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2 March 2017

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SG/Inf(2017)8

Report of the fact-finding mission to Italy

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**Special Representative of the Secretary General on migration and
refugees,**

16-21 October 2016

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EXECUTIVE SUMMARY

The Secretary General's Special Representative on migration and refugees carried out a fact-finding mission to Italy from 16 to 21 October 2016, visiting formal and informal facilities for migrants and refugees in Como, Sicily (including Lampedusa) and Rome. He also met with representatives of the government, the authorities dealing with migration-related issues and civil society.

Over 180,000 refugees and migrants arrived in Italy in 2016, of whom around 25,000 were unaccompanied children (UAMs). Throughout the mission, the goodwill of those engaged in addressing the challenges posed by this influx was apparent. However, the sheer number of new arrivals has put enormous pressure on the authorities. The scarcity of relocation offers from other Council of Europe member states prevents those entering Italy from being able to travel legally to other countries so that their asylum claims can be examined there. On the other hand, effective fingerprinting of all new arrivals means that those who succeed in crossing borders to other European Union member states by illegal means are returned under the Dublin III Regulation. The comparatively low number of economic migrants and failed asylum-seekers who are removed from Italian territory also contributes to the overall saturation of the reception system by encouraging arrivals. Italy cannot be left to cope with these challenges alone: Council of Europe member states must show solidarity by ensuring a fairer distribution of asylum-seekers across Europe.

The number of arrivals has had a negative impact on the system for registering them, and on the Italian reception system as a whole. The procedures at disembarkation do not always guarantee the effective identification of trafficking victims or others who are particularly vulnerable, or the provision of adequate information on rights, particularly when high numbers of refugees and migrants arrive at once. There are insufficient places in appropriate establishments for asylum-seekers and for unaccompanied children. Conditions vary from one facility to another because of a lack of harmonised standards and clear rules, and inadequate monitoring by the authorities. Questions about the legality of certain procurement processes could lead to opportunities for corruption by private operators who end up running the facilities and its services. Conditions in some facilities raise concerns under Articles 3 and 5 of the European Convention on Human Rights (ECHR). Resources should be mobilised to improve reception capacity and conditions. Expertise by Council of Europe monitoring bodies (GRETA and GRECO) can be used to provide guidance to tackle problems linked to trafficking and corruption, respectively. The Organisation can also facilitate exchanges of good practice as regards the provision of information.

The shortage of places in reception centres is exacerbated by the slow pace of asylum processes (particularly appeals) and procedures for relocation and family reunification under EU rules. The high concentration of unaccompanied children in certain areas has led to the breakdown of the guardianship system, meaning that the necessary protection and assistance is not provided and young people are left for too long in limbo about their futures. Under-18s are not always provided with adequate educational opportunities, and those who reach the age of 18 are given little support. Proposals for new legislation on guardianship and judicial reform concerning the processing of asylum claims can be reviewed by Council of Europe experts to ensure their compliance with the Organisation's human rights standards. Training can also be provided to judges who adjudicate on asylum cases to ensure that decisions are in compliance with the ECHR. The Council of Europe can also

offer assistance to improve the educational provision for children and to establish a system of transitional support for older children upon reaching adulthood.

The migrants arriving in Italy are assisted by smugglers who operate highly sophisticated networks across northern Africa and Turkey. While efforts are being made to tackle smuggling, the cross-border nature of the investigations poses particular challenges. Facilitating exchanges of know-how among Council of Europe member states as regards smuggling could assist in the development of best practices.

Accommodation and other assistance services are provided only to asylum-seekers and refugees who are enrolled in the reception system. There is no welfare support available for those outside the reception system. Due to the lack of comprehensive and universal integration policies, even those who have obtained international protection do not have access to resources to build new lives in the community. This has led to a growth of informal settlements, where conditions are basic and prospects are poor. ECRI and other Council of Europe projects can offer useful assistance to national and local authorities on how to put in place effective long-term integration policies.

During the mission, shortcomings in the reception system and the asylum procedures were recognised by the authorities. There was a real determination to improve the treatment of migrants and refugees arriving in Italy. This provides a solid foundation on which to build opportunities for co-operation between the Italian authorities and the Council of Europe in the coming months to tackle together the issues identified.

I. THE NEED FOR THE MISSION

Although at the start of 2016 the majority of migrants and refugees arriving in Europe by sea disembarked in Greece, it became clear by summer that the number of arrivals in Italy had begun to increase. There was a particularly high proportion of unaccompanied children (UAMs) among the new arrivals. It was therefore considered important to visit Italy as a matter of some urgency. I carried out a fact-finding mission from 16 to 21 October 2016 to identify the challenges facing the Italian authorities as a result of the high number of migrants and refugees arriving there, and how the Council of Europe might be able to assist. I conducted this mission together with the Head of my Office, Mr Stephanos Stavros, and my legal adviser, Ms Michelle Lafferty.

I was particularly struck by the goodwill of those involved in providing assistance to refugees and migrants arriving in Italy. I would like to thank the Italian authorities for their co-operation during my mission.

II. INTRODUCTION

1. Meetings

During the mission, we held talks with the Undersecretary of Interior in charge of migration issues; the Undersecretary of Justice; the Principal Director for Migration Policies of the Ministry of Foreign Affairs; the National Authority for Children and Adolescents; and the National Association of Italian Municipalities (Associazione Nazionale Comuni Italiani, or "ANCI"). We also met with various authorities dealing with migration-related issues in Como, Palermo, Lampedusa, Caltanissetta, Mineo and Pozzallo, and with the reception service providers. We had an exchange of views with the UNHCR Regional Representative for Southern Europe and the Head of the European Commission's Representation in Italy. Finally, we met with a number of NGOs, IGOs and other civil society representatives.[1]

2. Visits in situ

We visited the hotspots of Pozzallo and Lampedusa; first reception centres (centri di accoglienza per richiedenti asilo, [2] or "CARA"/centri di accoglienza, [3] or "CDA") in Caltanissetta and Mineo; a first reception centre for unaccompanied children in Palermo; a temporary reception centre (centro di accoglienza straordinario, [4] or "CAS") in Palermo; a second reception facility (sistema di protezione per richiedenti asilo e rifugiati, [5] or "SPRAR") in Rome; a removal centre (centro di identificazione ed espulsione, [6] or "CIE") in Caltanissetta; San Giovanni train station in Como; the Italian-Swiss border; the operational centres and boats of the Italian Coast Guard and the Italian Finance Police in Lampedusa; Italian Red Cross shelters for migrants and refugees in Como and Rome; the A28 night shelter for unaccompanied children in transit, managed by Intersos, in Rome; an informal overnight camp for migrants in transit, run by Baobab Experience volunteers, near Tiburtina train station in Rome; and Palazzo Selam, an informal settlement in Rome.[7]

I would particularly like to thank the UNHCR, UNICEF and their implementing partner, Intersos, and Amnesty International Italy for their assistance in facilitating the informal parts of my programme.

III. GENERAL RECEPTION ISSUES[8]

1. Capacity

By the time of my mission in mid-October, Italy had seen over 150,000 arrivals by sea in 2016.[9] Others had continued to enter the country via its land borders. This has unsurprisingly created a huge burden for the authorities in terms of their capacity to provide appropriate reception facilities to all of those in need.

At the time of my visit, there were around 162,000 reception places in Italy. About 10,000 were in first reception facilities (CARA or CDA), 26,000 were in second reception facilities (SPRAR) and the remaining 126,000 were in temporary emergency facilities (CAS). Because it may take years for an asylum request to be finally processed and for asylum-seekers to leave the reception system, places are not being freed up for new arrivals and the number of people in reception continues to grow. Capacity to accommodate unaccompanied children is a particular problem.[10] At the time of my visit, almost 20,000 unaccompanied children had arrived in Italy by sea over the course of 2016, but the reception system only had designated places for around 4,000.[11]

The Italian authorities have made a huge effort to increase their reception capacity in recent years,[12] largely by making more places available in CAS. All those who arrive by sea and request asylum are accommodated, even if this pushes facilities beyond their official capacity. But the numbers involved have an impact on the nature of accommodation and services provided, as well as the conditions of reception. This raises potential issues under Articles 3 and 8 of the European Convention on Human Rights (ECHR).[13]

2. Landings and hotspots

a) The disembarkation process

New arrivals by sea are now processed through one of the 4 hotspots[14] or at another disembarkation point.[15] The Ministry of Interior determines where the rescue boats will disembark depending on the existing numbers of migrants and refugees at ports and hotspots and any particular health issues of the new arrivals. Those managing the ports and hotspots are not given advance information on the health condition or make-up of the new arrivals,[16] which limits their ability to make plans for their treatment and undermines continuity of care. The initial screening is done once the boat docks and the disembarkation process can take days, during which time migrants and refugees remain on board. During disembarkation, NGOs and IGOs are generally present to try and identify the vulnerable, including children, and provide basic information to the new arrivals. When the numbers disembarking are high, these tasks are more difficult to accomplish in an effective way. Sharing what information is available before the boat docks could help those responsible for the initial treatment and reception of migrants and asylum-seekers to carry out their roles more efficiently.

The procedure on arrival involves identifying and registering migrants and refugees, together with providing information on their rights. Fingerprints are taken and entered into the EURODAC database. Around 98 per cent of arrivals are now successfully fingerprinted.[17] A brief police interview takes place at which the new arrivals are questioned about their reasons for travelling to Italy. Based on their answers, they are treated either as asylum-seekers or economic migrants.[18] In some places, migrants are asked whether they wish to work in Italy, and if they answer that they do they are treated as economic migrants even though they may

have fled their home countries for other reasons. Those considered to be asylum-seekers are transferred to first reception facilities. Those deemed to be economic migrants are given

7 days to leave the country via Rome Fiumicino airport or, where readmission agreements are in place, may be transferred to a removal centre (CIE) for forced expulsion. EASO are present at the hotspots and provide information to asylum-seekers eligible for relocation.

In principle, no-one should spend more than 72 hours in a hotspot. However, while the initial interview procedure is carried out swiftly, in practice the lack of capacity in the reception system means that many asylum-seekers are stuck in the hotspots awaiting a transfer to first reception facilities.[19] This problem is particularly acute in respect of unaccompanied children: in the Lampedusa hotspot I met 13 girls under the age of 18, half of whom had been there for almost 2 months; in Pozzallo, the majority of the residents at the time of my visit were under 18[20] and some had been there for weeks.[21] One of the reasons why children are subjected to particularly lengthy stays in Lampedusa is the very size of the island and its remoteness from Sicily. As there are no reception facilities on the island outside the hotspot, all those disembarked in Lampedusa have to be transferred elsewhere in Italy once they have gone through initial registration and screening processes. However, transfers are sometimes delayed because of adverse weather conditions. In the meantime, places previously identified for unaccompanied children in reception facilities in mainland Sicily are given to others. This was the case of the children I met in Lampedusa.

Increased first reception capacity, for adults and more particularly children, is needed to reduce the length of stays at the hotspots. The new facility planned for unaccompanied children in Pozzallo is likely to go some way in addressing the problem I saw there of children spending lengthy periods in inappropriate conditions in the hotspot. Given the particular logistical issues in Lampedusa, some thought should be given to whether it is appropriate to disembark children there at all.

b) Conditions in the hotspots

The capacity at Lampedusa is currently 381[22] and at the time of my visit there were 338 detainees. The Pozzallo hotspot has a capacity of 180; at the time of my visit there were 154 residents. Although both hotspots were formally operating within capacity, some of the men's dormitories I visited in Lampedusa appeared to be overcrowded,[23] with the consequent impact on hygiene. In Lampedusa I also saw blocked toilets, with water leaking into the neighbouring bedroom which accommodated young girls, and the female showers were in a poor condition. There was no separate accommodation for children in either hotspot, and in Pozzallo there was no real and effective separation between female and male residents.[24] Additional investment in the hotspots could ensure that safe spaces are created for accommodating women in Pozzallo and children in both places.

Those in the hotspots are entitled to pocket money of € 2.50 a day. Residents of the Lampedusa hotspot do not receive cash but are instead given cigarettes or biscuits. Their request to receive the pocket money in the form of phone cards was refused for logistical reasons. If pocket money is given in the form of a benefit in kind, recipients should be able to choose which items they wish to receive in place of cash. Such items should also correspond to the full value of the pocket money allowance.

In principle, both hotspots are closed facilities. In Lampedusa, even after residents have been fingerprinted, they are not formally permitted to leave the compound. In

practice, they are able to sneak out during the day and the authorities appear to be aware of, and tolerate, this. In Pozzallo, a joint decision by the Prefect and the head of the police permits those who have been fingerprinted from leaving the hotspot between 8 a.m. and 8 p.m.

Overall, conditions in the hotspots which I visited could be considered acceptable provided that the issues I have identified above are addressed. However, even with these improvements, the limited facilities and services, and the closed conditions, mean that they will remain unsuitable for long stays.

c) Presence of IGOs and NGOs

One positive aspect of the hotspots I visited was the presence of NGOs and IGOs. In both Lampedusa and Pozzallo, representatives of the IOM, the UNHCR and Save the Children are on-site on a regular basis. In Pozzallo, Emergency, Terre des Hommes and Doctors for Human Rights (MEDU) are also regularly present. However, access to the Lampedusa hotspot is restricted for most NGOs and civil society in general. Agreements allowing NGOs and other civil society representatives to deliver services in the hotspots would likely improve conditions for those detained there. The Council of Europe could provide examples of good practice and expertise in drafting co-operation agreements to the Italian authorities.

d) The legal framework for the hotspots

The hotspot approach was developed at European Union level but there is no domestic legal framework establishing what a hotspot is and how the procedures carried out there are governed.[25] Standards accordingly vary from one hotspot to another. The authorities informed me that Italy adopts a minimal interpretation of the hotspot concept: they are solely for identification procedures to be carried out. But if people refuse to provide fingerprints, they may spend some time at the hotspot pending the completion of the identification process.[26]

Given the limitations of the hotspots in terms of conditions and services, the “minimal approach” involving a short stay seems the only logical option. The reasons why the practice does not reflect this intention have been set out above. Independently of whether the capacity problem can be resolved, a proper legal framework is needed, setting out minimum standards. This would significantly contribute to the protection of those in the hotspots. In particular, the de facto detention of people in hotspots, either pending the availability of suitable first reception accommodation or because they have refused to provide fingerprints, is currently without any domestic legal basis and for this reason raises issues under Article 5 of the ECHR.

3. Other reception facilities

a) CARA/CDA

CARA and CDA are first reception facilities for asylum-seekers.[27] They are large centres, established by the Ministry of Interior, where asylum-seekers are intended to spend a few weeks or months to complete the administrative formalities of lodging an asylum claim and await a place in a second reception facility. However, a lack of places in second reception facilities means that in practice asylum-seekers spend between 6 and 18 months in first reception and often only leave once international protection status has been obtained or their claim has been rejected.[28] The time spent waiting for their claims to be decided could be put to good use through the provision of language-learning opportunities, skills training and other integration activities. This would enable potential future international protection beneficiaries to gain autonomy and give them the competencies

needed to build successful lives in Italy. However, because first reception is intended only for the completion of the asylum application, it does not offer the integration opportunities available in second reception facilities.

We visited a CARA and CDA in Caltanissetta, and a CARA in Mineo.

The Caltanissetta CARA and CDA have a joint capacity of 456; there were 476 people there at the time of the visit. Conditions were generally good: residents were happy with the accommodation and the services provided. However, as expected, many had been there for much longer than the period envisaged for first reception. One interesting feature was the particularly high number of Pakistani nationals in the centres,[29] the majority of whom had been returned to Italy under the Dublin III Regulation or had travelled there after being refused international protection in other EU countries. The authorities were frank about the low prospects of individuals in this group obtaining international protection from Italy, but emphasised that pending the determination of their asylum applications they were entitled to receive reception up until the decision of the local civil court rejecting the claim.[30]

The CARA at Mineo hosts some 3-4,000 people in a former US military base.[31] It is essentially a small town: inhabitants live in individual houses with televisions, and there are shops and other services available. As in other places, the main concern was the length of the asylum procedures, which meant that many stayed in the CARA for very long periods. The prefecture has now opened an office in the CARA itself.

The conditions in the first reception centres we visited were reasonable. The main problems are delays in accessing asylum procedures and the length of the procedures themselves, which prevent the intended turnover of residents. Putting in place an effective accelerated procedure for nationals from countries generally considered safe, and thus unlikely to be granted international protection, could make a big difference. In Caltanissetta, for example, swift decisions in cases involving Pakistani nationals would free up over half of the available places. Steps should also be taken to limit the numbers in first reception centres for the good of those resident there. The presence of thousands of asylum-seekers in a de facto migrant town in Mineo makes the provision of individualised support impossible and removes the need for any interaction whatsoever with the local community.

b) SPRAR

SPRAR are second reception facilities where asylum-seekers should be transferred once they have made their asylum applications. They are established by municipalities and are generally small establishments which enable more tailored support to asylum-seekers and international protection beneficiaries.[32]

Integration is an important aspect of what the SPRAR centres offer: their budget includes a mandatory percentage for integration activities.[33] In Rome, I visited the "Roma Città Aperta" SPRAR which hosts 20 single men. A social worker, a psychologist and a "cultural mediator" are present to provide advice and assistance to residents. I formed a positive impression of the material conditions in the facility and the goodwill of the management. The general culture should encourage residents to take charge of their own lives.

There are clear advantages for municipalities in opening a SPRAR facility: they receive money and technical assistance from the state; the money can finance services for local residents as well as asylum-seekers and refugees; and the centre itself and the services it provides create local jobs. Moreover, welcoming more families or children can breathe new life into smaller communities, for example by keeping local schools open. Notwithstanding these advantages, there remains

resistance from local populations. There are also concerns from municipalities themselves as regards funding. As a result, the number of SPRAR facilities is insufficient.[34] According to ANCI representatives, there is a new proposal from the Ministry of Interior to further incentivise municipalities to participate in the SPRAR network: where a municipality has opened a SPRAR facility, the prefecture would be precluded from opening a CAS[35] in that municipality; and the municipality would benefit from an exception to a hiring freeze currently in place.

SPRAR facilities are a clear example of best practice and the goal should be the continued growth of the network. My interlocutors largely supported a voluntary, and not a mandatory, SPRAR system. If municipalities choose to welcome asylum-seekers and refugees, they are more likely to take “ownership” of the project and to provide good quality services. The centres will also be less likely to create problems in the community if they have local political support. Mayors therefore have an important role to play in promoting their benefits to the local community. It is to be hoped that the incentives recently proposed by the Ministry of Interior will help them to do so. Increased funding could also persuade municipalities that they will not need to cover any financial shortfall from their own budgets. This would ensure that asylum-seekers spend less time in first reception facilities, in turn freeing places there for those arriving in the hotspots. It could also help to address the serious problem of “informal settlements” by ensuring that all asylum-seekers are assisted to integrate properly into society.[36]

c) CAS

CAS are temporary reception facilities set up by the prefectures to address the shortage of reception places in times of high migrant flows. Each prefecture has to find a certain number of places for asylum-seekers in its province, proportionate to the number of residents there. However, the prefectures are not required to ensure that asylum-seekers are distributed in a manner proportionate to the number of residents in each municipality.[37] In practice, it is easier for the prefecture to establish large centres in each province. This means that certain municipalities see high numbers of asylum-seekers being housed within their boundaries without their involvement or consent. The prefecture decides which standards are to be applied to the CAS and as a result the standards vary greatly. Their intended temporary nature means that the focus is on emergency accommodation, and not long-term integration, although many asylum-seekers stay in a CAS throughout the determination of their asylum applications.[38]

I visited the “Casa Madonna dell’Accoglienza” CAS in Palermo, for women and families. It has a maximum capacity of 30 but there were 41 people when I visited. Residents come directly to the CAS once they have been registered following disembarkation. They are expected to apply for asylum from there. In practice, they stay until they have been granted international protection. The management has put in place Italian classes for the women, but explained that it was hard to organise other activities because of the high number of arrivals in recent times.

Given the shortage of places in the SPRAR network in particular, CAS have become an important feature of the Italian reception system. There is a need for clear and uniform standards which incorporate longer-term integration objectives to reflect the reality of the duration of asylum-seekers’ stays in these centres.

4. Access to information

As already mentioned, IGOs and NGOs are present during disembarkation and in the hotspots. They provide information to new arrivals on their right to claim asylum and, in the case of EASO in particular, on the relocation procedure. However, many migrants and asylum-seekers I met claimed to have received no

information when they disembarked. This is not surprising: they have experienced harrowing journeys to reach Europe, culminating in a crossing from North Africa in unseaworthy vessels. Many have seen friends and family die during the journey or have themselves been detained and ill-treated in Libya. Information provided immediately upon their arrival in Italy may not be retained or properly understood.[39] Furthermore, in times of high numbers of arrivals, the capacity of IGOs and NGOs to provide adequate information to everyone may be put to the test.

This might explain why some asylum-seekers we met had not indicated their intention to apply for asylum during their initial interviews at the hotspots. Others were clearly unaware of the possibility of seeking relocation. While an application for international protection can be made at any time, failure to express the intention to apply while at the hotspot has serious negative implications. As already mentioned, those deemed to be economic migrants during the initial screening are either detained pending forced expulsion or given 7 days to leave the country. In the case of the latter group, not indicating the intention to make an asylum application at disembarkation means that they will not be provided with accommodation and will have to survive by their own means until they are able to enter the reception system following the lodging of their applications.[40] The consequences of not indicating the intention to make an asylum application at disembarkation are even more severe for the former group: the maximum 90-day time-limit for detention is extended to 12 months in the case of a person who makes an asylum application from detention.[41]

There is no doubt that provision of information immediately upon migrants' arrival in Italy is of key importance. Information therefore has to be provided in a systematic way, to ensure that all of those disembarking are properly informed about their rights, possibilities and procedures even when numbers are high. There is also a need to allow some time so that those entitled to international protection can digest the information provided before the initial screening interview takes place. Finally, it is vital that the provision and availability of information is viewed as an ongoing requirement, rather than a one-off exercise to be carried out immediately after disembarkation.

5. Connectivity

None of the establishments visited offered wireless Internet access to those detained or resident there. Many of those I met underlined how helpful such access would be given the difficulty of communicating with their families. The possibility of providing wireless Internet access in reception facilities merits closer examination. As well as enabling better family contact, it could help ensure adequate provision of information to all new arrivals.

6. Lack of monitoring and corruption risks

The various reception establishments are run by private organisations which have been awarded management contracts following public tenders. Contracts are awarded to the lowest bidder, which does not encourage bidders to base proposals on high standards. Some thought should be given to whether it is appropriate for cost to be the only consideration in awarding contracts. Further, it was widely acknowledged by our interlocutors that contracts are often given at local level according to local politics, and those to whom they are awarded have no

experience of running a reception facility. This, together with the absence of comprehensive, harmonised standards in respect of some of the types of facility (as already seen), means that standards of reception vary greatly from one facility to another.

Another factor is the lack of structured monitoring mechanisms. Although the law provides for the monitoring of reception facilities by the competent prefectures,[42] the approach to monitoring remains ad hoc for the time being and no sanctions are applied for non-compliance with contractual terms. I received a copy of a February 2016 report of a monitoring exercise of the Lampedusa hotspot conducted by the Agrigento Prefecture, the UNHCR and the IOM in January 2016. The report itself is comprehensive but it is not clear what has subsequently been done to address the concerns it raises.[43] There has been no follow-up visit to assess the progress made.

The differing standards in reception facilities in Italy is a cause for concern and the failure by the authorities in many areas to supervise the execution of management contracts leaves scope for operators to save money by cutting back on the contracted services. The large sums of money at stake create an obvious incentive for corruption. As a result, the management of reception facilities has become a real opportunity for unscrupulous operators. An ongoing investigation is looking into the likely Mafia involvement in the companies who win the bid and run reception facilities in the South of Italy.[44] There is a need for updated, universal standards for each of the different kinds of reception facility as to what must – as a minimum – be provided to residents. There should also be proper and regular monitoring to ensure that the contracted services are provided as agreed. Sanctions should be applied against operators that fail to comply with the terms of their contracts.

IV. UNACCOMPANIED CHILDREN

1. Reception of unaccompanied children

Over 20,000 unaccompanied children had arrived in Italy by sea in 2016 by the time of my visit. They account for 14 per cent of all sea arrivals. The Ministry of Interior is responsible for establishing first reception centres for unaccompanied children, where they can be accommodated for up to 60 days for identification and age-assessment purposes. Following this period, they should be transferred to SPRAR facilities for children, which are carefully monitored and have to comply with strict standards. In times of high numbers of arrivals, the prefectures may also set up temporary centres for unaccompanied children.

Because municipalities are responsible for all abandoned children[45] within their territories, areas with large numbers of unaccompanied children are confronted with significant challenges in terms of protection, reception and provision of services. The care system for abandoned children in Italy historically caters for young children, who form the majority of local children needing care.

Unaccompanied children, on the other hand, tend to be adolescents and have quite different needs and vulnerabilities. While the local authorities receive € 45 per day from the state for each unaccompanied child accommodated, the real daily cost of providing protection and care for them in specialised SPRAR centres for children can easily reach € 120-150. Municipalities have to meet the shortfall. As a result, only a small number offer places for unaccompanied children in SPRAR

facilities: there are currently around 2,000 places for under-18s. The cost of providing shelter, protection and services to unaccompanied children could be reduced if the reality of their situation was recognised and the standards which must be met in establishments hosting them updated to reflect that reality.

The shortage of places in second reception facilities means that unaccompanied children are spending over 6 months in first reception facilities. These larger centres are not suitably adapted to their needs. I visited the “Ex Casa Marconi” first reception centre for unaccompanied children in Palermo, where accommodation is provided for up to 120 children. Some activities are arranged and the younger children attend local schools. However, there was palpable frustration among the older boys as regards their lack of progress through the reception system and the absence of any long-term perspective for their futures.

A bill on protection measures for unaccompanied children proposes changes to provisions concerning reception conditions under Law 142/2015. It also provides for the creation of a “cartella sociale” – or social-work file – which would contain information about the child’s background, journey and health and details of assessments already carried out and activities undertaken. The dossier would accompany the child each time he or she was transferred. The bill has recently been approved by the Chamber of Deputies and is currently under examination in the Senate. Once adopted, its swift and effective implementation could go some way to addressing a number of the shortcomings in the current system.

2. Guardianship

All my interlocutors agreed that the guardianship system in Italy does not work. In principle, the mayor is appointed as guardian for a child in the municipality who does not have anyone to look after him or her, and this includes unaccompanied children. In areas with high numbers of unaccompanied children, the mayor may find himself or herself guardian to over 1,000 children.[46] In practice, he or she often delegates this responsibility to a member of his or her team.[47] But with such high numbers under their care, the appointed guardians are unable to provide the kind of individual attention required. The high number of unaccompanied children arriving in Italy has also led to significant delays in the guardianship process: a guardian should be appointed for unaccompanied children within 24 hours but in practice it takes months. The problem is exacerbated by the shortage of second reception centres across Italy, which would allow for the more even spread of unaccompanied children and the appointment of guardians for fewer children.

Until a guardian is appointed, there is a vacuum in terms of the child’s protection: no-one takes responsibility for progressing him or her through the system. Children need guardians in order to complete administrative procedures, including applications for asylum and requests for relocation and family reunification.[48] The delays in appointing guardians and the latter’s excessive caseload mean that unaccompanied children wait even longer than adults to have their immigration status resolved. This delay encourages unaccompanied children who do not wish to stay in Italy to leave reception and make their own way northwards with the help of smugglers.

To address some of the challenges, several cities are trying to put together lists of potential guardians – to increase the size of the pool – and have prepared protocols on guardianship. Training courses for potential guardians are being rolled out, as are other support programmes aimed at creating links between unaccompanied children and local families. The National Authority for Children and Adolescents is gathering information on different practices across the regions

regarding the appointment of guardians; this is a useful exercise and will help to identify more clearly problem areas as well as examples of good practice. The bill on protection measures for unaccompanied children, currently before the Senate, proposes changes to the existing guardianship provisions. In particular, it would establish lists from which private guardians, appropriately trained, would be selected. The Council of Europe could provide useful expertise and assistance with projects to improve the guardianship system, particularly after the entry into force of the new law.

3. Age assessment

Many of the arrivals in Italy are teenagers and it is not always easy to ascertain that they are under 18 years old. The health authorities do a first assessment based on appearance at disembarkation, with “cultural mediators”. If individuals considered to be adults insist they are children, they are taken to the police station for age assessment. This assessment may include a wrist x-ray. Guidelines on age assessment were adopted in April 2016 and the bill on protection measures for unaccompanied children proposes moving away from x-rays towards psychosocial assessments in cases of doubt. This would be a positive development.

4. Education and recognition of qualifications

Children under the age of 16 have both the right and the obligation to attend school, regardless of their immigration status. In hotspots, they are not given access to education: their stay is intended to be of a very short duration so access to local schools is not considered feasible by the authorities.[49] However, as indicated above, in practice unaccompanied children’s stay in hotspots can be of some duration. As regards first reception centres, in provinces where the maximum 60-day stay is generally adhered to, it appears that only simplified educational activities are arranged.[50] However, where it is clear that stays will be of longer durations, proper educational provision is made. In the first reception centre we visited in Palermo, younger children attend local schools while those who are 17 attend adult education centres (Centri provinciali per l’istruzione degli adulti, or “CPIA”). Likewise, once in second reception facilities, children attend local schools. Lack of adequate monitoring of the services offered in the CAS means that it is impossible to know whether appropriate access to education is provided in all of these facilities; management at the CAS I visited in Palermo confirmed that children there attend the local school.

There is also an issue of recognition of qualifications for young people. Learning certificates awarded by some organisations are not currently recognised by others. A more integrated system which enables greater recognition to be given to ad hoc educational arrangements in hotspots and elsewhere could improve access to further education and employment, particularly for older children who are unlikely to have a realistic opportunity to complete a formal education in Italy.

5. Transition to adulthood

When an unaccompanied child turns 18, he or she is transferred from the facility for children to an adult SPRAR facility or CAS for a maximum of six months. A more gentle transition period for those reaching the age of majority could help better prepare them for life ahead. Moreover, for those who have arrived in Italy at 16 or 17 years old, they may not have received sufficient support by the time that they are required to leave reception facilities to ensure their effective integration into Italian society. More attention to transition could reduce the risk that these children find themselves unemployed and without any support network, leaving them vulnerable to exploitation or even radicalisation.

V. INTERNATIONAL PROTECTION PROCEDURES AND MIGRATION POLICY

1. Asylum applications

Requests for international protection cannot be made at the hotspots: they must be lodged at the police station of the province where the asylum-seeker is placed in first reception. Once the asylum request is registered, a C3 form is issued confirming asylum-seeker status. By mid-October, there had been over 85,000 applications lodged in Italy in the course of 2016.[51] Areas which host a high number of asylum-seekers are finding it difficult to cope with demand. In these areas, asylum-seekers may have to wait several months for the initial appointment to formally make the asylum request and obtain the C3 form.[52] The difficulties in accessing the asylum procedure, especially when coupled with inadequate reception conditions, raise potential issues under Article 3 of the ECHR.[53]

Asylum applications are assessed by the Territorial Commission with jurisdiction for the area in question. The commission is composed of a representative from each of the prefecture, the police, local government and the UNHCR. The waiting time depends on the region but the average appears to be around 6-8 months. Those who are unsuccessful before the commission can lodge an appeal to the local civil court. A further appeal to the court of appeal is possible. Finally, an appeal on points of law is possible to the court of cassation. Challenging the commission's decision in the courts is a slow process, with particular delays at court of appeal level.

There are plans to reform the asylum system and a draft bill has been prepared which proposes changes both at first-instance and appeal level to make the process faster and more efficient. As regards the first-instance proceedings, the draft bill proposes specialised judges in the local civil courts and the removal of the automatic right to a rehearing, with the decision being left to the discretion of the judges. While the first proposal appears to have broad support from civil society, the second has been met with resistance. At appeal level, the proposal is to remove the appeal to court of appeal and thus reduce the number of instances in total to three.[54] This is particularly unpopular with lawyers, who consider that it undermines the right of access to a court and to an effective remedy under Articles 6 and 13 of the ECHR.[55]

It is clear that reform is needed to speed up the asylum process in Italy. This would allow the authorities to free up places in reception for migrants and refugees who continue to arrive in the country. The finalisation of the draft bill should therefore be a priority. The Council of Europe could assist by providing guidance and expertise on the proposed judicial reforms.

2. Relocation

Italy is one of the states that benefits from the EU's relocation scheme. Under that scheme, 39,600 asylum-seekers from countries with an EU-wide recognition rate of over 75 per cent over the preceding quarter can be transferred to other EU member states for their asylum claims to be processed. Those interested in participating in the scheme must request asylum in Italy at the local police station and indicate their wish to be relocated.

Only around 1,300 asylum-seekers had been transferred from Italy under the relocation scheme at the time of my visit, although there were 5,000 in the system awaiting relocation and an estimated 20,000 eligible arrivals in Italy since 1 January 2016. Not all EU member states have made offers pursuant to their commitments

under the scheme. Even where states are willing in principle to accept asylum-seekers, several want to interview asylum-seekers themselves before approving their transfer. The Italian authorities view this as an attempt to cherry-pick those asylum-seekers most likely to be easily integrated, leaving behind those more difficult to integrate as well as those with particular needs.[56]

The Italian authorities were also in favour of revising the threshold for relocation eligibility, which in their view was unduly restrictive. For example, a high number of Nigerians have arrived in Italy and while 80 per cent are economic migrants, 20 per cent are fleeing Boko Haram. This latter group would qualify for international protection and should, in the authorities' view, therefore be eligible for relocation. However, it is difficult to see how these kinds of finer distinctions could be made in an EU-wide system.

Moreover, it is clear that relocation currently takes too long. This creates further pressure on the Italian reception system. It also undermines asylum-seekers' faith in the relocation scheme itself, encouraging them to seek entry to other countries by unlawful means. While some of the delay can be attributed to the procedures at EU level, some results from capacity issues domestically. At the Red Cross shelter in Rome, which hosts mainly Eritreans seeking to access relocation, the staff informed us that earlier this year access to relocation was relatively quick: eligible asylum-seekers waited 3-4 days for an appointment at the police station and within another 7-10 days were transferred to a relocation reception centre. However, from July, the waiting period lengthened significantly: residents at the Red Cross shelter now stay there for 2 months before even beginning the process. Moreover, although the EASO office in Rome provides training to the police, in some areas the latter are not aware of the possibility of relocation or the relevant procedures. This means that those attending police stations to apply for asylum and request relocation are not given the correct information or access to the relevant procedures.

So far no unaccompanied children have been relocated from Italy. Save the Children provides legal advice to children in the hotspots, but does not tell them about the relocation scheme. It does not consider relocation to be a realistic possibility. One of the reasons for this is the delay in putting in place guardianship: without a guardian, unaccompanied children cannot apply for asylum or seek relocation. As a result, some under-18s claim to be adults in order to try and access relocation procedures. More focused attention at EU level on the specific question of relocation of children could ensure that swift and effective procedures are put in place for a fairer distribution of children across Europe, enabling them to access asylum procedures and benefit from reception conditions which cater for their needs. This should be a priority, given the high number of unaccompanied children currently in Italy and the shortage of suitable reception places for them.

3. Procedures under the Dublin III Regulation

a) Returns to the EU country of first entry

Migrants and refugees travelling northwards seek to leave Italy by one of three border towns: Como (for Switzerland), Ventimiglia (for France) and Brenner (for Austria). Procedures at all three borders have now been tightened and, since the improvement in the fingerprint rate of new arrivals in Italy, those who succeed in crossing the border are liable to be returned under the Dublin III Regulation.

I visited the Italian-Swiss border to assess the situation there. Italy has concluded an agreement with Switzerland which enables the latter to return to Italy under a simplified procedure migrants found in the border area. The agreement does not

prohibit the return of children and, in practice, all of those who cross the Swiss border are returned within around 24 hours.[57] At the time of my visit, around 70-100 refugees and migrants a day were being returned to Italy from Switzerland via the border crossing at Como-Ponte Chiasso under the simplified procedure, many for the second or third time. A number of the returnees come from countries eligible to participate in the relocation scheme. Some have international protection status in Italy but have residence permits valid only inside the country. Those who have not made asylum claims in Italy are instructed either to leave the country within 7 days or to attend the police station to make a claim.[58] None of the returnees are given automatic access to reception and they find themselves living on the streets or in transit camps.

The Italian authorities are, of course, equally entitled to return any migrants or refugees first registered in another EU country. However, in practice, few returns take place in this direction,[59] which contributes to the bottleneck in Italy.

It is important that the negotiations on the reform of the Dublin III Regulation which are currently underway result in a workable solution that increases the burden-sharing among states that participate in it. Given the profile of many of those who try to cross Italy's northern borders, improved relocation procedures and better integration prospects in Italy would also help to prevent secondary movements from Italy to other EU countries.

b) Requests to other EU countries to "take charge" for reasons of family reunification

Family reunification could offer a way for Italy to relieve itself of some of the burden of the high numbers currently in the country by enabling asylum-seekers' applications to be processed by other EU countries where family members are already lawfully resident. However, the process takes many months. As a result, asylum-seekers prefer to try to cross the border by unlawful means. The capacity of Italy's Dublin office needs to be strengthened to enable it to deal with cases more quickly.

As with all other legal procedures, unaccompanied children need a guardian before applying for family reunification. This adds significantly to the overall duration of the procedure for them. It is not surprising in these circumstances that children also end up trying to cross borders by illegal means to reunite with their families. Improvements to the guardianship system could reduce this phenomenon.

4. Detention and expulsion

Migrants who do not claim asylum or whose asylum requests have been refused are liable to be removed from the country. An ineffective returns policy in Italy is seen as a weak point of the Italian asylum system: the number of returns from Italy is low relative to the number of arrivals.[60] The ability of the Italian authorities to carry out forced expulsions is hampered by a number of factors. First, Italy has not concluded many readmission agreements.[61] Second, many embassies and consulates do not co-operate and will not provide papers for those who claim to be their citizens. Third, forced expulsion is an expensive process. In practice, therefore, the vast majority of those who do not apply for asylum or whose requests are refused receive a letter requiring them to leave Italy within 7 days. Most have neither the means nor the inclination to leave Italy. As a result, they become part of the informal community of undocumented migrants in Italy or make their way north in the hope of reaching other countries.

Those whom the authorities consider can be forcibly returned to their countries of origin are detained in CIE while identification procedures and other formalities are

carried out. Detention is authorised for up to 30 days. It can be prolonged to up to 90 days where there are difficulties in completing the identification procedures. If detainees make an asylum request while in detention, they can be detained for up to 12 months while their request is being assessed.[62] We visited the CIE at Caltanissetta, which can hold up to 96 detainees.[63] At the time of the visit there had been 788 detainees in total in 2016, and 506 returns carried out.[64]

The Italian authorities are taking steps to improve the return rate through the conclusion of a readmission agreement with Pakistan and a memorandum of understanding between the Italian and Sudanese police. The latter has been the subject of particular criticism: as an agreement between police forces rather than an international treaty, it was not submitted for parliamentary scrutiny. The memorandum was swiftly implemented with the return to Sudan of 40 Sudanese nationals towards the end of August. The authorities confirmed that none of the 40 had applied for asylum. Given, however, the speed of their arrest and return as well as the basic details contained in the judicial decision authorising their expulsion, there are legitimate doubts as to whether they were given the necessary information and opportunity to make such applications. Concerns have also been expressed about the collective nature of the expulsion: it appears to have been carried out quickly and while individual removal decisions were handed down in each case, they were in identical terms raising questions as to whether a real individualised assessment of risk had been carried out. This is a matter which requires careful attention in the light of Article 4 of Protocol No. 4 to the ECHR.[65]

The Ministry of Foreign Affairs is also keen to increase the number of assisted voluntary returns, making use of available EU funding. Assisted voluntary returns could provide an effective tool to address the situation of the many economic migrants who arrive in Italy.[66]

5. Channels for legal migration

Italy is generous in awarding international protection, especially “humanitarian status”. The use of legal provisions based on humanitarian grounds for economic immigration risks encouraging irregular migrant flows by sea from North Africa. It would be more sensible to put in place legal channels for economic migration, with procedures to be followed in countries of origin, rather than favouring those who enter the country illegally. This could help to prevent economic migrants from undertaking the dangerous journey to Italy.

VI. MIGRANTS IN TRANSIT

While the number of asylum applications lodged in Italy is on the increase, a significant proportion of those arriving in Italy by sea still intend to make their way northwards to other European countries. Some of them are adults who have not lodged asylum requests and have received a letter instructing them to leave the country within 7 days. Others are unaccompanied children and asylum-seekers who have left the reception facility to which they were transferred in the hope of reuniting with friends and family more quickly by bypassing the formal system. There is no formal provision of accommodation or support for this group of people, who are reliant on ad hoc arrangements for food and shelter on their journeys. There are large communities of migrants in transit in the big cities and also at border towns.

I visited a camp in Como, at the Swiss border, financed by the prefecture and operated by the Italian Red Cross working with Caritas. The camp was opened on

19 September 2016 to accommodate the high number of migrants and refugees who had, until then, been sleeping rough in and around San Giovanni train station in the hope of making it across the border. The camp has a capacity of 300 and hosted 244 people when I visited, including around 80 unaccompanied children and five families. The decision to open the camp is welcome: the tightening of border controls means that the large majority of those who attempt to cross the Swiss border are swiftly returned to Italy. They now have access to decent accommodation and to assistance to re-enter the formal reception system in Italy.[67]

In Rome, I visited a Red Cross shelter that had initially opened in the summer of 2015 near Tiburtina train station. At the time of my visit, the camp was hosted in a building sequestered from the mafia which had been offered to the Red Cross by the authorities.[68] Since 1 January 2016 the shelter had welcomed 1,700 people in total. When it first opened, it operated as a transit camp for those who were hoping to reach other EU countries. However, the more stringent fingerprinting policy now being pursued and the effective closure of the borders to the north have led to a change in the nature of the centre: the vast majority of its residents are now Eritreans who are awaiting registration for relocation. It is not supposed to offer accommodation to children. In practice it sometimes does so, in light of the absence of adequate alternative accommodation for them.[69] However, increasing delays in accessing asylum procedures mean that turnover is slow: whereas formerly places were continually being freed up for new arrivals, this is no longer the case. The shelter often has to turn people away.

I also visited the A28 overnight shelter in Rome for unaccompanied children in transit. It opened in 2011 and by the time of my visit had since hosted around 3,500 people. It can welcome up to 30 unaccompanied children at a time and the average stay is around 3-4 days. At the time of my visit, the shelter was set to move to new premises in the suburbs of Rome where it will be able to welcome up to 60 unaccompanied children at a time. However, this will still be insufficient to accommodate unaccompanied children in transit in Rome.

Finally, I visited an informal, open-air camp in a square next to Tiburtina train station, where food and sleeping bags are provided each evening to migrants and refugees in transit by local volunteers. There were no facilities available; volunteers provided small change to enable those who slept there to use the train station's toilets.[70] Around 120-150 people came to the camp each night. We saw a number of young people, many of whom looked under 18. The location of the camp changes every few days, as the authorities keep moving them on.

Migrants in transit pose a particular problem. The vast majority have been fingerprinted in Italy. Even if they succeed in crossing one of its northern borders they will in all likelihood be returned to Italy before long under the Dublin III Regulation. The reality is that migrants and refugees will continue to travel northwards in the hope of reaching Germany or other northern European countries. From what I witnessed in Como and Rome, this group includes a large number of UAMs let down by the asylum system in Italy and EU rules concerning family reunification and relocation. There needs to be arrangements in place to provide food and shelter for these individuals. As the Red Cross shelters in Como and Rome show, more active engagement with this community could also present an opportunity to provide further information on asylum in Italy, the possibilities of relocation or family reunification or the availability of assisted voluntary returns.

Recognised refugees are entitled to reception for a short period following recognition of their refugee status. However, the saturation of the reception system has had significant implications. As noted above, asylum-seekers are supposed to transition to a SPRAR facility early on in the asylum process. There they should receive a number of services to help them develop the necessary skills and knowledge to integrate into Italian society once they leave the reception system. In practice, the shortage of SPRAR places means that many spend their entire time in CAS, where these services are lacking. While EU funds are available to support integration activities more generally, in practice they are linked to activities involving SPRAR beneficiaries because these people are easier to identify. Informal integration projects exist in some places. However, they are very much ad hoc and on a relatively small scale, and Government funding is not available. As a consequence, once their entitlement to reception ends, those who have not gone through the SPRAR system have not acquired the competences needed to integrate successfully. There is very little general welfare support in Italy; so refugees are left to make their own way. Unable to speak the language and with no prospect of finding a job, they often find themselves in dire circumstances in informal settlements.

We visited one such settlement – the Palazzo Selam – in Rome. There, around 1,200 Eritrean, Sudanese, Somali and Ethiopian nationals, the majority of whom have some form of protection status, live in a dilapidated building in the most rudimentary conditions. The building is at full occupancy. Members of the four national groups newly arrived in Rome who have nowhere else to stay are forced to sleep in atrocious conditions in the basement of the Palazzo Selam, which was never intended for human occupation. The anger of the residents – who feel abandoned by the authorities – is manifest. Many of the residents do not speak Italian and are unable to access local services; few have legitimate employment. Some have been living there since the establishment opened in 2006.

There is a need for a comprehensive approach to integration which is not linked exclusively to the SPRAR network. I understand from my interlocutors that there is a draft National Integration Plan, but the document has not been made public. Mayors also have a key role to play in implementing integration policies. In Palermo, for example, the mayor has launched several initiatives to integrate migrants into the local community, including the publication of a Charter on international human mobility. The Council of Europe could provide expertise, both at national and local level, to ensure that integration policies reflect best practice.[71]

VIII. SEARCH AND RESCUE AT SEA AND SMUGGLING

The fact that lives are still lost in the central Mediterranean[72] cannot be attributed to any failure on the part of the relevant authorities in Italy: my meetings with the Coast Guard and the Finance Police in Lampedusa confirmed that the dedication to saving lives of those in charge of search and rescue operations and those carrying them out is beyond question. The authorities take an active role in establishing the precise location of the boats and work with other organisations and commercial vessels to ensure the fastest possible rescue of those in danger.

Unfortunately, smugglers exploit the goodwill of the Italian authorities. Vessels launched from Egypt and Libya are now not expected to reach the Italian coast, as was formerly the case. Instead, smugglers send out overcrowded, unseaworthy vessels with a satellite telephone and instructions to call the number of the central Coast Guard office in Rome after a certain period of time, when it is estimated that

the boat will be outside territorial waters. Of course the net result of the efforts of the Italian authorities is that there are fewer casualties at sea. What is now required is for smuggling networks to be tackled at their source.

Investigations conducted by the Italian authorities into smuggling are complicated by the fact that there are actors at a number of levels. At the low level are the drivers of the small boats, who are often migrants paying their passage to Europe. At the medium level are those who help migrants to head north once they land in Europe. At the high level – and therefore the key to dismantling smuggling operations – are organised crime networks in Egypt, Libya and Turkey. Because they are based outside Italy, the Italian authorities encounter difficulties in their efforts to investigate. Evidence is obtained from wiretapping and migrants' statements, and letters rogatory are used to try and enlist the help of the country concerned. However, according to the Italian authorities, this practice has had limited success: Egypt engages with the Italian authorities but refuses to extradite its own nationals so conducts its own criminal proceedings; Turkey does not reply to the letters rogatory; and the political situation in Libya is such that there has to date been no prospect of mutual legal assistance with that country.[73] If smuggling is to be effectively tackled, there must be improvements in mutual legal assistance between Italy on the one hand, and Turkey and North Africa on the other.

Human trafficking is also a concern on the migrant route to and through Italy. Nigerian women are particularly at risk: the IOM operates on the basis that all Nigerian women are potential trafficking victims. GRETA recently conducted a visit to Italy and its conclusions were published at the end of January.

IX. CONCLUSIONS

Italy is facing enormous challenges: 2016 saw a new record for the number of migrants and refugees trying to cross the central Mediterranean. Efforts have been made to increase and improve the accommodation and services offered, but the sheer number of people and the high percentage of unaccompanied children have made this task very difficult. More solidarity from other member states of the Council of Europe is clearly needed to ensure a fairer distribution of asylum-seekers across the continent and alleviate the burden currently shouldered by Italy.

The Council of Europe, for its part, can provide assistance to the Italian authorities, upon their request, to ensure that migrants and refugees are treated in accordance with the human rights standards of the Organisation. In particular, I recommend that we:

- issue a call for more relocation offers for asylum-seekers wishing to leave Italy, and particularly for eligible unaccompanied children, either under the EU scheme or from our non-EU member states;
- support the Italian authorities in drafting legislation governing the procedures and practices at the hotspots and CAS, as well as minimum standards for conditions of reception and services in all reception facilities, to ensure compliance with European human-rights standards;
- liaise with other stakeholders with a view to strengthening civil society to ensure that migrants and asylum-seekers are provided with the necessary information on their rights in an appropriate manner;
- advise the Italian authorities on the conclusion of agreements with civil society to ensure their access to migrants and refugees in the hotspots;

- mobilise resources (in particular via the Migrant and Refugee Fund of the CEB) to assist the Italian authorities in building additional capacity to accommodate migrants and refugees, including those in transit, in appropriate conditions;
- increase awareness of the Italian authorities on the possibilities of financing migrant and refugee related infrastructure projects, including housing and education facilities, via loans from the CEB;
- support the Italian authorities in developing the SPRAR network, particularly for unaccompanied children, and promoting local authorities' involvement therein through the transfer of know-how and exchange of best practices;
- provide guidance to the Italian authorities about the mechanisms that need to be in place to prevent corruption in the context of handling the refugees and migration flow (e.g. situation in and around reception centres, asylum request process, post-asylum measures), also having in mind that GRECO's 5th evaluation round will cover agencies responsible for border control;
- support the Italian authorities in putting in place mechanisms as envisaged in relevant GRETA recommendations to combat trafficking; provide expertise on how to ensure adequate monitoring and supervision of facilities accommodating migrants and refugees;
- support the Italian authorities in strengthening the asylum and guardianship system for children to ensure the immediate appointment of guardians and swift access to all relevant asylum procedures, in particular through the provision of technical expertise on the implementation of the bill on protection measures for unaccompanied children once it enters into force and the development of alternatives to detention;
- provide expertise on how to improve the educational opportunities offered to children in all reception facilities, including through the provision of additional linguistic and extra-curricular support;
- provide expertise to the Italian authorities in preventing violence against children, ensuring that children are able to report violence and be supported as victims of violence, including sexual violence;
- support the Italian authorities in putting in place a system of transitional support for children who attain the age of 18;
- call on the Italian authorities and the EU (in particular via EASO and Frontex/the European Border and Coast Guard Agency) to increase capacity to deal more effectively with asylum claims, relocation requests, requests for family reunification and voluntary and forced removals;
- support the Italian authorities in reviewing draft legislation on the proposed reform of the asylum procedure to ensure its compliance with the ECHR;
- support the Italian authorities in improving case management so as to ensure that appeals against decisions rejecting asylum claims or decisions to remove migrants from Italian territories are processed without delay;
- support the Italian authorities by providing training to administrative judges and legal professionals to ensure that all asylum and immigration decisions are made in full compliance with the ECHR, including Articles 3 and 13 and Article 4 of Protocol No. 4;
- support the Italian authorities in developing comprehensive integration policies for all asylum-seekers and refugees, regardless of their reception pathway, through the transfer of know-how and sharing of good practices, the promotion of the Intercultural Cities network and the provision of expertise in preparing a National

Plan on Integration; such policies should encompass international protection beneficiaries who may have been in the country for many years;

- facilitate the exchange of know-how on tackling smuggling and promote enhanced mutual legal assistance procedures both with the Council of Europe and with north African countries.

APPENDIX

Programme

Sunday 16 October (Como)

- 9.30 Meeting with civil society and visit to San Giovanni train station
- 11.00 Visit to Italian Red Cross shelter
- 12.00 Meeting with authorities dealing with migration-related issues
- 2.30 Visit to Italian-Swiss border (Como – Ponte Chiasso)

Monday 17 October (Palermo)

- 8.30 Working breakfast with civil society
- 10.30 Meeting with the Mayor of Palermo
- 11.15 Meeting with a deputy prosecutor for Catania responsible for anti-smuggling cases
- 1.45 Meeting with the Councillor for Social Citizenship and the Ombudsman for Children for Palermo
- 3.00-4.00 Visit to “Ex Casa Marconi”, reception centre for unaccompanied children
- 4.15 Visit to “Casa Madonna dell’Accoglienza”, CAS facility
- 5.30 Meeting with civil society

Tuesday 18 October (Lampedusa)

- 8.30 Meeting with Italian Coast Guard
- 9.00 Meeting with Italian Finance Police (Air and Sea Group) and visit to Italian Coast Guard’s and Italian Finance Police’s operational centres and ships at the docks
- 10.00 Visit to Lampedusa hotspot and meetings with authorities dealing with migration-related issues and representatives of Frontex, EASO, UNHCR, IOM and Save the Children
- 1.00 Meeting with Lampedusa NGOs and civil society representatives
- 2.00 Meeting with local authorities of Lampedusa

Wednesday 19 October (Caltanissetta, Mineo and Pozzallo)

- 8.45 Visit to Caltanissetta CARA, CDA and CIE and meeting with the authorities dealing with migration-related issues
- 9.45 Parallel visit to Mineo CARA and meeting with the authorities dealing with migration-related issues
- 2.30 Visit to Pozzallo hotspot and meetings with the authorities dealing with migration-related issues representatives of EASO, IOM and NGOs

Thursday 20 October (Rome)

- 8.30 Working breakfast with UNHCR Regional Representative for Southern Europe and Head of the European Commission’s Representation in Italy
- 10.00 Meeting with NGOs and civil society representatives
- 12.30 Visit to Palazzo Salaam, accompanied by UNICEF and Intersos
- 1.30 Meeting with civil society
- 1.30 Parallel meeting with Undersecretary of Interior in charge of migration issues

- 3.00 Visit to "Roma Città Aperta", SPRAR facility
- 5.00 Visit to Italian Red Cross shelter, accompanied by UNICEF
- 7.00 Visit to Piazzale Spadolini, informal overnight camp run by Boabab Experience volunteers
- 9.30 Visit to A28, night emergency shelter for unaccompanied children in transit, managed by Intersos
- Friday 21 October (Rome)
- 9.30 Meeting with Undersecretary of Justice
- 10.30 Meeting with the National Authority for Children and Adolescents
- 12.00 Meeting with Principal Director for Migration Policy, Ministry of Foreign Affairs
- 2.00 Meeting with the National Association of Italian Municipalities (ANCI)

[1] Amnesty International Italy, ARCI Palermo, ASGI, Be Free, Caritas, Centro Astalli – Jesuit Refugee Service, Comunità di Sant-Egidio, Doctors for Human Rights (MEDU), Emergency, Firdaus, Ibbly Italia, IOM, Italian Council for Refugees, Intersos, Italian Red Cross, Joel Nafuma Refugee Centre, Lampedusa Solidarity Forum, Mediterranean Hope, Open Society Foundations, Oxfam, the parish priest of the San Gerlando church, Save the Children, SOS Telefono Azzurro, Terre des Hommes, UNHCR, UNICEF and Professor Vassallo Paleologo.

[2] "reception centres for asylum-seekers".

[3] "reception centres".

[4] "extraordinary reception centre".

[5] "protection system for asylum-seekers and refugees".

[6] "centre for identification and expulsion".

[7] For full details of my programme, please see the appendix.

[8] The reception of UAMs is addressed in Part IV.1.

[9] Around the same number as had arrived in the whole of 2015. In total, there were over 181,000 sea arrivals in 2016.

[10] See further Part IV.1, below.

[11] However, all children are transferred to some form of accommodation facilities after disembarkation.

[12] Only 22,000 asylum-seekers were in the reception system in December 2013.

[13] See, for example, *M.S.S. and Others v. Belgium and Greece*, no. 30696/09, ECHR 2011. For the time being, the European Court of Human Rights has declined to find that reception conditions in Italy are, in general, such as to give rise to an Article 3 violation (see *A.M.E. v. the Netherlands* (dec.), no. 51428/10, 13 January 2015; and *A.S. v. Switzerland*, no. 39350/13, 30 June 2015). However, a violation may be found on the facts of specific cases: see *Tarakhel v. Switzerland* [GC], no. 29217/12, ECHR 2014 (extracts).

[14] Lampedusa, Trapani, Pozzallo and Taranto. I was informed that a further hotspot at a first reception centre in Mineo (inland) was scheduled to begin operating the week following my visit.

[15] I.e. another port which is not a designated hotspot. In fact, the majority of new arrivals are not processed through hotspots.

[16] For example, their ethnic origin or whether there are unaccompanied children in the group.

[17] While many of my interlocutors referred to allegations that the use of force to obtain fingerprints was widespread in the hotspots in early 2016, this did not generally appear to be an issue by the time of my mission. The new arrivals were aware of the strict fingerprinting policy applied by the Italian authorities and were largely resigned to giving fingerprints in order to be able to move on from the hotspots.

[18] According to some of my interlocutors this exercise was formerly done largely on the basis of nationality. However, a circular from the Ministry of Interior of 8 January 2016 has made it clear that this practice is not allowed. My interlocutors tended to agree that the practice in this respect had significantly improved.

[19] A small number may also remain because of their refusal to provide fingerprints.

[20] 121 UAMs in total.

[21] However, I was informed by the prefecture that a new reception facility for UAMs at the hotspot had been approved and would open as soon as possible.

[22] Capacity has been reduced from 500 following 2 fires which damaged buildings in the facility.

[23] One group of men with the same nationality had moved to sleep in the burnt part of the hotspot in order to have the space to live together.

[24] Although the new management has put in place night staff to ensure safety in the facility and prevent promiscuity.

[25] The Italian Roadmap and Standard Operating Procedures provide some information on how hotspots should function, but are not legislative documents.

[26] As noted above, it appears that this problem has now largely been resolved.

[27] These are now in the process of being converted into "regional hubs". It remains to be seen whether this will result in changes in the substance of the procedures and services offered in these centres.

[28] The congestion in first reception facilities has, in turn, a knock-on impact on the duration of stays in the hotspots.

[29] 259 in total.

[30] Claims are first decided by a territorial commission. A first-instance appeal may be made to the local civil court. The asylum procedure is discussed in more detail in Part V.1.

[31] I was informed by the authorities that part of the CARA would begin operating as a hotspot, with 1,000 places, the following week.

[32] Those granted international protection are entitled to stay in SPRAR facilities for a short period after the grant. Around half of those currently in SPRAR facilities are going through the asylum procedure and the rest are recognised beneficiaries of international protection.

[33] For example, recognition of skills, training, language courses and

internships.

[34] There are around 8,000 municipalities in Italy, of which about 1,000 currently participate in the SPRAR scheme.

[35] See Part III.3.c)below.

[36] See further Part VII below.

[37] Italy is divided into 20 regions, and all regions bar one are divided into provinces. Each province has a prefect, who represents central government. Municipalities are the lowest level of administration.

[38] There is no time-limit for a stay in a CAS.

[39] While interpreters are present during disembarkation, there are not always enough and they do not always cover the languages and dialects required.

[40] While all asylum-seekers who require accommodation are entitled by law to receive it, in practice those who do not enter the reception system immediately after disembarkation may have to wait some time to lodge asylum application and obtain accommodation.

[41] See further Part V.4, below.

[42] Article 20 of Legislative Decree 142/2015.

[43] The report draws attention to issues concerning the provision of pocket money, for example. The evidence I received during my visit indicated that the practice in this respect had not changed since the report was issued.

[44] A criminal investigation is underway but no judicial decision has yet been taken.

[45] Including UAMs.

[46] The Mayor of Palermo was the formal guardian of 1,200 UAMs in the summer. By the time of my visit, the number had dropped to 540.

[47] In Palermo the Mayor's delegate is the Councillor for Social Citizenship (Assessore alla Cittadinanza Sociale).

[48] Although children are entitled by law to lodge asylum applications themselves, the law also provides that upon receipt of such applications the authorities must suspend the asylum proceedings and commence guardianship proceedings.

[49] Save the Children and Terre des Hommes provide Italian language classes in Lampedusa and Pozzallo respectively.

[50] This was the case in Como. Children are only enrolled in local schools once the municipality takes charge of them, at the expiry of the 60 days.

[51] By the same point in 2015, around 58,000 asylum applications had been lodged.

[52] Official figures on the time taken for an asylum request to be determined are counted from the date on which the C3 is issued. As a result they do not take into account this preliminary delay.

[53] See, for example, *M.S.S. and Others v. Belgium and Greece*, cited above.

[54] Commission, local civil court and court of cassation.

[55] The current position in the case-law of the European Court of Human Rights is that Article 6 does not apply to proceedings concerning requests for international protection: see *Maaouia v. France* [GC], no. 39652/98,

ECHR 2000-X. Article 13 is applicable to such proceedings if there is an arguable Convention claim.

[56] The recent EU Council Decision (2016/1754 of 29 September 2016 amending Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece) which allows states to subtract resettlement offers (for Syrians in Turkey) from the additional quota of 54,000 asylum-seekers initially intended to be relocated proportionately from Italy and Greece risks reducing relocation prospects for eligible candidates in Italy even further.

[57] The only exception is migrants who succeed in making requests for asylum in Switzerland, who are also liable to be returned under the Dublin III Regulation but cannot be returned under the simplified procedure.

[58] Very rarely, they are detained and transferred to a CIE for forced expulsion.

[59] Pursuant to the decision of the European Court of Human Rights in *M.S.S. v. Belgium and Greece*, cited above, migrants and refugees cannot, for the time being, be returned to Greece. A 2016 decision of the Italian Consiglio di Stato (the administrative court of final instance) also precludes their return from Italy to Hungary or Bulgaria.

[60] Only around 4,000 forced expulsions take place each year.

[61] Italy has concluded readmission agreements with some African countries, including Egypt, Tunisia, Nigeria, Gambia and Morocco. It has also recently concluded an agreement with Pakistan, although that agreement has yet to be implemented.

[62] A Libyan detainee in Caltanissetta CIE who had entered Italy via the Pozzallo hotspot explained that he had only recently applied for asylum because he had not been informed of his right to claim asylum at the hotspot. As a result, he may be detained for a year while the claim is processed. Had he indicated his intention to claim asylum in Pozzallo he would have been transferred to a CARA or CAS to pursue his application at liberty.

[63] At the time of my visit there were 75.

[64] In 2015 there were 1,694 entries and 1,367 returns.

[65] See *Khlaifia v. Italy* [GC], no. 16483/12, 15 December 2016.

[66] In 2016, only around 25 per cent of arrivals in Italy came from the world's top 10 refugee-producing countries.

[67] However, because of the very temporary nature of transit camps, children in the camps are not enrolled in local schools.

[68] The Red Cross is permitted to use the building until the end of December 2016. At the time of my visit it was unclear whether permission would be prolonged.

[69] The shelter has an agreement with the city of Rome to welcome UAMs in an emergency.

[70] The camp was formerly located inside a building and when residents were evicted by the authorities they had to move to another building. They were recently evicted from that second building.

[71] The participation of more Italian cities in the Council of Europe's Intercultural Cities programme could help them develop comprehensive

intercultural strategies to manage diversity positively.

[72] In 2016, over 4,400 people died or went missing in the central Mediterranean.

[73] However, the recent reopening of the Italian Embassy in Tripoli and the commencement of talks between officials of the two countries on tackling migration flows may make cooperation more feasible in the future.

Related documents

No related documents