleep.<sup>20</sup> These precarious housing conditions have serious consequences on their mental and physical health.<sup>21</sup>

The research suggests that there is a lack of adequate accommodation for vulnerable status holders in Italy, particularly the mentally ill. Many who would qualify as vulnerable live in precarious circumstances on the streets or in squats. The situation of numerous status holders who qualify as particularly vulnerable and permanently live on the streets or in squats might not be compatible with the respect for human dignity that the Charter of Fundamental Rights requires from Member States.<sup>22</sup>

This situation cannot be considered as resulting from the choices of status holders, since the Italian state does act to ensure proper accommodation to them.

Firstly, protection status does not allow the status holder to remain in first-line reception facilities or CAS (“Centro di Accoglienza Straordinaria”). The status holder can only access second-line reception facilities, named SIPROIMI, which creates a protection gap in practice, given the scarcity of places in the SIPROIMI system.<sup>23</sup> Indeed, the system currently has 33,625 places, against 35,881 places in 2018.<sup>24</sup> It is not guaranteed that there will always be available places and there are no waiting lists.<sup>25</sup> In addition, the number of places dedicated to unaccompanied minors still falls short of current needs (see part. 5.1).<sup>26</sup>

Moreover, reception in SIPROIMI can only last six months, except in certain exceptional circumstances. If a person has already had access to SIPROIMI and is subsequently returned to Italy, this person will not have access to the SIPROIMI again. The only exception to this rule is if the person applies to the Ministry of the Interior demonstrating new vulnerabilities.<sup>27</sup>

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<sup>19</sup> Doctors Without Borders, *Out of Sight, report from February 2018*; Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 69.

<sup>20</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 58.

<sup>21</sup> ANDRIESEN, J.W., BRUNEKREEFF, B., and ROEMER, W., “Home Dampness and Respiratory Health Status in European Children”, *Clinical and Experimental Allergy*, 1998, 191–200; FEW, R., and al., “Informal Subdivision of Residential and Commercial Buildings of Sao Paulo and Johannesburg: Living Conditions and Policy Implications”, *Habitat International*, 2004, 427-442; MENDOLA, D., and BUSETTA, A., “Health and Living Conditions of Refugees and Asylum Seekers: A survey of Informal Settlements in Italy”, *Refugee Survey Quarterly*, 2018, 477, 483.

<sup>22</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 102.

<sup>23</sup> “Housing”, available at <https://www.asylumineurope.org/reports/country/italy/content-international-protection/housing> (last accessed at 13 June 2020).

<sup>24</sup> “Rapporto Annuale SPRAR/SIPROIMI 2018”, available at [www.sprar.it/wp-content/uploads/2019/11/Atlante-Sprar-Siproimi-2018-leggero.pdf](http://www.sprar.it/wp-content/uploads/2019/11/Atlante-Sprar-Siproimi-2018-leggero.pdf) (last accessed at 3 January 2020).

<sup>25</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 52.

<sup>26</sup> According to the SIPROIMI manual, published by Servizio Centrale, the accommodation of people who have already benefited from accommodation in a SPRAR/SIPROIMI project must be authorized by the Servizio Centrale. The Servizio Centrale informed the OSAR delegation in September 2019 that, if a person has had access to a project before, this person will not be given access to a project again on being returned to Italy, unless new vulnerabilities can be proved. For the SPRAR/SIPROIMI manual, see [www.osservatoriomigranti.org/assets/files/manuale.pdf](http://www.osservatoriomigranti.org/assets/files/manuale.pdf), page 89, last visited on 3 January 2020; Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 57.

<sup>27</sup> “SPRAR/SIPROIMI manual”, available at [www.osservatoriomigranti.org/assets/files/manuale.pdf](http://www.osservatoriomigranti.org/assets/files/manuale.pdf) (last accessed at 3 January 2020).

Secondly, access to social housing is only possible after five years of residence. Despite rulings of the Constitutional Court, in which the Court held that eligibility for public housing could not be made dependent on residence for a period of ten years in the municipality,<sup>28</sup> there are still regions that maintain excessively long residence criteria. In addition, according to a report of the European Commission in 2019, “(...) the public and social housing stock in Italy is among the lowest in the EU (only 4% of the housing stock is owned by the public sector). Dwellings are often in a precarious condition and declared unfit for habitation. Housing needs were exacerbated by the economic crisis (...). The social housing system is characterized by limited investment and lack of coordination between government levels”.<sup>29</sup> It continues to say that: “chronic homelessness is also on the rise”.<sup>30</sup>

Thirdly, the cost of rent for a flat, particularly in large cities like Rome and Milan, is very high.<sup>31</sup> A temporary, low-wage job is not sufficient to pay for a flat. Apart from the price, it is often difficult to find one to rent at all as many landlords demand an employment contract as a guarantee, while many status holders are unemployed or work irregularly (see point 3.3).<sup>32</sup>

Fourthly, due the Italian state’s lack of protection, NGOs and religious associations play an important role in providing accommodation to status holders.<sup>33</sup> It has been acknowledged that “collaboration between state and non-state actors is a bit unbalanced in the sense that non-state actors make up for a series of shortcomings of state actors (also at the local level) and therefore increasingly find themselves carrying out functions that should in reality be carried out by state actors”.<sup>34</sup> However, their capacity is extremely limited.<sup>35</sup>

This could be considered as a violation by Italy, of its positive obligations to ensure that status holders have access to accommodation under equivalent conditions as other third-country nationals legally resident in their territories and to implement policies aimed at preventing discrimination of beneficiaries of international protection and at ensuring equal opportunities regarding access to accommodation under article 32 of the Qualification Directive 2011/95/EU. Because of the research, the authorities should take seriously into account the combined effect of these four factors (exclusion of first-line reception facilities, residence condition to access social housing, competitive private housing market, lack of capacity by non-state actors to balance this situation).

## 2.2 Social welfare

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<sup>28</sup> “Corte Costituzionale, sentenza 106/2018”, available at [www.cgil.lombardia.it/wp-content/uploads/2018/05/pronuncia\\_106\\_2018.pdf](http://www.cgil.lombardia.it/wp-content/uploads/2018/05/pronuncia_106_2018.pdf) (last accessed at 3 January 2020).

<sup>29</sup> European Commission, *European Semester: Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU) No 1176/2011*, 2019, 44.

<sup>30</sup> European Commission, *European Semester: Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU) No 1176/2011*, 2019, 46.

<sup>31</sup> Average rents in Rome are around 14€ per square metre and 21€ in Milan, [www.immobiliare.it/mercato-immobiliare/lombardia/milano/](http://www.immobiliare.it/mercato-immobiliare/lombardia/milano/), last visited on 3 January 2020.

<sup>32</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 67.

<sup>33</sup> TERLIZZI, A., “Reception Policies, Practices and Responses. Italy Country Report”, *Working Papers Global Migration: Consequences and Responses*, 2020, 25.

<sup>34</sup> TERLIZZI, A., “Reception Policies, Practices and Responses. Italy Country Report”, *Working Papers Global Migration: Consequences and Responses*, 2020, 25.

<sup>35</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 17.

Regarding social rights and access to social benefits, status holders have the same status as Italians.<sup>36</sup> However, the Italian social welfare system is very weak, relying on private support from the family and as status holders in Italy lack this support, they are actually worse off than Italian citizens.<sup>37</sup>

In addition, the conditions attached to the provision of certain social welfare advantages are hard to be fulfilled by status holders, which prevents them from benefiting from such advantages and results in even more precarious living conditions.

For instance, the income support (“Reddito di Cittadinanza”) is subject to 10 years of residence on the national territory out of which at least 2 years’ uninterrupted residence.<sup>38</sup> Third country citizens, especially status holders, are discriminated against, as most Italian citizens will automatically fulfil the residence requirement whereas the same is not true for many status holders.<sup>39</sup> In addition, the condition of residence is impossible to fulfil for status holders who end up on the streets – and are in direct need of social assistance – as homeless people often cannot register their residence at the civil registry office.<sup>40</sup>

Moreover, there are several illustrations of discrimination against status holders with regard to access to certain forms of social welfare, which demonstrate that their precarious living conditions are not the result of their own choices and will but of the actions of the Italian state.

Firstly, following the first allocations decided by the government (Ordinance of 29.3.2020 published in the Official Journal on 30.3.2020) to increase the municipal solidarity fund and combat the situations of need created as a result of the Covid-19 emergency, many municipalities issued some measures that require discriminatory requirements for accessing the benefit of alimentary assistance, the so-called “buoni spesa”, excluding all foreigners or, in other cases, allowing only foreigners holding an indefinite residence permit to benefit from the assistance.<sup>41</sup>

For instance, on the 30<sup>th</sup> April 2020, the Tribunale ordinario di Ferrara (R.G. 862/2020), stated that the priority order established by the Municipality of Ferrara to access alimentary assistance (“buoni spesa”) which gives priority to Italians and nationals from the European Union to the detriment of people who have a valid residence permit, constituted discrimination on the basis of nationality leading to the exclusion of people having an international protection to the help necessary to satisfy their primary needs in time of Covid-19.

Secondly, in a decision of the 16<sup>th</sup> January 2020 of the Tribunale ordinario di Bergamo (R.G. 667/2019), it was stated that Lombardy Regional Council Resolution no. 6711 of 20.6.2017 and Council Decree no. 7480 of 27.6.2017 constituted discrimination in the part in which they provide, for the purposes of access to the regional family bonus, the requirement of five continuous years of residence in the Lombardy Region of both parents of the new-born child.

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<sup>36</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 47.

<sup>37</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 18, 59, 63 and 101.

<sup>38</sup> Article 2(1)(a)(2), Decree Law 4/2019.

<sup>39</sup> “Come si è arrivati al Reddito di Cittadinanza”, available at <https://secondowelfare.it/povert-e-inclusione/come-si--arrivati-al-reddito-di-cittadinanza.html> (last accessed at 3 January 2020).

<sup>40</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 60.

<sup>41</sup> “Il razzismo quotidiano”, available at [http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp\\_data=2019-12-01%2C2020-05-31&fwp\\_sort=date\\_desc](http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp_data=2019-12-01%2C2020-05-31&fwp_sort=date_desc) (last accessed at 11 June 2020).

Indeed, it is intended to affect almost exclusively foreigners, being quite exceptional that the entire family can enter the national territory at the same time, and being instead normal the case of a spouse who enters Italy separately from the other, which is reunited at a later time, often after some time.

Thirdly, paragraph 467 of Decree Law 145 of 30 December 2018, amending Decree Law 208/2015, reduced the number of recipients of the Family Charter, which provides families access to discounts and tariff reductions on goods and services offered by participating businesses, by excluding all non-EU foreign citizens. The decree of the Ministry of Family Affairs of the 27 June 2019 confirmed this restriction.<sup>42</sup>

The accumulation of abovementioned elements might result in a violation by Italy of its positive obligation to ensure that status holders receive the necessary social assistance as provided to nationals of that Member State, as required by article 29 of the Qualification Directive.

### 2.3 Employment

Especially considering the barriers in access to the social welfare system that status holders experience in Italy, finding a job is of the utmost importance for them if they want to escape poverty in Italy.<sup>43</sup>

However, many find themselves without a job and a revenue enabling them to provide for their subsistence since a lot of barriers to employment exist, some of them originating from the Italian state, others not being remediated by the Italian state, which demonstrate that the unemployment of many status holders is not the result of their own will and choices.

Firstly, high unemployment and poor functioning of public employment centres in the country makes it difficult for everyone to find employment.<sup>44</sup> However, finding a job in Italy is particularly difficult for status holders for several reasons. To start with, language classes and vocational training and internship programmes are insufficient in terms of funds, beneficiaries and period of activity.<sup>45</sup> Besides, there is a lack of skills and qualifications' recognition.<sup>46</sup> Indeed, skills and qualifications acquired in the country of origin are difficult to be recognized in Italy, since complicated and long procedures are usually required.<sup>47</sup> In addition, although Italy has become part to the European Qualifications Passport for Refugees project, it remains quite limited at this date since only 42 passports have been issued so far<sup>48</sup> and it does not concern beneficiaries of subsidiary protection.

Secondly, the strong anti-immigrant narrative has hindered status holders' integration in the labour market. According to the Federation of Agro-industrial Workers, an affiliate of the Italian

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<sup>42</sup> "Il razzismo quotidiano", available at [http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp\\_data=2019-12-01%2C2020-05-31&fwp\\_sort=date\\_desc](http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp_data=2019-12-01%2C2020-05-31&fwp_sort=date_desc) (last accessed at 11 June 2020).

<sup>43</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 64.

<sup>44</sup> United States Department of State, *Italy 2019 Human Rights report*, 2019, 11; SIRIUS, *Policy Barriers and Enablers*, 2019, 425.

<sup>45</sup> SIRIUS, *Policy Barriers and Enablers*, 2019, 416, 417 and 426.

<sup>46</sup> SIRIUS, *Policy Barriers and Enablers*, 2019, 404.

<sup>47</sup> "Labour market integration in Italy: Policy Barriers and Enablers", available at <https://www.sirius-project.eu/news/labour-market-integration-italy-policy-barriers-and-enablers> (last accessed at 14 June 2020); SIRIUS, *Policy Barriers and Enablers*, 2019, 416.

<sup>48</sup> "Riconoscimento delle qualifche accademiche e lavorative dei rifugiati", available at <https://www.asgi.it/notizie/riconoscimento-qualifche-rifugiati/> (last accessed at 14 June 2020); "Il passaporto Europeo delle qualifche ai primi 42 rifugiati", available at <https://www.ruiap.it/il-passaporto-europeo-delle-qualifche-ai-primi-42-rifugiati/> (last accessed at 14 June 2020).

General Labour Confederation (CGIL), and other labour unions and NGOs, employers continue to discriminate against status holders in the labour market.<sup>49</sup> Furthermore, there even seems to be a discrimination in employment between migrants according to their origin. Immigrants from East Asia, the new EU Member states and East-European countries would earn more, contrary to immigrants from North and Sub-Saharan Africa and South-East Asia who would record the worst incomes and face more difficulties to integrate the local labour market.<sup>50</sup>

Thirdly, the Italian authorities have never fully implemented the legislative provisions concerning the integration of status holders in the labour market. This is the case, for example, of article 3 of Decree Law 286/1998, which requires the Government to develop “long-term programme on immigration policy and foreigners on state territory”. The absence of a long-term programme strongly undermines any implementation of effective coherent integration policies and measures. In addition, the Italian migration and labour market integration policies are still characterized by a structural lack of financial resources and of coordination among several (private and public) actors and levels of government.<sup>51</sup>

Even when the path to employment is successful, the few existing jobs are mostly irregular, usually temporary and the wage is generally not sufficient to rent a flat, secure income to a family and build a future with long-term prospects in Italy.<sup>52</sup> In addition, these jobs are often low-skilled, dangerous, and demeaning.<sup>53</sup>

Employment of foreign women, particularly non-EU women, is particularly problematic.<sup>54</sup> Indeed, many documents highlight the low employment rate of migrant women, especially in some ethnic communities, due to the lack of familiar networks of support and public services, cultural barriers such as religious and cultural background of certain ethnic groups which inhibits women participation to the labour market and concentration of women in specific sectors (services, trade and repairs).<sup>55</sup> Moreover, when women do manage to find a proper job, their salaries are still lower than men by 26,6%.<sup>56</sup>

These elements result in a violation, by Italy, of its positive obligations to ensure that activities such as employment-related education opportunities for adults, vocational training, including training courses for upgrading skills, practical workplace experience and counselling services afforded by employment offices, are offered to status holders under equivalent conditions as nationals and to facilitate full access for status holders to these activities, under article 26 of the Qualification Directive.

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<sup>49</sup> United States Department of State, *Italy 2019 Human Rights report*, 2019, 11.

<sup>50</sup> RIVA, E., and ZANFRINI, L., “The Labor Market Condition of Immigrants in Italy: The case of Lombardy”, *Interventions Économiques*, 2013.

<sup>51</sup> “Labour market integration in Italy: Policy Barriers and Enablers”, available at <https://www.sirius-project.eu/news/labour-market-integration-italy-policy-barriers-and-enablers> (last accessed at 14 June 2020); SIRIUS, *Policy Barriers and Enablers*, 2019, 414 and 425.

<sup>52</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 71.

<sup>53</sup> Ministero del Lavoro e delle Politiche Sociali, *IX Rapporto Annuale Gli Stranieri nel mercato del lavoro in Italia*, 2019, 55; “Labour market integration in Italy: Policy Barriers and Enablers”, available at <https://www.sirius-project.eu/news/labour-market-integration-italy-policy-barriers-and-enablers> (last accessed at 14 June 2020).

<sup>54</sup> Ministero del Lavoro e delle Politiche Sociali, *IX Rapporto Annuale Gli Stranieri nel mercato del lavoro in Italia*, 2019, 52 and 55.

<sup>55</sup> SIRIUS, *Policy Barriers and Enablers*, 2019, 404-405.

<sup>56</sup> RIVA, E., and ZANFRINI, L., “The Labor Market Condition of Immigrants in Italy: The case of Lombardy”, *Interventions Économiques*, 2013.

## 2.4 Poverty

The lack of access to housing, social welfare and employment results in status holders finding themselves in a situation of extreme material poverty.<sup>57</sup>

According to the official statistics of the Italian state ISTAT, 1/3 of all foreigners in Italy (including protection status holders), equal to 1.6 million individuals, lives in a state of absolute poverty compared to 1/16 of Italians.<sup>58</sup> The incidence of absolute poverty is higher for foreigners than Italians.<sup>59</sup> According to the Italian Ministry of Labour, the risk of poverty for immigrants in Italy is much higher than in other OECD countries.<sup>60</sup>

## **Part. 3 Medical and psychological care**

Status holders have access to the same medical and psychological care than Italian nationals. However, access to healthcare services other than emergency treatment is made difficult by several obstacles.<sup>61</sup>

Firstly, status holders have to register with the National Health Service (SSN).<sup>62</sup> However, they often do not make use of this possibility for several reasons.<sup>63</sup> To start with, many of them are not properly informed about their rights and the administrative procedure to register within the SSN and obtain a health card.<sup>64,65</sup> In addition, there are ambiguities surrounding the registration procedure with regard to the conditions that applicants need to fulfil. One of these conditions is proof of residence, which is impossible to fulfil for status holders who have become homeless. Lastly, the unknown administrative processes and language barriers also contribute to a large share of status holders not being registered with the SSN.<sup>66</sup>

Secondly, even when they are able to register within the SSN, status holders do not necessarily enjoy adequate medical and psychological care. There is a general misinformation and a lack of specific training on international protection among medical operators.<sup>67</sup> In addition, medical operators usually only speak Italian and there are no cultural mediators or interpreters who could facilitate the mutual understanding between operator and patient.<sup>68</sup>

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<sup>57</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 53.

<sup>58</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 60.

<sup>59</sup> Ministero del Lavoro e delle Politiche Sociali, *IX Rapporto Annuale Gli Stranieri nel mercato del lavoro in Italia, 2019*, 43-44.

<sup>60</sup> Ministero del Lavoro e delle Politiche Sociali, *IX Rapporto Annuale Gli Stranieri nel mercato del lavoro in Italia, 2019*, 41.

<sup>61</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 88.

<sup>62</sup> Article 34, Decree Law 286/1998; Article 16, Presidential Decree 21/2015; Article 21, Decree Law 142/2015.

<sup>63</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 103.

<sup>64</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 18.

<sup>65</sup> Which goes against the guarantees laid down in article 22 of the Qualification Directive : « Member States shall provide beneficiaries of international protection, as soon as possible after refugee status or subsidiary protection status has been granted, with access to information, in a language that they understand or are reasonable supposed to understand, on the rights and obligations relating to that status. »

<sup>66</sup> Doctors Without Borders, *Out of Sight. Informal settlements: social marginality, obstacles to access to healthcare and basic needs for migrants, asylum seekers and refugees*, 2018, 20 and 30; MEDU, *Terra Ingiusta. V Rapporto sulle condizioni di vita e lavoro dei braccianti stranieri nella Piana di Gioia Tauro*, 2019, 7.

<sup>67</sup> BENVENUTI, M., *La protezione internazionale degli stranieri in Italia*, Jovene Editore, 2011, 263.

<sup>68</sup> BENVENUTI, M., *La protezione internazionale degli stranieri in Italia*, Jovene Editore, 2011, 263.

Moreover, organizations reported that problems with regard to access to healthcare include long waiting lists for a referral to a specialist doctor or a medical intervention.<sup>69</sup> The treatment of any health problem that is not labelled as a priority can take longer than a year.<sup>70</sup>

People requiring specialized treatment must be given a place in a house or accommodation centre, otherwise, it is impossible to guarantee meaningful and targeted treatment. Yet, while there are frequently places available in SIPROIMI projects for “regular” beneficiaries of international protection, only a small proportion of places (2%)<sup>71</sup> is reserved for people with special needs (mental health problems and/or handicaps), whereas it has been noticed that the need for support has risen for exactly this segment of status holders.<sup>72</sup> Of the 33,625 places available, only 684 are for people with mental health problems and/or handicaps for the whole of Italy.<sup>73</sup> In addition, the total number of places available to mentally or physically ill people was reduced by 7% in the course of 2019.<sup>74</sup> In view of the fact that health problems are considered a reason to prolong a person’s stay in the SIPROIMI (once or twice, for six months each), the places that are available to people with physical or mental health problems are often occupied for extended periods of time (12 to maximum 18 months compared to six months for regular places). Since the fluctuation is slow, the places for people with health problems are always occupied, and many people with health problems in need of accommodation cannot find a place.<sup>75</sup>

Furthermore, it has been acknowledged that SIPROIMI places for people with physical and/or mental health problems are not suitable for people with very serious issues, as these are not mental health institutions. As a result, there is no accommodation for these people, and they run the risk of ending up on the streets.<sup>76</sup> Suitable treatment and healing is impossible under these circumstances.<sup>77</sup>

Thirdly, with regard to the obligation to contribute to the cost of the services provided within the framework of the SSN,<sup>78</sup> some categories of people have the possibility of applying for an exemption from this obligation, most notably unemployed people and their dependent family members. In some regions, it has been interpreted that, since a person who has never worked cannot be considered unemployed, a status holder who has never worked in Italy cannot be considered unemployed, and is therefore not eligible for an exemption, meaning that he or she

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<sup>69</sup> “Liste di attesa, il bilancio di Cittadinanzattiva: ancora troppo lunghe, 10 mesi per una Tac. Speranza è il nuovo Piano nazionale”, available at [www.sanitainformazione.it/salute/liste-di-attesa-cittadinanzattiva-piano-nazionale/](http://www.sanitainformazione.it/salute/liste-di-attesa-cittadinanzattiva-piano-nazionale/) (last accessed at 3 January 2020).

<sup>70</sup> For example, for some treatments provided by public health structures in the Valle d’Aosta, patients had to wait longer than a year, [www.ausl.vda.it/elementi/www2016/areaospedaliera/tda\\_interventi\\_2\\_quadrimstre\\_2019.pdf](http://www.ausl.vda.it/elementi/www2016/areaospedaliera/tda_interventi_2_quadrimstre_2019.pdf), last visited on 3 January 2020.

<sup>71</sup> Atlante Sprar/Siproimi, *Rapporto Annuale Sprar/Siproimi. Sistema Di Protezione Per Titolari Di Protezione Internazionale E Per Minori Stranieri Non Accompagnati*, 2018, 22.

<sup>72</sup> According to the overview of SIPROIMI projects, published by the Servizio Centrale in October 2019, available here [www.sprar.it/wp-content/uploads/2019/10/2019-10-10-Numeri-SITO-p.pdf](http://www.sprar.it/wp-content/uploads/2019/10/2019-10-10-Numeri-SITO-p.pdf), last visited on 3 January 2020.

<sup>73</sup> According to the overview of SIPROIMI projects, published by the Servizio Centrale in October 2019, available here [www.sprar.it/wp-content/uploads/2019/10/2019-10-10-Numeri-SITO-p.pdf](http://www.sprar.it/wp-content/uploads/2019/10/2019-10-10-Numeri-SITO-p.pdf), last visited on 3 January 2020.

<sup>74</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 54.

<sup>75</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 55.

<sup>76</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 55.

<sup>77</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 88.

<sup>78</sup> Article 8 (16), Decree Law 537/1993, [www.trovanorme.salute.gov.it/norme/dettaglioAtto?id=23848&articolo=8](http://www.trovanorme.salute.gov.it/norme/dettaglioAtto?id=23848&articolo=8).

will therefore have to pay for part of the cost of the health services.<sup>79</sup> The obligation to pay the fee prevents effective access to health care, as even the smallest financial amount to be paid can constitute an insurmountable hurdle for status holders, due to their precarious economic situation.<sup>80</sup>

These elements result in a violation, by Italy, of its positive obligations to ensure that status holders have access to healthcare under the same eligibility conditions as nationals of the Member State and to provide, under the same eligibility conditions as nationals of the Member State that has granted protection, adequate healthcare to status holders who have special needs, under article 30 of the Qualification Directive.

#### **Part. 4 Societal exclusion and violence**

Status holders do suffer from exclusion and violence within Italian society. The Italian government explicitly views migration as an existential threat and a phenomenon that needs to be resisted or, at least, strictly governed, which led to a rather hostile environment towards status holders.<sup>81</sup> The Salvini Decree, adopted in 2018, aims at reinforcing Italy's security by transforming its asylum system and contains provisions making status holders more vulnerable. Politics' discourses and actions contribute to reinforce the hostility of Italian society towards status holders, resulting in many of them being victims of discrimination, racism and hate crimes which remain mostly unpunished. In addition, Italy fails to provide sufficient and adequate integration programmes, with the result that many of status holders remain unable to properly integrate within an Italian society already reluctant to integrate them.

##### **4.1 The Salvini Decree (Decree Law 113/2018, implemented by Law 132/2018 on the asylum system)**

Status holders are at risk if transferred to Italy since it has not particularly shown a welcoming interest regarding this category of people. The Salvini Decree, adopted by the former Minister Salvini, is a perfect example of Italy's hostility towards refugees. Italians, already having a misleading reading of the migratory phenomenon associated with security, also have a new Decree providing a biased interpretation of the phenomenon, which will lead to a public opinion on migration first and foremost embedded into public safety and orderly civil living.

The Decree extends the offences causing the withdrawal of a refugee resident permit to sexual violence, drug dealing, and violence towards a representative of public authorities. According to the Qualification Directive, "a third-country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that: (a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee, which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes; (c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the

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<sup>79</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 79.

<sup>80</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 18.

<sup>81</sup> NEWELL, J.L., 'Italy's new government and the migrant crisis' (2019) 11 *Contemporary Italian Politics*, 355.

Preamble and Articles 1 and 2 of the Charter of the United Nations.”<sup>82</sup> What is expressed in this provision is thus a participation in a serious crime. Italy’s previous legislation provided that refugee status could be denied or revoked when the foreigner represented a danger to the public order and public security because of a final conviction for crimes such as murder and sexual harassment. This legislation was compatible with the provision of the Qualification Directive. However, it is no longer the case since the Salvini Decree is now restricting the protection guaranteed to refugees by the Qualification Directive by threatening them of exclusion for the sole reason of offences ranging from harassment or threats to a public official, to aggravated personal injuries, to various offences of theft.<sup>83</sup> Moreover, what to say about the introduction of the revocation of Italian nationality, for those who are not citizens by birth, following conviction for certain offences? This is certainly one of the most blatantly unconstitutional normative provisions of the Decree: the violation of the principle of equality, the creation of a different status civitatis for those who have acquired Italian citizenship as opposed to those who are citizens by birth, and the risks of statelessness are obvious.<sup>84</sup>

Status holders, representing a group of vulnerable people, must be integrated in Italy in order to conduct a decent life in the country. Unfortunately, the Salvini Decree expresses a fear regarding status holders and, instead of protecting them, expressed a fear for the country security. The Salvini Decree will change once and for all the public perception of immigrants and will legitimate the security policies regarding the treatment of foreigners. The risk above all is severe and could lead to violations of fundamental rights of individuals.<sup>85</sup> Despite a change of government in Italy in September 2019, the Decree was neither abolished nor amended, resulting in profound consequences on the reception, protection and basic provisions across Italy.<sup>86</sup> In a recent case of the CALL, the Court refused to send the defendant back to Italy because, among others things, of the Salvini Decree which was deemed negative regarding for instance the infrastructure available for refugees in Italy.<sup>87</sup>

## 4.2 Trauma

According to data of the Observatory for Security against Discriminatory Acts (OCSAD), the inter-agency body set up in 2010 to prevent hate crimes, in 2019, 969 crimes were recorded. There has been an increase in violence that has to do with race, skin colour, ethnicity, nationality, religion from 88 in 2018 to 93 in 2019.<sup>88</sup> Moreover, some cases of violence against refugees have been reported.<sup>89</sup> According to research on violence experience among immigrants and refugees in Italy, over 503 subjects interviewed, 46.5% and 40% reported having experienced some form of violence at least once since they arrived and during the last

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<sup>82</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

<sup>83</sup> “The Salvini decree has been approved: legislative changes on immigration”, available at <https://cild.eu/en/2018/09/25/the-salvini-decree-has-been-approved-legislative-changes-on-immigration/> (last accessed at 25 September 2018).

<sup>84</sup> CORSI, C., “Evaluating the ‘Salvini Decree’: Doubts of constitutional legitimacy”, *RSCAS*, 2017, 4.

<sup>85</sup> CORSI, C., “Evaluating the ‘Salvini Decree’: Doubts of constitutional legitimacy”, *RSCAS*, 2017, 3.

<sup>86</sup> “Italy: Report on Effects of the ‘Security Decrees’ on Migrants and Refugees in Sicily, available at <https://www.ecre.org/italy-report-on-effects-of-the-security-decrees-on-migrants-and-refugees-in-sicily/> (last accessed at 11 July 2020).

<sup>87</sup> CALL, n°225 208, 26 August 2019.

<sup>88</sup> “In Italia in calo i reati di odio ma raddoppiano quelli di matrice razzista e xenofoba”, available at <https://www.lastampa.it/cronaca/2020/01/21/news/in-italia-in-calo-i-reati-di-odio-ma-raddoppiano-quelli-di-matrice-razzista-e-xenofoba-1.38362715> (last accessed at 13 June 2020).

<sup>89</sup> United States Department of State, *Italy 2019 Human Rights report*, 2019, 9.

12 months. The most current forms of violence would be psychological (53,2%), physical (40,3%) and economical (18,9%).<sup>90</sup>

In addition, United Nations Human Rights mechanisms have highlighted concerns about the prevalence of racist discourse, stigmatization and negative stereotypes against migrants, Muslims, people of African descent, and the Roma communities in Italy, especially in the political discourse and media.<sup>91</sup>

In Italy, migrants, asylum seekers and refugees, people of Muslim faith and the Roma represent the privileged target groups of discriminatory and violent political rhetoric.<sup>92</sup> Racist and xenophobic discourse in politics is increasingly being used. Local politicians, but also prominent government officials have made hostile, if not aggressive, statements against blacks, Africans, Muslims, Roma, Romanians and migrants in general.<sup>93</sup>

Media continue to offer sensationalistic articles and reports, including major newspapers and television broadcasts at peak viewing times.<sup>94</sup>

The more or less explicit use of the violent rhetoric on the part of the ruling class (political, institutional, media, religious) has serious consequences. Offensive, hostile, disparaging or violent discourse can cause very serious psychological, physical, material and symbolic damage to those who suffer from it, which to date seems to be underestimated in Italy, where national protection systems are not sufficiently developed.<sup>95</sup> In addition, racist or xenophobic discourse reflects, or contributes to, discriminatory policies and measures, and has, in some cases, provoked certain statements acts of violence against these groups.<sup>96</sup> All these factors together feed intolerance, racial discrimination, xenophobia and racism among the population and tend to legitimize these phenomena.<sup>97</sup>

Several cases of racism and hate crimes have been reported lately, which have a particularly strong harmful effect they can have on status holders who often already suffer from psychological fragility.<sup>98</sup>

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<sup>90</sup> NAPOLITANO, F. and al., "Violence Experience among Immigrants and Refugees: A Cross-Sectional Study in Italy", *BioMed Research International*, 2018, 1.

<sup>91</sup> Committee on the Elimination of Racial Discrimination, *Concluding Observations on the combined nineteenth and twentieth periodic reports of Italy*, 17 February 2017, CERD/C/ITA/CO/19-20, §14; Human Rights Committee, *Concluding observations on the sixth periodic report on Italy*, 1 May 2017, CCPR/C/ITA/CO/6, §12; Office of the United Nations High Commissioner for Human Rights, *Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination*, 2019, 9.

<sup>92</sup> Lunaria, *Words are Stones*, 2019, 19.

<sup>93</sup> UNAR, *Razzismo e xenophobia in Italia. Rapporto Del Consiglio D'europa E Osservazioni Delle Nazioni Unite*, 2012, 22.

<sup>94</sup> UNAR, *Razzismo e xenophobia in Italia. Rapporto Del Consiglio D'europa E Osservazioni Delle Nazioni Unite*, 2012, 23.

<sup>95</sup> Lunaria, *Words are Stones*, 2019, 19.

<sup>96</sup> UNAR, *Razzismo e xenophobia in Italia. Rapporto Del Consiglio D'europa E Osservazioni Delle Nazioni Unite*, 2012, 8.

<sup>97</sup> UNAR, *Razzismo e xenophobia in Italia. Rapporto Del Consiglio D'europa E Osservazioni Delle Nazioni Unite*, 2012, 22.

<sup>98</sup> V-Start, *Il sistema di assistenza per le vittime dei crimini d'odio in Italia*, 2019, 23.

In Cologna Veneta, on the 17th February 2020, on the front door of the CGIL trade union headquarters, a leaflet by Forza Nuova was hung, inviting immigrants to return to their countries.<sup>99</sup>

In Brescia, on the 17th February 2020, the Instagram account of “Brescia ai bresciani”, a group close to the extreme right, was blocked after the formation advertised the “Brescianislam - School Cup”, a competition in which students were called to vote for the schools with the highest number of students of foreign origin. The group wanted to find “the school with the most immigrants”. Those responsible for the profile did not give up and, accusing Instagram of censorship, they opened a page on Pornhub.<sup>100</sup>

In Pisa, on the 1st March 2020, Kebe Bassirou, a 50-year-old native of Senegal, but for 24 years in Italy, father of three children and Avr's ecological operator, has been receiving racist insults while he is working. The attendant was forced to move away and change areas.<sup>101</sup>

In Rome, in the evening of the 8th March 2020, a Nigerian boy, who attends the Baptist church of Trastevere, was attacked, offended with racist insults (“monkey what are you doing?”) and injured by some strangers on his way out of work, in the area of Termini station. The boy received a punch in the face, defended himself, until one of the attackers, from behind, started to hit him 4 times in the head with a glass bottle until he broke it. Then, with what's left of the bottle, he wounded him in the hand. A passing policeman stopped the attackers and arrested them. The young man was taken to a nearby hospital.<sup>102</sup>

The Italian state does not take any measure to ensure access to justice and remedies to status holders' victims of racism or hate crimes.

In parallel with the introduction, in 2006, of less severe penalties for incitement to hatred offences, the definition of such offences has been amended to make it more restrictive, limiting the purpose of the law.<sup>103</sup>

In addition, although Italian law criminalizes hate crimes<sup>104</sup>, there are many elements discouraging or preventing status holders who are victims of hate crimes to introduce complaints, resulting in the provisions of the criminal law being rarely applied.

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<sup>99</sup> “Il razzismo quotidiano”, available at [http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp\\_data=2019-12-01%2C2020-05-31&fwp\\_sort=date\\_desc](http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp_data=2019-12-01%2C2020-05-31&fwp_sort=date_desc) (last accessed at 11 June 2020).

<sup>100</sup> “Il razzismo quotidiano”, available at [http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp\\_data=2019-12-01%2C2020-05-31&fwp\\_sort=date\\_desc](http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp_data=2019-12-01%2C2020-05-31&fwp_sort=date_desc) (last accessed at 11 June 2020).

<sup>101</sup> “Il razzismo quotidiano”, available at [http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp\\_data=2019-12-01%2C2020-05-31&fwp\\_sort=date\\_desc](http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp_data=2019-12-01%2C2020-05-31&fwp_sort=date_desc) (last accessed at 11 June 2020).

<sup>102</sup> “Il razzismo quotidiano”, available at [http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp\\_data=2019-12-01%2C2020-05-31&fwp\\_sort=date\\_desc](http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp_data=2019-12-01%2C2020-05-31&fwp_sort=date_desc) (last accessed at 11 June 2020).

<sup>103</sup> UNAR, *Razzismo e xenophobia in Italia. Rapporto Del Consiglio D'europa E Osservazioni Delle Nazioni Unite*, 2012, 8.

<sup>104</sup> To date in Italy, from the point of view of criminal law, there is no organic regulation relating to hate crime. The only law that refers to this particular type of crime is the Mancino Law 205/1993, in which are stated the aggravating circumstances that occur ‘for crimes [...] committed for purposes of discrimination or ethnic, racial or religious hatred, or in order to facilitate the activities of organizations, associations, movements or groups that have among their purposes the same aims’; V-Start, *Il sistema di assistenza per le vittime dei crimini d'odio in Italia*, 2019, 4.

Firstly, there is no central institution dealing specifically with assistance to victims of crimes motivated on racial hatred.<sup>105</sup> In addition, the very few general national structures for assistance to victims of hate crimes lack coordination, funding and cultural and linguistic mediation<sup>106</sup>, which is problematic for assisting victims of hate crimes of foreign origin.<sup>107</sup> Moreover, status holders do not know the existence of such services. The general assistance centres indeed recognized having difficulty in making themselves known and in providing direct information to migrants and minorities because they do not provide targeted publicity in several languages.<sup>108</sup>

Secondly, there is currently no standard procedure at the national level on how to classify, record and follow-up hate crime cases. The police have no specific tools available to detect whether a crime can be classified as racially motivated and are not obliged to assess the vulnerability and needs of the victim following a defined and nationwide procedure.<sup>109</sup> Moreover, the police units specialized in dealing with vulnerable victims of hate crimes do not include units specifically prepared and trained to deal with migrants' victims.<sup>110</sup>

Thirdly, status holders' linguistic difficulties and their lack knowledge on Italy's laws and procedures related to hate crimes and on the functioning of the judicial system create great obstacles for them to access the judicial system. In addition, even when they file a complaint and accede to the Italian judicial system, they are discouraged by the complex, expensive and time-consuming judicial procedure.<sup>111</sup>

The lack of central oversight assisting victims of hate crimes, of a standard procedure dealing with hate crimes and of initiatives raising awareness of the Italian legislation regarding hate crimes together with the language barrier in too many cases result in *de facto* impunity.

#### 4.3 Equal treatment

Italy's legal framework contains several protections relevant to racial discrimination. The Constitution provides that "all citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions". It also includes protections for specific groups, such as linguistic minorities, religious denominations and foreigners. The main anti-discrimination law is Decree Law 215-216/2003. Decree Law 215/2003 seeks to ensure non-discrimination and equality for all persons regardless of their racial or ethnic origin in any area or sector, both private and public. It defines "equal treatment" as "the absence of any direct or indirect discrimination based on race or ethnic origin". It expands discrimination to include "harassment", which is defined as "unwanted behaviours adopted on the grounds of race or ethnic origin that aim at or have the effect of causing the violation of a person's dignity and creating a hostile, intimidating, degrading, humiliating and offensive environment". The Decree provides for the possibility of civil action for discriminatory acts on the grounds of race, ethnicity or religion. Decree Law

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<sup>105</sup> V-Start, *Il sistema di assistenza per le vittime dei crimini d'odio in Italia*, 2019, 23.

<sup>106</sup> V-Start, *Il sistema di assistenza per le vittime dei crimini d'odio in Italia*, 2019, 22.

<sup>107</sup> V-Start, *Il sistema di assistenza per le vittime dei crimini d'odio in Italia*, 2019, 32.

<sup>108</sup> V-Start, *Il sistema di assistenza per le vittime dei crimini d'odio in Italia*, 2019, 32.

<sup>109</sup> V-Start, *Il sistema di assistenza per le vittime dei crimini d'odio in Italia*, 2019, 5.

<sup>110</sup> V-Start, *Il sistema di assistenza per le vittime dei crimini d'odio in Italia*, 2019, 28.

<sup>111</sup> V-Start, *Il sistema di assistenza per le vittime dei crimini d'odio in Italia*, 2019, 24, 31 and 35.

216/2003 applies to discrimination based on religion or belief, disability, age or sexual orientation in the field of employment and occupation.<sup>112</sup>

Furthermore, Italian case-law has recognized the enjoyment of human rights in various areas without discrimination. It has been ruled in one case that it is illegitimate to racially discriminate against foreigners legally residing in Italy with respect to their access to fundamental rights (i.e. work, education, services and housing). It also identified as a discriminatory conduct the suggestion of a local authority not to rent housing to foreigners, the maintenance of separate housing subsidy lists for European Union and non-European Union citizens, the dismissal of an employee based on reprisal or oppression, the exclusion of non-European Union citizens from accessing jobs based on public competition, and the denial to enlist a foreign unaccompanied minor in a football society.<sup>113</sup>

Status holders in Italy face a lot of discrimination due to the xenophobia and racism present in the country. Over the last few years, the “Italians first” rhetoric run by Italian right-wing populist parties has rallied many northern municipalities, with as consequences foreigners being more often discriminated regarding access to social housing, family benefits, maternity support, among others.

Several cases illustrate the discriminations status holders are facing.

Firstly, regarding housing, the Tribunale ordinario di Milano recognized a discrimination based on nationality because the municipality of Sesto Giovani required strangers (EU or not), to provide a declaration of the cadastre office from their country of origin in order to demonstrate they do not have a property in the said country to accede low-income housing. Although the ownership of a “suitable” property was an obstacle to access public housing services for both Italians and foreigners, the contested documentation was only required from foreigners. It is particularly complicated for people benefiting from an international protection to provide such document since they usually come from countries in war or corrupted, and are therefore not likely to be able to obtain such declaration from their home country. The request addressed only to foreigners made it not only more expensive for them to access the notice and therefore the housing, but also – at least for a considerable proportion of foreigners including beneficiaries of international protection – impossible for them to be allocated housing.<sup>114</sup>

Secondly, regarding social welfare, several decrees and resolutions imposing discriminatory requirements for accessing certain types of benefits have been condemned by Italian tribunals (see part. 2.2). In addition, discriminatory behaviours from Italian authorities have been identified. For instance, in a decision of the 18<sup>th</sup> April 2020, the Tribunale ordinario di Roma (R.G. 18777/2020) condemned the Municipality of Rome after its refusal to let a Nigerian refugee access to alimentation assistance (“buoni spesa”) because she was not legally residing in Rome, on the account that it was impossible for her to request residence in Roma to the Municipality since it was closed due to the Covid-19 crisis.

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<sup>112</sup> Office of the United Nations High Commissioner for Human Rights, *Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination*, 3 and 4.

<sup>113</sup> Committee on the Elimination of Racial Discrimination, *Concluding Observations on the combined nineteenth and twentieth periodic reports of Italy*, 17 February 2017, CERD/C/ITA/CO/19-20, §195.

<sup>114</sup> Tribunale ordinario di Milano, R.G. 40830/2019, 12th March 2019.

Finally, discrimination can also be found in employment (see part. 2.3 and 7).

#### 4.4 Integration

Status holders remain marginalized even after years living in Italy. Decree Law 18/2014 foresees the publication of a National Integration Plan every two years. The national integration plan for status holders was published in October 2018 and includes language training, access to education and participation on the labour market as priorities. However, according to the website of the European Commission, “at the end of 2019, the implementation of the Plan was limited to pilot actions carried out in three regions (Piedmont, Emilia Romagna and Calabria)”. According to the European Commission’s 2019 report on Italy on the prevention and correction of macroeconomic imbalances, “(...) the integration of migrants, especially refugees, remains challenging. Asylum applications decreased in 2018 but no significant progress has been made in implementing the first National Plan for the Integration of Beneficiaries of International Protection adopted in 2017”.

The available integration programmes are very limited. Integration programmes in the form of traineeships are accessible within the SIPROIMI system. According to social cooperative Programma Integra, there are also some projects in this area that are financed by the Ministry of Labour. Nevertheless, status holders – especially vulnerable ones – suffer from the scarcity of integration programmes.

These elements result in a violation, by Italy, of its obligation to facilitate the integration of status holders into society under article 34 of the Qualification Directive.

### **Part. 5 Children**

The UN Convention on the Rights of the Child (CRC) guarantees that the child’s best interests have to be at first consideration in all actions concerning children.<sup>115</sup> When a state fails to fulfil its positives obligations and protect the child against neglect or abuse, it is considered as inaction by the Convention. Regarding vulnerable children, their interests must be determined in accordance with other human rights norms related to the specific situations, such as the Convention on the Status of Refugees.

The Qualification Directive refers to the CRC and puts a pin on the best interest of the child as primary consideration when implementing the Directive.<sup>116</sup>

Italy fails to ensure children holding an international protection dignified living conditions and proper access to healthcare and education.

#### 5.1 Living conditions

Children and their families holding an international protection are placed in the SIPROIMI facilities for a limited amount of time only. After that, they leave the SIPROIMI and have to move away from the area they were socialized in – even if it was for a short while – moving from place to place while their parents are temporarily employed in agriculture or domestic

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<sup>115</sup> Article 3, United Nations Convention on the Rights of the Child.

<sup>116</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 105.

service. Mostly, their parents work long hours in jobs on the black market, that leave them with little time or strength to get involved in caring for their children. These children are left to their own devices and end up skipping school. Especially if their family becomes homeless, as many have in the past years, they will not be able to access most if not all of their rights, theoretically guaranteed by the CRC.<sup>117</sup>

Unaccompanied children holding an international protection status are also placed in the SIPROIMI system. The number of places that are available for unaccompanied minors has increased over the last year (whereas the number of places in total has decreased), bringing the number to 4,255 for the whole of Italy according to the Servizio Centrale. However, number of places remain largely insufficient. Moreover, minors only have the possibility to stay at the SIPROIMI for six months and only until they come to age. Therefore, when turning 18, unaccompanied minors who were previously hosted in SIPROIMI projects face uncertainty and the risk of becoming homeless.<sup>118</sup>

This results in a violation, by Italy, of its obligations under article 6 CRC to create an environment providing human dignity and suitable for the development of the child and article 27 CRC to guarantee adequate standard of living for the child's physical, mental, spiritual, moral and social development to every child.

## 5.2 Healthcare

Even though the SIPROIMI projects for unaccompanied minors aim at integrating the youngsters they supervise and mentor into Italian society by providing them, among other, psychological care, some provide inadequate services, due to insufficient material and human resources, to address the needs of the youngsters they host. As a result, only those children who show more worrisome and apparent forms of psychological distress are entrusted to the care of specialized staff, whereas other less obvious forms of psychological distress are likely to remain undiscovered.<sup>119</sup>

Once children holding an international protection, whether they are part of a family of status holders or unaccompanied, leave SIPROIMI accommodation centres, they lack proper access to healthcare in the same ways as adults. Indeed, they are also often not aware of the existence of the SSN, improve difficulties to register within the system or cannot afford its services (see part. 3).

This results in a violation of article 24 CRC and Italy's obligation ensure a primary healthcare system for all children, with a specific focus on the under-served areas and populations.

## 5.3 Education

Italian legislation provides that all children until the age of 16, both nationals and foreigners, have the right and the obligation to take part in the national education system.<sup>120</sup> Children status holders have the right to go to school like any other Italian children.

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<sup>117</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 107.

<sup>118</sup> UNHCR, UNICEF and IOM, *At a crossroads. Unaccompanied and separated children in their transition to adulthood in Italy*, 2019, 8.

<sup>119</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, 2020*, 56.

<sup>120</sup> AIDA, *Country Report: Italy*, 2019.

However, when arriving in Italy, children status holders are placed in the SIPROIMI facilities where there is a lack of assessment regarding the level of education of the children, leading to a delay in their integration.<sup>121</sup>

Usually in Italy, children go to the school nearest to their habitation. According to the guidelines of the Ministry of education, children holding an international protection must enrol as soon as possible even if in the middle of the school year. In practice, parents end up applying to different schools until they found a place for their chil(dren). Consequently, some schools end up with an enormous number of immigrant students while other almost have none.<sup>122</sup> In practice, the main issues concerning school enrolment lie in the reluctance of some schools to enrol a high number of foreign students; the refusal from the family members and/or the child to attend classes; and the insufficiency of places available in schools located near the accommodation centres and the consequent difficulty to reach the schools if the centres are placed in remote areas.<sup>123</sup>

Children status holders also face persisting barriers and problems in accessing the educational and academic system. Recognition of diplomas, certifications and skills gained abroad are still complex. The educational system in general and more precisely teachers and schools are under equipped to manage multi-ethnic classrooms and students, and they struggle to deal with issues linked to multiculturalism. Foreigners only have very few opportunities when it comes to accessing high skill qualifications, specialized training courses or grants. Most of them generally struggle to get access high schools preparing students for university. They rather stick to technical and training institutes. Therefore, they remain with an integrative potential of the educational system more limited.<sup>124</sup>

Another issue is the structural weaknesses of the Italian educational system – such as declining public funds, repeated and ineffective reforms, disconnection from needs and requirements of the labour market – mixing up with other problems specifically affecting foreigners, such as recognition of diplomas acquired abroad, delay in the school cycle, scarce presence in university-track high schools, and limited access to qualifying educational paths. These structural issues are adding up to end in the exclusion of a significant component of the future adult Italian citizens, further exacerbating social tensions, “ethnic” conflicts and the marginalization of youth.<sup>125</sup>

According to article 27 of the Qualification Directive and article 28 CRC, Italy has to grant full access to the education system to all children holding an international protection in the same way as Italian citizens. Nevertheless, the above shows that Italy fails to fulfil its positive obligation.

## **Part. 6 Vulnerability**

In the context of international protection, some people are considered as particularly vulnerable. These individuals are to be understood as minors, unaccompanied minors, the elderly, pregnant women, single parents with underage children, victims of trafficking, people

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<sup>121</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 56.

<sup>122</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 96.

<sup>123</sup> AIDA, *Country Report: Italy*, 2019.

<sup>124</sup> Caritas, *Common Home. Migration and Development in Italy*, 2019, 28.

<sup>125</sup> Caritas, *Common Home. Migration and Development in Italy*, 2019, 34.

suffering from serious physical illnesses or mental disorders, people who have suffered torture, rape or other severe forms of psychological, physical or sexual violence, and victims of genital mutilation.<sup>126</sup>

Among status holders who can qualify as vulnerable, victims of rape and sexual exploitation and victims of torture do not benefit from the adequate support from the Italian authorities and are therefore unable to rehabilitate.

### 6.1 Victims of rape and sexual exploitation

While sexual violence is one of many reasons thousands of migrants and refugees leave their homes for Europe, it is also something they encounter— sometimes repeatedly — along the route.<sup>127</sup>

Several studies and international organizations have highlighted that migrants from sub-Saharan Africa are at a high risk of sexual victimisation and that many women are forced to pay for their migration through prostitution or are subject to brutal sexual exploitation and torture along the journey.<sup>128</sup> Women's status holders therefore need reproductive health services and psychosocial services. It is the responsibility of states to provide safe abortions to women who wish to have one because they became pregnant as the result of rape or other forms of sexual violence. Victims of sexual violence should furthermore be given adequate ethno-psychiatric care for post-traumatic stress disorder. This care will improve women's health, improve human rights and save lives.<sup>129</sup>

Maternal healthcare in Italy is considered basic healthcare and is provided to status holders who are registered with the SSN.<sup>130</sup> Yet, as mentioned above, many status holders don't register within the SSN and even when they are able to register within the SSN, they do not necessarily enjoy adequate medical care or avoid getting medical care since they have, in some cases, the obligation to contribute to the cost of the services (see part. 3).

MSF and MEDU reported that for migrants – whether regular or irregular – it is even more difficult to find a practitioner willing to assist with legal abortion, as these practitioners are scared that they will receive threats from the ethnical community of the woman asking for an abortion. Therefore, many of the female status holders in Italy who were victim of sexual violence or have otherwise become pregnant against their will have almost no possibility to terminate their pregnancy.<sup>131</sup>

In addition, there is a lack of adequate care for women status holders' victims of sexual violence. Parallel systems are in place for survivors of sexual violence in Italy: the reception

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<sup>126</sup> Doctors Without Borders, *Out of Sight. Informal settlements: social marginality, obstacles to access to healthcare and basic needs for migrants, asylum seekers and refugees*, 2018, 40.

<sup>127</sup> "Male refugees commonly experience sexual violence on the route to Europe", available at <https://qz.com/1582587/male-refugees-face-sexual-abuse-migrating-to-europe/> (last accessed at 10 July 2020).

<sup>128</sup> PISCITELLI, V., and IADICICCO, A., "Italy's battle to identify dead migrants", *Lancet Glob Health*, 2016, 512.

<sup>129</sup> GOLDENBERG, S. M., "Trafficking, migration, and health: complexities and future directions", *Lancet Glob Health*, 2015, 118.

<sup>130</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 87.

<sup>131</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 87.

system and a public system, the latter of which is oriented to women and girls.<sup>132</sup> In the reception system, managers working within SIPROIMI are reportedly not trained in gender-based violence case management. In the public system, providers of sexual violence-related services tend to lack cultural sensitivity and interpreters are rarely available, thus impeding access for female status holders. Overall, targeted, accessible post-sexual violence care is severely lacking for female status holders.<sup>133</sup>

The most vulnerable group after women is unaccompanied and separated adolescent males. According to a Save the Children representative in 2016, 50 percent of unaccompanied children treated by doctors in Italy presented with an STI, including sometimes HIV “which medical personnel attributed to sexual exploitation during the transit.”<sup>134</sup> A problem is that “few male survivors understand they have suffered sexual victimisation or are recognized as survivors.”<sup>135</sup> In addition, even if they are recognized as such, they lack access to proper care in the same way as women. To start with, shame, fear of stigmatization, religious taboos and worries about not being believed hinder survivors from seeking help. Even when they seek help, few services are available to them. There are no targeted services or safe shelters for adult male and older adolescent survivors of sexual violence. The existing networks of post-sexual violence service providers are oriented to women and girls and, in general, are not equipped to respond to male survivors. The only things available to them are local private organizations, primarily oriented to victims of torture.<sup>136</sup>

For both male and female status holders’ victims of sexual violence, a key issue is the scarcity of services and safe shelters particularly in remote areas. In addition, the reception system itself is underfunded, fragmented, and decentralized, impeding the implementation of coherent, standardized processes and procedures. Another issue is that accountability mechanisms to enforce compliance with minimum standards in sexual violence prevention and response in reception facilities are lacking. Moreover, staffing barriers have been identified<sup>137</sup>, as well as funding barriers, i.e. the reception system and the national health care system are both underfunded and unable to fully meet the needs of status holders. Lastly, the Ministry of Health published on 22 March 2017 the Guidelines for the planning of assistance and rehabilitation as well as for treatment of psychological disorders of refugees and beneficiaries of international protection victims of torture, rape or other serious forms of psychological, physical or sexual violence.<sup>138</sup> However, the organization of a network

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<sup>132</sup> Violence against women and girls in Italy is widespread. See: UN Women, Global Database on Violence Against Women: Italy, <http://evaw-global-database.unwomen.org/en/countries/europe/italy>.

<sup>133</sup> Women’s Refugee Commission, *More than One Million Pains: Sexual Violence Against Men and Boys on the Central Mediterranean Route to Italy*, 2019, 49.

<sup>134</sup> “More Than One Million Pains: Sexual violence in Italy (Part 2)”, available at <https://www.infomigrants.net/en/post/15953/more-than-one-million-pains-sexual-violence-in-italy-part-2> (last accessed at 10 July 2020).

<sup>135</sup> “More Than One Million Pains: Sexual violence in Italy (Part 2)”, available at <https://www.infomigrants.net/en/post/15953/more-than-one-million-pains-sexual-violence-in-italy-part-2> (last accessed at 10 July 2020).

<sup>136</sup> Women’s Refugee Commission, *More than One Million Pains: Sexual Violence Against Men and Boys on the Central Mediterranean Route to Italy*, 2019, 50-55.

<sup>137</sup> i.e. communication and cultural sensitivity barriers, untrained staff, harmful attitudes and practices such as homophobia and racism, and lack of material and mental health support; Women’s Refugee Commission, *More than One Million Pains: Sexual Violence Against Men and Boys on the Central Mediterranean Route to Italy*, 2019, 54.

<sup>138</sup> Ministry of Health, *Linee guida per la programmazione degli interventi di assistenza e riabilitazione nonché per il trattamento dei disturbi psichici dei titolari dello status di rifugiato e dello status di protezione sussidiaria che*

collaboration as required by the Guidelines has not yet started in all the health care institutions across the national territory and at the moment, the Guidelines seem to only be applied in Rome, Parma, Trieste and Brescia.<sup>139</sup>

This results in a violation, by Italy, of its positive obligations under article 25, §1 of the Reception Directive and article 20, §3 of the Qualification Directive to ensure the full rehabilitation of victims of rape and sexual exploitation.

## 6.2 Victims of torture

Between ten percent and 30 percent of asylum seekers reaching Europe are estimated to have been tortured in their home countries, which results in severe damages and trauma. Italy welcomes a particularly high number of status holders' victims of torture since 90% of migrants who have landed in Italy have transited through Libya and have spent weeks, months or years there, where it has been acknowledged that migrants are victims of severe torture.<sup>140</sup>

Yet, there is a serious lack of appropriate care for victims of torture in Italy.

To start with, they are not properly identified by authorities at reception centres due to the reduction of the time the personnel can spend on each individual asylum seeker, which has led to a visible decrease in the number of referrals from reception centres to the Rehabilitation Centre for Torture Survivors.<sup>141</sup> In fact, torture survivors are usually only recognized as such in a later phase, thanks to NGOs providing them with legal and social assistance or during the personal interview by the determining authorities.<sup>142</sup>

Once asylum-seekers victims of torture are granted international protection in Italy, they lack proper treatment. The 2019 Aida report specifies that only limited specialized treatments are available to status holders' victims of torture.<sup>143</sup> Fiorella Rathaus, who coordinates projects to support torture victims for the Italian Refugee Council, said that in numerous centres in fact, "often psychological assistance is not provided at all, or just for a few hours a week, and in general it's given by a young graduate little equipped to deal with such traumas".<sup>144</sup> The Ministry of Health published on 22 March 2017 the Guidelines for the planning of assistance and rehabilitation as well as for treatment of psychological disorders of refugees and beneficiaries of international protection victims of torture, rape or other serious forms of psychological, physical or sexual violence. However, at the moment, the Guidelines seem to only be applied in Rome, Parma, Trieste and Brescia.<sup>145</sup>

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*hanno subito torture, stupri o altre forme gravi di violenza psicologica, fisica o sessuale*, 22 March 2017, available in Italian at <http://bit.ly/2EaINAY>.

<sup>139</sup> AIDA, *Country Report: Italy*, 2019, 161.

<sup>140</sup> "Rapporto 'La Fabbrica della Tortura'", available at <https://www.peacelink.it/calendario/event.php?id=9917> (last accessed at 10 July 2020).

<sup>141</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 85.

<sup>142</sup> AIDA, *Country Report: Italy*, 2019, 44.

<sup>143</sup> AIDA, *Country Report: Italy*, 2019, 112.

<sup>144</sup> "Italy struggles to help traumatized refugees", available at <https://www.thelocal.it/20150903/italy-struggles-to-help-traumatized-refugees> (last accessed at 10 July 2020).

<sup>145</sup> AIDA, *Country Report: Italy*, 2019, 161.

As a result, help to victims of torture comes from private organizations<sup>146</sup>, such as Doctors without Borders<sup>147</sup> or the Consiglio Italiano per I Rifugiati<sup>148</sup>, but these alternatives cannot meet the demand for their services. One of MSF's activities in Rome was running a Rehabilitation Centre for Torture Survivors, in collaboration with Medici Contro la Tortura (Doctors against Torture) and ASGI. Unfortunately, MSF only participated in this program until 2019, as the centre's resources have been reduced.<sup>149</sup>

The above shows that article 25, §1 of the Reception Directive, article 20, §3 of the Qualification Directive and article 3 of the Convention against Torture, which create a positive obligation for Italy to ensure the full rehabilitation of victims of torture, are not complied with in Italy. This has been confirmed by the United Nation Committee against Torture which noted, in the *Adam Harun* case<sup>150</sup>, that Italy lacked a proper torture victim rehabilitation system and held that the applicant, an Ethiopian refugee, could therefore not be returned there.

## **Part. 7 Covid-19**

Due to the Covid-19 crisis, the situation in Italy has deteriorated for status holders. They have been amongst the most severely hit by the current Covid-19 crisis.<sup>151</sup>

Regarding health, public health experts believe the real risk is to refugee and migrant communities themselves, who face instability, sporadic access to healthcare, and now the growing threat of stigmatization.<sup>152</sup> The living conditions of status holders living in the street or in informal settlements make it very difficult – If not impossible – both to comply with the measures laid down in the decrees and to implement measures to prevent the spread of the contagion of Covid-19, such as frequent washing of hands and clothing worn, and the sanitation of environments. The homeless population or those living within informal settlements are therefore considered to be at high risk due to the precariousness of the hygienic-sanitary conditions, but also due to the lack of adequate information and the difficulty of access to local health services.<sup>153</sup>

As regards to employment, the economic and financial crisis that hit Italy in 2008-2009 is unanimously recognized as a factor that has hindered the integration of migrants in the labour market due to its direct and indirect effects, such as cuts in welfare services.<sup>154</sup> It can therefore

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<sup>146</sup> DE MAIO, G., and PETTINICCHIO, V., "Accoglienza e cura delle vittime di tortura a Roma, 30 anni di esperienze", *XIII Rapporto Lazio accoglienza e cura delle vittime di tortura*, 2018, 162-169.

<sup>147</sup> "Italy: MSF opens a rehabilitation centre for survivors of torture", available at <https://www.msfindia.in/italy-msf-opens-rehabilitation-centre-survivors-torture/> (last accessed at 10 July 2020).

<sup>148</sup> "COUNTRY: ITALY", available at <http://protect-able.eu/country/italy/> (last accessed at 10 July 2020).

<sup>149</sup> Swiss Refugee Council OSAR, *Reception Conditions in Italy. Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, 2020, 85.

<sup>150</sup> UN Committee against Torture, *Adam Harun v. Switzerland*, 6 December 2018, CAT/C/65/D/758/2016.

<sup>151</sup> "Life in Italy under Covid-19", available at <https://www.caritas.eu/life-in-italy-under-covid-19/> (last accessed at 14 June 2020).

<sup>152</sup> "How the coronavirus outbreak could hit refugees and migrants", available at <https://www.thenewhumanitarian.org/news/2020/02/27/Coronavirus-Iran-refugees-IDPs-Italy-Europe-disease> (last accessed at 14 June 2020).

<sup>153</sup> "Emergenza Covid-19. L'impatto Sui Diritti Delle/Dei Cittadine/I Straniere/I E Le Misure Di Tutela Necessarie: Una Prima Ricognizione", available at <https://www.asgi.it/asilo-e-protezione-internazionale/covid-stranieri-proposte/> (last accessed at 14 June 2020).

<sup>154</sup> SIRIUS, *Policy Barriers and Enablers*, 2019, 427.

be assumed that economic and financial crisis that will follow the Covid-19 crisis<sup>155</sup> will also result in a lot of status holders losing their job and increasing difficulties for them to find work. For instance, in Sicily, the Azienda Ospedaliera di Rilievo Nazionale e di Alta Specializzazione – ARNAS Garibaldi publishes a series of notices aimed at the possible recruitment of health personnel due to the Covid-19 virus emergency. In three of these notices concerning health professional collaborators, the first of the requirements is the possession of Italian citizenship or one of the countries of the European Union. The same situation appeared in Rome where the National Institute for Infectious Diseases of Rome IRCCS “Lazzaro Spallanzani” publishes 2 urgent notices of expression of interest, for titles only, aimed at the hiring for a fixed term (12 months), with immediate availability, of 24 Medical Managers specialized in anaesthesia and resuscitation and 16 Socio-Healthcare Operators – OSS. The call for applications, developed specifically to meet the extraordinary demand for personnel related to the Covid-19 emergency, has as its first requirement of participation for aspiring candidates that of Italian citizenship.<sup>156</sup>

With regard to societal exclusion and violence, the opinions of Italians have become much more negative towards immigration after the economic and financial crisis.<sup>157</sup> Therefore, the economic and financial crisis following the Covid-19 crisis will be more likely to be followed by an increase in hostility and hate crimes against migrants, including status holders.

The economic and financial crisis will also lead to several budget cuts, and it might be expected that these will result in less funding awarded to integration programmes addressed to status holders and less access to housing, social welfare and medical and psychological care by status holders, resulting in more and more of them living in a situation of poverty.

The Covid-19 will also have an impact on unaccompanied minors. Firstly, during the health emergency, some provisions adopted by the Government concerned, directly or indirectly, unaccompanied foreign minors, although there were no specific guidelines on the measures to be taken to guarantee and strengthen their protection and enjoyment of their rights. Secondly, the health emergency led to the abrupt interruption of the inclusion of unaccompanied foreign minors, as it is in fact impossible to guarantee the continuation of work placements, as well as language and vocational training courses. Thirdly, only few unaccompanied minors have access to a device which would enable them to attend lessons in distance learning mode. Fourthly, a lot of them working had to suspend their work and training activities, many without being able to receive financial help.<sup>158</sup>

## **Part. 8 Conclusion**

This addendum to NANSEN Note 2020/1 has demonstrated that status holders in Italy, especially those who qualify as vulnerable, suffer from a violation of several of their rights under the Qualification Directive and other international conventions.

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<sup>155</sup> “Covid-19 hits Italy’s finances: new deficit target set at 10.4% of GDP”, available at <https://www.euractiv.com/section/economy-jobs/news/covid-19-hits-italys-finances-new-deficit-target-set-at-10-4-of-gdp/> (last accessed at 14 June 2020).

<sup>156</sup> “Il razzismo quotidiano”, available at [http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp\\_data=2019-12-01%2C2020-05-31&fwp\\_sort=date\\_desc](http://www.cronachediordinariorazzismo.org/il-razzismo-quotidiano/?fwp_data=2019-12-01%2C2020-05-31&fwp_sort=date_desc) (last accessed at 11 June 2020).

<sup>157</sup> SIRIUS, *Policy Barriers and Enablers*, 2019, 427.

<sup>158</sup> Save the Children, *Percorsi di Accoglienza e Inclusione dei Giovani Migranti*, 2020, 29-33.

Firstly, it has been demonstrated that many of them live in precarious conditions and poverty, due to a lack of access to proper housing, to social welfare and employment, in violation of articles 26, 29 and 32 of the Qualification Directive.

Secondly, it has been shown that status holders face difficulties to access the Italian National Health Service (SSN) and a lack of appropriate medical and psychological care, resulting in a violation of article 30 of the Qualification Directive.

Thirdly, the Italian society might not be very receptive towards status holders. Indeed, status holders experience racism, discrimination and hate crimes – which often remain unpunished due to a variety of reasons – and very limited access to integration programmes. Taken all of these elements into consideration, this might lead to a violation by Italy of its obligation under article 34 of the Qualification Directive.

With regard to children, Italy fails to ensure them dignified living conditions and proper access to healthcare and education, in violation of its obligations under the UN Convention on the Rights of the Child and article 27 of the Qualification Directive.

Lastly, groups of vulnerable people, namely victims of rape and sexual exploitation and victims of torture, lack access to proper care which prevents them to fully rehabilitate, resulting in a violation, by Italy, of its obligations under article 25, §1 of the Reception Directive, article 20, §3 of the Qualification Directive and article 3 of the Convention against Torture.

In addition, the addendum provided evidences that the Covid-19 crisis will worsen the situation of status holders in Italy.

This demonstrates that Italy fails to ensure status holders a full protection and that many status holders suffer from a degrading treatment incompatible with article 4 of the Charter of Fundamental Rights and article 3 of the European Convention of Human Rights. As a result, it can be concluded that, for status holders finding themselves in the situation described in the present addendum, the principle of mutual trust and the presumption of equal protection of status holders can be rebutted, meaning that they are entitled to obtain a new international protection in Belgium, in accordance with the *Ibrahim* case-law of the Court of Justice of the European Union.

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