



*Rappresentanza Permanente d'Italia  
presso il Consiglio d'Europa  
Strasbourg*

L'AMBASCIATORE – RAPPRESENTANTE PERMANENTE

0234 Strasbourg, 12 MAR. 2019

*Dear Commissioner,*

I have the privilege to provide you, on behalf of the Italian Authorities, with the elements of information requested in the letter you addressed to the President of the Council of Ministers of Italy, dated 31<sup>st</sup> of January 2019.

The main changes to the Italian system on migration and asylum in 2018 are due to the approval of the Law-Decree No.113, dated October 4, 2018, as converted into law by Act No.132, dated December 1, 2018, containing “Urgent provisions concerning international protection and immigration, public security, as well as measures for the functionality of the Ministry of the Interior and the organization and functioning of the National Agency for the administration and destination of assets seized and confiscated to organized crime. Delegation to the Government concerning the reorganization of the roles and careers of personnel of the Police and Armed Forces (18G00161) (GU n.281 of 3-12-2018)”.

Among the novelties, first of all, there is the abolition of the residence permit for humanitarian reasons (Article 1 of Act No.132/2018), the granting of which resulted in the recognition of the relevant humanitarian protection being a national protection tool of an atypical and residual nature. It was a form of protection not expressly regulated either by international law or by European legislation, allowing the States to issue at any time, "for charitable or other humanitarian reasons", an autonomous residence permit or another authorization (Article 3 of Directive no. 95/2011 and article 6 paragraph 4 of the directive n.115 / 2008).

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Madame Dunja MIJATOVIC  
Commissioner for Human Rights  
Council of Europe  
STRASBOURG

In particular, Act No.132, dated December 1, 2018, provides for the replacement of humanitarian protection, as follows:

- The possibility for the territorial Commissions, in case of non-acceptance of the application for international protection and if the conditions set forth in Art.19, paras.1 and 1.1 of Legislative Decree No. 286/98 – i.e. the hypothesis of unexpellibility – are in place, to recognize the so-called special protection (ref. art. 1 paragraph 2 letter a, which modifies Art.32, para.3, of Legislative Decree No. 25/2008). This form of protection gives the right to a renewable one-year residence permit, which allows access to work, but is not convertible into a residence permit for work purposes;
- Some temporary residence permits, always linked to humanitarian needs, but which can be released outside the asylum procedure - whose applications be sent to the territorially competent Police Headquarters directly, namely residence permit for: natural disaster (Article 20-bis of Legislative Decree No. 286/98); acts of particular civil value (Article 42-bis); medical treatment, the latter descending from a new hypothesis of prohibition of rejection (Article 19, paragraph 2 letter D-bis) of Legislative Decree No. 286/98). These possibilities are added to those temporary permits already existing in our system, which today fall within the so-called special cases: residence permit for reasons of social protection, provided for by Article 18 of Legislative Decree No. 286/98; permission for victims of domestic violence, pursuant to Art.18-bis of Legislative Decree No. 286/98; and the one referring to specific hypothesis of work exploitation, regulated by Art.22, para.12-quarter, of Legislative Decree No. 286/98.

Secondly, the reform of the reception system, governed by Article 12 of the above mentioned Act, aims to outline a clear differentiation between investments in terms of reception and integration to be allocated to those ones who hold a definitive title to remain in the national territory, compared to the ones being recipients of first reception and assistance services provided to those still awaiting for the definition of their own juridical situation.

As a consequence, the so-called Protection System for holders of international protection and for unaccompanied foreign minors (acronym in Italian, SIPROIMI) - which now replaces the reception system for asylum seekers and refugees, and in which integration and guidance services are guaranteed to promote social inclusion and personal autonomy - can only be accessed by those ones whose international protection procedure has been concluded with a favourable outcome, with the exception of the unaccompanied foreign minors (acronym in Italian, MSNA).

In particular, those admitted to the SIPROIMI are: holders of international protection; unaccompanied foreign minors; holders of residence permits for medical treatment (Article 19 paragraph 2 letter D-bis); holders of residence permits for special cases issued pursuant to Articles 18 (social protection), 18 bis (victims of domestic violence), 22, para.12-quater (labour exploitation), 20-bis (natural disaster), art. 42-bis (acts of particular civil value) of Legislative Decree No. 286/98, should not they have access to specifically dedicated protection systems.

Act No.132 of 1 December 2018 provides for a series of provisions aimed at reducing and discouraging the submission of specious and instrumental applications.

Accelerated procedures have been set up, included border and transit areas, to be activated in the event of a manifestly unfounded application (Article 7-bis) and for applications submitted only to delay or prevent the adoption or the execution of an expulsion or return decision (Article 9 paragraph 1-ter and 1-quater). Art.9 stipulates the following causes of inadmissibility of the examination of the application: 1. repetition of the same application after a decision taken by the Commission without raising new elements about his/her personal circumstances or the situation of his/her country of origin, already rejected; 2. repeated application presented during the execution phase of a return decision (new Article 29-bis of Legislative Decree No. 25/2008).

Finally, Article 10 of the Act under reference provides for a mechanism of immediate examination of the application, in the event that the applicant for international protection is subjected to criminal proceedings for one of the recognized offenses of particular gravity in the national juridical system (and for which denial of refugee status is envisaged).

With a view to simplifying and speeding up proceedings, Article 7-bis, paragraph 1, lett. a) of Act No. 132/2018 envisages a list of "safe countries of origin". The inclusion of a third country in the aforementioned list determines a presumption of obvious groundlessness of the application for protection, which will be treated as a priority and by an accelerated procedure. In such case, it is upon the applicant to prove the "non-security" of his/her country of origin.

Article 7, includes a larger number of crimes that entail the revocation or denial of international protection, in the event of a definitive conviction or in the case of a defendant considered socially dangerous. For these types of offenses, in the event of conviction at first instance, the suspension of the procedure for granting protection and expulsion of the foreign citizen is envisaged. Furthermore, for cases of cessation of refugee status it is specified that in case the refugee has voluntarily returned in the country s/he has left, it is taken into consideration every return to the country of origin "when not justified by serious and proven reasons" (Article 15 paragraph 2-ter of Legislative Decree 19

November 2007, No. 251, introduced by Article 8 paragraph 2 of Act No. 132, dated December 1, 2018).

With respect of the retention of asylum-seekers in repatriation centres, Art. 3, paragraph 1, lett. a) provides for the extension of the maximum duration of stay of foreigners, from 90 to 180 days, being a period deemed necessary to ascertain the identity and nationality of the migrant.

As part of voluntary assisted repatriations, the economic resources allocated to the related programs are increased: 500.000 Euros for 2018; 1.5 million Euros for 2019; and 1.5 million Euros for 2020 (Article 6).

With regard to citizenship, Article 14, paragraph 1, lett. a-bis, subordinates the granting of citizenship (pursuant to Articles 5 and 9 of Law 91/1992) to the possession of an adequate knowledge of the Italian language.

The Legislator has intervened in the Italian migration system, not only by Law Decree No. 113 of 4 October 2018, converted into law by Act No. 132 of 1 December 2018, but also with other laws, regarding legal migration and mobility.

In particular:

- ✓ EU Directive 2016/801 was implemented, through Legislative Decree 11 May 2018, No.71, (18G00097) (Official Bulletin, General Series No.141 of 20-06-2018) relating to entry and stay conditions of third-country nationals for reasons of research, study, training, voluntary work, exchange programs for pupils or educational projects and peer placement;
- ✓ Flows Decree 2018 was issued (DPCM dated December 15, 2017, published in the Official Gazette No. 12 of January 16, 2018), which determines in 30,850 units the number of third-country nationals who can enter Italy for work proposes;
- ✓ The Budget Law 2018 (Law No. 205 of 27 December 2017) provides for incentives for the recruitment of persons under international protection by social cooperatives.

In Italy, the illegal migration flow by sea has been managed by patrols along the external coasts and more particularly with the intervention of the Navy by means of the operation EUNAVFORMED and the joint operation "THEMIS 2018", under the aegis of the FRONTEX Agency.

Data concerning migrants landed in the years 2016-2017-2018 and 2019 as well as data on the ascertained casualties as a result of shipwrecks are reported below:

| 2016   |             | 2017   |             | 2018   |             | 2019 (as of 11/02) |             |
|--------|-------------|--------|-------------|--------|-------------|--------------------|-------------|
| Events | Disembarked | Events | Disembarked | Events | Disembarked | Events             | Disembarked |
| 1.580  | 181.436     | 1.451  | 119.369     | 601    | 23.370      | 9                  | 215         |

|  | 2016   | 2017   | 2018   | 2019 |
|--|--------|--------|--------|------|
| Recovered corpses                                    | 390    | 210    | 23     | 1    |
| Migrants being dead and missing in the Mediterranean | 5.096* | 3.139* | 2.275* | 212* |

\*(UNHCR provided data, as updated on February 4, 2019)

The identification procedures following the landings are carried out in full respect for the fundamental rights of migrants who have access to full information on the right to asylum and immigration legislation.

With specific reference to the *Centro di accoglienza per richiedenti asilo* (CARA) of Castelnuovo di Porto, it became also relevant the need to put an end to the several extensions of the management contract of the structure. The last extension expired on 31<sup>st</sup> January and was non-further renewable under the principle of fairness of the administrative action, according to the approach of the Court of Auditors on this subject.

The planning of the transfer of the people present in the aforementioned Centre involved, in the first place, a prior check of the availability of reception places in the structures of the Province and the Lazio Region, and, then, in other areas.

Firstly, the intervention involved 305 single adult migrants, who were assigned, according to a principle of balance, to the Regions of Campania (15), Basilicata (15), Abruzzo (30), Marche (30), Molise (15), Toscana (45), Umbria (15), Piemonte (50), Emilia Romagna (40), and Lombardia (50).

Subsequently, 27 people were transferred to structures linked to the "Protection System for holders of international protection and unaccompanied foreign minors" (SIPROIMI), in the following locations: Monterotondo (RM), Sezze (LI), Porto Sant'Elpidio (FM), Montefalcone di Valfortore (BN), Ripatransone (AP), Grottammare (AP), Galatina (LE), Uggiano la Chiesa (LE), Santa Paolina

(AV), Mugello (F1) and Agnone (IS).

With the exception of 3 cases in which the reception measures were revoked due to the lack of requirements, the remaining 278 people were assigned to structures located in the Province of Rome and, as a residual measure, in the Provinces of Rieti, Frosinone, Latina (5 each) and Viterbo (25), given prior consideration and without prejudice to the spontaneous departures.

Each person will be notified all the acts of interest at the new facility of destination.

I take this opportunity to express to you the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'M. Giacomelli', with a stylized flourish at the end.

Michele Giacomelli