

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: *Fourth Cycle, 48th Session*

ITALY

I. BACKGROUND INFORMATION

Italy is a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the “*1951 Convention*”). The *1951 Convention* was given full effect in 1990, when the law abolishing the geographical limitation was enacted. Furthermore, Italy ratified the *1954 Convention Relating to the Status of Stateless Persons* (the “*1954 Convention*”) in 1962, and the *1961 Convention on the Reduction of Statelessness* (the “*1961 Convention*”) in 2015.

In 2023, 157,651 refugees and migrants arrived in Italy by sea, a 50% increase compared to 105,131 in 2022, confirming an increasing trend in sea arrivals in recent years (from 2019 to 2023, sea arrivals increased by about 1,275%, from 11,471 to 157,651). As of 31 May 2024, about 21,400 refugees and migrants reached Italy by sea. As a result of the increase in new asylum applications, the national asylum system has been under significant pressure, with 136,000 applications in 2023, the highest number of asylum applications ever lodged in Italy, and with a pending caseload at the end of the year of about 147,000 applications. According to official statistics, there are currently 675 recognized stateless persons in Italy, while an estimated number of stateless persons (or persons at risk of statelessness) in the country is about 3,000, the majority of whom belong to Roma communities.

II. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Reception and detention of asylum seekers

Linked to 3rd cycle UPR recommendation no. 148.134 “Allow the National Mechanism for the Prevention of Torture to visit immigrant detention centres (Paraguay)”

Law Decree 20/2023, converted into Law 50/2023, modified the reception system by reintroducing a clear distinction between the reception of asylum-seekers in governmental and temporary facilities centers and that of beneficiaries of international protection and unaccompanied children within the Reception and Integration system (SAI). Only asylum-seekers with specific needs can be transferred to SAI, but few places are available and those requiring more specialised care are often left without appropriate accommodation. Law Decree 20/2023 also abolished psychological support, legal aid, Italian language classes and other services related to the integration-oriented activities in reception centres for asylum-seekers. The lack of such services impacts the right to information and the prompt assessment and referral of specific needs and affects self-reliance pathways. In case of disproportionate pressure resulting from large influxes, Prefectures may currently: (i) identify “emergency reception facilities” where only food, non-food items, health assistance and cultural mediation are provided and (ii) in case of extreme urgency, double the nominal reception capacity of reception centres, which may result in overcrowding.

Following the entry into force of Law 50/2023, a new Contract Specifications Scheme (Schema di Capitolato) to regulate services and goods in reception (SAI excluded) and detention facilities has been adopted. One of its provisions allows the assignment of the tasks of social workers to educators without a degree or to equivalent professionals (i.e.

individuals with degrees in anthropology, political sciences, or other fields). This might affect the capacity to identify, refer and deliver care to persons with specific needs, also in view of the multiple tasks assigned to the same worker, who might also be responsible for legal information, support to unaccompanied minors etc.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Use emergency reception facilities for asylum-seekers only as a last option under very exceptional circumstances;
- (b) Ensure that asylum-seekers with specific needs are never hosted in emergency reception facilities and are promptly transferred to Reception and Integration centres;
- (c) Adopt a National Reception Plan to address reception needs of asylum-seekers, including those of children and persons with specific needs; and,
- (d) Expand the Reception and Integration system for asylum-seekers, ensuring it is accessible to all asylum-seekers with specific needs and expanding projects to support asylum-seekers with disabilities.

Issue 2: Integration of beneficiaries of international protection

Linked to 3rd cycle UPR recommendation no. 148.303 “Strengthen efforts to ensure integration of refugees in the receiving State (Bahrain)”

Integration prospects for refugees remain one of the major gaps in Italy. The increase in sea arrivals, the arrival of Afghanistan evacuees and the Ukrainian emergency resulted in more persons in need of sustainable solutions. The legal framework gives the same socio-economic rights to refugees as Italian citizens, including regarding access to education and the labour market. However, structured and facilitated support is lacking. Administrative obstacles and delays, particularly for obtaining identity documents and residence permits and accessing social assistance schemes, hinder the enjoyment of such rights. International protection beneficiaries can enjoy second-level reception in the SAI system for six months, on condition that places are available and efficiently allocated. Many refugees are thus left on their own after recognition, facing discrimination and unable to find work or housing, or to navigate complex administrative procedures, including, for example, for residence registration. The National Integration Plan for beneficiaries of international protection and the 2021-2027 Asylum, Migration and Integration Fund (AMIF) Plan, approved by the Ministry of Interior in 2022, would offer opportunities for enhancing integration measures. However, the Integration Plan is not yet in use and the implementation of AMIF Plan is affected by delays.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Ensure the full implementation of the National Integration Plan for beneficiaries of international protection, also through the establishment of the working group, provided for in the Plan, which should monitor its progress;
- (b) Facilitate and ensure the issuance and renewal of residence permits for beneficiaries of international protection within a reasonable and certain timeframe;
- (c) Guarantee access to residence registration to all asylum-seekers and beneficiaries of international protection;
- (d) Until viable integration pathways are established, expand accommodation places in the Reception and Integration system to ensure all refugees receive post-recognition support for their integration; and,
- (e) Ensure that all refugees have access to effective anti-discrimination measures and safeguards, particularly in the areas of job inclusion and housing.

Issue 3: Child protection

Linked to 3rd cycle UPR recommendation no. 148.273 “Give specific attention to the most vulnerable groups among the migrant and asylum seeker populations, such as women and underaged children” (Afghanistan)”

Law Decree 133/2023, converted into Law 176/2023, authorizes Public Security authorities, in case of arrivals of large groups of children in a short time span, to derogate from ordinary age-assessment procedures based on a holistic and multidisciplinary approach, and resort to anthropometric or medical assessments instead, including X-rays. This new procedure also significantly derogates from ordinary procedural safeguards, as it is conducted immediately during photo-fingerprinting under the responsibility of the Police, upon written or oral authorization from the Public Prosecutor at the Juvenile Court, rather than under the direct responsibility of the Judicial authorities. The assessment results can be challenged at the Juvenile Court within only five days. The child's guardian should be informed about the assessment results, however it is unlikely that they will be appointed at such an early stage. No explicit reference, in the new provision, is made to key safeguards such as the child's right to receive complete information on the age assessment procedure, to have effective access to a lawyer, to a child-sensitive interview, to full consideration for any documental evidence, and to be granted the benefit of the doubt and treated as a minor during the investigation phase.

This might lead to a situation where some unaccompanied children are not regarded as children, and consequently exposed to procedures that are not child-sensitive and not centered around ensuring child's best interest and may result in detrimental consequences.

As observed by the Committee on the Right of the Child (NBF v. Spain, 27 February 2018) “Age assessments should be carried out only when there are serious doubts about a person's age, given that age should be verified on the basis of documents or statements provided by the person concerned. In these procedures, States should consider not only the physical appearance of the individual, but also his or her psychological maturity, thereby adopting a multidisciplinary approach. If doubt persists after the completion of the procedure, the individual concerned should be given the benefit of the doubt”.

The new legislation also provides that, while temporary accommodation facilities for children can normally host up to 50 children, in case of extreme urgency it is possible to build or enlarge centres to host 50% more children. This entails an inherent risk of overcrowding in temporary facilities for children, with a decrease in the level of services and reception conditions offered, and the deterioration of quality of care, with a possible impact on the children's security, development, health and psycho-social wellbeing.

In case of unavailability of places in the temporary accommodation facilities for children, the law also provides for unaccompanied **children aged 16 and above to be hosted in a dedicated section of governmental and temporary reception facilities for adults**, for a period lasting up to 150 days. No provision guarantees this form of accommodation to be taken into consideration only when it is in the best interests of the child.

Despite the explicit reference to a "dedicated section", past experience has shown that effective and complete separation between adults and children accommodated in the same centre is hard to achieve, which might lead to situations in which children are exposed to risks of exploitation, violence and abuse.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Ensure that age assessment is conducted only when necessary, where there are reasonable grounds to doubt child's age, and always based on a holistic and multidisciplinary approach;

- (b) Ensure that age assessment is not carried out immediately upon arrival, adequate time is provided for building trust and gathering information and documents from the child, and the presumption of minor age during the investigation and the benefit of the doubt are fully complied with;
- (c) Ensure that where medical examination is considered for age assessment purposes it remains a measure of last resort, subject to the informed views of the children and consent of their representatives.
- (d) Ensure that the best interests of the child are properly assessed in any decision, including those relating to the identification of the most suitable form of reception, and children are segregated from adults, unless their best interests, upon a proper assessment, require otherwise; and,
- (e) Ensure sufficient child-dedicated reception capacity for asylum-seeking children.

Issue 4: Sexual and gender-based violence

Linked to 3rd cycle UPR recommendation no.148.233 “Continue to implement the law on gender-based violence as well as the national action plan to combat violence against women and prosecute violations of the aforementioned law” (Liechtenstein)”

Italy has a strong legal framework on gender-based violence (GBV). The National Strategic Plan on male violence against women 2021-2023 explicitly includes refugee and asylum seeker women, and a “Vademecum”, approved in June 2023, provides standard operating procedures for the identification, referral and care of asylum seekers with specific needs, including GBV survivors.

However, the process of adaptation of the Vademecum to the different local contexts is ongoing, and the identification and referral mechanisms are not yet systemized, particularly in the reception system. GBV still remains largely unaddressed regarding availability of and access to services and a long-term response, as well as the limited coordination between the asylum system and the specialized protection networks. Moreover, the asylum system does not include Prevention from Sexual Exploitation and Abuse (PSEA) policies, and GBV is not fully covered in code of conducts, or dedicated trainings.

Lack of data on prevalence and forms of GBV among forcibly displaced and stateless people hinders the design of evidence-based policies, and an intricate system, with layers of service providers at regional, provincial and municipality levels, results in fragmented practices, subject to changing political agendas and priorities.

While gender equality is gaining momentum in the Italian public discourse, gender stereotypes persist, including gender conformity and norms and social constructions of masculinity. Very limited awareness and gender sensitive services further hampers the response to protection needs of male survivors and LGBTIQ+ persons.

Recommendations

UNHCR recommends that the Government of Italy:

- (a) Approve a new National Plan against Gender-Based Violence (2024-2026), ensuring appropriate resources for its implementation;
- (b) Design and implement a reliable, disaggregated-data collection system on gender-based violence, with specific reference to refugees, asylum-seekers, internally displaced persons, returnees, and stateless persons, enabling evidence-based policies;
- (c) Ensure an appropriate roll-out and consistent implementation of the standard operating procedures on identification, referral and take in charge of persons with specific needs, including a gender-based violence-sensitive perspective;
- (d) Mainstream gender-based violence risk mitigation and prevention of sexual exploitation and abuse across the reception system, and promotes training on

- gender-based violence, including in the context of asylum and reception, for all relevant actors¹; and,
- (e) Include, in all relevant governance fora, refugee and asylum-seeking women and their organizations, as well as civil society organizations and associations with specific expertise on gender-based violence.

Issue 5: Identification and protection of stateless persons

Linked to 3rd cycle UPR recommendation no. 148.118 “Enhance measures to combat violence and discrimination against persons belonging to the Roma, Sinti and Camminanti communities, including by effectively implementing its national strategy for inclusion at all levels (Brazil)” **and no. 148.306** “Continue efforts to address the issue of reducing and eliminating cases of stateless persons (Turkmenistan)”.

UNHCR wishes to note that the main population group affected by statelessness in Italy consists of Roma, originating from the former Yugoslavia and their descendants. Many have been living in Italy for decades but been unable to become Italian citizens. In light of their long-established ties to Italy, they can be considered as an *in situ* stateless population, thus solutions aimed at addressing their situation should be tailored accordingly.

Although Italy has established statelessness determination procedures, challenges remain with the identification of stateless persons, including lengthy processes, absence of safeguards and protection against expulsion during the procedures, and issues related to the burden and standard of proof. Consequently, few of the stateless people living in Italy are recognized as such, leaving a significant number of unrecognized stateless persons with limited access to fundamental rights.

Moreover, stateless children born in Italy to stateless parents, especially among the Roma population, still encounter several difficulties accessing Italian nationality at birth. In practice in these cases, the focus is exclusively on the situation of the parents and no assessment is performed to verify if the child “would otherwise be stateless”, meaning that Italian nationality is conferred at birth only when the parents have already been formally recognized as stateless. Otherwise, the child remains stateless. In May 2022, Italy approved the new National Roma and Sinti Equality, Inclusion and Participation Strategy (2021 – 2030), which highlights the importance of addressing statelessness among these communities to ensure that “no one is left behind” when implementing housing de-segregation policies.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Improve the identification and protection of stateless persons through the adoption of a comprehensive legal framework on statelessness determination and the rights attached to the status;
- (b) Promptly and effectively implement safeguards against statelessness at birth, ensuring that every child born in Italy, who would otherwise be stateless acquires Italian nationality at birth;
- (c) Address the situation of the *in situ* stateless population through adequate solutions, including by ensuring that stateless Roma living in Roma-only settlements are not left behind and excluded from social inclusion policies because of the lack of or uncertainty of legal status; and,
- (d) Further facilitate the naturalization framework for stateless persons.

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¹ E.g.: police, reception personnel, cultural mediators, anti-violence system workers, provincial governments staff, health workers, social workers, judges/lawyers, etc.