



Provisional version

The arrival of mixed migratory flows to Italian coastal areas

Report¹

Committee on Migration, Refugees and Displaced Persons
Rapporteur: Mr Christopher Chope, United Kingdom, EDG

Summary

Since 2011 and the 'Arab Spring' a large number of migrants, including persons with international protection needs, have reached Italian coastal areas. While the figures have dropped from the level of 62,695 persons in 2011, they are starting to rise again, with increasing numbers of Syrians making their way to Italy.

Italy has, unfortunately shown itself, once again, ill prepared for what appears to be a new surge of mixed migration flows, and appears to have learnt few, if any, lessons from its experiences in 2011.

The Italian authorities must develop a coherent policy to detect, identify, inform and register irregular migrants, asylum seekers and refugees and to send back individuals not in need of international protection. They also have to ensure that the conditions in reception and detention centres meet international standards. The Italian authorities furthermore need to ensure that persons seek asylum in Italy, as their first country of arrival, in order to prevent asylum forum shopping elsewhere in Europe.

Member states of the Council of Europe are called upon, without exception, to meet their obligations of rescue at sea and to establish clear rules of engagement to ensure that those who are rescued at sea can seek asylum and are not caught up in bureaucratic wrangling over the appropriate destination for their disembarkation.

¹ Reference to Committee: Doc. 12557, Reference 3766 of 15 April 2011.

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A. Draft resolution²

1. Since 2011 a large number of migrants from Asia, Africa and the Middle East have reached Italian coastal areas. In early 2011, following the 'Arab Spring', international attention particularly focused on the large number of migrants, many with international protection needs, mainly leaving Tunisia, arriving on the tiny and most southern island of Lampedusa by boat. The response of the Italian authorities was to create a state of emergency in February 2011 with central government funding provided for a network of reception centres in Sicily and on the Italian mainland in which migrants could be housed.
2. Despite a significant reduction in the number of arrivals in 2012 from the level of 62,692 recorded in 2011, emergency funding continued to be made available until the end of 2012. There is little evidence, however, that the system for receiving, identifying and processing mixed migration flows was made fit for purpose.
3. In the latter part of 2013, there has been another sharp increase in arrivals on Italy's coast. This has been detected both by the Italian Government and by UNHCR. Official figures from the Italian Minister of the Interior show that, in the six weeks to 10th August 2013, 8,932 persons reached Italy by sea, as many as in the whole of the previous six month period. According to UNHCR the total figure for arrivals up until the 6 September 2013 is 21,870 persons, including 5,778 Eritreans, 3,970 Syrians and 2,571 Somalis. Currently of great concern is the increase in the number of Syrians, with 3,300 arriving in a 40 day period, prior to mid-September, according to UNHCR.
4. Italy has, once again, shown that it is ill-prepared for what seems to be a new surge of mixed migration flows. The Government seems to have learnt few, if any, lessons from its experiences in 2011.
5. Regrettably, insufficient incentives are being given to persons to seek asylum in their first country of arrival, and the actions of the Italian authorities are having the consequence, whether intended or not, of facilitating asylum forum shopping. This threatens to undermine confidence in the European legal order and the Dublin Convention.
6. Beyond the official figures, there is convincing anecdotal evidence that even higher numbers of persons than those officially detected are arriving in Italy by boat, mainly leaving from Turkey. There are well established people smuggling networks operating with the objective of landing these persons on the Italian coast so that they can then travel undetected to other more northern countries within the Schengen Zone.
7. Recent events have confirmed the confusion and chaos which still surround incidents in which irregular migrants, asylum seekers and refugees are rescued from vessels in the Mediterranean. The incidents in August 2013 involving two commercial ships, the *Salamis* and the *Akadent*, highlight the need for urgent clarification of responsibilities, not least because commercial shipping may be deterred from rescuing those at sea if it believes that the consequence will be substantial delay and expense in the transport of cargo.
8. The Assembly therefore recommends that the Italian authorities should:
 - 8.1. develop a coherent policy to detect, identify, inform and register irregular migrants, asylum seekers and refugees who arrive on its shores, and return individuals not in need of international protection;
 - 8.2. put a reliable system in place to establish who is entitled to asylum and international protection to protect genuine refugees and asylum seekers from suffering;
 - 8.3. provide evidence to the Parliamentary Assembly and international monitoring bodies that conditions and standards in reception and detention facilities are in compliance with international standards;
 - 8.4. ensure that any bilateral agreements containing return provisions that they negotiate are transparent and include adequate human rights guarantees.
9. The Assembly calls on Council of Europe member states to:

² Draft resolution adopted unanimously by the Committee on 2 October 2013.

9.1. comply, without exception, with the obligation to rescue persons in distress at sea and to guarantee protection from *refoulement*;

9.2. establish clear rules of engagement to ensure that those who are rescued at sea can seek asylum and that those ships which rescue them are not caught up in bureaucratic wrangling over the appropriate destination for those people whom they have rescued.

10. Recalling the Assembly's Resolution 1820 (2011) on 'Asylum seekers and refugees in Europe sharing responsibilities', the Assembly finally recommends that all Council of Europe member states and the European Union display greater solidarity with Italy and other European front line countries currently faced with arrivals from the southern Mediterranean. In return, Italy and other European front line countries need to assure their European partners that they will take all necessary measures to ensure that persons who enter the country illegally do not continue their journey into other member states of the Council of Europe.

B. Explanatory memorandum by Mr Chope, Rapporteur

1. Introduction

1. The increased arrival of mixed migratory flows on Europe's Southern shores has kept the Parliamentary Assembly's attention for more than a decade.³ Alarmed by new arrivals of irregular migrants, asylum seekers and refugees, the Assembly held an urgent debate in April 2011 and adopted [Resolution 1805 \(2011\)](#) on *The large-scale arrival of irregular migrants, asylum seekers and refugees on Europe's southern shores*.

2. The current report however deals more particularly with the specific challenges faced by Italy. In 2011, a total of 62 692 non-nationals managed to cross the Mediterranean Sea mainly from Tunisia and Libya, as a result of the tensions in the southern Mediterranean countries, and landed on Italian shores.⁴ In 2012, 12 000 people arrived in Italy by boat. According to the Italian Minister of Interior, by mid August 2013, over 17 000 migrants landed in Italy. Between 1 July 2013 and 10 August 2013 alone, 8 932 persons crossed the Mediterranean Sea and reached the Italian shores. By late August, hundreds more migrants reached Italy on dinghies.

3. In preparing the report I visited Lampedusa together with the members of an ad hoc Sub-Committee of the Parliamentary Assembly from 23 to 24 May 2011, when the arrivals were at a peak.⁵ I also returned to Italy in order to visit Rome and Sicily from 9 to 11 October 2012. I would like to thank the Italian authorities and all interlocutors for the information provided during these visits.

4. In 2011 the increased influx of mixed migratory flows and the way in which the Italian authorities dealt with the presence of irregular migrants, refugees and asylum seekers had significant repercussions both for the country and the human rights of the persons concerned. It also had repercussions for the rest of Europe, as a number of those arriving in Italy made their way to other European countries.

5. It is, however, worth underlining that Italy's response was, and is, insufficient insofar as it is mainly based on dealing with an 'emergency' situation. Even though 2011 was in many respects a year out of the ordinary, due to the Arab Spring, boat arrivals in a country with a coastline and border of over 7 000 km at Europe's southern borders should not be a surprise and Italy has been faced with such arrivals for many years. An emergency response to a situation which repeats itself regularly, as 2013 has once again demonstrated, is not an adequate answer.

6. Because of the context of dealing with the Arab Spring in 2011, one could have expected greater European solidarity in assisting Italy. This assistance however did not materialise.

2. Arrivals to Italian coastal areas and Italy's emergency based response

7. In 2008, nearly 37 000 people arrived on Italian shores. In 2009 and 2010, strengthened border control measures and increased co-operation with southern Mediterranean countries to prevent departures and to return irregular migrants led to a significant decrease of arrivals to Italy and numbers went down to less than 9 600 and 4 400 respectively.

8. According to statistics provided by the Ministry of Interior, the 2011 arrivals in the context of the Arab Spring, however, reached a new dimension with a total of 62 692 persons landing on Italian shores. Among the mixed arrivals were about 32 800 persons of different nationalities who mainly fled the conflict in Libya and who subsequently requested international protection, as well as 29 900 irregular migrants, most of whom came from Tunisia and Egypt. More than 57 700 third country nationals arrived on the island of Lampedusa. In contrast, the number of arrivals went down in 2012, when only about 12 000 people arrived by boat to Italy. In the spring and summer 2013, a number of boats carrying hundreds of migrants and refugees arrived in Lampedusa. Over 17 000 boat people have landed on Italian shores so far this year.

³ See particularly [Resolution 1872 \(2012\)](#) on *Lives lost in the Mediterranean Sea: who is responsible?*, [Resolution 1821 \(2011\)](#) on *The interception and rescue at sea of asylum seekers, refugees and irregular migrants*, [Resolution 1637 \(2008\)](#) on *Europe's "boat people": mixed migration flows by sea into southern Europe*, and [Resolution 1521 \(2006\)](#) on *The mass arrival of irregular migrants on Europe's Southern shores*.

⁴ Statistics provided by the Department for Civil Liberties and Immigration of the Ministry of the Interior.

⁵ Ad hoc Sub-Committee on the large-scale arrival of irregular migrants, asylum seekers and refugees on Europe's southern shores, [Report](#) on the visit to Lampedusa (Italy), 23-24 May 2011.

9. The coast guard and the customs police have undertaken invaluable efforts to save lives at sea. In contrast, people smugglers have taken advantage of the unstable political conditions in Tunisia, Egypt and Libya to organise and facilitate thousands of unsafe departures. It has been estimated that more than 1 500 irregular migrants, asylum seekers and refugees drowned or went missing in 2011 while attempting to cross the Mediterranean Sea.⁶

Italy's policy response to arrivals in 2011: The "North African Emergency"

10. In 2011, Italy was confronted with serious difficulties in coping with these increased arrivals, although the number of irregular migrants, asylum seekers and refugees seemed to remain manageable for a country such as Italy with a population of over 60 million people.

11. As soon as the first boats arrived on Italian shores, the Government declared, by decree of 12 February 2011, a state of humanitarian emergency. In October 2011, the so-called "North African Emergency" was extended until 31 December 2012. Within this framework, the Government adopted urgent measures to deal with the large-scale arrivals.

12. In particular, the tiny island of Lampedusa was faced with a local emergency, with tens of thousands of people landing in the first half of 2011. These persons found themselves stuck on the island and had to sleep on the streets or at the docks, due to limited reception capacities and delays in transfers. Although the conditions in the reception centre had improved when I visited Lampedusa with the ad hoc Sub-Committee delegation in May 2011, they were still unsuitable for holding people for a prolonged period.

13. Italy remains a frontline European country for sea arrivals of mixed migration flows. The Arab Spring demonstrated once again that, however strict the border management policies might be, due to its geographical situation Italy must always be ready to face large scale sea arrivals.

3. Italy's policy towards irregular migration: between resolute fight and *laissez-faire*

14. Measures to control borders and counter irregular migration are a legitimate prerogative of the State. They are essential for an effective migration management system. These measures however have to be carried out in full respect of international human rights and refugee standards, and in particular the principle of *non-refoulement*.

3.1. Criminalisation of migration

15. For several years, Italy has been fighting irregular migration at its borders, including by implementing a push-back policy aimed at intercepting migrants' boats on the high sea and returning them to Libya. While this policy has proven successful in reducing arrivals by sea, it has been questioned in terms of conformity with international human rights and refugee law. Italy was eventually condemned by the European Court of Human Rights for its push back practices in a judgment in the case of *Hirsi and Others v. Italy*.⁷

16. Although the Italian policy has not been officially revoked, the Italian Government has indicated that they will no longer undertake push-back operations and respect the European Court of Human Rights' judgment in the *Hirsi and Others* case.

17. The adoption of the so-called "Bossi-Fini" law in 2002 and the "Dalò security package" in 2009 are other examples of laws that have tightened measures affecting irregular migrants (referred to as "illegal immigrants") and criminalised their "illegal entry and stay in the territory of the State".

18. Following the landings on Lampedusa in 2011, the Italian authorities continued their strict approach of countering irregular migration. In March 2011, the chief criminal prosecutor of Agrigento in Sicily started to open criminal cases on charges of "illegal immigration" against around 6,000 Tunisians who arrived on the island following mid-January 2011. Fishermen have also been prosecuted for smuggling irregular migrants

⁶ UNHCR, *More than 1,500 drown or go missing trying to cross the Mediterranean in 2011*, News Story, 31 January 2012. See also [Resolution 1872 \(2012\)](#) on *Lives lost in the Mediterranean Sea: who is responsible?* (Report Doc. 12895) and the 'left to die' boat incident as one of the most notorious examples of failed rescue operations.

⁷ European Court of Human Rights, Grand Chamber judgment of 23 February 2011 in the case of *Hirsi and Others v. Italy*, Application no. 27765/09.

into Italy. With growing numbers of arrivals it became apparent that criminal sanctions alone would not provide an adequate solution to the problem.

19. As far as push backs are concerned, a worrying incident occurred in August 2013. The Italian authorities instructed two commercial ships (the *Salamis* and the *Akadent*) to rescue two groups of migrants in distress off the Libyan coast but then ordered them to transport the migrants back to Libya. The captain of the *Akadent* did as instructed. This raises the issue of “push-backs” as it is clear that none of the migrants were given the chance to claim asylum. Furthermore, this incident also highlights, once again, the difficulties commercial vessels are faced with once they rescue migrants. By contrast, the captain of the *Salamis* refused to sail to Libya to disembark the migrants. For several days, Malta and Italy refused to allow the persons on board to be disembarked on their territory. Finally, Italy agreed to take these persons. This kind of situation not only has serious economic repercussions for the commercial vessel but raises serious humanitarian and legal issues in relation to the migrants on board.

20. As indicated, many of the measures adopted by the Italian authorities were not only controversial, but also brought Italy problems in terms of its international obligations. These measures also however had an impact on those who succeeded in entering the country.

3.2. Detention policies

21. According to Italian law, foreign nationals without any legal permit to stay can be detained in administrative detention facilities, known as Centres for Identification and Expulsion (CIEs), for a period of 30 days, renewable for a maximum period of 18 months, both for identification purposes and pending their removal.

22. Currently, 13 CIEs are operating in Italy, with a total capacity of over 2000 places. According to the Ministry of Interior, more than 7 700 irregular migrants, including about 900 women, were detained in 2011 following the boat landings. Almost half of them were Tunisian nationals. Since 2011, the number of persons detained has fallen and on 5 November 2012, less than 800 migrants were held in migration detention throughout Italy.⁸

23. In addition, Centres for first aid and reception (CSPAs) were also used to detain irregular migrants upon arrival. This was the case for Lampedusa’s main reception centre, which at times has been functioning as a migrant’s detention centre in practice without providing for the necessary safeguards applicable to persons detained.⁹

24. The conditions of detention differ considerably throughout Italian CIEs, including centres where the conditions are deemed sub-standard with respect to the services provided. Only a few centres reach satisfactory standards. Indeed, there is no regulation of the minimum standards for detention facilities.

25. The large number of riots and regular escapes, but also of suicide attempts among migrants displays their frustration and despair. In 2011, an unprecedented series of riots occurred and 787 migrants managed to escape from Italian CIEs.¹⁰ Whole sections of the centres in Turin, Rome, Milan, Gradisca, Brindisi, Modena and Bologna were devastated and burned during the riots and the reception pavilion in the centre on Lampedusa was completely destroyed by arson. Only three days before I visited the CIE Contrada Milo in Trapani, Sicily, 40 migrants succeeded in escaping from the detention centre.

26. Asylum seekers may also be detained, if they have been issued with an expulsion order prior to their application for asylum, or if they have previously served a prison sentence. Alternatives to detention are not applied. In this context, UNHCR reported difficulties they face in accessing the asylum procedure during detention.

27. Furthermore, there is currently no independent monitoring procedure in place that allows for regular visits to places of detention. However, the Italian Senate approved, in October 2012, the law to ratify the Optional Protocol to the UN Convention against Torture and other Cruel Inhuman or Degrading Treatment or

⁸ Statistics provided by the Department for Civil Liberties and Immigration of the Ministry of the Interior.

⁹ Council of Europe Commissioner for Human Rights, [Report](#) by Thomas Hammarberg following his visit to Italy from 26 to 27 May 2011, 7 September 2011, paragraph 61.

¹⁰ Medici per i diritti umani (MEDU – Doctors for human rights), *L’iniquo ingranaggio dei CIE (The unfair mechanism of CIEs)*, July 2012.

Punishment (OPCAT), which allows for the establishment of National Preventative Mechanisms (NPMs). Two options are currently envisaged: creating a new specialised institution or establishing a new National Human Rights Institution.

28. The extension of the maximum period of detention does not appear to have resolved the issue of irregular migration management and raises serious human rights challenges, including the problem that the detention facilities are not adapted to long term detention. In practice, I was informed that migrants are no longer detained more than six months, which renders the existence of a maximum detention period of 18 months unnecessary. A closer monitoring of the detention facilities should be put in place and minimum standards should be defined.

3.3. Return policies

29. Once they have entered the country, it is not an easy task to return irregular migrants. The ability to effectively perform expulsions depends largely on the effective co-operation by the countries of origin in terms of identification and readmission.

30. Since the beginning of the 2011 migratory arrivals, Italy entered into agreements with the new North African governments. These co-operation and readmission agreements were concluded in continuity with previously signed friendship agreements between Italy and the former regimes, and focused on reinforcing border controls through preventing irregular migration and fighting smuggling and trafficking. They also facilitated the return and readmission for those who crossed the Mediterranean.

31. On 5 April 2011, Italy reached an agreement with Tunisia following which Italy granted a six months temporary residence permit to most of the Tunisian migrants who arrived in Italy between 1 January and 6 April 2011 in exchange for strengthened border controls with a view to preventing departures by Tunisia. As a consequence, irregular departures from Tunisia declined significantly. Approximately 18 000 humanitarian permits were issued by the Italian authorities. These were extended on request in October 2011 for about 5 000 Tunisians and again automatically in May 2012.

32. Recent readmission agreements between Italy and both Egypt and Tunisia have however been criticised, as they provide for simplified return procedures for new arrivals and allow direct repatriations, which might amount to collective summary removals. Based on these agreements, nationals from these countries are generally processed within 48 hours after landing with the assistance of consulate authorities.

33. Some steps have also been undertaken to increase the number of voluntary returns. The authorities recognised voluntary return as one option to overcome the North African Emergency and agreed on allocating the sum of 1 200 euros per person (in comparison with 200 euros previously), in addition to social and professional reintegration measures in the country of origin.

34. While a swift processing of irregular migrants presents an effective means to avoid lengthy detention periods, accelerated procedures raise several concerns on their conformity with the procedural guarantees set out in the EU Returns Directive, the European Convention on Human Rights and the Schengen Borders Code. If persons are not given time to make an asylum claim, they may also raise concerns under asylum law.

35. In this context it should be said that the Parliamentary Assembly has already called on Council of Europe member states to carry out returns only in accordance with the "Twenty Guidelines on forced return", adopted by the Council of Europe Committee of Ministers in May 2005. It also called on Mediterranean member states receiving mixed flows of irregular migrants, refugees and asylum seekers to "promote the use of assisted voluntary return programmes with the support of IOM".¹¹ Furthermore, Italy should only sign bilateral readmission agreements with countries providing full guarantees in terms of respect of human rights. A comprehensive approach to mixed flows, accelerated procedures and assisted voluntary returns should be prioritised.

3.4. Informal way out of the country

¹¹ [Resolution 1637 \(2008\)](#) on *Europe's "boat people": mixed migration flows by sea into southern Europe*. See also [Resolution 1742 \(2010\)](#) on *Voluntary return programmes: an effective, humane and cost-effective mechanism for returning irregular migrants*.

36. Once detained irregular migrants have been identified, they may be returned to their country of origin. However, many persons cannot be identified and leave the centres without any documentation or legal status. They are issued an order to leave Italy within 7 days, which is necessarily left without effect. This results in a large number of irregular migrants who find themselves in the streets without having been returned and without any assistance. In addition, many people do not want to be identified and try to continue their journey to other European countries.

37. Some officials did not hide from me that, given these difficulties, irregular migrants may unofficially be encouraged to go up North and cross over the Italian border into other Schengen countries. This was obvious in the case of the Tunisians in 2011. Many of them drifted into irregularity and moved on to other European countries, as the permits granted by Italy allowed for travel within the Schengen zone.

38. The ease with which irregular migrants can find a way out of Italy and drift north into the rest of Europe is an issue which other European countries have criticised Italy about and is one which will need to be tackled. It was particularly obvious in the case of Tunisians in 2011, and it will continue to be a bone of contention until dealt with.

4. The consequences of Italy's policies towards arrivals: structural deficiencies

39. Due to the fact that the Italian authorities previously focussed mainly on combating irregular migration, the organisation of the public reception scheme presents certainly the weakest aspect of Italy's asylum and migration management system. In recent years, some progress has been achieved, but this is largely insufficient.

4.1. 2011: A delayed reply to an immediate problem

40. In the context of the 2011 arrivals to Italian coastal areas, the situation was particularly critical on Lampedusa. As mentioned earlier, in March 2011, conditions on the island and its reception centres (also used as detention centres) were extremely bad, due to massive overcrowding and the island's dependence on the mainland for provision of basic goods and services. According to the Italian authorities, at times, more than 6 500 people were present on Lampedusa and thousands were forced to sleep outdoors. The belated official response and considerable delays in transferring arrivals added to the humanitarian emergency on Lampedusa, which could have been avoided. Only in mid-March 2011, when the situation had deteriorated to the point that it became unmanageable, did the Italian authorities effectively start to regularly transfer thousands of migrants by ship or military planes to Sicily and other locations in Italy. This allowed the situation to improve.

41. Once the immediate reception needs were taken into account, there was still a need to deal with the specific reception needs of asylum seekers.

42. The existing capacities in Italy in terms of reception were nevertheless insufficient to meet the increased needs. More than 34 000 asylum applications had been lodged in Italy in 2011.¹² According to UNHCR, Italy only disposes about 5 000 regular reception places. In addition, SPRAR (Protection System for Asylum-seekers and Refugees) projects cannot host more than 3 000 people, with 500 places reserved for vulnerable persons. I therefore welcome the intention by the Italian authorities to increase the reception capacity of the SPRAR system to up to 5 000 places.

43. Italy's reception capacities of asylum-seekers thus remain limited. Italy also faces abuse of the asylum system. Numerous economic migrants claim asylum and overload the protection system, thereby weakening the system for those who genuinely need it. In 2011, migrants from the "North African Emergency" (mostly third nationals coming from Libya) were channelled into the asylum procedure almost automatically by the Italian authorities. The number of regular reception places is already small, even for the years without an increase of arrivals, so clearly insufficient to meet the increasing needs in 2011. I therefore welcome the intention by the Italian authorities to increase the reception capacities. This is badly needed, to deal with the regular number of sea arrivals.

4.2. An important effort weakened by mismanagement

¹² UNHCR, *Asylum levels and trends in industrialized countries, 2011*, 27 March 2012

44. In the context of the declaration of the North African Emergency, the central Government asked regional and local authorities to identify additional facilities in a remarkable effort to provide the reception capacity required. Both agreed on an emergency reception plan, which set out criteria for the distribution of new arrivals across the country, based on regional quotas. More than 20 000 refugees, asylum seekers and migrants were hosted in the framework of the plan throughout Italy. Between 2011 and 2012, the Italian Government spent more than 1.2 billion euros on their reception.

45. But Italy had to face major problems regarding the mismanagement of these governmental funds by the Civil Protection Department. A particular problem was that the funds did not go to the reception centres that had been providing accommodation for refugees and asylum seekers who arrived during the North African Emergency. In effect the contracted Civil Protection system was gradually infringing on the SPRAR reception system, which was bypassed by the central authorities to deal with the emergency situation. When this situation became clear, the Civil Protection Department was officially excluded from the management of the North African Emergency in June 2012. However, the core problem remains the lack of structural readiness of the Italian authorities and the weakness of the ordinary system.

46. These errors have however seriously hampered integration measures. In many cases, recognised refugees and asylum seekers have not been able to benefit from the assistance normally provided to them and have struggled to access housing. Thousands of them have become homeless.

47. The situation was particularly worrying in Rome, given that 1 000 new asylum seekers were moved to the city. In May 2012, over 1 700 persons – the majority coming from Afghanistan, Sudan, Ethiopia, Somalia and Eritrea and having obtained residence permits – were living in large occupied buildings, informal squats, or even on the streets in squalid conditions. The Council of Europe Commissioner for Human Rights criticised the “intolerable circumstances” faced by refugees and other beneficiaries of international protection who were forced to live in “destitute conditions”, which he considered “unacceptable” in a country like Italy.¹³

4.3. After the emergency – sustainability?

48. During meetings I held in Rome in October 2012, I also discussed the implications of the planned ending of the North African Emergency funding on 31 December 2012 for the 20 000 persons who arrived during the emergency period and who were hosted in the various reception facilities throughout the country. While all outstanding asylum applications were assessed before that date – according to UNHCR around 30% of applicants were granted protection – the authorities considered that providing vocational training¹⁴ and a work permit alone would be sufficient to allow recognised refugees to sustain themselves. While I was told by the authorities that all necessary legislative steps would be taken in due course to ensure that the ending of the North African Emergency funding on 31 December 2012 would not have severe consequences on the situation of those who benefited from it, I have not been able to obtain any information proving that this was indeed the case, despite my official request to the Italian delegation to provide me with a relevant update. On the contrary, it seems rather that the emergency measures ended and that the situation went back to the previous routine without working on the problems at their roots.

49. Another concern was the category of people who were not granted any protection status, but could not be sent back to their countries of origin or to Libya where they came from. Asylum claims of migrants of various nationalities, who stayed without any legal status in Libya and were forced to flee the conflict to Italy, were largely denied international protection by the Local Commissions. Thus thousands of people risked drifting into an irregular situation. I was informed that the Government considered reassessing their asylum claims and granting them humanitarian protection, making use of EU funding. Furthermore, the Italian authorities adopted an amnesty law, which provided the opportunity for certain undocumented migrants who were working and who had the agreement of their employer to regularise their status between 15 September and 15 October 2012. About 100 000 persons have applied for this, including some of those caught up in the Arab Spring exodus.

50. The sudden increase in numbers of people arriving from North Africa certainly put Italian reception capacities under strain and revealed structural deficiencies concerning the emergency-based approach in managing mixed migration flows. The near absence of an integration framework for refugees and other

¹³ Council of Europe Commissioner for Human Rights, *For human rights protection, Italy needs a clear break with past practices*, Press release after the Commissioner's visit to Rome between 3 and 6 July 2012.

¹⁴ The Government-financed programme to facilitate access to the labour market was however limited to 1 000 persons.

beneficiaries of international protection and the lack of support available for these persons has, as a result, now become even more apparent and problematic.

5. The European dimension of arrivals: Europe's insufficient response

51. I have described above the difficulties encountered by Italy in dealing with the new arrivals in 2011 and the lack of an adequate response. The Italian authorities did however promptly call on the European Union and its member states for assistance in dealing with the problem.

5.1. Financial and operational assistance provided to Italy

52. The European Union replied to Italy's appeal by allocating supplementary emergency funding of € 25 million, in addition to the € 75 million Italy had at its disposal in 2011, through the European Commission's four migration-related funds. This money allowed the financing of a range of costs, including transport from Lampedusa to Sicily or to the mainland, as well as the improved reception, screening capacity and return of irregular migrants.

53. Operational assistance was provided via the EU's border agency Frontex which stepped up maritime operations and surveillance in response to the arrivals. Joint operation 'Hermes' took place from 20 February 2011 to 31 March 2012. This operation, requested by Italy, aimed at implementing coordinated sea border activities to control irregular migration flows from Tunisia towards the south of Italy, mainly Lampedusa and Sardinia. Frontex also deployed screening and debriefing experts to Sicily and the Italian mainland to gather information needed to analyse migrants' nationalities, and to detect and prevent possible criminal activities.

54. In the aftermath of the arrivals in 2011, a number of measures to better cope with large-scale arrivals have also been taken by the EU at policy level. These include an EU Action on Migratory Pressures – A Strategic Response “to prevent and control existing pressures that derive from illegal immigration as well as abuse of legal migration routes”. This is based on a broader perspective stressing the need to strengthen controls at the Greek-Turkish border and to prevent irregular migration via the Western Balkans. This shows that the issue is one which is much broader than that affecting the Italian coast in 2011.

5.2. The missed opportunity for intra-European solidarity

55. One can sympathise with the Italian authorities and understand their difficulties in dealing with a sudden large influx of sea arrivals. However, Italy's response to these arrivals in some ways worsened the situation. The belated response was political and insufficient. Italy wanted to send a message to its neighbouring countries and to the whole of Europe that it was not able to cope, and that Europe should act and share the burden.

56. Italy's policy response of providing irregular migrants with temporary residence permits, allowing them in practice to travel freely inside the Schengen area, did not help convince other EU member states to share responsibility. Many considered this move irresponsible and counterproductive, and in the end – had no other effect than to jeopardise potential efforts for more solidarity and responsibility-sharing.

57. It is a regrettable missed opportunity for more European solidarity, since the 2011 Arab Spring was a particular challenge. Many refugees and asylum-seekers had no other choice but to flee conflicts and war, putting their very lives at risk on unseaworthy boats. Member states of the Council of Europe have to show more solidarity with the “front-line” states, as I already stated in my report on “Asylum seekers and refugees: sharing responsibilities in Europe” (PACE Doc. 12630). The large scale arrivals of refugees and asylum-seekers following the Arab Spring should have been a test case for more solidarity. The new test case is Syria, but indications that Europe will do better with the refugee situation engendered by this crisis, are not, for the moment, promising

6. Conclusion

58. The large scale arrival of migrants in Italian coastal areas resulting from the unrest surrounding the 'Arab Spring', was a unique event. Italy, however, has become a transit destination for tens of thousands of economic migrants as well as for asylum seekers and refugees. Currently, with the relaxation of visa requirements for those travelling to Turkey from the Maghreb countries, the preferred route for many economic migrants is via the Mediterranean coast of Turkey by boat to the shores of eastern Italy. Italy,

therefore, needs to face up to the reality that the arrival of mixed migratory flows is not a 'one-off' but continuing.

59. During the last decade, Italian migration policy almost exclusively focussed on countering irregular migration and preventing migrants entering Italian territory. One major aspect of this policy was the repeated declaration of the state of emergency to enable the adoption of "extraordinary" and *ad hoc* measures outside of the limits set by national and international laws and regulations. It is not surprising that the Italian Government was ill-prepared to manage the large-scale arrivals as a result of the Arab Spring, given that there was neither an integrated migration policy in place to deal with an increased number of arrivals, nor a strategy on how to deal with even larger scale emergency situations.

60. The arrivals as a result of the Arab Spring have shed light on the structural deficiencies within Italy, notably in terms of reception, detention and return. Although the emergency approach allowed the Italian authorities to take *ad hoc* measures in response to the migratory pressures, the emergency situations could have been avoided had Italy elaborated an integrated strategy with effective mechanisms to manage and receive increased arrivals of mixed migratory flows, while safeguarding the human rights of those people caught up in those flows, in particular during detention and return.

61. The Italian authorities should have been able to deal with the refugees and asylum seekers resulting from the 'Arab Spring' without the need for outside help. The problem, however, is that the Italian authorities have not adopted an effective policy of preventing economic migrants being attracted to Italy because their systems of detection and deterrence are inadequate. This has added to the pull factor of Italy as a destination for economic migration, particularly among those seeking a better life inside the Schengen area of the European Union. On my visit to Italy, I heard many anecdotes about economic migrants being encouraged to leave Italy by crossing one of the Schengen land borders. It has been a frequent complaint of the Italian authorities that most economic migrants do not want to come to Italy as their final destination. The impact of the Dublin Convention has, therefore, had the perverse effect that if economic migrants are not processed in Italy, Italy cannot then be required to accept the return of those economic migrants when they are later identified as having entered other European countries without authority. The lack of centralised Government in Italy also reduces the incentive for regional authorities to detect, detain and return economic migrants who reach Italian shores.