

Italy: New CIEs and the repatriation of foreigners: ASGI statement on the Chief of Police's circular

04/01/2017

ASGI is disconcerted and expresses deep concern for the circular issued by the interior ministry on 30.12.2016 concerning activities to repatriate irregular foreigners and the programme to reopen CIEs (Centres for identification and expulsion), apart from the Government's desire to strike new bilateral readmission agreements and to reform the norms on the right to asylum in a restrictive direction.

The will expressed by the Government to use the instruments for the control and removal of irregular foreigners to promote "*actions to prevent and counter [illegality] within the current context of crisis while facing a growing migratory pressure and an international scenario which is marked by instability and threats*", *per se*, appears to implement legislative norms which are already in force but, in reality, it implies carrying on along a **blinkerred political-administrative direction**.

ASGI expresses its full **opposition to the opening of new Identification and Expulsion Centres or the expansion** of existing structures, as it does with regards to any kind of action or measure which may entail an increase in the administrative expulsion orders characterised by automatic procedures and the lack of adequate evaluation of individual circumstances.

The past governments drastically reduced the number of CIEs after taking stock of their being a **gigantic failure** (due to their excessive costs, the degrading conditions, the limited number of foreigners who were effectively repatriated), as was highlighted by all the independent studies conducted, as well as by the Court of Auditors and the reports of various parliamentary Committees of Inquiry which have operated over the last few years.

Simply proposing the reopening of CIEs without enacting a deep reform of the part of the Single Act on immigration issued through Legislative Decree, no. 286/1998 (as modified by law no. 189 of 2002 – the so-called Bossi-Fini law, which is ineffective, iniquitous, and contravenes the Constitution, international and EU norms on several points), represents a **completely unreasonable** choice.

To regulate the migration phenomenon in an effective and lawful way, rather than limiting ourselves to an action of mass identification of possible migrants who may have an irregular residence status and to further implement the administrative enactment of the legislative norms which are in force, are ineffective and whose legality is questionable, **there is a need to amend those legislative norms which are in force and are unconstitutional, or which produce irregularity** in terms of entry and residence status.

First of all, there is a need to drastically reduce and rationalise the typologies resulting in expulsion, limiting them to the most serious cases involving the identification of socially dangerous people during detention, whereas the programmes for assisted voluntary repatriation without re-entry bans for foreigners and people who are returned need to be made effective and concrete, while providing that possible refusals of entry or expulsions or accompaniments to the border or detention -insofar as they are measures which restrict personal freedom- are always previously decided only by the judicial authority in

accordance with the reserve of jurisdiction envisaged by art. 13 of the Constitution which, instead, is violated by the legislative norms which are in force.

Likewise, ASGI deems that the actions to control and counter phenomena of exploitation should be carried out with a view to safeguarding the exploited subjects through the correct enactment of the normative measures which are in force, particularly the instruments provided for by arts. 18 and 22 of the legislative decree no. 286 of 1998, for the purpose of avoiding the removal from the national territory of people who may be subjected to various types of reprisals or persecutions if they are returned to their home country.

ASGI also expresses its concern regarding the proposal to assign planning functions for these control activities to the Provincial Committees for Order and Public Security chaired by prefects [government envoys responsible for security] and also comprising the heads of police and mayors of provincial capitals. In any case, this cannot lead to the assignment of greater powers to mayors in the field of public order which, moreover, has already resulted in the past in highly repressive behaviour, characterised by a restriction of freedoms, especially for foreign citizens.

Any possible form of assignment to the municipal police forces of competences in the field of expulsions **must be countered**, as this would accentuate their repressive role at the expense of the role of proximity which should typify the local police, whose members lack specific preparation in the field of immigration and asylum.

In the context of the crisis recalled by the Government, **it is necessary to highlight the instrumental nature of the answers which the Government is preparing**, which are aimed exclusively at superficially reassuring public opinion rather than finding solutions to the migration issue which aim to attain an effective integration of the new citizens.

In the current system, there is a need to deeply modify the normative framework on residence permits, avoiding the growing number of obstacles to maintaining regularity of one's presence in the national territory, **promoting routes for integration** and support which may prove useful to prevent a return to a situation of irregularity, promoting a permanent regularisation for those who provide clear evidence of integration (work, family network, long-term presence in Italy, studies, etc.), promoting policies for integration between foreign and Italian citizens, through the sharing of the local territories and policies.

This is the only way to avoid social tensions, which are too often used instrumentally by political and institutional actors, and to start to genuinely manage the reality of migration.

Instead, what does not have a future, are both the strategy of bilateral readmission agreements (like the one the minister would like to renegotiate with Tunisia) which are stipulated in a simplified and secret form without a prior parliamentary law to authorise their ratification in breach of art. 80 of the Constitution, and the hypothesis of a **legislative measure to reform the norms of asylum in a restrictive direction**, eliminating the two degrees of jurisdiction (which would discriminate foreigners in comparison with citizens who enjoy this in the Italian normative framework) or establishing specialised sections in courts which, in practice, due to their composition entrusted primarily to honorary magistrates who are not experts would turn into new special judges, whose establishment

is forbidden by the constitutional law (without eliminating the real cause of delays which lies in the belated and often badly formed decisions by the Territorial Commissions whose number should be increased and should be composed by people who are more independent and qualified).

Hence, ASGI asks the Government to **deeply rethink its strategy** in the field of immigration and asylum, and to prepare a National Plan for the management of the reality of migration, involving the associations of foreign citizens and associations which promote the protection of foreigners' rights.

Translation by Statewatch

The original version of this statement is available (in Italian) on the Associazione di Studi Giuridici sull'Immigrazione's website at: <http://www.asgi.it/allontamento-espulsione/cie-rimpatrio-circolare-polizia-necessaria-riforma/>

The text of the chief of police's circular of 30 December 2016

10/01/2017

Activity to track down irregular foreign citizens in the national territory for the purpose of repatriation

In the context of strategies to counter illegal immigration, beyond the system for border controls, the mechanism for the control and removal of irregular foreigners plays a role that has the same importance.

In fact, it is well known that this control activity often makes it possible to intercept phenomena of exploitation and the contamination of the economy in the territory connected to forms of organised crime at a national and transnational level. Neither should we ignore the contribution which the mentioned mechanism is able to deploy in actions to prevent and counter illegality within the current context of crisis while facing a growing migratory pressure and an international scenario which is marked by instability and threats which require that maximum effort be expended in activities to keep the territory "under control".

After all, the returns policy for foreigners in an irregular situation also represents a priority within the European Union context and is found, in particular, in the obligatory provisions of constitutive treaties (arts. 77-80 of the TFEU), as well as in numerous acts of political and strategic guidance including the recent recommendations termed "European agendas" in the field of security and on migration (adopted in Strasbourg and Brussels on 28 April and 13 May 2015).

For the reasons mentioned above, it appears necessary to give maximum impulse to the activity to track down third country nationals in an irregular situation, particularly through a specific activity of control by the different police forces. For this purpose, it will be necessary to provide them specific indications so that, if they do find such foreigners, they may take charge of direct contacts with the Immigration Offices of the Police authority which is territorially competent, which are entrusted with opening the procedures for the adoption of expulsion measures, in accordance with the specifications contained in art. 13 and those which follow it in the legislative decree no. 286 of 25 July 1998.

In relation to the need which has been described, it is deemed desirable to proceed to a prior planification of the services which are specifically aimed at finding foreigners in an irregular position in order to optimise available resources within a wider context of the operative requirements at a territorial level.

This sort of evaluation may be undertaken within the Provincial Committee for Order and Public Security by activating extraordinary plans for the control of the territory which are not solely aimed at fighting irregular immigration, but also the exploitation of the labour force and the various types of crime which draw benefits for the circuit of illegality.

Moreover, within such a context, it will be possible to better define the involvement of the different police forces in enacting the plans for joint controls which may involve the possible operative contribution by local police forces. If necessary, back-up may also be requested, including by specialised units, in accordance with the previous national directives which have been issued (in particular, note no. 558/A.7230.0/212379 issued by this office on 22 June 2011 may be recalled).

The Central Directorate for Immigration and the Border Police will manage the necessary coordination with the *questure's* [police headquarters in a given city] Immigration Offices for a more detailed planification of this activity for the extraordinary control of foreign presence in the national territory, particularly as regards the assignment of places in the identification and expulsion centres (CIEs) [*Centri di Identificazione ed Espulsione*].

A similar coordination, in the aspects of their respective competence, will be assured by the departmental offices concerned in order to enable the initiatives adopted at a territorial level to deploy full effectiveness while they also consider the complexity and structuring of the mechanism which, also as a result of the possible number of irregular foreigners who may be found, may prove complex and delicate from an organisational viewpoint, and due to its possible repercussions in the field of order and public security.

We trust in your usual active collaboration.

The Chief of Police
Director-general for public security
Gabrielli

Translation by Statewatch

The original version (in Italian) is available on the Associazione di Studi Giuridici sull'immigrazione, at:

<http://www.asgi.it/allontamento-espulsione/attivita-rintraccio-stranieri-rimpatrio-circolare-2016/>