



EMN EUROPEAN MIGRATION NETWORK
Italian National Contact Point

RETURN MIGRATION: THE ITALIAN CASE

**Italian contribution to the third European pilot study
"Return Migration in the EU Member States"**

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editors

Carmelita F. Ammendola, Franco Pittau, Antonio Ricci

in cooperation with

Maria Pia Borsci, Alessio D'Angelo, Luca Di Sciullo, Delfina Licata, Maria Paola Nanni
(Caritas/Migrantes Dossier Statistico Immigrazione central editorial staff)
Enisa Bukvic (International Organization for Migration),
Susanna Garavini, Kamila Kowalska-Angelelli

scientific consultants referees

Peter Schatzer - International Organization for Migration
Giulia Falzoi - International Organization for Migration
Barbara Fridel – International Organization for Migration
Nicoletta Giordano – International Organization for Migration
Nadan Petrovic - National Association of Italian Municipalities/Central Service of the
Protection System for Asylum Applicants and Refugees
Sergio Ferraiolo - President of the Republic Secretary Office
Francesco Di Maggio - INPS Monitoring Migration Flows Department
Giovanni Ferri – Department of Economics of University of Bari
Maria Concetta Chiuri - Department of Economics of University of Bari
Nicola Coniglio - Department of Economics of University of Bari
Roberta Ricucci - Turin Diocese Migranti Office and University of Turin
Terry Dutto - Caritas Italiana
Guerino Di Tora, Vittorio Nozza, Piergiorgio Saviola
(Presidency of Caritas/Migrantes Dossier Statistico Immigrazione)

translation

Dawn M. Ciano, Karolina Golemo

For information please contact

Centro Studi e Ricerche IDOS
European Migration Network Ncp for Italy
Viale Baldelli 41 - 00146 Rome
(Soon: Via Aurelia 796, 00165 Rome)
Tel. +39.06.54192284 - Fax +39.06.54192252
(Soon: Tel. +39.06.66177001)
e-mail: info@emnitaly.it

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Containment of migration flows and promotional strategies

Foreword by Mons. Vittorio Nozza*

Chairman's Board of Dossier Statistico Immigrazione Caritas/Migrantes

It is indeed in the proper order of things for different structures to carry out specific duties. The social welfare environment is called to understand the importance of its role without becoming extreme or feeling that it is at odds with public institutions or that it must relinquish its own role to them. Even with regard to this issue, great balance is required to stay at a distance from the illusion of a merger, which confuses the two contributions. It is true that we are all in the same boat, but the responsibilities are different, so collaboration is needed but not identification, which would deprive public decision-makers precisely of the critical skills of social welfare organizations.

Throughout the history of immigration there has never been a lack of phases in which exchange has been intense and the results advantageous and easy, and there was also no shortage of difficulties in this situation of encounter before it was possible to reach a successful mediation of positions that, in appearance, seemed irreconcilable.

However, throughout the history of immigration there have also been many phases in which exchange was greatly reduced. Shortcomings were perhaps also displayed by social welfare organizations. Most of them – including Caritas and Migrantes and those that refer to the ecclesiastic world – are convinced that it is their duty to dialogue with institutions. Likewise, shortcomings were perhaps also displayed by public decision-makers, who sometimes shirked the “ritual” of consultations: more realistically, however, it is necessary to think that neither the fact of having been elected to perform a political function nor the fact, certainly, of having received an important position within an administration exon-

* Caritas Italy Director

erate a person from the necessity of consulting with those who work in the field and understand the issues first hand.

These introductory remarks may seem a bit long, but they help to explain why with regard to the issue of the containment of migratory flows the margins have been lacking to listen to social welfare expectations. As a result, we have a situation that is greatly dissatisfying, which finally, even at the official level, has begun to be presented with greater realism.

On numerous occasions the "Dossier Statistico Immigrazione Caritas Migrantes" has reiterated that bureaucratic time requirements as well as some legal expectations risk creating incentives to irregularity.

Starting from the date that Law 40/1998 went into effect the perception has been clear that, of the three pillars of the new law (programming of flows, integration and counteracting irregularity), the third one could only properly perform its role as long as it was not overpowering. Unfortunately, it has been necessary to observe that, due to the long procedural time requirements needed for the implementing statutes to enter into force, the first regulations to become operative were those for counteracting immigration, thereby throwing the organization of the interventions out of step.

For the same reason, prior to the approval of Law 189/2002, it seemed clear that a migration policy that was excessively rigid was only an illusion of efficiency. Once the law was approved (except for some legal investigations that caused the same Constitutional Court to deem some articles illegitimate), this "iron-fisted policy" was insufficient for reducing the size of flows and the area of irregularity. In the meantime, the trend to distort the phenomenon has increased, defining the immigrants as a socially dangerous element and forgetting that our system has forced more than half of the current three million foreign citizens regularly residing in the country to pass through the channel of irregularity.

From the first law on immigration up to now, twenty years have passed. Despite the fact that it was initially a phenomenon of reduced numbers, our migration experience began prior to this date in the 1970's, and this is legitimately the time of maturity, in which we are called to create reasonable and effective intervention guidelines.

Recruitment by name alone has become a bottleneck that increases irregularity. Families, small businesses and others who want to recruit immigrants, have the sacrosanct right to know the people they hire, and these immigrants must be given the possibility to move themselves to look for a job. There is a close

relationship between demand and job offerings and, although we are conscious that speculators can infiltrate themselves even within good mechanisms, it is time to put an end to clichés, in which sponsors who invite immigrants are defined as not very good people and immigrants who remain in Italy without a residence permit are delinquents. The editorial staff of “Dossier Caritas/Migrantes”, which insisted at length to be made aware of the charges made against false users of the institution of sponsorship, never received statistics in this regard. As a result, we believe that they do not even exist and that there have only been sporadic cases. In fact, by other methods, it has been discovered that some welfare organizations identified some entrepreneurs who had sponsored a high number of foreigners despite the fact that they did not have the economic capacity. It was never understood whether these companies were inspected and punished when necessary. We believe so, but in the future it would be desirable for this type of information to be communicated in order to promote virtuous circuits and dissuade ill-intentioned persons.

Returning not to the indiscriminate opening of the borders but to a reasonably more open approach, it cannot be denied that these spaces can be used not just by a certain number of people, who do not care about the laws, but also by a significant number who did not find a place in the annual quotas and, nevertheless, are desperately seeking a job. For the latter group, assisted return, which has been positively tested with a small number of people, takes on particular significance.

This book scrupulously examines all of the cases of assisted return that have been carried out up until now, accompanying them with data and dwelling upon the impact exercised by each of these forms, and serves to prepare for the future rather than to present a picture of the current situation. Pivoting upon the role of “social issues”, to which we made reference in the beginning, it is necessary for everyone to understand that to send irregular immigrants away in a compulsory manner through police escort has very negative effects. First of all, we’ll need more money than we have, that would mean decreasing the amount available for integration policies, which, instead, have a more long-lasting impact. Moreover, these compulsory forms risk being counterproductive, when they are not limited to very precise cases. It is, therefore, necessary to look at other forms of migration flows containment, and we are happy to note that this approach, in which we thoroughly believe, influenced the final report of the De Mistura Commission, which was called to make a statement on the role that Temporary Residence Centres have played in counteracting irregularity.

This is not the place to provide detailed comments on the proposals found in that report, except to raise, once again, some questions that can stimulate thought. Are expulsion decrees, which impede immigrants from returning to Italy for a period of 10 years, exaggerated in terms of their harshness and, to some degree, counterproductive? Reiterating the harsh stance that needs to be taken with traffickers and delinquents, is it preferable to ask other immigrants whom we can not welcome into our country to go away with a simple leaving paper? Or, taking into consideration their desires, is it preferable to help them reintegrate themselves into their home countries or, when necessary, to take them into consideration in the quotas of subsequent years? The basic question is, therefore, whether a certain promotionality is not a pedagogic way to legality, capable of downsizing traffic, traffickers and irregularity.

More open attention, which we invite people to use with immigrants who are looking for work, should also be extended to their countries of origin, without formally considering the flows a situation closed within itself. The flows, in reality, are the expression of serious structural deficiencies in the countries of origin. This deficit, is proposed to us implicitly with every landing, but we often want to think only about “defending ourselves”, thereby relinquishing our understanding of the stakes at hand. If we think about the extreme poverty of Sub-Saharan countries, from which illegal boat immigrants increasingly come, we can make a virtuous leap and, under determined conditions, think of assisted return, which takes responsibility for helping immigrants make a positive return to their land. With a little more far-sightedness and spending less than we would on costly forced returns, we can stimulate the path of development and reciprocal trust: if these are good seeds, as we believe, they will bring fruit.

For example, let us ask ourselves if we could not have avoided the troubles and supplemental costs of the almost 540,000 applications presented to take advantage of the quotas for new entries in 2006: in the overwhelming majority of the cases the involved workers are already residing in Italy and already working. Following the requirements of the law, these immigrants are required to return to their country of origin and ask for a visa to be able to enter Italy for work purposes.

This tortuous route causes the negative effects previously mentioned.

It risks, in fact, being a way to produce irregularity: crossing the borders, the involved parties can be intercepted and affect with an expulsion decree that prohibits them from returning to Italy for 10 years but, as is known, many will return anyway, as illegal immigrants, precisely when regular integration seemed to have been finally reached.

In this way the current situation is undoubtedly the cause of hardships: companies and families must deprive themselves for a few months of the services of these workers, because on average the provisory return of foreign workers to their countries of origin lasts for a long time. Additional hardships include the overburdening of the duties of embassies to authorize the arrival in Italy of people who were already present and the queues of immigrants to obtain the coveted visa.

Finally, it is the cause of supplemental costs: it is true that the costs are sustained by the workers themselves, but this is not a valid reason for not taking them into consideration. A study by “Il Sole 24 Ore” (22 January 2007) estimated that the figure is a staggering 730 million euros divided as follows: 140 million just for travel expenses calculated based on inexpensive rates and especially ethnic rates (validity of ticket for six months and the possibility to take up to 50 kg of baggage) and 590 million for the loss of two months worth of work (1,600 euros per person).

Although the current government has re-proposed modifying the Consolidation Act, it has not even hypothesized proposing in the present situation an act on the more urgent matter of the derogation of the obligation of returning to one’s country, taking into account the clearly contrary reaction of the opposition. However, if an investigation was conducted amongst business owners and Italian families interested in hiring these workers, the obligation of provisory return would be defined, in the best case scenario, as inconvenient and unconscionable, and this demonstrates the distance that can be created between the social reality and the political and legal level, which is, unfortunately, characterized by extreme opposition on the theme of immigration, even on issues that are potentially more subject to agreements.

This study, which is the third that has been published since the writers of “Dossier Statistico Immigrazione Caritas/Migrantes”, of the Centro Studi Idos, have been collaborating as the National Contact Point for the realization of the *European Migration Network*, completes the initial one dedicated to “The Impact of Immigration on Italian Society” and “Irregular Immigration in Italy”. The theme of assisted returns, which is not well-known enough, is discussed with reference to the regulatory provisions and enforcing provisions. In addition, clarifications are provided on the context of the European Union and numerous data, an aspect that is not negligible, are reported, in some cases for the first time. The positive conclusion of this research effort would not have been possible without the close collaboration of the Ministry of the Interior and its

databases, international organizations (especially the International Organization for Migration, which as a direct player in assisted return, has been incalculably useful), various research institutes, NGOs and numerous immigration experts: to everyone our most sincere thanks.

I hope that this publication is distributed and valued, not just because it has been able to thoroughly discuss a complex subject, but also because it has argued the need of extending attention, which up to now has been limited to regular immigrants, to other people involved in the flow, in the conviction that the policy of counteracting immigration, without promotionality, will not be able to interrupt the feeding of the irregular presence and tone migration flows.

It is a deep conviction, in fact, that only a careful policy will make it possible to integrate new citizens, make them share our objectives, and have them as companions in the building of a society that is by now irreversibly made up of "different people".

We can, therefore, conclude invoking a constructive spirit and proactive collaboration in the studying and creating of balanced regulations that know how to reconcile openness and rigorousness and that are able to make themselves be respected. This is the message of a study on assisted return that wants to be an incentive to a more dynamic and functional immigration policy.

1. Introduction

The control of immigration flows has interested Europe since the beginning of the 1970's when the first limitations were introduced in the migration policies. The phenomenon became more intense following the fall of the Berlin Wall and the increase of flows from Eastern Europe and from other countries in the Southern hemisphere of the world, where economic development does not correspond with the progress of the demography¹.

The reception possibilities of industrialised countries, even if determined with non-restrictive rules, are not fully able to respond to growing migration pressures. This is the basis of the belief that immigration cannot be the only solution used to satisfy labour needs in the world: a serious policy for local development is also required, an effort that has been disappointing in many aspects².

Many countries, including Italy, are geographically positioned in a way that makes them more greatly exposed to migration pressures.

The intensity of irregular flows can be stimulated by different causes:

- setting of entry quotas at low levels in regard to the effective needs of the labour market;
- complexity and lacking feasibility of paths established for legal integration; lack of flexibility in the promotion of meetings between employers and persons to be recruited;
- widespread nature of the illegal labour market.

¹ Caritas/Migrantes, *Popolazione, sviluppo e migrazioni: i nuovi scenari*, in Idem, *Dossier Statistico Immigrazione 2006*, Idos, Roma, 2006, pp. 17-27.

² Ricci Antonio, *Main trends in international migration. Recent developments in migration flows world wide and in Italy*, in Carteny Andrea, Motta Giuseppe (eds), *Nationalisms, Identities, European Enlargement. Case studies on XX and the new Century*, Accent, Cluj-Napoca, 2004, pp. 145-166.

Some countries use very selective strategies before allowing the entry of new workers and take into consideration variables such as age, degree of education, qualifications, knowledge of the language, the presence of family members, available funds, and the presence of a local sponsor. Other countries with a high deficit of labourers, including for unskilled positions, use more inclusive criteria but with annual quotas that cannot be surpassed.

In European countries with a longer immigration history there is a tendency to be more restrictive with new admissions except for high-skilled workers. In Member States of the Mediterranean the issue is very different due to the negative demographic trend and moreover to an economy needy of not skilled workers. For these reasons it has not been possible, up until now, to create a European entry quota system satisfactory for all the Member States, since, at the moment, it seems possible to reach a consensus only for the entry of qualified workers³.

The 1990's regulations in Italy introduced measures to control and oppose irregular flows. Law 40/1998 renewed these measures as the pillar of the immigration policy (the other two pillars were the programming of flows and integration) and introduced new institutions such as the possibility of "rejection by order of the Chief of Police" and Temporary Residence and Assistance Centres (Centri di Permanenza Temporanea e Assistenza – CPTA, best known as CPT) for the cases where immediate return is not possible⁴.

Law 189/2002 assigned a central role to controls and expulsions with a series of measures: **internal controls** (the lengthening of detainment times at the CPTs for a maximum period of 30 days, with the possibility of extension of another 30; the immediate execution of expulsions with escort to the border; the aggravation of penalties for those who do not comply with the expulsion decree), and **external ones** (pressure on emigration and transit countries so that they re-admit immigrants and exercise greater control over their borders, making these the prerequisites for the establishment of a political and economic dialogue)⁵.

Law 189/2002 has also further regulated the assisted voluntary return measures in benefit of vulnerable groups of migrants, even though the access for illegally resident migrants remained excluded.

³ Justitia et Pax, *The Immigration in the States member of the Mediterranean Area: the contribution of Justice and Peace Commissions*, by Italian with Greek, Spanish, Portuguese and Maltese Justice and Peace Commissions, National Office for Justice and Peace and Social Problems of Italian Bishop's Conference, Rome, 2006.

⁴ Pittau Franco, *L'immigrazione alle soglie del 2000*, Sinnos, Roma, 1999.

⁵ De Marco Manuela, Pittau Franco, *Caractéristiques structurelles de l'immigration en Italie et réponse législative du gouvernement de centre droit*, in « Migrations Société », XV, 87-88, 2003, pp. 9-22.

1. Introduction

Since the 1970's immigration in Italy has double with each passing decade. Between the beginning of the new century and the beginning 2006 the number doubled in just few years, reaching today the figure of 3,000,000 regularly residing immigrants. It's possible to foresee that another doubling will occur towards the year 2015, if not before. Prior to mid-century, in Italy there will be one of the highest incidences of immigrants in the whole world, between 15% and 20% of the resident population, which is a situation that is similar to the current one in Australia and Switzerland⁶.

Italy, as mentioned, is one of the most exposed countries to irregular immigration in Europe due to its geographic position at the convergence of Africa, Asia, and Eastern Europe (continental areas that have strong migration pressures) and due to its demographic deficit. It should also be added that if Northern European countries were located in the South, they would have the same problems as we do. Irregularity is not just an Italian phenomenon but a world issue. Even a country with a significant migration policy like the United States has noticed an increasing number of illegal immigrants at the rate of approximately half a million units per year, despite the toughening of control measures and hundreds of thousands of arrests. This occurs because these immigrants are needed above all by the agricultural and service sectors of the labour market. These statements of a geographic nature are also useful for politically framing irregularity.

The International Labour Organisation (I.L.O.) has made some fundamental statements in this regard. "Considering that the international community – sometimes reluctantly – recognises the need to manage and regulate the movement of capital, goods, technologies, services, information, etc., both with formal means and "market mechanisms", it seems clearly contradictory that this logic is not applied to migration."⁷ It is not by chance that the flow of unskilled migrant workers is organised by traffickers because admission through legal routes is more difficult⁸. The volume of trafficking would be reduced if workers had more freedom of movement to come into contact with job offerings⁹.

The research on 'Return', worked out by the Italian National Contact Point

⁶ D'Angelo Alessio, *Andamento demografico in Italia e in Europa*, in Caritas/Migrantes, *Dossier Statistico Immigrazione 2006*, Idos, Roma, 2006, pp. 71 e ss.

⁷ Taran Patrick, Geronimi Eduardo, *Globalisation et migrations de main-d'oeuvre: Importance de la protection*, Genève, BIT-Secteur de la protection sociale/Programme des Migrations Internationales, 2003, p. 15.

⁸ Abella Manolo, *Mondialisation, marchés du travail et mobilité*, in «Migrations Société», n. 79/2002, pgs. 181-194.

⁹ International Labour Organisation, *Halte au travail forcé: rapport global en vertu du suivi de la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail*, BIT, Genève, 2001.

(NCP) within the third study of the European Migration Network, takes into consideration this panorama and has as its main objective the exam of various aspects and forms of this phenomenon¹⁰. The target group that was taken into account did not include only irregular immigrants, but also asylum applicants, refugees, persons who were granted humanitarian temporary protection, victims of human traffic who participated in various reintegration programmes, as well as immigrant workers in difficulties who decided to return to their countries of origin after an emigration experience in Italy.

In order to make this research as complete as possible the methodological approach used included both qualitative study (analysis of good practises, analysis of existing publications, interviews and meetings with the personnel of organisations dealing with return programmes of immigrants, i.e. International Organization for Migration - IOM) as well as the quantitative one, that permitted in particular to assess the total numeric values of returns, the annual number of persons who participate to the return programmes, the cost of a singular return project and the total budget of the programme, etc.

Particular attention was paid to the assisted voluntary return that, even if inferior numerically respect to the forced return, represents the best option of return because less expensive in the short and in the long period, trying to guarantee the exclusion of the push factors for the beneficiaries.

The final aim of this research study is to promote and sensibly the question of return, to train and inform the personnel of institutions and public opinion regard this issue as well as analyse it deeply in order to learn its actual state of art and good practises. What is more, the objective of the research, given the existence of the EMN network¹¹, includes also the exchange of the information on returns between various countries of the European Union, whose experiences, implemented by the adoption of similar or adapted practices can influence the further development of the national migration policies and their harmonization within the larger European Union context.

The impact of this research, though, does not want to regard exclusively the national level but also the European one, what could facilitate to obtain in the future studies and a wide ranging overview of the issue of returns, as well as lead to a better information of the return programmes and projects from the European comparative perspective.

¹⁰ The previous researches within the European Migration Network activities have regarded "The impact of immigration on Italy's society" (2004) and "Illegally resident third country nationals in Italy" (2005).

¹¹ Cfr., www.european-migration-network.org.

1. Introduction

The above aspect, on the other hand, may also provide the policy and decision makers both in Italy and in European Union with more detailed and updated knowledge about the question of return useful to elaborate new migration policies within the complete European vision.

Still, one of the most important objectives of the research in question is the analysis of the problems, gaps and weaknesses regarding the procedure of return that face the immigrants in Italy: also in this case the experience and good practises existing in other European countries (participating to the European Migration Network) may contribute to overcome difficulties, by the implementation of the effective connection of the assisted voluntary returns with the contrast of irregular flows.

2. Methodology, definitions and statistical data

2.1 Methodology

The main sources for forced return are constituted by the data of the Ministry of the Interior on expulsions, rejections and returns, on the persons who have transited through Temporary Residence Centres and on the actions to prevent irregular immigration. To these we can add the databases on readmission agreements of the Ministry of Foreign Affairs and the Annual Report of the State Auditor's Department on the State balance.

As far as regards assisted voluntary return the main source is the Ministry of the Interior, which finances all of the official activities carried out in close collaboration with the Rome office of the International Organisation for Migration (IOM), which is responsible for operations.

The central office of the IOM in Geneva has carried out numerous studies over the years on returns and on the trafficking of human beings, making good use of the potential of the network of territorial offices.

The data gathered in this manner have been filed in an electronic database called Migrant Management and Operational Services Application, or "Mimosa", which makes it possible to reconstruct the progress of the phenomenon and to supervise activities of identification, direct assistance and reintegration paths. This information is, therefore, protected by national and international regulations on privacy.

There are also smaller scale or pilot experiences that are strictly tied to associations and social entities that are active in the territory, which are very difficult to monitor due to their non-institutionalized and purely occasional nature.

Beyond the data, scientific literature on the return theme is not very extensive, especially in comparison with irregular migration literature¹². The analysis provided by some research centres specialised in migration policies, such as Centro Studi di Politica Internazionale - Cespi (www.cespi.it), Forum Internazionale ed Europeo di Ricerche sull'Immigrazione - Fieri (www.fieri.it), Istituto per gli Studi sulla Multietnicità - Ismu (www.ismu.org) and last, but not least, the research centre on migration of Caritas/Migrantes IDOS (www.dossier-immigrazione.it), stand apart.

An interesting approach could be found in the MIREM project, linked to the European University Institute, which studies return and migration policies from the Mediterranean third countries point of view (www.mirem.eu).

Over the past few years some non-governmental organisations have conducted and presented field studies on the issue of activities used to fight irregular immigration, concentrating their attention on the respect for human rights with regard to the implementation of return actions. Amongst these Doctors Without Borders deserves mention.

2.2 Clarification of concepts and definitions

There is a wide range of scientific literature regarding the comparative issues on return (such as Bruno Nascimbene, 2001 and IOM, 2004¹³) and the concept of return (i.e. Roger Zetter, 2000 and Natalino Losi, 2000¹⁴).

According to the Art. 3 of the draft proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals¹⁵, the following definitions shall apply:

- a. 'third-country national' means any person who is not a citizen of the European Union;

¹² Ammendola Carmelita F., Forti Oliviero, Garavini Susanna, Pittau Franco, Ricci Antonio, *Irregular migration in Italy*, IDOS, Rome, 2005.

¹³ Nascimbene Bruno, *Expulsion and detention of aliens in the Union European countries*, Giuffrè, Milano, 2001 and IOM, *Return migration. Policies and practices in Europe*, Geneva, 2004.

¹⁴ Zetter Roger, *Reconceptualizing the Myth of Return*, in "Journal of Refugee Studies", 12(1), 2000, pp. 1-22; Losi Natalino, *Vite Altrove. Migrazione e disagio psichico*, Feltrinelli, Milano, 2000.

¹⁵ Commission of the European Communities, *Draft proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals*, Brussels, 1.9.2005, COM(2005) 391 final.

- b. 'illegal stay' means the presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions for stay or residence in that Member State;
- c. 'return' means the process of going back to one's country of origin, transit or another third country, whether voluntary or enforced;
- d. 'return decision' means an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing an obligation to return;
- e. 'removal' means the execution of the obligation to return, namely the physical transportation out of the country;
- f. 'removal order' means an administrative or judicial decision or act ordering the removal;
- g. "re-entry ban" means an administrative or judicial decision or act preventing re-entry into the territory of the Member States for a specified period.

For the International Organization for Migration (IOM) return refers broadly to the act or process of going back¹⁶. There are numerous sub-categories of return which can describe the way it is being implemented, e.g., voluntary, forced, assisted and spontaneous return. As well as sub-categories which can describe who is participating in the return.

With Voluntary return, IOM indicates the return based on the voluntary decision of the individual; such voluntary decision is based on two elements: freedom of choice, that is the absence of any physical, psychological or material pressure; and an informed decision, comprising the concept of having enough available, accurate and objective information on which to base the decision.

"Assisted Voluntary Return" infers financial and organizational assistance for the return, which sometimes also include reintegration measures, offered to the individual by the State or a third party such as an international organization. This contrasts with "Spontaneous Return" whereby the individual decides upon and implements the return him or herself.

Those availing of Assisted Voluntary Return (AVR) support are: unsuccessful asylum applicants¹⁷, stranded migrants and students, victims of trafficking, qualified

¹⁶ IOM, *Glossary on Migration*, Geneva, 2004.

¹⁷ "Unsuccessful asylum seekers" referring both to those whose claims have been rejected as well as those who decide not to pursue their asylum claim.

nationals and other migrants unwilling or unable to remain in the host country and who volunteer to return to their countries of origin. These categories, how it has been wished in the introduction, in the future could be very opportunely widened.

2.3 Statistical data on return

2.3.1 External controls: rejections and forced returns¹⁸

Controls at the border have given rise to numerous measures for opposing irregular flows. In 2005 there were 23,878 rejections, 22,939 landings, 26,985 returns (plus 3,443 complying the expulsion orders of the Chief of Police or the subsequent orders to leave Italy, in total 30,428), 16,163 transits through CPT. The total number of persons who were effectively returned was 54,306. If we add to this figure the 65,617 persons who did not comply with the order to leave Italy, we reach the number of 119,923, with the effectiveness of these control measures inferior to 50% (45,3%).

The borders with the greatest number of **rejections** are the air borders of Milano Malpensa (3,600) and Rome Fiumicino (2,351) and the land borders of Trieste (3,923), Verbania-Domodossola (2,535) and Como-Ponte Chiasso (1,966).

In 2005 the nationalities most involved in the 23,878 rejections were from Eastern Europe (10,209 cases, or 52%): the list was topped by Romania (3,357) and Bulgaria (2,229). The next area was Africa with 3,539 rejections (two-thirds of whom were from Sub-Saharan countries, with the top position being held by Nigeria), then America with 2,818 rejections (almost all Latin American, especially Colombian, Brazilian, and Bolivian) and Asia with 2,234 cases (with the Turks remaining at the top position).

Women from some European countries (Romania, Bulgaria, Croatia) made up one-third or more of the total rejections, while they were more than half of the total for some other European nations (Russia and Ukraine) and a number of Latin American countries (Brazil and Bolivia).

The regions most involved in rejections were those along the border: Lombardy and Friuli Venezia Giulia with 5,000/6,000 cases and Piedmont and Latium with more than 2,000 cases.

¹⁸ For more references on migration external controls regarding the previous years, see: Ammendola Carmelita F., Forti Oliviero, Garavini Susanna, Pittau Franco, Ricci Antonio, *Irregular migration in Italy*, IDOS, Rome, 2005; and regarding 2005. see: Caritas/Migrantes, *Dossier Statistico Immigrazione 2006*, Idos, Roma, 2006, pp. 88 e ss.

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Following the restrictions put in place by Spain in Ceuta and Melilla, **landings** significantly increased, almost doubling from 14,645 in 2004 to 22,939 in 2005 and stayed at the same level in 2006 (22,016), attesting to the fact that border police alone are not a decisive factor without international collaboration, especially with transit countries, to oppose labour traffickers. There were numerous landings from the month of May onwards, with the highest values being reached in June and October.

The first position in the ranking of landings is occupied by the Sicilian island of Lampedusa (14,855 people), followed by Licata (1,710), Pozzallo (1,150) and Linosa (1,035). The 99.5% of the total number of landings has been in Sicily. The most important countries of origin of people involved in landings in 2005 are: Egypt (10,201), Morocco (3,624), Eritrea (1,974), Tunisia (1,596) and Sudan (732). In particular 1,170 of them were children coming from Egypt.

A recent Comitato Internazionale per lo Sviluppo dei Popoli (CISP) survey, on the basis of more than 2 thousands persons interviewed on field, has stressed, however, the decreasing number of Subsaharian Africans directed in Europe using as transit area the Maghreb countries. Algeria, Morocco, Tunisia and Libya are always more turning themselves into circular and also permanent flow destination countries, representing then the first choice in the migrant projects of the citizens coming from the near Subsaharian Africa¹⁹.

ITALY. Landings of foreign citizens during the year 2005

<i>January</i>	<i>February</i>	<i>March</i>	<i>April</i>	<i>May</i>	<i>June</i>	
593	18	1,563	22	2,156	3,191	
<i>July</i>	<i>August</i>	<i>September</i>	<i>October</i>	<i>November</i>	<i>December</i>	<i>Tot. 2005</i>
2,584	2,261	2,991	3,642	2,228	1,690	22,939

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from Ministry of Interior data

Even for **returns** (in 2005 26,985 including expulsions or persons returned in accordance with readmission agreements) Eastern European countries topped the list with 56.5% of the total. Romania made up one-third of all returns with 9,477 cases, followed by Albania (2,584), Morocco (2,198), Irak (1,148) and

¹⁹ Comitato Internazionale per lo Sviluppo dei Popoli (CISP), *Profili dei migranti subsahariani in situazione irregolare in Algeria. Prima bozza di Rapporto*, CISP, Rome, October 2006.

Tunisia (855)²⁰.

Foreign countries receiving returned immigrants are more numerous than those receiving rejected ones, as indicated by the list of the most recurring countries outside of Eastern Europe: Palestine, Iraq, China and Afghanistan for Asia and Nigeria, Egypt and Tunisia for Africa. Africa made up 20% of returns and 32% of immigrants who did not comply with the order to leave Italy, which attests to the greater need of countries on that continent to find migration outlets.

Amongst the regions, those with the highest number of returns were Piedmont (4,369), Latium (3,264), Liguria (3,214), Lombardy (2,205), Puglia (2,132) and Emilia Romagna (1,974).

The listing of immigrants who did not comply with expulsion orders includes the same nations that led the returns ranking but not in the same order (Romania, Morocco, China, Moldova and Nigeria).

Article 15 of Law 189/2002 introduced an expulsion measure as a substitution for the punishment in 2 cases:

- whereas the judge maintains that he must impose imprisonment within the limit of two years (in this case the expulsion is valid for a period of not less than five years);

- the second case is carried out by a superintending magistrate, with regard to foreign prisoners with a term of imprisonment, including residual, for no more than two years as an alternative to imprisonment.

From 2002 to 2005 cases of expulsion as an alternative to imprisonment increased from 449 to 1,242 (ex art. 15, Law 189/2002). The countries more involved, as regards Balkans, have been Rumania (192 persons in 2004) and Albania (187); as regards Northern Africa, Morocco (166) and Tunisia (115).

²⁰ After the Romania and Bulgaria entry in European Union (January 1st, 2007), even if the Rumanian and Bulgarian dependent workers' complete free circulation has been postponed for a variable period from 2 to 7 years, however the expulsion incidence is destined to disappear. In Italy in 2005 it could already happen that the Peace judge of Turin revoked an expulsion decree to the damages of an irregular Rumanian citizen because "Romania will join the European Union at the day 1.1.2007 and a regulation containing also the rules on the free circulation of the people has already stipulated with other European partners, without then mentioning the dictates of the new European constitution signed by the 25 member countries of EU and also by the candidate countries such as Romania... [for which] the Legislative Decree 286/98 should not apply to the candidate countries citizens as like is already not applied to the EU citizens" (Peace judge office of Turin, justified decree no. 2293/05, Turin, October 25th, 2005). See, Ricci Antonio, *I Romeni in Italia: immigrazione, radicamento e ritorno*, in "Societatea reala", Bucharest, 2006.

The **rate of return** is given by the number of rejections at the border, or removals from the Italian territory, with respect to the total number of irregular foreigners intercepted during the year. The returns average was approximately 45 for every 100 people intercepted: the incidence of returns was higher in the two areas of the North (West 51.0% and East 51.2%) and lower in other areas (Centre 37.0%, South 34.8% and Islands 44.5%).

In the North the greatest effectiveness was in Friuli Venezia Giulia (79.0%) while the lowest was in Emilia Romagna (25.5%) and Veneto (31.3%), whereas all of the other regions were greater than 50%. In the Centre the rate of return decreased significantly: around 22-25% in Tuscany and Umbria and 39-46% in Latium and Marche.

In the South all of the regions registered return rates of 24-28%, except for Basilicata, which is at the lower end (6.9%), and Puglia, which is at the higher end (57%). On the Islands the return rate was 47% in Sicily and 22.7% in Sardinia (however, this percentage regards a very low number of 727 non-returned persons).

The different return implementation (both removal and rejection) levels do not indicate varying levels of effort by police forces but rather reflect the specific difficulties found in the different territories.

A total of 16,163 persons transited through 13 **Temporary Residence Centres** (the so called CPT) in 2005, which is 516 more with respect to the previous year: some of those Centres had a flow of less than 1,000 units per year (Brindisi, Catanzaro, Lecce, Modena, Ragusa and Trapani). The most active centre was the Roman one with 3,681 entries. Leaving aside the much disputed debate on their role and operation, on which the ad hoc Committee, established by the Government and chaired by the United Nations diplomat Staffan De Mistura, has taken an authoritative position, scaling down the value of their effectiveness and suggesting of reducing the incoming people's flow also by intensifying the assisted voluntary returns.

However, it should be stated that the average rate of return of people detained in the Centres was 68.6%, percentage resulting from the number of persons who returned in their countries of origin following detainment in the Centres (11,087): only in the Centres of Catanzaro, Lecce and Modena, which also have reduced capacity, was the return rate less than 50%.

On average almost one out of every five detainees was discharged without being able to be returned (2,998 persons or 18.5%). Other outcomes of detainment, even if they did not recur as greatly, were political asylum (once asylum

has been determined the detained person must be transferred to a Hospitality Centre for Asylum Applicants), the lack of validation by the judicial authority (742 cases or 4.6%), escape from the centre (160 cases, exactly one for every hundred cases), arrest (109) and other reasons (883). There was also one death (in the Rome-Ponte Galeria centre).

ITALY. Rejections, expulsions and returns (1999-2005)

	1999	2000	2001	2002	2003	2004	2005
Border rejections	48,437	42,221	41,058	43,795	27,397	24,528	23,878
Expulsions/Returns	23,955	23,836	34,390	44,706	37,756	35,437	26,985
Tot. persons removed	72,392	66,057	75,448	88,501	65,153	59,965	50,963
Non-compliant	40,489	64,734	58,207	61,282	40,586	45,697	54,306
Total involved	112,881	130,791	133,655	149,783	105,739	105,662	105,269
% removed out of involved	64.1	50.5	56.4	59.1	61.6	56.8	48.4

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from Ministry of Interior data

2.3.2 Internal controls: the workplace inspections²¹

The control of border flows must be completed with workplace controls because the widespread nature of off-the-book labour in Italy continues to be a factor of attraction for irregular flows. Controls at external borders should not be considered a panacea, not just because they are only partially effective but also because they are even less effective when additional controls on the residence and labour of immigrants (who have, nevertheless, entered Italy) are not carried out. This is the problem with company inspections, which are not conducted in sufficient numbers and are not properly coordinated. They lead unscrupulous persons to exploit immigrants who try to enter Italy to find a source of income²².

Therefore, it can be seen that even internal borders, including the ones at companies, should be controlled in the interest of both immigrants and the companies that receive them and to the detriment of unscrupulous employers.

²¹ See, Ammendola Carmelita F., Forti Oliviero, Garavini Susanna, Pittau Franco, Ricci Antonio, *Irregular migration in Italy*, IDOS, Rome, 2005.

²² *Il lavoro sommerso e le iniziative per l'emersione*, in Istituto Nazionale della Previdenza Sociale – Dossier Statistico Immigrazione Caritas/Migrantes, *Immigrazione: una risorsa da tutelare. Rapporto su immigrati e previdenza negli archivi INPS*, "Sistema Previdenza", anno XXII, n. 2-3, Roma, settembre 2005, pp. 97 e ss.

When illegal employment is widespread, like it is in Italy²³, it is more or less inevitable that irregular immigration will also be widespread.

Inspections are an effective deterrent but in reality they are insufficient in concrete terms. They are difficult to carry out at companies that are spread out, such as those in the agricultural sector, or excessively scattered, such as the family assistance sector, or in areas where small businesses are the main protagonists. There is a high level of irregularity at construction companies, manufacturers, hotels, and shops and in the area of trade, which are production sectors difficult to control. Inspections are also made difficult by the widespread nature of precarious jobs and by the widespread mentality that is permissive of tax evasion.

Inspection results indicate that in the South infractions are of a more structural nature (companies that have never been registered, "ghost companies") due to widespread unemployment. In the North, on the other hand, the hidden economy takes on a seemingly regular facade (for example, fictitious coordinated and continuing coordination contracts or subordinate forms of work that are passed off as autonomous – double work, concealment of work hours). "Illegal cooperatives" are used to offer labour at bargain prices. These flexible groups, which are also operated by foreigners, are created and dismantled within a matter of a few months, so that they can move to another area to evade controls. It is therefore possible to omit or falsify registrations and declarations and to keep all or part of national insurance contributions and the sums to be deposited as the withholding agent.

Non-compliances regard tax obligations, regulations on the accident prevention and work safety (use in dangerous, exhausting and unhealthy jobs; the lack of preventive, periodic visits, the lack of respect for rules regarding work schedules, daily and weekly work breaks and night time work), regulations on recruitment (illegal hiring of farm labourers for very low wages through an agent and the intermediation of labour), the statute of workers and other work regulations (housework, the safeguarding of maternity leave, the discharging of mandatory schooling for minors), the regulations of the Consolidation Act on Immigration, and the rules regarding contracts and public financing.

Crimes include embezzlement or fraud to the damage of the Public Administration, abuse of office or omission of office, various types of falsification, misap-

²³ According to the more recent ISTAT assessment in Italy in 2004 the added value produced in the black economy area is computable about 16.6% - 17.7% of the Gross Domestic Product (from a minimum of 230 to a maximum of 247 billions of euro). See, Press release on "The measure of black economy according to the official statistics", 14th December 2006, in www.istat.it.

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proportion, the receipt of stolen goods, extortion, illegal exercising of a profession, the substitution of persons, reduction into slavery, and criminal association.

In conclusion, a greater effort in terms of inspections would attenuate the impact of illegal and irregular immigration and would reinforce border controls.

It is true that some employers are interested in using illegal foreign workers to profit from their tax, salary and trade union rights. It is, however, also true that many employers (including families in need of assistance) are almost forced to use irregular workers, since the law is not easy to apply. Alongside the regular access of foreign workers to the labour market there were many more parallel cases of irregular access that was put right with the regularisations of 1986, 1990, 1995, 1998 and 2002.

There is an "inverse relationship between the volume of legal flows and the speed of the growth of illegality. Closure towards immigration and the intensification of repressive measures do not discourage illegality and, sooner or later, require its rectification"²⁴. Rather than putting the brakes on flows, this type of "protectionism" has a direct effect on their composition, moving the needle of the scale towards illegal immigration and the increase of trafficking.

ITALY. Added value produced in the black economy area - Amounts in millions of Euro (2000-2004)

Year	Minimum Hypothesis (A)			Maximum Hypothesis (B)			Maximum Hypothesis - sectors (% and amounts)					
	Amounts	Var.%	% of GDP	Amounts	Var. %	% of GDP	Agriculture		Industry		Services	
2000	211,963	-	17.7	224,513	-	18.8	22.6	6,055	14.5	49,538	22.7	168,920
2001	220,476	6.8	18.1	243,669	8.5	18.5	22.9	6,195	15.1	53,857	23.4	183,617
2002	217,535	-3.5	16.8	224,707	-7.8	17.3	22.9	6,152	11.0	40,098	21.7	178,457
2003	219,148	0.7	16.4	232,411	3.4	17.4	20.5	5,586	10.7	39,416	21.8	187,409
2004	230,604	5.2	16.6	245,819	5.8	17.7	20.5	5,814	11.0	43,360	22.1	197,845
<i>Variation 2000-2004</i>												
-	+18,641	+8.8	+1.1	21,306	+9.5	+1.1	-2.1	-241	-3.5	-6,178	-0.6	+28,925

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from Istat/National Accounting data

With reference to the information that was clarified at a recent conference held by the Ufficio Nazionale dei Problemi Sociali e del Lavoro of the CEI on immigration and illegal labour (Rome, January 25, 2007), it is necessary to remember that different reasons have stimulated and continue to stimulate the use of immigrants in the underground economy.

²⁴ Massimo Livi Bacci, *La sanatoria made in Usa*, in "La Repubblica", 20th January 2004.

If Italy attracts immigrants like a magnet, this indicates the great need of a country subjected to demographic decline and heavy aging: one need merely recall that from 2005 to 2020 young workers between the ages of 19-40 will decrease by 4.5 million units and there is an urgent need to replace them, especially in those sectors that local citizens do not like. In addition to this, foreign labourers are a better value precisely because of insufficient controls. If they are used illegally without paying taxes on their behalf and are kept in a precarious situation they can be paid less.

Believing that border controls are a solution is a grave prejudice. Although they are necessary, they are always partially effective even when made tougher.

It is not that in the meantime company control activities have been lacking, which are in and of themselves a deterrent that is anything but negligible for counteracting the underground economy. Inspections, however, are insufficient overall, they are very problematic at companies that are spread out, like in the field of agriculture, or that are excessively fragmented, like the sector of family aid. Nevertheless, they cannot satisfy the limits of regulations (if rigid) and policy (if inadequate as far as regards quotas).

Inspections need not only to be maintained but to be carried out more frequently and in a more widespread manner throughout the country, otherwise border controls are, in large part, thwarted because immigrants will attempt to bypass them to insert themselves in an environment that receives them nevertheless. Therefore, it is necessary to have the wisdom to not just limit ourselves to the underground economy of immigrants but of the entire population and to insist also on information of a preventive nature.

Border controls and inspections in the state territory should be completed with an effort of a cultural nature to be translated at the legislative level, preferably in a cross-party way in order to have adequate annual entry quotas, placement mechanisms that can effectively promote the meeting between work demand and offer, and increased effort in involving the countries of origin.

No less important is the effort at the administrative level, first of all as far as regards residence permits, because bureaucratic delays often separates immigrants from the paths of legality and invite them to approach the swifter irregular labour market. The current phase is experimental and far from being over and leaves various problems open to be faced with courage and realism.

Overcoming the ideology of the underground economy is linked to the overcoming of a widespread mentality that is permissive of tax evasion, which regards not just companies but also families, who employ a significant number of immigrants. It is necessary, in conclusion to grow together as a society and

this is also an effort of a cultural nature.

Our approach is in agreement with the stance of the final report (press conference of February 2006) of the De Mistura Commission, since we have been given the task of a study on Temporary Residence Centres and their impact on irregular immigration.

2.3.3 The case of voluntary return

The beneficiaries of assisted voluntary return programmes can be easily divided into two large groups:

Holders of a permit for temporary humanitarian protection and displaced persons, asylum applicants, refugees, as well as people who have renounced applying for asylum or who have been denied the status of refugee or another form of temporary protection and, last but not least, ex Dublin Convention cases.

Groups of immigrants in a state of vulnerability, trafficking victims, humanitarian cases, unaccompanied minors and stranded migrant workers.

For irregular migrants Italian law does not provide for direct access to voluntary return programmes, measure that it could be moreover desirable.

It is very difficult to propose a current aggregation of the total number of beneficiaries of assisted voluntary return programmes, primarily due to the duration of the individual projects, which do not always coincide with the solar year and are often extended.

ITALY. Assisted Voluntary Return cases from 1991 to 2006

<i>Period</i>	<i>Reasons</i>	<i>n.°</i>	<i>%</i>
From 1991 to 2001	Humanitarian Emergencies	5,252	72.7
From 2001 to 2006	Asylum applicants	797	11.0
From 1999 to 2005	Trafficking victims	458	6.3
From 1992 to 2006	Humanitarian cases/ Stranded migrant workers	716	10.0
From 1991 to 2006	Total	7,223	100.0

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from IOM Rome data

Despite these difficulties and considering the fact that for some types we have also taken into account the provisional data for the first months of 2006, the total number of beneficiaries starting from 1991 was 7,223 returned immigrants, divided as follows:

- Three-fourths of those assisted (72.7%) regarded beneficiaries of exceptional return programmes, associated at first with the humanitarian emergencies in the Balkans in the early 1990's and then in Kosovo at the beginning of 2000.

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To these we can add, between 2001, the year that the National Asylum Plan (Piano Nazionale Asilo – PNA) was instituted, which then became operative in December 2003 as the Protection System for Asylum Applicants and Refugees (Sistema di Protezione per Richiedenti Asilo e Rifugiati - SPRAR), and September 2006 another 797 cases regarding asylum applicants, refugees, temporary protection holders, etc., totalling approximately 11.0%.

- The remaining cases (16.3%) primarily regarded 458 trafficking victims (6.3%) whose assisted voluntary return began in 1999, and then 571 stranded migrant workers who were assisted thanks to the Repatriation Fund managed by the National Social Security Institute (Istituto Nazionale della Previdenza Sociale – INPS) since 1992, for a total of 10.0% and other humanitarian cases, who were the beneficiaries of occasional voluntary return programmes, primarily made up of mentally or terminally ill people, handicapped persons, labour exploitation victims, women with minor children, etc.

ITALY. Assisted Voluntary Return cases from 1991 to 2006 (first 20 countries of origin)

	<i>Origin</i>	<i>Humanitarian emergencies</i>	<i>Asylum applicants</i>	<i>Trafficking victims</i>	<i>Humanitarian n. cases</i>	<i>Total</i>	<i>%</i>
1	Albania	2,971	4	19	1	2,995	41.5
2	Kosovo	1,017	88	-	-	1,105	15.3
3	Romania	-	314	213	34	561	7.8
4	Serbia-Montenegro	451	25	5	-	481	6.7
5	Bosnia Herzegovina	294	100	1	-	395	5.5
6	Nigeria	-	3	59	37	99	1.4
7	FYR of Macedonia	-	64	1	-	65	0.9
8	Turkey	-	49	-	-	49	0.7
9	Russian Fed.	-	31	6	3	40	0.6
10	Moldova	-	-	34	1	35	0.5
11	Ukraine	-	4	28	2	34	0.5
12	Bulgaria	-	1	26	1	28	0.4
13	Thailand	-	-	15	-	15	0.2
14	Lebanon	-	10	-	-	10	0.1
15	Poland	-	-	8	1	9	0.1
16	Afghanistan	-	8	-	-	8	0.1
16	Colombia	-	8	-	-	8	0.1
18	Azerbaijan	-	7	-	-	7	0.1
18	Libya	-	7	-	-	7	0.1
18	Slovakia	-	-	6	1	7	0.1
	Balkans	515	-	-	-	515	7.1
	Other countries	-	57	37	8	102	1.4
	Not available	4	17	-	627	648	9.0
	Total	5,252	797	458	716	7,223	100.0

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from IOM Rome data

As far as regards the geographic origins of the beneficiaries, keeping in mind that it is not possible to separate a certain percentage (17.5%), in most cases they were Albanian citizens, 41.5%, who were beneficiaries of return programmes connected with the landing emergencies of 1991 and 1997 that were promoted by the Ministry of the Interior.

Generally, in the top 5 positions of the ranking we find Balkan nationalities, to which we can add 515 Balkans that cannot be separated by countries of origin: following Albania (41.5%), we find Kosovo (15.3%), Romania (7.8%), Serbia Montenegro (6.7%) and Bosnia Herzegovina (5.5%). From sixth place and onwards the percentage decreases slowly below the 1.4% of Nigeria.

a) Humanitarian emergencies and asylum applicants

During the repeated humanitarian emergencies of the 1990's, Italy was called to host, at least temporarily, waves of migrants from the nearby Balkans and, therefore, had to programme assisted voluntary return when the situation in the country of origin was once again safe.

Over the 1990's, until July 2001, there was a total of 5,252 assisted voluntary returns distributed as follows: the Balkans in general (515), Albania (2,971), Kosovo (1,017), the former Yugoslavia (451) and Bosnia Herzegovina (294). Starting from June 2001 the National Asylum Plan (Piano Nazionale Asilo or PNA) came into effect, which indirectly replaced ad hoc return programmes, coordinating the activities of receiving and returning all asylum applicants, refugees or holders of temporary protection in Italy.

The first experience of management and return of massive migration flows regarded Albania precisely: after the fall of the Communist regime Albania sent two waves of migrants towards Italy in 1991 (February-March and August) and a new one in 1997, when ships set sail from Albania's ports heading for Puglia²⁵.

²⁵ Many scholars have analysed the reactions of the Italian public opinion resulting from the social discomfort created by the unexpected immigration waves of Albanian refugees in 1991 and in 1997. See, Pittau Franco, Reggio Marco, *Il caso Albania: immigrazione a due tempi*, in "Studi Emigrazione", XXIX, 106, Roma, 1992, pp. 227-239; Barjaba Kosta, Lapassade Georges, Perrone Luigi, *Naufrazi albanesi. Studi, ricerche e riflessioni sull'Albania*, Sensibili alle Foglie, Roma, 1996; Vehbiu Ardian, Devole Rando, *La scoperta dell'Albania. Gli albanesi secondo i mass media*, Paoline Editoriale Libri, Torino, 1996; Dal Lago Alessandro, *Campagne d'Albania*, in Idem, *Non Persone - L'esclusione dei migranti in una società globale*, Feltrinelli, Milano, 1999, pp. 179-204; King Russell, Mai Nicola, *Of myths and mirrors: interpretations of Albanian migration to Italy*, in "Studi Emigrazione", XXXIX, 145, Roma, 2002, pp. 161-199; Melchionda Ugo (a cura di), *Gli albanesi in Italia. Inserimento lavorativo e sociale*, Franco Angeli, Milano, 2003; King Russell, Mai Nicola, Schwandner-Sievers Stephanie (Eds.), *The new Albanian migration*, Sussex Academic Press, Brighton, 2005; Devole Rando, *L'immigrazione albanese in Italia*, Agrapress, Roma, 2006.

Especially during the second wave of immigration forced return was utilised, even though at that time two assisted voluntary return programmes had been launched and entrusted to the IOM by the Ministry of the Interior. The first began in March of 1991 and was closed down in May 2002 providing for the assisted voluntary return of 1,198 Albanian citizens while the second concluded between the months of July and December 1997, with the return of 1,261 Albanians.

Over subsequent years additional return programmes were launched concomitantly with the crisis and the normalisation of the war zones in the Balkans, although in this case the number of immigrants assisted to return was much lower, with the following results:

- July 1994-April 1997: 437 returning to former Yugoslavia;
- August 1997-September 1998: 227 returning to Bosnia Herzegovina;
- November 1998-December 1999: 476 returning to the Balkans;
- January-December 2000: 515 returning to the Balkans;
- June-November 2000: 228 returning to Kosovo;
- September 2000-July 2001: 404 returning to Kosovo.

At the same time lesser programmes were launched by individual non-governmental organisations also with the support and financial contribution of the European Commission, such as, for example, the "Strade di ritorno" (Roads of Return) project, implemented in 2000-2001 by the Italian Consortium of Solidarity (ICS) to assist citizens from Albania and the Republics of the former Yugoslavia who were in Italy for different reasons and who planned to return voluntarily to their places of origin.

In the case of war refugees, temporary humanitarian protection was generally recognised with the granting of a renewable 6-month residence permit until the state of emergency resulting from the conflict persisted and, therefore, until every obstacle to return in dignified and safe conditions was removed. The article 20 of the 286/98 Law introduced the possibility to face the humanitarian emergencies (caused by exceptional events happened in the third countries, such as wars, natural disasters, etc.) thanks to a President of the Ministry Council's decree that determines the humanitarian interventions necessary for reception of displaced persons that would massively reach the Italian territory.

For example, in the case of the humanitarian crisis during the war in Kosovo in the spring of 1999 for a first time a special decree was emanated containing the measures of temporary protection for displaced persons from the war zones in the Balkans (around 15 thousand of persons). Then, at the end of June 1999, with the cessation of the war operations in Kosovo and the settlement of the

multinational mission in the region, most of those who benefited from protection in Italy such as, for example 6,000 Kosovars hosted at the military base of Comiso in Sicily, either left the country by means of charter flights organised by the Ministry of Interior or through IOM's assistance. However some of them also decided to leave autonomously. Nevertheless the issue of the treatment of those who decided not to take advantage of the return programme after June 30th, such as large groups of Roma (more than 5,000 people, including 2,000 minors, in the month of July 1999) remained open.

A part of them benefited from housing facilities throughout Italy, especially within the context of the "Azione Comune" (Common Action) programme, financed by the European Commission for the reception of refugees from conflict zones in the former Yugoslavia. Others, however, lacking alternatives that seemed safe, stayed initially at reception centres in Puglia and then tried to go to other European countries or ended up in nomad camps on the outskirts of large Italian cities, deteriorating the situation of overcrowding as well as social and sanitary degradation that was already present. The last quota was removed according to the rules foreseen by the law operating that year (expulsions with the escort to the frontier or order to leave the country within 15 days).

The emergency situation of the 1990's, with the repeated waves of forced migrations from Albania, the former state of Yugoslavia and other areas of instability nearby Italy, led to the creation of ad hoc laws or ministerial decrees that did not address the more general problem of the capacity and quality of the reception system in Italy and the absence of comprehensive asylum regulations.

Since Italy lacked comprehensive policies on asylum and a national reception, protection and integration system as well as a voluntary, assisted return programme in favour of unsuccessful asylum applicants, refugees and persons with humanitarian residence permits and last but not least the cases ex Dublin Convention, in April 2001, the Ministry of the Interior, in collaboration with the UNHCR and the National Association of Italian Municipalities (ANCI), organised and launched a reception network for asylum applicants and interventions to support the integration of recognised refugees. As provided by Law 189/2002, the experience of the National Asylum Programme (PNA) has been merged into the Protection System for Asylum Applicants and Refugees (SPRAR) and the coordination role has been entrusted by the Ministry of the Interior to the ANCI. The assisted voluntary return projects have been assigned through a formal agreement to IOM, especially with regard to activities related to the retrieval of travel documentation, organization of transfer, assistance with socio-

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economic reinsertion and reintegration into countries of origin. Emerging amongst the larger group of beneficiaries were those who renounced their asylum claims as well as those who were denied refugee status or other forms of temporary protection.

From the end of June 2001 to December 2005 there was a total of 780 Assisted Voluntary Return beneficiaries out of the 12,289 granted by the PNA/SPRAR (6.3%); following this date bureaucratic problems delayed the granting of the operative agreement for return assistance activities and the next project began only in the month of July 2006. In September 2006 the provisional number of beneficiaries of the annual project was a total of 17 cases.

Generally, although the data is widely incomplete for some years (for example, the year of the PNA, June-December 2001, and the year of the integrative measure of the SPRAR, June 2004-October 2005), it can be stated that in most cases the beneficiaries were made up of men representing almost 87,2% of the total.

ITALY. Assisted Voluntary Return cases thanks to the PNA/SPRAR programmes (2001-2006)

		Total	% F	Families	Minors	Bodies	Funds euro	pro capite
Jun-Dec2001	Piano Naz. Asilo (PNA)	103	N.A.	N.A.	N.A.	N.A.	645,571	3,589
Apr.2002-Jan.2003	PNA	91	6.6	68	16	2	230,000	2,502 ²⁶
Feb-Nov.2003	PNA	69	18.8	50	12	0	370,000	5,129
Dec.2003-Jan.2004	Sist.Protezione (SPRAR)	39	17.9	20	12	0	207,000	3,667
Of which 2003	"	6	Nd	4	N.A.	N.A.	N.A.	N.A.
Of which 2004	"	33	Nd	16	N.A.	N.A.	N.A.	N.A.
Feb.-Dec. 2004	SPRAR	187	21.9	95	63	2	350,000	1,787
Jun.2004-Oct.2005	SPRAR-Integr. Measure	119	N.A.	N.A.	N.A.	N.A.	544,000	4,560
Jan-Dec. 2005	SPRAR	172	15.7	105	46	1	350,000	1,941
Total 2001-2005	PNA/SPRAR	780	12.1	358	149	5	2,696,571	3,457
Jul 2006-Jun 07 *	SPRAR	17	47.1	N.A.	N.A.	N.A.	295,000	-
Total 2001-2006	PNA / SPRAR	797	12.8	358	149	5	2,991,571	-

* Provisional data, of which 3 minors

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from IOM Rome data

As far as regards the countries of origin, the top ranking, undoubtedly, goes to Romania, thanks in part to the integrative measure of the SPRAR of June 2004-October

²⁶ In various occasions the total funds have covered also other actions not directly linked to the return of specific migrants, i.e. information campaigns, materials production, formative activities for social workers, networking, etc.

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2005. This project was entirely dedicated to this community with 119 beneficiaries.

In this case as well, the general ranking is topped by the Balkans. After the 40.3% of Romania, comes the 12.8% of Bosnia Herzegovina, the 11.3% of Kosovo and 8.2% of FYR of Macedonia. It is evident that the rediscovered and consolidated tranquillity of the Balkans stimulates and reinforces the preconditions for the choice of assisted voluntary return, whereas this does not happen for countries that are still devastated by war like the Sudan, Eritrea or Somalia, or for countries characterised by the uncertainty of personal rights like Iraq. These countries, however, were the protagonists of post-2001 flows (or rather subsequent to the adoption of the PNA and then the SPRAR).

ITALY. Assisted Voluntary Return cases thanks to the PNA/SPRAR programmes (2001-2006: first 20 countries of origin)

	Cases	%
1 Romania	314	40.3
2 Bosnia Herzegovina	100	12.8
3 Kosovo	88	11.3
4 FYR of Macedonia	64	8.2
5 Turkey	49	6.3
6 Russian Fed.	31	4.0
7 Serbia Montenegro	25	3.2
8 Lebanon	10	1.3
9 Afghanistan	8	1.0
10 Colombia	8	1.0
11 Azerbaijan	7	0.9
12 Libya	7	0.9
13 Croatia	6	0.8
14 Congo Dem Rep.	5	0.6
15 Irak	5	0.6
16 Sri Lanka	5	0.6
17 Albania	4	0.5
18 Ukraine	4	0.5
19 Iran	3	0.4
20 Nigeria	3	0.4
Others	34	4.4
Total	780	100.0
Not Available		
(SPRAR: Jul.2006-Jun.2007)	17	-
Total	797	-

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from IOM Rome data

b) Trafficking victims and humanitarian cases

Italy is an important international destination for the trafficking of human beings for exploitation. Victims who were trafficked for sexual purposes, reaching the Italian territory between 2000 and 2004, were estimated at approximately 50,000 persons. Almost 30,000 took advantage of Italy's social, legal and health services in some way²⁷.

The issue of assisted voluntary return for victims of trafficking in Italy dates back to July 1999, when the first specific programme was launched, financed by the Ministry of Foreign Affairs and directed especially at Albanian women and minors. This pilot project lasted a total of 15 months and involved 21 people. Nevertheless, even before the termination of the project in question the Ministry of Foreign Affairs reconfirmed its interest in the programming of assistance with voluntary return for trafficking victims within the whole Balkan Region, allocating funds for the continuation of the project, which was effectively extended until March 2001, guaranteeing the return of another 35 people to Romania, Moldova, Ukraine, Bosnia Herzegovina, Serbia and Lithuania, in addition to Albania. Furthermore, the Ministry of Foreign Affairs in 2001 decided to finance measures to prevent trafficking and assist the voluntary return of victims to Nigeria. Through this initiative an additional 28 beneficiaries returned to Benin City (Edo State), the place of origin of most Nigerian trafficking victims in Italy.

Following these first experiences, in the period between July 2001-June 2002, a specific fixed programme was established for the assisted voluntary return of trafficking victims, managed by "Azione di Sistema" upon the initiative of the Ministry of the Interior and financed by the inter-ministerial commission for the application of article 18 presided over by the Department of Equal Opportunities at the Prime Minister's office, and then repeated in the period between 2003-2004, 2004-2005 and again in 2005-2006.

The legal basis for the individual projects for the victims of trafficking in Italy, also including their assisted voluntary return, is based on article 18 of the Consolidation Act on immigration, which provides for the special treatment of victims who plan to escape from exploitation and denounce it, granting them a residence permit for social protection lasting 6 months and allowing them to

²⁷ Gruppo Abele-Caritas-Cnca, *La tratta degli esseri umani*, in "Strada Facendo", n. 2, Ottobre 2006.

participate in specific integration programmes in Italy and/or taking up the assisted voluntary return scheme if the beneficiary so wishes; such intention to avail of voluntary return assistance has to be assessed through ad hoc interviews by IOM specialized personnel and authorized by the Ministry of the Interior. A total of 4,286 residence permits were granted for social protection from 1998 to 2004 and in 99.9% of the cases regarded women from five countries primarily: Nigeria 23.3%, Romania 18.7%, Moldova 15.1%, Albania 12.2% and Ukraine 10.2%. From 2000 to 2004 the Department of Equal Opportunities co-financed 294 social protection projects throughout the whole national territory, which allowed for assistance with 6,781 female trafficking victims, including 318 minors.

According to the statistical data at the archive of the "Azione di Sistema", in the first year (July 2001-June 2002) of the project the assisted trafficking victims came from 13 countries and they totalled 80 persons. More than one-fourth of the persons participating in the programme came from Romania (24 persons), while the others came from Ukraine (12), Moldova (11), Bulgaria (8), Albania (5) and Poland (5). As far as regards minor trafficking victims, there were a total of nine, a large share of whom were from Romania (6).

During the second year (April 2003-March 2004), according to the sources of the "Azione di Sistema", the total number of assisted persons did not change, remaining at 80 beneficiaries, while there were significant changes as far as regards the countries of origin. More specifically, the assisted persons belonged to 8 countries, with most being from Romania (a total of 52 out of 80), with the reappearance of Nigerians (absent during the first cycle of the programme who totalled 10 persons during the second period) and a significant decrease in Ukrainians (5 people with respect to the 12 of the previous cycle), Bulgarians (from 8 to 5) and Polish persons (from 5 to 1). The number of assisted minors remained relatively constant, for a total of 10 persons, 9 of whom were from Romania.

In the case of the third period in question, from March 2004-July 2005, another 78 victims of trafficking were assisted through the same previous funding source. Also in this case Romanian and Nigerian victims account for the majority (46 and 11 respectively), while the number of minors remains the same as the year before.

Within the fourth period (from August 2005 to December 2006), the allocated funds provided for the assistance with the return of another 136 persons, of which 78 trafficking victims and 58 humanitarian cases. The most important

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country of return was Romania (76 people out of 136 beneficiaries in total), followed by Thailand in the second position (15 cases) and then Nigeria, Bulgaria and Brazil (respectively with 10, 5 and 4). The other beneficiaries have returned in Moldova, Ecuador, Bangladesh, Poland, Latvia, Paraguay, Belarus, Albania and Slovakia.

Amongst the other vulnerable categories assisted by the staff of the IOM within these specific programmes, there were also so-called “humanitarian cases” that include: mentally and terminally ill persons, handicapped persons, victims of labour exploitation, women single family heads and their children as well as other cases of hardship.

Since 2001 “Azione di Sistema” has assisted altogether during the first four years 198 Romanians, 31 Nigerians, 25 Bulgarians, 21 Ukrainians, 19 Moldovans and 80 people from other 15 different countries.

ITALY. Assisted Voluntary Return cases from 1999 to 2006 (trafficking victims)

		N° cases	Funds (euro)
Assisted Voluntary Return - Balkans (2000)	Ministry of Foreign Affairs	35	-
Assisted Voluntary Return - Albania (from 1999 to 2000)	Ministry of Foreign Affairs	21	-
Assisted Voluntary Return - Nigeria	Ministry of Foreign Affairs	28	-
I Year (01/07/2001-31/06/2002, extended to 30/09/2002)	Azione di sistema/ Dep. Equal Opport.	80	284,051
II Year (01/04/2003-31/03/2004)	Azione di sistema/ Dep. Equal Opport.	80	284,051
III Year (01/03/2004-31/07/2005)	Azione di sistema/ Dep. Equal Opport.	78	270,000
IV Year (01/08/2005-31/07/2006, extended to 31/12/2006)	Azione di sistema/ Dep. Equal Opport.	136	-
of which trafficking	Azione di sistema/ Dep. Equal Opport.	78	-
of which humanitarian cases	Azione di sistema/ Dep. Equal Opport.	58	-
TOTAL		458	-

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from IOM Rome data

Beyond the ministerial source of the “Azione di Sistema”, another glimpse at the situation and the statistics regarding the assisted voluntary return of trafficking victims is provided by the aforementioned MIMOSA database of the International Organization for Migration (IOM), regarding the period from 1999 to mid 2006 specifically.

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The data indicate a total of 458 trafficking victims participating in the return programme managed by the IOM, 6.3% of whom were men mostly Rumanians (29 persons) and 6.6% of whom were minors (30 cases). From the point of view of the countries of origin almost half of the assisted persons were returned to Romania (213 out of 458), while in second place there were 59 Nigerians, followed subsequently by Moldova (34), Ukraine (28), Bulgaria (26) and Albania (19).

ITALY. Assisted Voluntary Return cases from 1999 to 2006 (trafficking victims): first 10 countries of origin

	N°. cases	%
Romania	213	46.5
Nigeria	59	12.9
Moldova	34	7.4
Ukraine	28	6.1
Bulgaria	26	5.7
Albania	19	4.1
Thailand	15	3.3
Poland	8	1.7
Russian Fed.	6	1.3
Slovakia	6	1.3
Other countries	44	9.6
TOTAL	458	100.0

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from IOM Rome data

The latest programme regarding the assisted voluntary return of vulnerable groups, and specifically workers in difficulty, is guaranteed by art. 13 of Law 943/1986, which was instituted with the Repatriation Fund of the INPS. According to this Law, however, the finances from the fund (fed by the same workers on a monthly basis with 0.5% of their wages) could only be used by immigrant workers in difficulty who had made INPS payments at least once, thereby excluding their family members.

The programme in question began to operate in 1992 and is still active, although the contribution of 0.5% to the Repatriation Fund has been abolished by Law 286/98. According to the statistics up until mid 2006 a total of 571 persons took advantage of it for assistance with voluntary return. Nevertheless, in 385 cases it was for the return of the corpses of migrant workers who died in the Italian territory²⁸.

²⁸ Deaths' return in the countries of origin is a very delicate issue. Recently many banking houses have started to offer special bank accounts covering also this kind of costs.

The Ministry of Interior in a document signed 8th of June 2005 predisposed for the year in question a part of reserves from the Lire Found UNRRA (United Nations Relief and Rehabilitation Administration) as a possible budget for assisted voluntary return of foreigners who do not possess the necessary economic means for return to their country of origin. Through the project, that is to be in the phase of realisation for the whole 2007, till the end of December of 2006 sponsored the voluntary return of 56 beneficiaries, out of which 17 women and 10 minors.

For 2007, at last, IOM is called to manage the assisted voluntary return of 220 trafficking victims, of which 100 pulled in save from exploitation circuits, 100 in conditions of extreme precariousness and uneasiness (disabled, terminally ill persons, elderly, women single family heads, etc) and 20 new adults which cannot convert the stay permit to the fulfilment of the eighteen years²⁹.

²⁹ "Redattore Sociale", 6th March 2007.

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ITALY. Assisted Voluntary Return cases thanks to the "Azione di Sistema" programme

	<i>I Year</i>	<i>II Year</i>	<i>III Year</i>	<i>IV Year</i>
	<i>31/06/2002</i>	<i>01/04/2003</i>	<i>01/03/2004</i>	<i>01/08/2005</i>
	<i>extended to</i>	<i>31/03/2004</i>	<i>31/07/2005</i>	<i>31/07/2006</i>
	<i>30/09/2002</i>			<i>extended to</i>
				<i>31/12/2006</i>
Albania	5	-	-	1
Bangladesh	-	-	-	-
Belarus	3	-	-	-
Bolivia	-	-	-	1
Bosnia Herzegovina	-	-	-	-
Brazil	-	-	-	3
Bulgaria	8	5	7	4
Chile	-	-	-	-
China	-	-	-	1
CIS	2	-	-	-
Ecuador	-	-	-	-
Estonia	1	-	-	-
FYR of Macedonia	-	-	-	-
Ghana	-	-	-	-
Guinea Bissau	-	-	-	-
Hungary	1	-	-	-
Yugoslavia	3	-	-	-
Latvia	-	1	-	-
Lithuania	-	-	2	-
Moldova	11	3	3	-
Nigeria	-	10	11	7
Paraguay	-	-	-	-
Perù	-	-	-	1
Poland	5	1	1	-
Czech Republic	2	-	-	-
Romania	24	52	46	42
Russian Federation	-	3	-	-
Slovakia	3	-	2	-
Thailand	-	-	-	15
Ukraine	12	5	2	-
Uruguay	-	-	1	2
Uzbekistan	-	-	3	1
TOTAL	80	80	78	78

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from Ministry of Interior data

3. Political and legal framework

3.1 International overview

The United Nations Convention on Protection of the Rights of all Migrant Workers and Members of Their Families of December 18th 1990, ratified at February 2007 by 36 countries of which none is either a member of EU or an industrialized country, provides for the international cooperation, the information exchange and an adequate assistance in order to ensure an orderly return of the migrant workers and the members of their family, when the latter ones decide voluntarily to return, or their stay permit or labour contract has expired, or when they are in irregular job condition. Particular attention was paid in order to promote adequate economic conditions and make easier the socio-cultural reintegration of whom decides to return (article 6, par. d; article 67): see Caritas/Migrantes, *Dossier Statistico Immigrazione 2003*, Roma, 2003, pp. 27-38.

The Technical Symposium on International Migration and Development, Den Haag June-July 1998, has stressed the absence of information and quantitative data on the phenomenon of the return migration and the importance to maximise the positive effects, in a not very prompt international context in such a sense and in a scientific context not still able to evaluate and measure the impact of return migration.

Also the *Global Commission on International Migration Report* (October 5th 2005) has renewed the invitation to turn the attention on the growing importance of the connection between return migration and development (chap. II, par. 42-45). The Global Commission has also remembered how the matter of the irregular immigration can be faced through opportune regularization programs

or an effective return policy, founded on the return voluntariness, on the country availability to re-accept the migrants in full observance of the human rights and on the country of departure cooperation to ensure, also with the development aids, the best reintegration conditions (chap. III, par. 26-35).

During the years, a special attention was paid the international political and legal framework, with reference to the trafficking victims return and the prevention of this situation.

The G8 Summit of Birmingham in May 1998 approved the directive to develop cooperation between countries of origin, transit and destination, in the context of a multi-disciplinary and comprehensive strategy that would be able to counteract the trafficking of human beings and to support, within the scope of the United Nations, the adoption of a Convention against cross-border organised crime, with additional protocols on the trafficking of migrants, women and children.

In General Assembly resolutions n. 53/111 and n. 53/114 of December 9th, 1998, which drew on the ideas that emerged from the World Conference of Naples of 1994 on cross-border criminality, the United Nations gave a mandate to an ad hoc Committee to prepare an "International Convention against Cross-Border Organised Crime", with three additional protocols on the trafficking of arms, the illegal trafficking of migrants and the international trafficking of people (especially women and children). The Committee, presided over by an Italian Ambassador, proposed to launch the Convention by 2000 (made official on November 15th, 2000 in Palermo, it s largely known as the Convention of Palermo).

Concerning the return, the article 8, paragraph 1, in particular, refers to the obligation by the origin country of making the trafficking victim's reception easier, paying attention to the safety of this person and without interposing not justified delays, collaborating to the release of the necessary documents.

3.2 European Union overview

Having satisfied all of the required requisites, Italy entered the Schengen System in operative terms on October 27th, 1997. These requisites are: the efficacious control of external borders; the realisation of the national section of the Schengen Information System; cooperation on asylum rights policies; the harmonisation of visa policies; the approval of national legislation on the protection of national data; and the respect of the positions of the convention on the subject of narcotics. Moreover, the Schengen Agreement article 23, paragraphs 3 and 4, refers in particular to the return provisions.

Naturally, the abolition of the internal borders of the European Union brought about the reorganisation of border police offices and a new type of collaboration with police from other countries in the Schengen System.

In the Schengen Area Italy has made cross-border cooperation agreements with Austria (December 15th, 1997) and France (October 3rd, 1997). Outside of the Schengen Area it has made them with Switzerland (September 10th, 1998) and Slovenia (July 5th, 1998).

As far as regards collaboration between police forces the creation of Europol is very important.

The Europol Convention, a commitment ratified with the Maastricht Treaty, which went into effect on October 1st, 1998, is an incisive cooperation tool against trans-national crime, which guarantees the investigating services of every Member State support with information and operations. The role of Europol should be reinforced (a request that was, moreover, made by the summit of Tampere on October 15th-16th, 1999) at the level of coordination (including with common investigative teams), at the level of the acquisition of specific responsibilities to be made available to the Member States, and at the level of its connection with organising bodies.

Amongst the topics that fall under the authority of Europol the Convention also includes illegal immigration and the trafficking of human beings.

Another step forward was taken more recently in occasion of the just mentioned summit of Tampere (October 15th-16th, 1999), organised as a special session of the European Council entirely dedicated to subjects connected to the creation of space for liberty, safety and justice.

Some of the most important aspects of the conclusions of Tampere are:

- the defining of common policies on immigration and asylum within a comprehensive framework (policy, human rights, the development of countries of origin and transit), safeguarding the coherent control of external borders to stop illegal immigration and combat those who exploit it with sever penalties;
- a common approach to guarantee the integration of citizens who legally reside in the Union, bringing the legal status of citizens from Third Countries closer to that of citizens of Member States.

Immediately later the Charter of Fundamental Rights of the European Union (December 7th 2000), in the article 19 paragraph 2, has formally sanctioned the principle according to which no person can be removed, expelled or extradited in a State where a serious capital sentence risk subsists or, however, tortures or other inhuman and deteriorating treatments or punishments.

The principle that the return must happen in safe conditions, human rights and personal dignity compliance has been confirmed for the trafficking victims thanks also the article 16 of the Convention On Actions against Trafficking in Human Beings, ratified by the Council Of Europe on May 16th 2005.

Regarding the implementation of an European policy on the return, two Council Directives and two Council Decisions have to be remembered:

- the Directive 2001/40/EC on the reciprocal recognition of the expulsion decisions of third countries citizens and the Directive 2003/110/EC on the mutual assistance in case of flight transit for removal purposes;
- the Council Decision 2004/191/EC and 2004/573/EC: the former on economic compensation criteria for the expenses determined by the reciprocal recognition of the expulsion decisions (according the Directive 2001/40/EC) and the latter on the joint flight organization³⁰.

3.3 Forced return

Counteracting measures and incentive measures must find a more effective synthesis and this responds not just to the need for greater effectiveness but to the role of punishment as a method for societal reintegration, as provided by the Constitution. A significant example is article 18 of the Consolidation Act on Immigration (Law 286/1998), in which the repression of illegal traffickers is accompanied by the effort to rehabilitate female trafficking victims³¹.

Every time immigration regulations have been modified and another regularisation has been launched, it has been suggested that irregularity will disappear in response to the severity of new controls. However, this has never been the case because repression alone is not enough, as we will demonstrate in the following lines³².

Readmission agreements and police agreements are indispensable but insufficient. Italy has distinguished itself more than other countries in this effort and has also provided countries that collaborate in the management of migra-

³⁰ European Migration Network, *Synthesis report for Research Study III: Return*, European Commission, Brussels, 2007.

³¹ Mascellini Francesca, *Donne: vittime di tratta e possibilità di recupero*, in Caritas/Migrantes, *Dossier Statistico Immigrazione 2004*, Idos, Roma, 2004, pp. 177-185; Mascellini Francesca, *La forza delle illusioni: donne migranti e traffico di esseri umani*, in "Studi Emigrazione", XLII, 159, 2005, pp. 519-545.

³² See, Ammendola Carmelita F., Forti Oliviero, Garavini Susanna, Pittau Franco, Ricci Antonio, *Irregular migration in Italy*, IDOS, Rome, 2005, pp. 60-61.

tion flows with privileged quotas. To more effectively involve the countries of origin as partners in migration policy it is necessary to increase the basis of exchange, making it more functional to their economies through development cooperation, in which the contributions of immigrants can be utilised, a possibility that is excluded by current regulations³³. The migration policy will come to full maturation when the various implicated elements are synthesised as it was suggested in the Green Paper on economic migration published by the European Commission (January 2005)³⁴.

Temporary Residence Centres (CPT), which have become the subject of great controversy, were introduced as a complementary measure to the opening of the programming of flows and integration measures. Such a structure, which is only residual within the correct vision of the immigration policy, has not to divert from the emphasis of the personal dignity of illegal immigrants. And it is for this reason that the ratification of the United Nations Migrant Workers Convention, which continues to be removed from the agenda of all of the Member States, could carry out a significant progress³⁵.

Illegal immigration negatively affects the efficiency and profitability of migration as an investment, because it compresses wages and undervalues the use of brains, thereby reducing the contribution of this group to the economic growth of the welcoming country, and restricts the range of goods and services that a migrant can use. This reflection, even if utilitarian, shows that an illegal immigrant – if regularized - can be not a burden but rather a resource for the development of the hosting country³⁶.

A final consideration has persuaded us to insist on the pedagogic value of legal paths, which must be made simple and provide an incentive, both during the phase of access in Italy and during residence, overcoming every kind of

³³ Alessandrini Giorgio, Pittau Franco, *Migrazioni: bilancia dei vantaggi per i paesi di origine e quelli di accoglienza con particolare riferimento all'Egitto e al Nord Africa*, in "Affari Sociali Internazionali", XXXI, 4, 2003, pp. 59-74.

³⁴ Commission of the European Communities, *The Green Paper on an EU approach to Managing Economic Migration*, Brussels, 11.1.2005, COM(2004) 811 final.

³⁵ Caritas/Migrantes, *Il numero dei migranti nel mondo e la tutela della Convenzione Onu*, in Idem, *Dossier Statistico Immigrazione 2003*, Nuova Anterem, Roma, 2003, pp. 27-38; Garavini Susanna, *La convenzione internazionale sulla protezione dei diritti dei lavoratori migranti e dei membri delle loro famiglie (ONU, 1990)*, in www.indire.it.

³⁶ Ambrosini Maurizio, *Utiles invasori. L'inserimento degli immigrati nel mercato del lavoro italiano*, Franco Angeli, Milano, 1999; Chiuri Maria Concetta, Coniglio Nicola, Ferri Giovanni, *L'esercito degli invisibili. Aspetti economici dell'immigrazione clandestina*, Il Mulino, Bologna, 2007.

blockages. The progress that is being made does not authorise us to forget that Italy with its significant immigrant population is still behind, and in the future the country will have even more immigrants and one of the highest migrant densities in the world. These forecasts require a more serious migration policy, which will have to involve social forces, the administration and politicians and will have to create balance between control and solidarity.

3.4 Voluntary Return

The origins of the legislative framework for assisted voluntary return at the European level, although not expressed precisely, can be found in the Statement of Policies for Asylum and Immigration of the European Union in 1994.

Over the past few years this issue has, however, been greatly discussed. With the launch in 2002 of the specific “Green Paper on a community return policy on illegal residents”³⁷ and then in the same year the “Communication on a Community Return Policy on Illegal Residents”³⁸ a more precise strategy regarding the procedures for assisted voluntary return was established.

A significant incentive for the more definite creation of a European basis for the procedures of assisted voluntary return was undoubtedly the enlargement of the European Union, since the entrance of new member countries required the provisory formalisation of a common approach by all of the Member States, given that the new EC countries were soon to become the external border of the entire European Community, thereby becoming transit countries with all of the consequences that entails (ex. the trafficking of human beings, irregular migration, etc.)³⁹.

As far as regards the Italian situation, the question of assisted voluntary return was first explicitly provided for by Law 286/98 for trafficking victims, although Law 189/2002 (“Modification of the regulations on immigration and

³⁷ Commission of the European Communities, *The Green Paper on a community return policy on illegal residents*, Brussels, 10.04.2002, COM(2002) 175 final.

³⁸ Commission of the European Communities, *Communication from the Commission to the Council and the European Parliament on a Community Return Policy on Illegal Residents*, Brussels, 14.10.2002, COM(2002) 564 final.

³⁹ See, Ricci Antonio, *Allargamento UE, nuove dinamiche e nuovi confini*, in “Affari Sociali Internazionali”, anno XXXIV, n.2/2006, Franco Angeli, Milano, pp. 33-43; Ricci Antonio, *L'Est Europa tra flussi infraregionali e flussi di transito*, in Caritas Italiana (a cura di Forti Oliviero, Pittau Franco, Ricci Antonio), *Europa. Allargamento ad Est e immigrazione*, IDOS, Roma, 2004, pp. 129-151.

asylum”) provided for more defined measures of assisted voluntary return to the benefit of these groups of people: asylum applicants, refugees and those who took advantage of a humanitarian residence permit and persons falling under the Dublin Convention (art. 32). However, irregularly residing immigrants remained excluded from this measure.

In the case of specific assisted voluntary return programmes for victims of trafficking for sexual or work purposes, the proportion of which in the current general framework of returned migrants from Italy is rather significant, they reflect the principles expressed in the Supplemental Protocol to the UN Convention against Transnational Organized Crime, signed in Italy in 2000. In the text of the document in question, the quoted Palermo Convention, in fact, importance is given to the specific effort of the States that complied with facilitating the return of trafficking victims to their countries of origin, emphasising at the same time the need to guarantee them protection and safety during their return journey.

Nevertheless, it is relevant to reiterate that the current laws in force in Italy with regard to assisted voluntary return provide for specific measures only to some groups of persons involved in return procedures and, more specifically, the aforementioned asylum applicants, refugees, bearers of humanitarian work permits and trafficking victims, whereas there are no specific regulations for other immigrants, including irregular ones, despite the fact that the Hague Programme provides incentives for their return on a voluntary basis.

Art. 13 of Law 943/1986 can be considered the only eventual exception. It established the Repatriation Fund for foreign workers who paid at least on one occasion their contributions to the INPS through a withdrawal paid by non-EU worker in the amount of 0.5% of one’s pay packet⁴⁰.

Nevertheless, we must consider that this did not specify a particular procedural pay for the involved person with regard to access to the fund and, moreover, did not allow for it to be used by the family members of the worker who wanted to return. Starting from the 1st of January 2000 the withdrawal from the salary of a non-EU worker was abolished definitively in accordance with the provisions of art. 45 paragraph 3 of the Consolidation Act on Immigration (40/1998) and the Repatriation Fund residual sum was transferred to the National Fund for

⁴⁰ The current law, introducing the so-called “stay permit contract” (Law 189/2002, art. 6), provides for a labour contract between Italian employer and foreign worker. In particular, this contract provides for employer guarantee to ensure the accommodation as well as to cover the return expenses.

Migration Policies (Fondo Nazionale per le Politiche Migratorie).

As far as regards national insurance and social securities rights matured by a foreign worker who intends to return to his country, they can be utilised only once the requisites provided by current Law have been fulfilled. Law 189/2002, in fact, abolished the possibility of redeeming contributions once a person has returned to his country. Starting in September 2002 foreign workers with the necessary requisites must present an application to the INPS and return their residence permits at the border. The INPS is informed of this fact by the central police station and will institute the payment of the pension directly to the beneficiary after he has reached the pensionable age. This is valid even when no reciprocal agreements exist with the country of origin. Social pensions, social cheques and benefits for civilian invalids, however, can not be provided abroad.

The previous Law 335/1995 (the basis of art. 22, paragraph 11 of the Consolidation Act 286/1998) provided a migrant who decided to return home prior to the maturation of the right to a pension and who came from a non-EU country without an agreement with the possibility of obtaining the settlement of national insurance contributions capitalised at the annual nominal rate of 5%. This opportunity represented for a number of years an incentive to return due to the significant rate of capitalisation applied to the total contributions to settle and to the possibility of having immediate access to a small amount of capital⁴¹.

The database of INPS, through the services provided to foreign citizens, makes it possible to know the number of pension beneficiaries living abroad in 2005 (59,277) and the average monthly amount. To this we can add another 225,775 immigrants who receive an Italian pension and are still residents in our country, for a significantly higher monthly amount (664 euros)⁴².

⁴¹ Coda Moscaiola Flavia, Fornero Elsa, *Immigrazione: quale contributo alla sostenibilità del sistema previdenziale?*, CERP, Turin, 2004.

⁴² Istituto Nazionale della Previdenza Sociale – Dossier Statistico Immigrazione Caritas/Migrantes, *Immigrazione: una risorsa da tutelare. Rapporto su immigrati e previdenza negli archivi INPS*, “Sistema Previdenza”, XXII, no. 2-3, Rome, September 2005.

4. Return actions and procedures

4.1 Overview

a) The assisted voluntary return

The concept of assisted voluntary return is based on the principle of the personal will of the foreigner, who consciously chooses to return to his country of origin after having a migration experience.

However, amongst participants in assisted return programmes there are both immigrant workers who decide to return to their countries of origin, as well as so-called vulnerable groups, including: asylum applicants, refugees, humanitarian protection permit holders, victims of trafficking and especially minors and women.

The aforementioned assistance programmes are managed primarily by IOM, in some cases also by non-governmental organisations and local institutions; their main feature is the creation of individual paths for every returning person with the full assistance of qualified personnel.

Voluntary return assistance, therefore, is not limited exclusively to the concept of the return travel to the country of origin, but envisages three main phases, including activities prior to departure (information, preparations, interviews with the person applying for return assistance, organisational and logistical procedures, and counselling), the return travel and reception in the country upon arrival and, finally, various programmes for reintegration at final destination⁴³. It is important to also emphasise the fact that generally, by pursuing the voluntary return option, there is no ban on returning to the Italian territory.

⁴³ See, International Organization for Migration (IOM), *Return migration. Policies and practices in Europe*, Geneva, 2004; IOM, *Essentials of Migration Management. A Guide for Policy Makers and Practitioners*, vol. 3, Geneva, 2004.

The costs of assisted voluntary return can vary between 2,000 and 5,000 euros per beneficiary depending on the assistance project's objectives, the country of return and the beneficiaries. Each return project may envisage additional components associated with the basic return scheme, such as prevention/awareness raising information campaigns, reintegration monitoring visits, exchange of relevant migration officials, research/surveys on the sustainability of the voluntary return. In the case of trafficking victims, in fact, the costs may be greater, since the reintegration path is more complex. For example, the third edition of the "Azione di Sistema" provides for not just the organisation of the trip but a payment of 516 euros to the beneficiary as compensation for initial accommodations and two scholarships granted at three months apart, in the amount of 516 euros, in order to promote the process of social and labour reintegration, medical, legal and psychological aid and assistance in the country of origin for at least six months.

b) The forced return

As far as regards forced return, this is a consequence of the foreigner's receipt of an expulsion order, since it is a judicial measure. Before the removal, the person who must be subsequently returned is detained at a Temporary Residence Centre. The length of stay depends on the time needed to verify person's identity, the preparatory procedures for travel documents and the availability of seats on the means of transportation.

Unlike those benefiting from assisted voluntary return, persons who are forcibly returned are irregular immigrants or, in some cases, migrants detained at penal institutions.

For the entire length of preparations for the forced return journey, there is no collaboration between the migrants to be returned and the personnel that is responsible for handling their paperwork. It is important to emphasise that assisted return is carried out by the same members of police forces.

Clearly enforced return does not provide for any assistance with regard to the returned migrant's future and prohibits the person from returning to the territory of Italy for a period of 10 years.

According to the State Auditor's Department (Corte dei Conti), the fight against irregular immigration in 2004 cost Italy a total of 115,467,000 euros (approximately 316,000 euros per day), a significant figure especially when compared to the total sum set aside in the same year at the central level for

immigrant integration and assistance projects (29 million euros). However, it should be underlined that with respect to the previous year the total amount of money spent in this sector decreased: in 2003 164.7 million euros were spent to fight illegal immigration and 38.6 million euros were spent on immigrant integration initiatives.

As far as regards the costs of the Centres, in the first 9 months of 2004, 30,440,753 euros were spent. Another interesting fact, provided by the Department of Public Security, regards the total amount spent on the expulsion of irregular immigrants for 2003: 12,765,754 euros at all, of which 12,472,118 euros for charters and ships, 63,833 euros for the meals given to immigrants, and 229,801 euros for transportation costs to the Centres and police headquarters.

Moreover, the costs for the national and international missions, necessary to carry out the forced returns during the period from the beginning of 2003 and the end of September 2004, were established respectively at 2,809,883 euros and 4,539,900 euros.

The data for 2005 are not yet available, but it's possible to foresee that the expenses are increased. The Prefect Anna Maria D'Ascenzo, when in charge of Director of the Department of Civil Liberties and Immigration, during the hearing held at the Schengen Council of October 23, 2003, felt it necessary to state that "re-accompanying the immigrants costs greatly (...). Probably we will reach catastrophic figures, in part because we must add up the expenses for transportation and rejections, for food and clothes, for the construction of centres, costs to which we must add the costs for the police forces that handle these responsibilities: they are significant figures".

4.2 Assisted voluntary return

4.2.1 *Reasons, obstacles, procedures, sustainability*

The main factors encouraging migrants to seek voluntary return assistance can be summarized as follows:

- denial of refugee status;
- difficulties in integrating in the host society;
- demoralization and mistrust or feelings of nostalgia, depression, family or friendship relations;
- wishing to restart own life at home.

The most frequent reason is the denial of refugee status. The applicant must

leave the Italian territory within 15 days. Therefore, because of the short time available, the procedure has to be very fast. The IOM liaises with relevant police authorities so as to ensure a potential eligible beneficiary is made aware of the possibility of availing of voluntary return assistance, as opposed to facing a removal procedure.

Dublin cases also have to be considered, involving those applicants returning to Italy as their first country of entry within the Schengen space and, therefore, the one responsible for the examination of their asylum application. Statistics indicate that the majority of those Dublin cases who are denied asylum opt for assisted voluntary return measures.

Nevertheless several returnees request IOM assistance for personal reasons or psychological motivations, linked to their failed integration process or to homesickness and family or friends absence. Finally, they could be motivated to return by a wish to restart their own life at home.

There are numerous obstacles to pursuing voluntary return assistance. In particular, it may be difficult to pursue assisted voluntary return arrangements when in the country of origin the following situations might occur:

- the inability of Consular authorities to identify their own nationals and provide/recognize documentation enabling them to travel back home;
- the conflict situation is ongoing, where instability and violation of human rights prevail;
- the danger to the safety of the applicant and/or his/her family members;
- the risk of his/her/their discrimination or marginalization.

Regarding the return procedures, the IOM office receives assistance request from the authorised organizations (public health and social service providers, associations and NGOs, local healthcare agencies, immigration offices, local governments, embassies, police officers as well as other relevant agencies). Upon receipt of the request IOM ascertains the voluntariness of the return application and in case of a positive response, it collects all relevant data necessary to assist the applicant return. In the second step the applicant must compile, sign and forward to the IOM office the voluntary return assistance application form, attaching to it a photocopy of the passport and copy of his/her residence permit.

The subsequent duties of IOM include organizing the logistics concerning voluntary return arrangements, in particular: preparation of travel routings, documentation and assistance throughout departure, at check in, border and embarkation, as well as during transit and arrival procedures.

The IOM personnel is responsible also for obtaining, if necessary, the travel documents, visas or any other identification documents regarding the applicant from her/his relevant embassy. This step of the return procedure is facilitated by IOM's diplomatic status, which helps to create faster and more efficient communications with the embassies and consular offices of the countries of origin.

In addition to the documentation procedures, IOM also assists the main applicant and his/her family with procuring the most direct travel routings and tickets, often at reduced rates derived from the various agreements IOM enjoys with sea, land or air transport companies.

IOM staff accompanies the applicant through all the departure procedures (including check-in, documents control, etc.) and upon arrival in his/her country of origin communicate with the local IOM office so as to facilitate the onward transportation of the person to the required in-country destination. In case there are other assistance needs (of social or sanitary nature) regarding the applicant, the local IOM office, in cooperation with relevant local administrations, ensures any further reintegration assistance arrangements.

As a subsequent step it starts the procedure of reintegration: the IOM staff responsible for a specific return case will outline to the applicant possibilities with respect to his/her reintegration plan and prospects. This may include the provision of a reintegration grant. Part of this grant may be disbursed in advance of travel. The rest, in an agreed percentage may be disbursed upon return, upon verification of expenses receipts regarding the implementation/completion of the planned activities.

The last step is the monitoring phase, that is the verification of the effective reintegration supervised by IOM and also other international organisations operating in the local context, governmental and non governmental organisations, local administration and associations.

Among the first possible aims to be achieved within the reintegration process there are in particular: the launch of micro-enterprise projects or, in alternative, training or professional re-qualification courses, but also more practical objectives such as house reconstruction or remodelling; or the purchase of equipment for the home, professional activities support and other basic reinsertion needs.

The concept of sustainability is very controversial. Many scholars have underlined a identification relationship between sustainability and reintegration. For

instance Bimal Ghosh in an IOM publication explains that “Sustainable return is achieved when returnees are able to re-integrate in the community of return, often through a productive role as a member of such communities, without immediate inducement to leave again”⁴⁴.

The sustainability means the assessment of the success of the reintegration process of the returnee and, at the same time, the availability of the local community in receiving, accepting and involving, at society level, the returnee.

Therefore, sustainability corresponds not only to the socio-economic reintegration and the normalization process of the returnee, but also to the social stability of the area of return⁴⁵.

This happens mainly if, once personal safety and dignity of the assisted returnee are assured, the organization responsible for managing return assistance provides and disseminates the necessary information on conditions in the areas of return, on the socio-economic and cultural situation in the countries of origin and, above all, organizes and plans in details every step of the return process.

To assess the individual level of consciousness of the return decision, it is important to trace an accurate profile of the assisted return applicant and evaluate the needs and the level of psycho-physic constraint. This could be easier when operators from the countries of origin of returnees are engaged, as they can facilitate the building of a climate of trust.

To ensure to the extent possible the sustainability of return, IOM has set up not only advanced forms of assistance, but also specific activities monitoring the achievement of the foreseen objectives and reintegration success.

Frequently this task is also undertaken by IOM staff. IOM officials, having followed the pre-departure counselling, endeavour to visit the countries of origin of the returnees to assess the effectiveness of the reintegration process. In this way beneficiaries may feel better supported.

In fact, the sustainability of return cannot be pursued in those cases where the beneficiary perceives his/her own return as just the result of the failure of a migratory project. Often a returnee’s family disappointment can further increase frustration and stress⁴⁶.

⁴⁴ Ghosh Bimal, *Return migration: journey of hope of despair*, IOM, Geneva, 2001.

⁴⁵ International Organization for Migration, *Sustainable Return in the Balkans: Beyond Property Restitution and Policy*, “International Migration”, n. 44, 2006.

⁴⁶ International Organization for Migration, *Return migration. Policies and practices in Europe*, Geneva, 2004.

4.2.2 Information campaigns on voluntary return assistance

In order to inform immigrants of the possibility of availing of assistance to return to their country of origin, and to provide more information on this issue to social service providers, community workers, institutional personnel and mass media, the organisations handling the return assistance to stranded foreigners in Italy may organise specific information campaigns.

These campaigns can last for specific time periods, on average annually, and support the implementation of specific return assistance programmes targeting specific migrant groups. In this regard there are forms of promotion directed at concrete projects in the areas of trafficking victims, unsuccessful asylum applicants, or migrants without sufficient economic means who choose to return to their country of origin through return programmes.

The campaigns in question are primarily implemented through the preparation and distribution of specific information materials, such as: brochures, information packets, leaflets and posters made available in public offices, prefects, Local Health Authorities (ASL), municipal offices, embassies, etc.

A significant part of the Italian campaign on returns also involves offices for immigration and various immigrant associations that not only provide access to information materials but also provide further information through specialised personnel with regard to return programmes for different groups of migrants, eligibility criteria and application procedures.

Another part of these campaigns also involves the main return countries, including, for example, Nigeria, Albania and in the past Romania, where information on returns is replaced by irregular migration prevention programmes, including primarily those against “trafficking” (exploitation of the people involved in the flows) or, in general, against “smuggling” (favouring of the clandestine entry).

The best practices for return information campaigns, emerging during the study carried out by the Italian NCP, include, above all, the information packet created by the aforementioned Protection System for Asylum Applicants and Refugees (SPRAR), prepared primarily for social operators that work with asylum applicants at facilities, which accompanies the current voluntary return programme entitled “Return and Start Again” (Tornare e Ricominciare) ⁴⁷.

⁴⁷ Servizio Centrale del Sistema di protezione per richiedenti asilo e rifugiati – Sistema Interventi Decentrati (ANCI-OIM), *Tornare e ricominciare. Guida sul Ritorno Volontario Assistito e Reintegrazione nelle aree di origine*, Roma 2005.

The material available inside the packet in question has been translated into 13 different foreign languages, including: Arabic, Farsi, Serbian-Croatian, Albanian, Turkish, Russian, Romanian, French and Italian.

The purpose of this package, the contents of which include a detailed manual for operators, an informational brochure on voluntary return, leaflets written in the various languages and profiles of the 13 countries with the greatest numbers of returned migrants, is to facilitate the relationship between the operator and the person seeking return assistance both in terms of language and information. In fact, beyond its linguistic diversification, the strong point of the package is the aforementioned country profiles (regarding Romania, Turkey, Ukraine, Serbia, Nigeria, Congo, Kosovo, Montenegro, Macedonia, Sri Lanka and Sierra Leone), which contain both material on the topic of return as well as up-to-date administrative information on the country itself, such as the addresses of public organisations, institutions and organisations in the state.

One of the found defects of the information campaigns, as analysed during the research by the Italian NCP, is primarily the fragmentary nature of information activities as well as the dependence of the budget provided for the individual programme.

Nevertheless, the campaigns are characterised by the great attention they pay to the fact that the possibilities of return assistance are divulged to migrants without filters or prejudices that can limit or slowdown the transfer of information. The objective is to make immigrants understand that the right to return is not an affirmation of the failure of their migration effort.

4.2.3 Incentives to assisted voluntary return

As far as regards the incentives for assisted voluntary return it is left to the free will of the involved party, without any direct incentives.

For the launch of an assisted voluntary return project, however, it's important the guarantee provided to the applicants through the programming of the reintegration plan as well as, in concrete terms, what is generally called supporting reintegration compensation.

The providing of economic aid is generally determined on the basis of the composition of the families and the number of minors, the area of origin, the level of economic indigence, and the sustainability of the intervention in the short- and mid-term. The maximum limit generally does not surpass 1,500 euros and in that case it regards numerous families, whereas the minimum limit starts from 700 euros.

The economic assistance guaranteed to the beneficiary of an assisted voluntary return programme provides for the payment of the airplane/ship ticket, logistical assistance by IOM staff upon departure from Italy and upon arrival in the country of origin, a travel allowance and initial lodgings, possibly the coverage of expenses for transporting baggage, and an allowance for reintegration.

Further services can be provided to accompany particularly vulnerable individuals, such as, for example, persons affected by serious diseases who need a medical escort.

In some cases another argument in favour of availing of voluntary return assistance is that it provides a more acceptable alternative to the expulsion risk (which then curtails the possibility of re-entry by the affected migrant for 10 years) as well as the possibility of pursuing return within a short span of time (10-15 days – when IOM is able to procure travel documentation by availing of its extended network of contacts with consular authorities and field offices in countries of origin) – rather than wait for laborious administrative procedures accompanying enforced return process.

4.2.4 The case of unaccompanied minors

The assisted return of unaccompanied minors follows a particular procedure that is provided for in specific agreements and conventions between the Italian administration and some non-governmental organisations in the sector of immigration, as well as in art. 33 of Legislative Decree no. 286 of July 25, 1998. More specifically, this established a specific Committee for Foreign Minors, which amongst its various functions, also monitors the presence of unaccompanied foreign minors in the Italian territory, providing for the notification of those who can fall within the procedure of assisted return at specific administrative offices.

In this legislative reform phase is predictable a reorganization and redefinition of the pertaining procedures the Committee and a bigger involvement of the territorial councils, also in the forecast to extend the access to the assisted voluntary return measures.

According to Prime Ministerial Decree no. 535 of 1999, an unaccompanied foreign minor is a minor that does not possess Italian citizenship or citizenship in one of the other Member States of the EU and has not applied for asylum but finds himself in Italy without the assistance and representation of parents or other adults to whom he has been entrusted and whose representation is founded on a legal bases.

As far as regards the return procedure of unaccompanied foreigners, it begins with the notification by the Committee for Foreign Minors of the presence of an unaccompanied minor to the competent authorities, first of all the competent Tribunal for minors, the tutoring judge and the country of origin consulate. The following measures are carried out for identified minors 60 days after notification:

- investigations are carried out by the staff members of non-governmental organisations with agreements, to determine if there are any family members. When there are none, the institutions or persons to whom the minor can be entrusted following his re-entry into his country are determined. The investigations also include the control of the absence of risks for the minor following his return and the identification of a project for his reintegration into his society of origin;

- alongside the investigation the minor is assigned a provisory guardian by the judge;

- as the last step, before the final decision regarding the assisted return of the minor, the Committee convokes an audition, where the minor, in the presence of the local social services, is questioned on the issue of his return to the country of origin.

Though it is important to underline that the final positive decision on return of the minor is determined mostly by the condition of identifying the presence of his family or other persons or institutions that could foster the minor, as well as the one regarding the verification whether the return of the minor to the country of origin does not bring him any risk. Definitely lesser attention is paid instead to his personal opinion on the project of return: it's competence of the Committee, in fact, to order the return according the minor's interest.

If the return involves risks for the minor, the "nihil obstat" is not arranged. This happens especially in the cases in which it has not been possible to find the minor's relatives or they have not declared themselves available to accept the minor or they were responsible for heavy behaviours which can make the rejoining not opportune.

In these conditions the return is only possible in case the minor makes voluntarily request and the competent country of origin authorities are disposed to assume the fosterage. Particular attention is paid for that cases in which the minor is victim of trafficking and exploitation, because of the dual risk to fall again traffickers' victim, but also to be refused by the family or the community.

In case the final decision on assisted return of the minor is positive, the

“nihil obstat” document for the return procedure is requested from the Italian competent Tribunal for minors.

The return procedure itself is executed by the social services or the NGO that investigated on the family situation of the minor, together with Italian administration and institutions as well as the local government agencies and organisations in the country of origin of the foreigner minor.

The minor that is to be returned is assisted during the whole bureaucratic pre-departure procedure by the personnel of the organisation responsible for his case (and where the minor stays) or by his personal provisional tutor. In particular, a reintegration path is individually agreed with the minor, also arranging for the supply of suitable student or work grants.

Once returned to the country of origin, the minor is fostered to the person previously chosen and is assisted by relevant organisations and institutions during his reinserting process through the participation in various education projects.

It is important to underline, though, that despite the existence of clear procedures regarding the return of foreigner minors it is rather difficult to establish the accurate statistics on this phenomenon, given that in many cases the returned minors come back again to Italy and so the return procedure of the same person may happen more than once.

This situation is, in fact, confirmed by the results of a research worked out by International Social Service (that is the NGO more involved in assisted voluntary return projects) on the sample of 256 Albanian minors returned between 1998-2001, according to which at the beginning of 2001 only 98 of these minors stayed still in Albania, whereas 155 emigrated again and majority of them was subsequently returned even 2 or 3 times more.

The statistics currently available are double:

- 1) at national level, there are data regarding entire panorama of the phenomenon, monitored by Committee for Foreigner Minors;
- 2) at local level, there are data that analyse the phenomena in particular specific territories.

What regards the central sources, the procedures of assisted return of foreigner minors reached in 2002 in Italy 199 cases, in 2003 increased to 218 and then subsequently decreased, arriving to 126 in 2004 and 89 during the first nine months of 2005.

As for the local statistics, the main area in which this phenomena is significant are the cities of Turin, Milan, Venice, Bologna, Ancona. In these specific contexts, the local authorities, i.e. municipalities, providing essential services

such as accommodation, health care, education and managing specific projects for both the integration in Italy and the return in the country of origin.

However, the time necessary for the management of the familiar investigations, the administrative slownesses by the Committee and the impossibility to follow truly the reintegration path represent general difficulties.

In the province of Bologna in the period 2001-2005 were released in total 14 decrees on return of foreigner minors, out of which only 9 were effectively realised. The others resulted to be impossible to execute due to the fact of disappearance of the minor (3 cases) or because of the appeal to the second instance (2 cases).

Another example regards on the other hand the reality of Turin, where from 5th of May 2003 till the end of the year were registered 6 interventions related to assisted return of immigrant minors (out of an estimated total of 1,020 minors listed), that took part to the biennial Programme "Return to the future", financed in a part (285 thousand Euros) by the Italian Government.

4.3 Forced Return⁴⁸

4.3.1 Procedures of forced return: counteracting the illegal immigration

What regards the procedures of forced return of illegal residence foreseen by Italian Law, there are various typologies and modalities of executing the measure in question.

Though the removal may be effectuate through:

1. **administrative expulsion**, emanated by the Ministry of Interior for the reasons of public order and the security of the state;
2. **administrative expulsion** emanated by the Prefect, in cases of illegal entrance or residence in Italy or belonging of the person to the categories definite by the law as dangerous (persons related to criminal associations or suspected to be involved in trafficking) o for the reasons of prevention of terrorism;
3. **expulsion as a security measure**: the judge can order the expulsion of the foreigner in case he was condemned for some of the crimes foreseen by the Code of Penal Procedure;

⁴⁸ The initial results of the analysis regarding forced return were anticipated in occasion of *Workshop on Voluntary and Forced Return*, organized by European Commission within European Migration Network activities (Brussels, 16-17 July 2006). See, www.emnitaly.it.

4. expulsion as a substitutive sanction of detention: the judge, when he decides to punish the immigrant with the detention penalty that cannot exceed 2 years time and when the conditions for the conditional suspension of the penalty do not exist, may order instead of it the expulsion of the immigrant with the sanction of non return to Italy for the maximum period of 5 years (what happened, in fact, in 3.800 cases between 2002 and 2005).

The expulsion decree is always executed by the Chief of Police with the accompaniment to the frontier by the order force, unless the person remains on the Italian territory for more than 60 days after the expire date of his permit to stay without having requested its renew (overstayer). In this case the expulsion contains the order to leave the territory of the state in 15 days. Though, if the Chief of Police retains that there exists a danger that the foreigner would not follow the order to leave, may fix the accompaniment to the frontier.

The administrative expulsion is then validate by the Peace Judge within 48 hours after having effectuate with the immigrant an apposite audience, at the present of his defender and if necessary also a translator.

In these case when is not possible to proceed with an immediate return, the immigrant who is destined to be expelled is detained in the closest Temporary Residence Centre (CPT) for a period of 30 days, that may be prorogated then for following 30 days.

In case of deny of the refugee status, the asylum applicant receives an order to leave the country in 15 days.

On the other hand it's also guaranteed by the law, that the expulsion measure cannot be emanated against the person who, in his country of origin, may be subject of persecutions for the reasons of race, gender, political opinion, etc., the one that was recognised a refugee, obtained humanitarian temporary protection as well as in the following four cases:

- against the minor, excluded the cases when he follows a parent that is expelled;
- against the person in possession of a card of stay and does not belong to the category of dangerous persons;
- against an immigrant who lives con relatives up till the 4th genealogical grade or/and a spouse of Italian nationality;
- against a woman in state of pregnancy or in six months following the birth of the baby.

Against the expulsion decree the person interested may appeal in the maximum period of 60 days from the date of the removal order emanation to the

Peace Judge that is competent for his territory of residence. The judge is obliged then to decide on the expulsion procedure within 20 following days.

What concerns the expulsions emanate by the Ministry of Interior, the appeal is presented to the Administrative Regional Tribunal (TAR); in these cases the interested person is represented without the necessity to pay for it. It's not immediate for the expelled person to attend the appeal staying in Italy.

The effects of the expulsion decree must be really considered, given that they influence the future migration movements of the person that was expelled. The person, in fact, cannot return to Italian territory for the next 10 years without a special authorization of the Ministry of Interior and in case this order is not respected the person is sanctioned with a arrest penalty of minimum 6 months and maximum of 1 year and a subsequent expulsion with an immediate accompaniment to the frontier.

The standard re-entry ban is issued for 10 years and may be different in cases when it is appositely specified, but in any case the period cannot be shorter than 5 years time. In case the return decision is emanate by the judge, the person who transgress the re-entry ban is punished with arrest from 1 to 4 years.

4.3.2 Detention in Temporary Residence Centres

In 2003, 2004 and 2005, 13,863, 15,647 and 16,163 persons transited through Temporary Residence Centres respectively.

In 2004 returned persons made up about 50% of the total detainees and, therefore, the ability to proceed with the effective removal of irregular immigrants following detainment has not significantly increased, except in some Centres. The Centres in Rome and Turin reported higher rates in 2004 (returned immigrants respectively made up 62.7% and 66.8% of total detainees).

In 2004, the quota of persons released by the Centres (41.7% of the total) was composed of those who were detained for the maximum time provided by law (60 days) with return being impossible (24.5% of the total), by those discharged for other reasons (12.2%) and by those for whom the judicial authority did not validate detainment (which must occur within 48 hours from the communication of the order), or 4.9% of the total. The average percentage of asylum applicants (4.8%) was also contained in 2004. This figure was approximately 10% in the Centres of Puglia (Lecce), Calabria (Catanzaro and Crotona) and Turin. For those who left the centres due to expire of the detention period, the Police Head foresees 5 days to leave the country. In case the person does not leave the Italian territory he may be sent to prison for 6 months until the maximum of 1 year.

In 2005, 16,163 immigrants transited through the thirteen Centres. The outcome of their stay at the Centres can be summarised as follows: 11,087 returned, 68.6% of the detainees; 2,988 were discharged (18.5%). Of the remaining persons, 193 were filed as asylum applicants, 160 left independently, 109 were arrested, and one died. Another 883 were sent to the Centre for various reasons and in 742 cases the validation of the judicial authority was lacking.

There is a wide political debate regarding the CPT's existence (introduced by the article 14 of the 286/98 Law), because of the costs and frequent complaints on irregular functioning and abuses appeared on various mass media. For this reason the Ministry of Interior has established an ad hoc Committee, lead by the well known thanks to his previous charges for international organizations diplomat Staffan De Mistura, and composed of governmental and non governmental representatives, with the task to investigate on the CPT's living conditions. This Committee also examines thoroughly the national deputies and NGOs complaints⁴⁹. The Government has stated that the De Mistura Commission conclusions will be taken in serious consideration in order to elaborate important modifies regarding immigration and asylum legislation.

4.3.3 Transport and removal measures

The increasingly more frequent use of charter flights has led to the training of 300 police officers who are specialised in expulsions. The costs of return are reduced whenever charter flights are organised, a method that is being used by most of the Member States, in part to not have to deal with the unwillingness of regular passengers to share their journey with foreigners subjected to removal measures.

In 2001 were effectuated 13 charter flights for the removal of 1,700 of third countries' citizens (340 Nigerians, 466 Albanians, 201 from Sri Lanka), whereas in 2002 they increased to 26 charter flights causing the return of 2.294 third countries' immigrants (393 Albanians, 505 Nigerians, 603 from Sri Lanka, 299 Egyptians and 167 Romanians). In 2003 the charter flights reached the further enhance arriving to 33 with the total number of 2,334 removed persons (470 Nigerians, 1,325 Romanians, 131 Pakistanis, 260 Egyptians, and 148 of other nationalities). What regards the more recent statistics in 2004, through 72 flights there were 4,900 removals, whereas during the first semester of 2005 the flights effectuated were

⁴⁹ In December 2004 the Agrigento CPT was closed after the visit in Italy of the European Committee for the Prevention of Torture (ex art. 3 of European Convention on Human Rights and Fundamental Liberties). The complains are collected in the *White Paper on CPTs in Italy*, published by a group of deputies (Rome, 18th July 2006).

43 and the total number of persons involved reached 2,940.

Moreover in 2005, in collaboration with some other Member States of EU, there were carried out special return charter flights, that aimed to remove together third country immigrants who were originated from the same country; the cases regarded in particular the agreements with Great Britain for return of 54 Nigerians, with France, Spain and Belgium for removal of 10 Romanians and another one with Spain for removal of 30 citizens of Ecuador.

In the island of Lampedusa, during the first week of October 2004 - operating in emergency circumstances such as to make difficult the exam of the positions of all the persons concerned - the Italian institutions were pressed to effectuate the expulsion, sending back in Libya, of 1,153 irregular migrants (the majority of which Egyptians), between which there were also some asylum applicants. For this reason the provision has been qualified as a collective expulsion. Given that this fast expulsion procedure violated the right to individual treatment in case of asylum applicants' application, on 20th of January 2005 various organisation (i.e., Arci, Asgi, ICS and other European ONGs) complained about the fact to European Commission, documenting in the same time the cases⁵⁰.

This debate continued also in the occasion of following returns, especially towards Libya, the country that had not signed ever the Geneva Convention of 1951 and that not always respects the *non refoulement principle* (i.e. between 2003 and 2005 Libyan government returned 145 thousand immigrants). The above question interested as well the European Parliament⁵¹.

4.3.4 Sustainability of forced return

It is difficult to talk about the sustainability in reference to forced return, what is, in fact, proved in a first place by high costs of rejections and of returns. This question was, in fact, complained by the Italian Association of National Municipalities (ANCI), which confirmed that assisted voluntary return cost is in average the forth of the cost of forced one. Obviously the economic factor is not the only element of criticism.

The most frequent danger is aggravating the life conditions of irregular immigrants by identifying them with delinquents and, thereby, simplifying the phenomenon in a dangerous and deceptive way. Reference can be made to the UN

⁵⁰ *Complaint Against the Italian Government for Violation of European Community Law*, 20th January 2005.

⁵¹ Resolution text of European Parliament on Lampedusa cases (15th April 2005).

Convention on the Protection of the Rights of All Migrant Workers, signed in 1990, which only became operative in 2003, following 34 ratifications (36 at the beginning of 2007). All of the industrialised countries abstained from ratification, fearful of confirming the perspective of this new international instrument, which considers irregular immigrants as persons with rights even though to a much lesser degree with respect to residence permit holders. At the level of conceptual acquisitions it is a fundamental step, because the Convention is built upon the recognition of the inalienable rights of a person, not just civil and political rights, but economic and social ones as well.

Following a historic period in which forced return appeared marginal in European migration policies, except for individual moments, it now seems to involve a growing and quantitatively relevant number of migrants, and it is believed that over the next few years some countries with heavy migration pressures will witness an authentic flow of "compulsory return". For the expelled migrant, the return, which is in and of itself traumatic, even when planned, testifies to the involuntary interruption of one's migration path. The critical aspects of forced return are numerous:

- the method used to carry out the expulsion and the complained cases where the bureaucratic procedure for asylum applicants is not respected;
- growing economic costs;
- the duration of the procedure to be carried out with respect for the constitutional rights of defence;
- Temporary Residence Centres (CPTs) crowding which does not always make it possible to control the reactions of persons in charge of keeping order at facilities;
- the lack of CPTs' facilities and services, causing health and psychological problems;
- the residence at the Centre of ex-convicts who, in accordance with Law 189/2002, should, instead, be expelled directly from jail;
- the reduced effectiveness of detainment in the Centres for the purposes of return;
- return to countries in which the position of the expelled persons may be at risk.

Taking into consideration the demands of returnees it is necessary to say that, in the absence of formal services, the network of acquaintances is fundamental for promoting the work and social integration of returning migrants. However, there are many cases in which immigrants who have returned without

the support of assisted return programmes and do not have a social network feel lost and do not know where to go look for a job or do not want to accept a job that pays a very low wage with respect to the salary they earned abroad. These difficulties and difficult access to an acceptable standard of living cause many returned immigrants to try their immigration card once again.

Lorenzo Coslovi and Flavia Piperno carried out an 18-month study for Cespi on return policies in Morocco and Tunisia, starting from empirical research (March 2004). The study, which was financed by the European Union (within the context of B7-667 financing, called "Cooperation with third-party on the subject of immigration and asylum"), was created within the scope of a wider project called "AL.Ni.Ma." (the acronym refers to the three beneficiary countries of the project: Albania, Nigeria and Morocco) the purpose of which is to support socio-economic reintegration in the three target countries for categories of returned immigrants who are especially vulnerable: particularly former prostitutes (who in many cases are victims of traffickers) and ex-convicts⁵².

The interviews were conducted with approximately one hundred Albanian, Moroccan and Nigerian migrants, who were expelled or close to being expelled, of which 30 returned migrants in Albania. Amongst those interviewed there were, in fact, numerous immigrants who had many expulsion and rejection experiences behind them. Due to these conditions, which are beneath expectations, even married persons who would prefer to remain with their families are almost compelled to attempt migration again.

The analysis takes three fundamental issues into consideration:

a) the methods used for the return trip (the stops on the journey; the official and unofficial positions of the authorities of the country of origin; the degree of collaboration offered by local authorities; any official or unofficial sanctions imposed on returned persons, etc.);

b) the possibility for migrants to recreate for themselves sustainable life conditions in the country of origin and any obstacle to successful reintegration created by prejudice and stigmatisation against returning immigrants (the degree of marginalisation following return including in relation to the experience of migrants in the immigration country; the methods utilised by family, clan and social networks in existence prior to emigration to reintegrate migrants into society and the work world; the impact on local communities; etc.);

⁵² Coslovi Lorenzo, Piperno Flavia, Pastore Ferruccio, *Rimpatrio forzato e poi? Analisi dell'impatto delle espulsioni di differenti categorie di migranti: un confronto tra Albania, Marocco e Nigeria*, Cespi, Roma, 2005.

c) some “good practices” that can guarantee greater dignity for returning immigrants within the contexts taken into consideration.

The AL.Ni.Ma. study provided for:

- the involvement of beneficiaries in training courses that responded to the specific needs of the work market in their countries of origin (for ex-convicts the courses were carried out directly in Italian prisons)
- *in loco* support through work mediation (assistance with training and apprenticeship periods) and financial support (subsidies, training-work scholarships, micro-credit).

As far as regards returns to Morocco and Albania, we refer to the field study done by Cespi.

In Albania expelled migrants arrive on ships in the ports of Valona and Durazzo or arrive by plane at the Tirana-Rinas Airport, while in Morocco they primarily arrive at the Casablanca Airport.

Returned Albanians are held for a few hours at the “police station” of their country. The authorities then proceed with a brief registration and verify that they are not wanted in Albania. Then they are released and all of their traces are lost. Previously, prostitutes were put in prison but now they receive the same treatment as other returned immigrants. In no case, however, are immigrants subjected to administrative limitations.

In Morocco immigrants go through a period of *garde à vue* (in theory for a maximum of 48 hours). During this time the magistracy decides whether they should be tried or not: they are only imprisoned in the case of some crimes (falsification or theft of documents). Almost all of the repatriated immigrants are immediately released following the payment of a modest fine. The crime of illegal emigration is noted in the judicial register and the repatriated immigrant is allowed to go free: this was how the situation was until 2003.

According to the results of the interviews, in their countries of origin the returned immigrants are often subjected to extortion by forces in order to avoid bureaucratic problems or to not be detained beyond the time needed to carry out identification procedures.

Neither Morocco nor Albania has governmental assistance programmes or special employment lists for returned immigrants.

The Cespi study indicated a moderate level of social integration for returned Albanians and Moroccans in their contexts of origin because the immigrants, especially in Morocco, did not feel that they were the subject of discrimination due to their failed migrations, although they may internally have felt a strong

sense of shame and failure. The low level of prejudice against repatriated immigrants is understandable in areas in which emigration at any cost is considered the only way to achieve economic and social success and forced return (incarceration and expulsion) is considered a subsequent risk.

Even in Albania the forced return of both illegal immigrants and ex-convicts is considered a structural risk that is strictly inherent to the phenomenon of emigration, which has involved a large share of the population and ensures precious resources by way of money sent home. On the other hand, trafficking victims are greatly stigmatised by their societies of origin.

All of the interviewed immigrants declared that they were reaccepted by their families and – except for those who were married and now live with their wives – went back to live with their parents immediately after their arrival in their country of origin.

It has been proposed to experiment with forms of “hybrid forced return”. Although they are part of a removal order that remains mandatory and therefore forced, they do not exclude support for the reintegration of expelled migrants, without thinking exclusively about the effectiveness and inexpensiveness of the activated mechanisms, but in a more comprehensive vision of the migration issue. Wherever acceptable life conditions are lacking immigrants will continue to desire emigration, and this desire, even if not practicable in reality, will once again remain a sign of the non-sustainability of the return.

The concept of sustainability in this context also refers to the opportunity for returned immigrants to access a dignified standard of living and a suitable level of socio-economic integration.

An indiscriminate expulsion and return policy is in many ways not desirable. Over the past few years various European states have demonstrated growing interest in assisted return policies, which are often deemed a more humane and economically sustainable alternative to forced returns. This assistance must not be considered a simple device to make returns faster and less expensive.

Italy has not progressed very far in this experiment although it has problems with returns and associated expenses. These opportunities have also not been greatly discussed during bilateral contacts.

Amongst the measures provided for assisted returns the following can be mentioned for various European countries:

- coverage of travel costs;
 - subsidies bestowed *una tantum* to fulfil the needs of a transfer that undoubtedly requires great effort;
-

- grants for the start-up of a business or entrepreneurial activity;
- micro-credit and professional courses to be taken before and/or after departure, inasmuch as they allow for the connection of return assistance policies with the development of the countries of origin;
- scholarships at qualified training centres (otherwise they are not very useful) to recover professions that are also useful for the market.

These measures are not monitored exhaustively, although in general it can be said that reintegration is more positive as a result, as the experiences in France and The Netherlands suggest.

The International Organization for Migration (IOM) is, undoubtedly, one of the most active groups in the management of voluntary return programmes, especially with these tools: the reimbursement of travel costs, assistance with finding work through the financing of private or public training courses and company apprenticeships. For trafficking victims the IOM created some socio-work reintegration programmes in Tirana, through ad hoc cooperatives, using the initial capital provided by the IOM. In part the earnings are apportioned as wages while the remaining money is placed into a “fund” from which women can withdraw to reinvest or “liquidate” when they leave the business.

Other programmes organised in Albania utilise the financial aid provided by organisations in the immigration countries of the returned immigrants.

The migrants are satisfied with this aid, even when it is only orientation and consulting in a moment of great existential and social difficulty, and accept jobs that they otherwise would not have performed and that allow them to acquire greater experience.

At the meeting organised in Rome by EMN Italy on June 27th 2006 to present the publication “Irregular Migration in Italy”, the Director of Caritas Italy supported a fight against illegality based on some indications that emerged in the social context, which we summarise below⁵³.

One cause of irregularity may be *quotas* and for two reasons:

- first, the *number of incoming workers has constantly been much lower than the needs of the labour market*, which is why we have become the country of regularisations;
- second, the *entry mechanisms are inefficient* and it is hypocritical to think that people who are interested in coming to Italy are still in their

⁵³ Cfr., www.emnitaly.it.

country when everyone knows that many are already in Italy, and only this prior presence has made it possible to bring together demand and work offerings.

In March 2006 applications were presented at the Single Desk for Immigration way of Italian Post Offices. The Ministry of the Interior provided data on them, which included information sorted by province.

By territorial areas there are some variations with respect to the previous year: there was an increase in the North (55.8%, this time with a slight prevalence in the North West) while the quota of the Centre decreased (26%) and the quota of the South increased (18.2%). Nevertheless, the number of applications was higher in every area of the country because the applications increased 520,000 units, doubling the previous year.

With respect to the 170,000 available positions, there were 350,000 unsatisfied applications with the demand for additional manpower being triple the number of established opportunities. For this reason the Government has decided to provide an additional quota decree regarding 350,000 workers.

It is evident, on one hand, that the applications that are not considered in one year can be presented again in the next one. On the other hand, there are both some irregular immigrants for whom the employers are not willing to present applications or recently arrived immigrants still in search of work⁵⁴.

Even in the case that *more appropriate entry quotas* are established in the future, a certain number of people will remain outside of the programmed number. To interrupt this factory of irregularity, the applications presented for persons who remain outside of the quotas can be recovered in the flows decree of the subsequent year as long as there is no law that prohibits it.

As explained before, *expulsions*, which are applied rigidly with an escort to the border, prohibit the return of the person to Italy for a long period of time, but if they are carried out with the "foglio di via" (expulsion order) with a period of 15 days available, the foreigner has a greater incentive to respect the order since he is not subject to the re-entry ban and can, therefore, return subsequently via regular routes.

Assisted returns, which were discussed previously, can also be promoted. They cost much less than forced returns, facilitate residence in the country of origin and do not jeopardize an eventual return to Italy.

⁵⁴ Caritas/Migrantes, *Dossier Statistico Immigrazione 2006*, Idos, Roma, 2006, pp. 77 e ss.

4.4 Return assistance and return counselling

The question of assistance and counselling does not regard persons involved in forced return, but exclusively the beneficiaries of assisted voluntary return.

The organization generally appointed to implement this activity is IOM, though such responsibility is allocated annually on the basis of a regular competition and subsequently on the convention with Italian Ministry of Interior.

The activity of counselling includes assistance by IOM staff both in contacts with the potential beneficiary as well as the institutions participating in the whole process of return. It is exactly this particular activity that was recognized by the European NGOs in the document signed in August 2005 and entitled "Common principles on removal of irregular migrants and rejected asylum applicants" as the first general principle.

As before mentioned, IOM personal working with the assisted voluntary return applicants endeavours - as a first step in the process of counselling - to build a relationship based on trust among all the partners involved, in order to ensure the sharing of that information which would be necessary to guarantee the success in the future return process.

The initial phase foresees, after the verification of an effective voluntariness of the return decision, the necessary support to the migrant so as to dissipate any doubts regarding the return and consolidate self-confidence in the decision taken.

During the following steps, the IOM officers initiate contacts with the representatives of embassies and consular offices of the country of origin and present in Italy, promoting also among them the benefits of supporting regular migration flows as well as the advantages of assisted voluntary return modalities.

Where necessary the IOM personal mediates on behalf of the return assistance applicant between the authorities in Italy and those in his/her country of origin, in order to secure the most effective support for the migrant pursuing voluntary return. To this end, the IOM office in Rome will rely also on the large network of IOM field offices present in most countries of origin of the migrants being assisted to return.

During the last phase of counselling the staff of the IOM office in Rome may assess the possibility to visit the country of origin of the migrants assisted with voluntary return so as to better monitor the outcome of the return assistance process and evaluate directly whether the return project has been successful.

4.5 Identification and acquisition of travel documents

The need to secure the identification of the irregular migrants arriving or intercepted on Italian soil imposes his detention in a Temporary Residence Centre. These structures are often objects of strong criticism of mass media and Italian civil society, due to frequent complaints regarding the verified inconveniences.

The present moment seems to be the right one for working out the more balanced normative, given also the experience in the field, what is actually wished and proposed by the society and some politicians. There are two ways to achieve it: the first one is to modify the Regulation of Application, which is definitely easier, whereas the second one means to change the law. To such a purpose, as outlined, the Committee De Mistura conclusions are really precious.

With respect to the acquisition of travel documents for those who decide to return to their countries of origin through the IOM programme of assisted voluntary return, then the IOM will also take charge of ensuring that all the necessary travel documentation is complete, also through the embassies and consular offices, in order to pursue voluntary return travel arrangements. Where required, the IOM may also arrange a transit visa necessary for specific return routings. In general, the period of time required by IOM to securing all the documentation necessary to arrange for voluntary return travel is very short – in average one to two weeks – also thanks to the special contacts and preferential diplomatic channels used by IOM as an intergovernmental organization.

Skills and propensity to return of irregular migrants

Nicola Coniglio, Giuseppe De Arcangelis and Laura Serlenga⁵⁵

In the developed world increasing public attention is devoted to illegal immigration, which has become an overwhelming phenomenon. According to Passel (2005) an estimated annual net inflow of 500,000 illegal immigrants to the US occurred between 2002 and 2004 adding up to a stock of about 11 million illegal migrants in March 2005. Estimates of illegal migration flows to Europe (EU-15) in 2001 are up to 650,000 according to a recent study by Jandl (2004). Italy in particular, as demonstrated by the outcome of recent regularization programs, is among the European countries the most exposed to irregular immigration.

From an economist's point of view, while some studies exist on the return behavior of regular migrants, very little is known for irregular migrants. What has been concluded in the literature for regular migrants does not necessarily hold for irregular ones since illegality plays a key role in the possibility of fully exploiting personal skills in the country of destination and, therefore, on the decisions whether to stay in the destination country or go back home. In a recent study (Coniglio, De Arcangelis and Serlenga, 2006) our main focus is indeed the relationship between intentions to return to the country of origin of illegal migrants and their skill levels. Our starting point is the stark difference between undocumented and legal migrants. As generally acknowledged, although one of the most common motives for migration

⁵⁵ Nicola Coniglio (University of Bari and Norwegian School of Economics and Business Administration - NHH); Giuseppe De Arcangelis (University of Rome "La Sapienza") and Laura Serlenga (University of Bari and IZA).

is the necessity to accumulate assets (which will be subsequently employed in productive activities), an illegal entrant is generally less capable of fully exploiting her/his skills and human capital. Moreover, the illegal status hinders the migrant's access to many markets and institutions in the host country (including banks for deposits or financial institutions for other types of savings), which are instead fully available to legal migrants. Being illegal may make individual skills even less effective than in the home country since the illegal migrant has to resort uniquely to the shadow economy. As a consequence, we have a *skill waste*, i.e. illegality reduces the return to skills on both migrant's income and savings, and this is particularly strong for those who are the most skilled and educated among the illegal entrants. Given this, it would be natural to expect that the benefits derived from returning to the country of origin will be substantially higher for the skilled individuals than for the unskilled ones. This prediction, which is theoretically proved in the first part of our work, is in stark contradiction with the existing empirical research conducted on regular migrants. In fact, these latter studies almost unanimously conclude that return migration is more likely for individuals with low skills since migration is considered such a risky and hard project that selects the most capable individuals and discourages the less skilled ones (i.e., the "positive self-selection" characteristic of migration as discussed in Borjas et al., 1996, Dustmann, 1993, 2003a, 2003b, and Reagan and Olsen, 2000).

Thanks to the availability of a unique data set on Italian undocumented immigrants we empirically tested the main implications of our theoretical framework. In particular, we have used the SIMI dataset (see Chiuri et al 2004) which comprehends information on a representative sample of 920 illegal migrants who crossed the Italian borders in 2003 and were kept in host centers for identification, where they have been interviewed. One of the most important features of this data set is that it contains information on the migrants' expectations "at the gate" concerning their intentions to return and many other characteristics (e.g. intentions to remit, expectations on future income, employment, legal status, characteristics of the village of origin etc.). Indeed, by using this data set we are able to quantify the effects of skills and education on the return intentions, but also controlling for other relevant individual characteristics.

Our empirical results confirm that the tendency to return to the country of

origin is generally higher for the most skilled among the undocumented migrants. Interestingly, we also acknowledge that occurrence of past social conflicts and past economic crises in the country of origin affect differently the return choice. In fact, having experienced an economic or financial crisis in the village of origin seems to be taken as a temporary shock without ever-lasting effects on the willingness to return home, whereas the presence of social conflicts has a more discouraging effect on return migration. We find also that migrants belonging to a religious or ethnic minority in the country of origin are less likely to return. In particular, the intention to remain in the destination country increases with the degree of religious polarization in the origin country, i.e. the higher the potential hostility faced by a religious minority in the country of origin, the lower the willingness to return home.

Since migration flows have proved to be unavoidable, the main message of our paper pinpoints the need to carefully design new immigration policies. In particular, it ought to be considered that a generic ban is not neutral and gives greater incentives to more skilled workers to return home rather than to low-skill migrants. This latter consideration leads also to rethink the link between migration and development when illegal migration is particularly relevant.

Our study shows that skilled illegal migrants are more likely to return but it is important to highlight that this does not necessarily imply that illegal migration alleviates the consequences of the brain drain from poor countries. On the contrary, illegality reduces the economic gain of migration for the country of origin not only because it keeps illegal migrants' wages low in the destination countries, but also because reduces the incentive to acquire human capital both before departure and during the migration experience. This latter effect undermines the fundamentals of the so-called "beneficial brain-drain hypothesis", according to which the possibility to migrate in a rich country might induce individuals to boost their investment in human capital already when they are in the country of origin (Mountford, 1997; Stark et al. 1997, 1998; Beine, Docquier and Rapoport, 2001). The possibility to migrate irregularly, together with the probable inability to fully employ human capital, might turn the "beneficial brain-drain hypothesis" on its head and further distort the incentive to accumulate human capital in poor countries. Illegality might indirectly contribute to keep poor countries locked in a poverty trap characterized by out-migration and low human capital accumulation.

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5. Bilateral and multilateral cooperation

What regards the assisted voluntary returns, although the low attention paid by the origin countries, these have reached a high level of political priority for the destination countries. In fact the return issues represent nowadays the first step of the bilateral agreements on migration matters⁵⁶.

An important dimension of the future bilateral and multilateral cooperation is represented by readmission agreements, a form of collaboration between departure and arrival States to counteract unauthorised immigration flows by finding a balance between the various interests.

EU countries are insisting greatly on readmission agreements, as they consider them a priority that often conditions access to programmes for cooperation and maintenance of a legal immigration channel. Italy is the European country that has signed more readmission agreements.

It's important to remember the Action Programme on Returns adopted by the European Council in November 2003, that aims to define a common strategy of EU on voluntary and forced return⁵⁷.

We can start with the comprehensive research conducted in this area by Ferruccio Pastore⁵⁸. According to an undisputed principle of international law the state of belonging must readmit its own citizen on the request of another state, which is granted the right of expulsion.

⁵⁶ Pastore Ferruccio, Sciortino Giuseppe, *Tutori lontani. Il ruolo degli Stati di origine nel processo di integrazione degli immigrati*, Cespi, 2001.

⁵⁷ Presidenza del Consiglio dei Ministri del Governo Italiano, *Documento programmatico relativo alla politica dell'immigrazione e degli stranieri nel territorio dello Stato per il 2004-2006*, Roma, 2006.

⁵⁸ Pastore Ferruccio, *L'obbligo di riammissione in diritto internazionale: sviluppi recenti*, in "Rivista di diritto internazionale", n.4/1998, pp. 970-1021.

Over the past few years national activity in the area of readmissions has intensified, especially in Europe. Traditional return conventions have been surpassed allowing the readmission of Third Country Nationals.

5.1 The European context

The recent readmission agreements have some precedents in the agreements made to abolish visa obligations, which were useful for policies to promote work immigration as established by France, Germany and Switzerland in the 1950's and 60's.

All of the European states of immigration are involved in an intense diplomatic effort to develop the network of readmission agreements, and there is a tendency to harmonise the various national approaches and to transfer national activities to the multilateral level, making it possible to carry out joint pressure.

On March 29, 1991 six Member States (Belgium, France, Germany, Italy, Luxembourg, and the Netherlands) signed a readmission agreement with Poland, by which Polish citizens within the context of the Schengen agreement were not required to have a visa for stays of maximum 90 days.

In the Executive Schengen Committee in the "Circulation of persons" Work Group there is a sub-group that specifically handles readmissions. Within the Schengen context a desire has been expressed for the extension of these agreements with other countries (various countries of Eastern Europe, Turkey, Slovenia) and a uniform project schema has been created. This approach was subsequently resumed by the European Council on November 30, 1994 (with the recommendation of a model agreement) and July 24, 1995 (with the proposal of models of operations protocols in the area of readmission).

Provisions on the subject of readmission are found in various international agreements stipulated by the European Community and especially:

- in the association agreements stipulated with Central and Eastern European Countries (CEECs);
- in the partnership and cooperation agreements stipulated with the Republics of the former Soviet Union;
- in the Euro-Mediterranean association agreements.

The agreement with Tunisia made on July 17, 1995, which was ratified in Italy with Law 35/1997 and put into effect on May 1, 1998, provides for a periodic dialogue on the problems of illegal immigration and on return conditions (art.69, paragraph 3, sub-paragraph d) and priority cooperation actions in the social area for the reintegration of returned persons (art.71, paragraph 1, sub-paragraph b).

In January 2007 the EU has signed readmission agreements with Albania, Russian Federation, Sri Lanka, Macao and Hong Kong. Negotiations have been concluded with Ukraine, while they are going on with Morocco, Pakistan and Turkey (advanced status); Algeria and China (initial status). Also in view of the visa liberalization, the European Council has authorized the negotiation opening of readmission agreements with the Western Balkan countries (F.Y.R. of Macedonia, Bosnia Herzegovina, Montenegro and Serbia)⁵⁹.

The provisions elaborated in these treaties are priority with respect to any bilateral agreement which any member country has before signed. Within the European context, it has also been noted that it is necessary to insert readmission provisions with other Asian and African countries to pave the way to bilateral negotiations.

5.2 The Italian context

Italy also recently has demonstrated great interest in this type of agreement, which with respect to the usual expulsion order, guarantees greater effectiveness in the removal of foreigners not authorized to stay on the national territory.

For the stipulation of readmission agreements, Italy is following the simplified procedure by which they are not submitted for Parliamentary approval. Although this was criticised in doctrine, this approach was adopted with Law 40/1998, which in article 9, paragraph 4, states that “the Ministry of Foreign Affairs and the Ministry of the Interior shall promote the necessary initiatives for agreements with interested countries in order to accelerate the carrying out of controls and the release of documents that may be needed to improve the effectiveness of the measures provided by this Law”.

The obligation for readmission regards people who do not satisfy (or who no longer satisfy) the entry and residence conditions that are applicable in the contracting state: it must, therefore, not be an arbitrary removal, but rather a measure that regards irregular and illegal immigrants.

For the readmission of a citizen it is fundamental to check citizenship, which requires collaboration between the two contracting states: in many agreements it is sufficient that citizenship is presumed (however, this is not valid in the agreements with Morocco and Tunisia). In reality, many irregular immigrants do not have

⁵⁹ European Migration Network, *Synthesis report for Research Study III: Return*, European Commission, Brussels, 2007.

official documents and in many cases they have voluntarily concealed them.

The elements that make it possible to presume citizenship are sometimes indicated in these agreements, but are usually defined in subsequent protocols and executive agreements. For this purpose the following are useful:

- the documents provided by the competent authorities of the contracting party or photocopies;
- expired residence permits or documents or photocopies;
- the statement of the interested party contained in a record of the administrative or legal authorities of the requesting party;
- the registered statement of bona fide witnesses.

The procedure that is used to enforce the readmission obligation varies depending on the agreements. These concrete methods guarantee the greater or lesser effectiveness of the regulations.

In certain conditions the country that has made the agreement takes on the obligation of the readmission of a non-citizen: in bilateral agreements signed with Italy, this provision was not accepted by Morocco and Romania.

Obviously, these types of agreements are of greater importance when dealing with bordering countries. Albania and Yugoslavia provide for the readmission of Third Country nationals provided that they entered the territory of Italy after having stayed or transited in their territory. It is presumed that Italy did not grant a visa or a residence permit to the persons to be expelled or that they have resided there for more than a year.

Due to the delicacy of relations, some countries (Morocco and Romania) do not readmit non-citizens. For Albania the refusal of reception is valid only when the citizen to be readmitted belongs to states that have a common border (the Yugoslavian territory of Kosovo and Macedonia, where ethnic Albanians are settled).

The transportation costs to the border of the destination state are generally paid by the requesting state.

Great details are provided on the methods for escorting persons in transit, which are submitted to the authority and control of the requested state even when they involve the requesting state.

The readmission agreement system must be mitigated with the obligation to respect some fundamental human rights and, specifically, to protect refugees in accordance with the Geneva Convention. The state that has recognised the refugee is held to readmit him and, only in particularly serious situations (security or public order reasons), can proceed with expulsion and rejection to the border. Only in a few readmission agreements stipulated by Italy (for example,

with Slovenia and Albania) is non-applicability to refugees expressly mentioned, although a generalisation would have been more desirable especially in agreements with countries located in an area of high political instability.

5.3 The bilateral cooperation

The Italian Government has signed 27 readmission agreements, of which almost 21 in force. Preliminary contacts occurred with other numerous countries. In particular it could be very important to sign such agreement with Ukraine. Among the aforementioned 27 agreements:

- 15 have been drawn up with countries of the European Union (Austria, Cyprus, Estonia, France, Greece, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, Spain, Hungary, Bulgaria and Romania)
- 12 have been concluded with non-EU countries (Albania, Algeria, Croatia, Macedonia, Georgia, Morocco, Moldova, Nigeria, Sri Lanka, Switzerland, Tunisia and Serbia-Montenegro).

Cooperation with foreign countries also consists of providing assistance at the level of consulting, aid and technical equipping.

According to readmission agreements, when a passport or identity card is not available the appropriate elements for the presumption of nationality are expired identification documents (including military documents, navigation card) expired residence permits and papers, and the registered statements of witnesses. In the presence of these elements the authorities of the country with the agreement are required to readmit the persons, otherwise a hearing is held to determine the country of origin.

Some agreements provide for the readmission of third country nationals who have transited in the state with the agreement, as well as the financial support for the creation of centres in which to direct them at the moment of readmission.

Thanks to the readmission agreements, at the moment of the annual Flows Decree, the reserved quotas are foreseen for the workers coming from Albania, Argentina, Morocco, Egypt, Nigeria, Moldova, Sri Lanka and Tunisia.

Italy has also made police agreements with 38 countries, which, finally, specifically provide for the fight against the exploitation of illegal immigration and the trafficking of human beings by trans-national criminal organisations.

In case of Romania, for instance, according to "the agreement on transfer of sentenced persons who were subjected to the measure of expulsion or accom-

paniment to the boarder”, signed on 13th of September 2003 and ratified and entered in force with the Law 281 of 30th December 2005, Italy destined 100 thousands Euros a year for the closed period from 2005 till 2007. After that, given that Romania joins the European Union in January 2007, the measures in question should not be necessary anymore.

Of particular interest is, in the end, the cooperation with the government of Libya that was established by an Italian-Libyan agreement stipulated 13th of December 2002 in Rome in order to fight the organised criminality, illegal traffics of drugs, psychotropic substances and illegal immigration. This meeting caused subsequently further dynamics that led to agree by the sides the concrete initiatives so as to contrast illegal flows from Libya through experimental projects of cooperation in three following sectors: control of land borders, investigative intelligence on criminal organizations involved into traffic of irregular immigrations as well as sea contrast activities.

Only in 2003, according to the Report of State Auditors Department published in 2004, the Italian State spent 5.5 millions of Euros for the cooperation with Libya on management of immigration phenomenon. In the following years, the finances included as well training and equipment of the Libyan control personnel, the construction of three identification centres for immigrants who do not possess the documents, in conformity to the bilateral agreement signed in August 2004, which details are secret even nowadays.

Between August 2003 and December 2004 47 charter flights were also organised in Libya in order to remove 5,688 persons, who were attending there for the possibility to arrive illegally in Italy (more than 80% were from Nigeria, Ghana and Egypt)⁶⁰.

Thanks to Italy, in part, the European Union decided in 2004 to revoke the embargo imposed to Libya, and what is more, to initiate the cooperation to combat the illegal immigration, what was actually organised under the activities of Aeneas' programmes.

It is also well-known that aspects concerning the treatment which the immigrants have received in Libya, after being moved from Italy, have turned out problematic.

⁶⁰ European Commission, *Report on the Technical Mission to Libya on Illegal Immigration*, Brussels, 2005, pp. 60-61.

Conclusions

The report of the De Mistura Commission, whose results have been publicly presented in February 2007, emphasized the rigidity of regulations with regard to the extreme flexibility and fragmentary nature of the labour market. At a more specific level, one is struck that Temporary Residence Centres also host people who are already regular, who have perhaps been in Italy for many years, even more than a decade, as well as irregular family aids, and even they in part were once in possession of a residence permit.

The Commission declares itself in favour of a great reduction in the importance of Temporary Residence Centres, reinforcing, however, the guarantees of the involved parties during the period of detainment, and emphasizes that, nevertheless, even functioning at full rhythm these Centres would be incapable of handling the problem of irregular immigration. Therefore, it is necessary to adopt measures that could have a completely different impact on the reduction of the presence of irregular immigrants, including:

- the provision of a method of entry that more adequately responds to migration pressure;
- taking responsibility for vulnerable groups;
- the granting of a residence permit “ad personam”, taking into consideration determining factors such as the family situation, health conditions, the eventual work relationship that is in place, the maturation of a previous residence period.

According also to the De Mistura Commission: “The first step towards the proper management of the migration phenomenon should be the creation of more incisive and realistic paths for regular entry, for work and family reasons and for internation-

al protection reasons. In this way it would be possible to prevent irregular entry and reduce the number of foreign citizens who – often with great sacrifices and risk to their own lives – look for irregular methods for arriving in the country of immigration”.

More specifically, the De Mistura Commission, which is aware that the economic disparity of the countries of origin acts as an impetus to emigration, believes that much more than forced expulsion, which is often not able to be carried out, a return programme must be offered so that the involved parties can repatriate in dignified, safe conditions; in fact, people who have undertaken a “journey of hope” for themselves and their family members are not motivated to go home with empty hands. A similar approach was followed at the level of the European Union with the creation of a “European Fund for arranged and voluntary returns” and with the proposal, by the Commission in 2005, of a Directive on the return of non-EC foreign citizens.

Since it is clear that it is unrealistic to think that the possibility for regularization exists for everyone who is able to reach Italy, the De Mistura Commission believes it is opportune to offer the possibility of an arranged return to those who collaborate on their identifications, be it that they present themselves spontaneously or that they collaborate after being stopped, having the wisdom to limit the re-entry ban to 2 years instead of the current 10 unless dealing with habitual offenders.

It is opportune, therefore, to provide economic support for reintegration that makes re-entry advantageous or at least facilitates it, to be provided at the moment of arrival in the country of origin. Irregularity will be able to, therefore, begin a positive phase, for the involved parties and their community, involving local organizations and welfare organizations and also cooperation programmes.

In order to emphasize the agreement between the approach of this study and that of the De Mistura Report, we can cite this phrase that takes up a number of the ideas that have already been presented: “One of the main innovations for reducing the recourse to detainment at Temporary Residence Centres is arranged and assisted return, the goal of which is the promotion of the re-entry of irregular foreign citizens into their countries in exchange for economic support to carry out a life project in the country of origin.”

Minister of the Interior Giuliano Amato, in occasion of various hearings before the Senate and the Chamber of Deputies occurred from July and September 2006, with realism has showed on the basis of the ministerial experience the inconsistency of the immigration framework, which is based on determined legislative decisions. In particular, the excessive rigidity in tying the presence of foreign workers to the employment market and the resulting precariousness in terms of residence are an incentive for irregularity besides being humiliating for the workers involved.

In "Notes on the reforms regarding the "Law on Immigration", presented to the Senate's Commission on Constitutional Affairs, the Minister has mentioned the following text: "In order to make the expulsion the most effective it is necessary to look for the collaboration of the immigrant. In reference to what is foreseen by the French law, there will be introduced special programmes of assisted voluntary return, destined to immigrants who collaborate to insure the proper identification, included the most complicated cases of irregular residents when the effective priority interest is really then one to remove them from Italy. The aim of these measures is to increase the rate of identification cases, anticipating in a certain way the European tendencies. The most important institution on which this new system is intended to be based would be so called The National Found for Return, destined to finance the programmes of voluntary and forced return. The found in question could be alimeted with the contributes of employers who employ the immigrants as well as by the guarantors who act as immigrants' sponsors. Though, this question is not excluded- as confirmed- from the access to the European Funds⁶¹".

At the meeting of June 27th 2006, organised by the research centre IDOS - the NCP - in cooperation with the Ministry of Interior and the Dossier Statistico Immigrazione Caritas Migrantes within EMN for presenting the research study on irregular immigration, there were identified these guidelines for a new interpretation of the issue of irregularity:

1. The work integration of regularised immigrants in Italy has increasingly become more satisfying even though it occurs in a labour market that is extremely fragmented.
2. Border controls have partially lost their effectiveness due to the fact that Europeans, who have replaced North Africans as the protagonists of migration flows from the mid-90's to today, are exempt from the entry visa for tourism, which is why border rejections have been halved with respect to the end of the 1990's.
3. Return measures have become more numerous than rejections and this means that it is easier to intercept irregular immigrants after their arrival in Italy than at the time they cross the border.
4. There are more nationalities that receive a significant number of removal orders with respect to the nationalities involved in rejections, and this also indicates the permeability of the borders as indicated in the previous point.
5. The removals as a result of readmission agreements had witnessed a temporary

⁶¹ Notes on the reforms regarding the "Law on Immigration", presented by the Minister Amato to the Senate's Commission on Constitutional Affairs, Rome, 27th September 2006, in www.stranieriinitalia.it.

increase for a few years and then decreased. The current level is the same as the end of the 1990's and in this regard it seems that operative difficulties and the increase of expenses seems to have had an influence.

6. In 2005 of the 119,923 persons who were identified as irregular by the police, only 45.3% were effectively returned: this is the lowest percentage since 1999, when returned migrants were 63% of the total number of intercepted foreigners.
7. Detainment in temporary residence centres does not have a resolute effect and, although it is true that more than half are identified and returned, one-fifth of the detainees are released from the centres due to the elapsing of the 60 authorized days.
8. Inspections on the labour market carried out by the Inspector's Office of the Corps of the Carabinieri operating at the Ministry of Labour, by the Financial Police, the National Social Security Institute and the Industrial Injury Compensation Board indicate an increasing rate of irregularity, in reference to contribution coverage and regulations on residence; the inspections, therefore, in their current structure are not able to guarantee the suitable control of the employment of foreign citizens. Therefore along with permeable borders we can add the possibilities offered by the illegal labour market.

The view of illegal immigration as a form of delinquency and the equating of asylum applicants with illegal immigrants is a priori and must be surpassed. Recent studies in the field present illegal immigrants as young people in good health with a satisfactory level of education, who are fleeing from misery and wars in their countries after having paid a high price for transportation. They are interested in remaining stably in Italy (just one-sixth plan to move to other countries) and, above all, they have modest economic expectations (between 500 and 1,000 dollars)⁶².

Irregular immigration is a phenomenon in continual growth (currently 5 million in Europe, half the number found in the United States), despite restrictive migration policies and the toughening of border controls. This is why actions to counteract immigration are not enough and it is increasingly necessary to have more realistic admission and integration policies for immigrants⁶³.

⁶² Chiuri Maria Concetta, Coniglio Nicola, Ferri Giovanni, *L'esercito degli invisibili. Aspetti economici dell'immigrazione clandestina*, Il Mulino, Bologna, 2007; Ricci Antonio, *Allargamento UE. Nuove dinamiche e nuovi confini*, in "Affari Sociali Internazionali", n: 3/2005, pp 33-43.

⁶³ Cfr., www.emnitaly.it.

Conclusions

In conclusion, irregularity is both a pathology of the immigration phenomenon and an indicator of remedies to be carried out. When the area of irregularity is too extensive, the receiving society is less disposed to reception and integration; nevertheless the presence of irregular foreigners is able to indicate the paths to be followed so that the work flows occur in a more orderly manner.

From this articulate analysis derive various indications which support a new organization of the assisted voluntary returns, strengthening those volunteers and including new beneficiaries' categories and arriving to include also, with certain conditions, the irregular immigrants.

EU. Voluntary and Forced Returns in some State Members (2005)

<i>Member State</i>	<i>Voluntary returns</i>	<i>Top 5 countries of return</i>	<i>Forced Returns</i>	<i>Top 5 countries of return</i>
Austria	1,406	Serbia & Montenegro (306), Georgia (131), Turkey (99), Belarus (92), Moldova (92)	6,640	2001: Romania (3,794), Poland (1,223), Serbia Montenegro (914), Moldova (780), Bulgaria (525)
Belgium	3,741	N/A	7,968	N/A
Greece	N/A	N/A	21,238	Albania (17,937), Bulgaria (2,757), Romania (2,452), Iraq (2,296), Pakistan (1,938)
Ireland	335	Croatia (79), Romania (45), Nigeria (40), China (24), Moldova (23)	1,899	Nigeria (135), Romania (122), China (18), Croatia (17), South Africa (17)
Italy	7,223 (1991-2006)	Albania (2,995), Kosovo (1,105), Romania (561), Serbia-Montenegro (481), Bosnia Herzegovina (395)	26,985	Romania (9,477), Albania (2,584), Morocco (2,198), Irak (1,418), Tunisia (855)
Latvia	192 (1998-2002)	Russia (47), Armenia (37), Azerbaijan (23), Georgia (16), Ukraine (14)	190	2000-2005: Russia (476), Lithuania (346), Ukraine (206), Belarus (128), Estonia (68)
The Netherlands	5,966	Angolan(12%), Afghan (8%), Serbian & Montenegrin (8%), Ukrainian (8%), Iranian (5%)	20,274	<i>Asylum:</i> Turkish (10%), Iraqi (6%), Serbian & Montenegrin (6%), Nigerian (5%), Chinese (5%) <i>Non-asylum:</i> Turkish (15%), Bulgarian (12%), Moroccan (7%), Romanian (5%), Nigerian (5%)
United Kingdom	3,655	Iraqi (760), Serbian & Montenegrin (585), Afghan (430), Sri Lankan (275), Iranian (240)	54,560	Nigerian (3,880), Romanian (2,315), Pakistani (2,205), Indian (2,055), Jamaican (1,975)

SOURCE: European Migration Network/European Commission

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Statistical appendices

ITALY. Migration flows planning (1998-2006)

	1998	1999	2000	2001	2002	2003	2004	2005	2006*
Albania	3,000	3,000	6,000	6,000	3,000	1,000	3,000	3,000	4,500
Morocco	1,500	1,500	3,000	1,500	2,000	500	2,500	2,500	4,000
Tunisia	1,500	1,500	3,000	3,000	2,000	600	3,000	3,000	3,500
Somalia	-	-	-	500	-	-	-	100	100
Egypt	-	-	-	-	1,000	300	1,500	2,000	7,000
Nigeria	-	-	-	-	500	200	2,000	2,000	1,500
Moldova	-	-	-	-	500	200	1,500	2,000	5,000
Sri Lanka	-	-	-	-	1,000	500	1,500	1,500	3,000
Bangladesh	-	-	-	-	-	300	1,500	1,500	3,000
Philippines	-	-	-	-	-	-	-	1,500	3,000
Pakistan	-	-	-	-	-	-	-	1,000	1,000
Ghana	-	-	-	-	-	-	-	-	1,000
Others	-	-	6,000	4,000	-	-	2,500	700	1,400
Tot. prefer.quotas (PQ)	6,000	6,000	18,000	15,000	10,000	3,600	20,000	20,800	38,000
Non seasonal workers (PQ excl.)	-	-	-	35,000	9,500	7,400	9,500	33,700	82,000
Non seasonal workers (PQ incl.)	-	-	-	50,000	19,500	11,000	29,500	54,500	120,000
Seasonal workers	-	-	-	39,400	60,000	68,500	50,000	25,000	50,000
Total quotas	58,000	58,000	83,000	89,400	79,500	79,500	79,500	79,500	170,000

* provisional quotas

Source: Presidency of the Italian Council of Ministers

Statistical Appenices

ITALY. Legally residing foreigners by continent of origin (1970-2004)

Year	Europe	Africa	Asia	America	Oceania	Stateless and others	TOTAL
1970	61.3	3.3	7.8	25.7	1.9	-	143,838
1971	62.6	3.3	7.8	24.5	1.8	-	156,179
1972	60.8	3.7	8.3	24.7	1.8	0.7	167,961
1973	59.9	4.2	8.6	24.8	1.8	0.7	175,746
1974	59.5	4.4	8.6	25.1	1.8	0.6	186,423
1975	60.5	4.7	8.1	24.3	1.8	0.6	186,415
1976	59.8	4.7	8.8	24.3	1.8	0.6	186,713
1977	59.2	5.1	9.6	23.9	1.7	0.5	194,062
1978	59.3	5.0	9.6	23.9	1.7	6.5	194,024
1979	56.6	6.5	8.6	21.8	2.0	4.5	205,449
1980	53.2	10.0	14.0	21.0	1.4	0.4	298,749
1981	52.7	10.5	14.6	20.5	1.4	0.3	331,665
1982	52.1	10.9	14.8	20.5	1.4	0.3	355,431
1983	52.0	10.7	15.3	20.2	1.4	0.4	383,765
1984	51.9	10.7	15.6	20.1	1.4	0.3	403,293
1985	52.1	10.5	15.4	19.5	1.4	1.1	423,004
1986	52.3	10.6	15.2	20.3	1.4	0.2	450,227
1987	46.9	16.0	16.7	19.0	1.2	0.2	572,103
1988	45.3	18.3	16.1	18.9	1.2	0.2	645,423
1989	43.0	20.3	16.4	19.2	0.9	0.2	490,388
1990	33.5	30.5	18.7	16.4	0.8	0.1	781,138
1991	34.5	30.8	17.8	16.2	0.6	0.1	*648,935
1992	34.7	30.8	17.7	16.1	0.6	0.1	*589,457
1993	36.9	29.1	17.5	15.9	0.5	0.1	*649,102
1994	41.0	28.0	16.0	14.5	0.3	0.1	*677,791
1995	40.7	28.2	16.4	14.3	0.3	0.1	*729,159
1996	37.5	30.6	18.5	13.1	0.2	0.1	*986,020
1997	37.4	30.4	18.9	13.0	0.2	0.1	*1,022,896
1998	39.0	29.0	19.0	12.7	0.2	0.1	*1,090,820
1999	39.6	29.1	19.1	12.0	0.2	0.0	*1,340,655
2000	40.7	28.0	19.2	11.8	0.2	0.0	*1,379,749
2001	41.4	26.9	19.1	11.6	0.2	0.9	*1,448,392
2002	42.5	26.5	18.5	11.8	0.2	0.5	*1,503,286
2003	47.9	23.5	16.8	11.5	0.1	0.1	**2,598,000
2004	47.3	23.7	17.3	11.5	0.1	0.1	**2,786,000
2005	48.8	23.1	17.4	10.6	0.1	0.0	**3,035,000

* Data revised by ISTAT

** Estimate by "Dossier Statistico Immigrazione" which includes the stay permits under renewal and the minors

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from Ministry of the Interior and ISTAT data

Statistical Appenices

ITALY. Quotas applications (2005-2006)

Regions	2006		2005			Variation % 2006/2005
	applications	%	applications	%	Projection	
Abruzzo	10,270	2.1	2,885	2.3	5,594	-0.2
Basilicata	2,838	0.6	913	0.7	1,770	-0.1
Calabria	13,527	2.8	3,243	2.6	6,288	0.2
Campania	27,449	5.7	6,059	4.9	11,748	0.8
Emilia Romagna	55,960	11.7	20,106	16.3	38,984	-4.6
Friuli V. G.	11,233	2.4	3,799	3.1	7,366	-0.7
Latium	61,984	12.9	15,278	12.4	29,623	0.6
Liguria	10,906	2.3	2,284	1.8	4,428	0.4
Lombardy	90,024	18.8	16,381	13.3	31,761	5.5
Marche	15,345	3.2	4,037	3.3	7,827	-0.1
Molise	1,532	0.3	568	0.5	1,101	-0.1
Piedmont	38,613	8.1	7,808	6.3	15,139	1.8
Prov. Aut.Bolzano	486	0.1	1,109	0.9	2,150	-0.8
Prov. Aut. Trento	386	0.1	1,224	1.0	2,373	-0.9
Puglia	12,015	2.5	2,266	1.8	4,394	0.7
Sardinia	4,580	1.0	1,121	0.9	2,174	0.1
Sicily	15,080	3.2	2,725	2.2	5,284	0.9
Tuscany	35,292	7.4	15,197	12.3	29,466	-4.9
Umbria	11,894	2.5	2,348	1.9	4,553	0.6
Val D'aosta	864	0.2	223	0.2	432	0.0
Veneto	58,679	12.3	13,993	11.3	27,131	0.9
North East	126,744	26.5	40,231	32.6	78,004	-6.1
North West	140,407	29.3	26,696	21.6	51,761	7.7
Centre	124,515	26.0	36,860	29.8	71,468	-3.8
Islands	19,660	4.1	3,846	3.1	7,457	1.0
South	67,631	14.1	15,934	12.9	30,895	1.2
Italy	*478,957	100.0	**123,567	100.0	239,585	-

First 25 provinces for number of applications (2006)

Rome	50,000	Vicenza, Perugia	9,000
Milan	35,000	Salerno	8,000
Turin, Brescia, Naples	20,000	Cuneo, Mantova, Udine,	
Bologna	14,000	Reggio Emilia, Forli/Cesena, Ancona,	
Verona, Venice, Padua	12,000	Latina, Caserta, Reggio Calabria	5,000
Treviso Modena Florence	10,000	Total first 25 provinces	261,000

* A second check has raised the number of applications to almost 540,000.

** A second check has raised the number of applications to 250,000, validating substantially the projection.

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from Ministry of Interior and Ministry of Labour data

Statistical Appendices

ITALY. Rejections, expulsions and returns (2005)

Regions	Rejected frontiers	Rejected Chief of Police	Exec. order Chief of Police	Exec. order to leave	Expelled by State Police	Expelled by Judicial Auth.	Readmitted	Total repatriated	Total non compliant	Total involved	Repatriat. rates
Valle d'Aosta	131	-	-	-	59	3	136	329	273	602	54.7
Piedmont	2,543	8	-	-	2,019	190	2,160	6,920	6,134	13,054	53.0
Lombardy	6,715	203	165	2,052	1,980	187	38	11,340	10,250	21,590	52.5
Liguria	155	1	-	-	411	47	2,756	3,370	2,827	6,197	54.3
North West	9,544	212	165	2,052	4,469	427	5,090	21,959	19,484	41,443	53.0
Trentino A. A	157	210	1	-	91	49	496	1,004	865	1,869	53.7
Veneto	375	2	6	3	835	110	588	1,919	4,246	6,165	31.3
Friuli V. G.	5,019	976	12	4	328	31	1,311	7,681	2,036	9,717	79.0
Emilia R.	207	-	69	11	1,901	64	9	2,261	6,605	8,866	25.5
North East	5,758	1,188	88	18	3,155	254	2,404	12,865	13,752	26,617	48.3
NORTH	15,302	1,400	253	2,070	7,624	681	7,494	34,824	33,236	68,060	51.2
Tuscany	61	-	11	10	646	84	-	812	2,877	3,689	22.0
Marche	199	-	50	79	43	37	1,315	1,723	2,003	3,726	46.2
Umbria	-	-	-	2	252	15	-	269	776	1,045	25.7
Latium	2,628	-	302	19	3,159	50	55	6,213	9,730	15,943	39.0
CENTRE	2,888	-	363	110	4,100	186	1,370	9,017	15,386	24,403	37.0
Abruzzo	30	-	1	-	461	16	-	508	1,516	2,024	25.1
Campania	344	7	1	2	398	48	-	800	2,161	2,961	27.0
Molise	-	-	-	-	91	3	-	94	239	333	28.2
Basilicata	-	-	-	-	27	2	-	29	392	421	6.9
Puglia	864	10	233	44	645	56	1,431	3,283	2,475	5,758	57.0
Calabria	33	501	-	4	1,038	7	-	1,583	5,021	6,604	24.0
SOUTH	1,271	518	235	50	2,660	132	1,431	6,297	11,804	18,101	34.8
Sicily	154	2,314	6	336	1,108	37	-	3,955	4,464	8,419	47.0
Sardinia	31	-	1	19	152	10	-	213	727	940	22.7
ISLANDS	185	2,314	7	355	1,260	47	-	4,168	5,191	9,359	44.5
TOTAL	19,646	4,232	858	2,585	15,644	1,046	10,295	54,306	65,617	119,923*	45.3

* The territorial distribution is slightly higher than the nationality one (116,580), because the country of origin is not always known.

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from Ministry of Interior data

Statistical Appenices

ITALY. Destination continents of foreigners repatriated from Italy (2005)

	Europe	- of which East Europe	Africa	Asia	America	Oceania	Total
Foreigners effectively repatriated (54,306)	54.9%	53.3%	19.9%	18.7%	6.4%	-	100.0
Foreigners non compliant to the order to leave (65, 617)	46.3%	46.2%	31.8%	16.6%	5.3%	-	100.0

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from Ministry of Interior data

ITALY. First 30 nationalities for forced returns (2005)

	Returns	%		Not compliant	%
Romania	14,406	26.5	Romania	17,339	26.4
Albania	4,145	7.6	Morocco	6,896	10.5
Morocco	2,943	5.4	China Pop. Rep.	3,839	5.9
Bulgaria	2,740	5.0	Moldova	3,646	5.6
Palestine	2,098	3.9	Nigeria	2,484	3.8
Irak	2,084	3.8	Ukraine	2,237	3.4
Nigeria	1,683	3.1	Tunisia	2,208	3.4
Egypt	1,624	3.0	Senegal	2,168	3.3
China Pop. Rep.	1,547	2.8	Albania	2,111	3.2
Serbia Montenegro	1,452	2.7	Algeria	1,990	3.0
Ukraine	1,351	2.5	Egypt	1,684	2.6
Moldova	1,307	2.4	Palestine	1,439	2.2
Tunisia	1,279	2.4	Irak	1,375	2.1
Afghanistan	955	1.8	Bulgaria	1,359	2.1
Brazil	941	1.7	India	1,267	1.9
India	915	1.7	Serbia Montenegro	1,174	1.8
Turkey	886	1.6	Bangladesh	1,156	1.8
Croatia	792	1.5	Brazil	1,002	1.5
Russian Fed.	740	1.4	Ecuador	842	1.3
Algeria	658	1.2	Russian Fed.	827	1.3
Bolivia	614	1.1	Pakistan	702	1.1
Senegal	600	1.1	Ghana	652	1.0
Pakistan	563	1.0	Macedonia FYR of	479	0.7
Macedonia FYR of	556	1.0	Perù	457	0.7
Bangladesh	523	1.0	Liberia	406	0.6
Bosnia Herzegovina	421	0.8	Cote d'Ivoire	402	0.6
Switzerland	329	0.6	Bosnia Herzegovina	383	0.6
Ghana	329	0.6	Afghanistan	302	0.5
Perù	329	0.6	Turkey	298	0.5
Other countries	5,496	10.1	Other countries	4,493	6.8
TOTAL	54,306	100.0	TOTAL	65,617	100.0

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from Ministry of Interior data

Statistical Appenices

ITALY. Foreigners transited through the CPTs (2005)

<i>Nationalities</i>	<i>Total</i>	<i>Repa- triated</i>	<i>Return rate</i>	<i>Asylum</i>	<i>Released</i>	<i>Escaped</i>	<i>Non valitat.</i>	<i>Various motives</i>	<i>Arre- sted</i>	<i>Deaths</i>
Agrigento-Lampedusa	2,474	1,845	74.8	14	460	13	0	120	22	0
Bologna - Ex Cas. Chiarini	1,250	751	60.1	15	188	38	179	61	18	0
Brindisi (Restinco)	668	421	63.0	13	165	4	14	43	8	0
Caltanissetta	1,289	853	66.2	12	364	1	19	35	5	0
Catanzaro	518	242	46.7	7	230	15	16	5	3	0
Kroton C.P.T.	1,434	1,131	78.9	3	229	7	4	59	1	0
Lecce "Regina Pacis"	79	28	35.4	8	22	0	2	19	0	0
Milan (V. Corelli)	1,462	993	67.9	52	289	12	34	58	24	0
Modena (la Marmora)	478	231	48.3	0	180	4	32	26	5	0
Ragusa (via Colaiani)	591	386	65.3	14	116	13	17	45	0	0
Rome-Ponte Galeria	3,681	2,551	69.3	16	509	34	301	264	5	1
Turin (v. Brunelleschi)	1858	1,458	78.5	26	118	7	121	117	11	0
Trapani	381	197	51.7	13	118	12	3	31	7	0
Total	16,163	11,087	68.6	193	2,988	160	742	883	109	1

SOURCE: Calculations by Caritas/Migrantes Dossier Statistico Immigrazione from Ministry of Interior data