

MAIN FEATURES OF ITALIAN IMMIGRATION FLOWS AND STOCK

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A relative latecomer as an immigration country

In Italy, immigration flows started after the 1973-1974 oil shock, when Britain, Germany, and especially neighbouring France closed their borders. Flows were therefore partially diverted towards Southern Europe. Italy appeared to be a transit country for a certain period of time. The 1981 census revealed an unexpectedly 'high' number of foreign residents (210,937) and presence of foreigners (109,841), mainly of Italian origin. The first big influx, however, dates from later, between 1984 and 1989, when approximately 700-800,000 people entered the country. Of these, it is estimated that 300-350,000 entered or remained in Italy without a valid residence permit (Mauri and Micheli 1992). We thus begin to grasp two significant features of migration in Italy: rapid flows with substantial volumes; high proportion of undocumented immigrants.

Large volumes and rapid flows.

During the 1980s, it was Italy and Germany who received the largest influxes of immigrants in Europe. And again between 1996 and 2004, the increase in the foreign population in Italy came to 300% (Table 1a and 1b Residence permits, 1995-2003). Naturally, the sharp jumps in the inward flows are only apparent: there are peaks immediately after regularisation processes. At the beginning of 2002 the foreigners present in Italy were estimated to be about 1,362,630 (Caritas). Following the influxes and the applications presented under the provisions of the recent amnesty (L. 189/2002), at the beginning of 2004 a total of 2,193,999 foreigners were present (Caritas)¹. The increase in the number of documented immigrants between 2002 and 2004 is therefore 60%. After regularisation, immigrant stock started to increase less consistently than before. Anyway, the increase remains consistent: between the 1st of January 2007 and the 1st of January 2008 the increase of foreign residents was 16.8%. By January 1, 2008 foreign residents are 3,432,651 (Istat)².

¹ According to the Istat data, at the beginning of 2004 there were 2.228.000 permits.

² In this study, we use data from Istat --the official agency for statistics about Italy-- as well as data from Caritas. ISTAT provides data regarding residents, that is about individuals registered to the Municipality register; such registration, however, is not compulsory and this is the reason why not all foreigners seek immediate registration once they have obtained their stay permit or when they move from one Municipality into another. On the other hand, cancellation of personal information pertaining to foreigners whose stay permit has expired or foreigners who have moved to another Municipality might occur with some delay. CARITAS, instead, provides data about visitors with stay permit. In this regard, according to CARITAS, to the data provided by the Minister of Internal Affairs about registered stay permits an estimated quota can be added. Included in this quota are: first, the Visas

High share of illegal immigrants.

There are strong migratory flows everywhere, just as there are illegal entries and undocumented presences, but the phenomenon is particularly acute in Italy. It is estimated that about 2/3 of foreigners in Italy have spent some time in the country under illegal stay conditions³. Italy attracts illegal immigration more than other countries due to the difficulty of controlling such extensive borders and above all because of the size of its informal economy. This is due to the expansion of private care and domestic services as well as the proliferation of small enterprises where unregistered labour can be hidden more easily. Public action has also had an impact on this dynamic. Immigration laws have been mainly aimed at regularising the status of those already residing in Italy illegally, rather than at regulating new legal entries. This has meant that the 'back door' of illegal entry has been the only viable one. Between 1986 and 2002, the Italian governments have passed five acts of indemnity, receiving 1,450,000 petitions for regularisation, of which 634,728 happened within the last regularisation, passed in 2002 by the centre right government (2001- April 2006).⁴ Besides, the centre left government, elected in April 2006, decided to regularise a large part of nearly 500,000 unauthorised migrants who are estimated to live in the country. The chosen procedure, however, seems to be more restrictive than in the past. In fact, the new government established to grant residence permit to the migrants who had applied for it on the occasion of 2006 flow decree, passed by the previous centre right government, but whose demands were not accepted because they exceeded the established quotas of 170,000 new entries for working reasons from non EU countries. These demands, almost made by migrants already working in Italy without a proper permit of stay, are nearly 350,000. The hope is to avoid the pull effect generally caused when a new regularisation is foretold, as well as the criticism of public opinion.

This kind of measures were adopted under the pressure both of an advocacy coalition (made up mainly of Catholic religious associations, democratic lawyers' associations, part of the trade unions, academics) and business organisations.

Scattered nationalities, fragmented religions.

There are no overwhelmingly predominant nationalities: referring to Caritas data on foreign presence in Italy, by 1 January, 2007, the largest national group was that of Romanians, who made up 15.1% of the total foreign population in Italy. The next most numerous nationalities

issued to grant potential long term stay (work, family, religion, choice of residence, study, etc.) which were supposedly used for this purpose and second, an estimated number of foreign minors in Italy registered

³ Blangiardo, G. C., *I processi di immigrazione: dall'illegalità alla regolarizzazione*, in M. Livi Bacci (ed.), *L'incidenza economica dell'immigrazione*, Turin (Italy), Giappichelli, 2005, pp. 41-56.

were Moroccans (10.5%), Albanians (10.3%), Ukrainians (5.3%), Chinese (5.1%) followed by Filipinos (3,4%), Polishes (3,2%), Tunisians (2,7%) and Indians (2,3%) (Table 2a – Resident permits by main nationalities). Data on foreign residents by Istat are rather different: at first place there are Romanians (18.2%), followed by Albanians (11.7%), Moroccans (10.7%), Chinese (4.5%), Ukrainians (3.9%), Filipinos (3.1%), and Tunisians (2.7%) (Table 2b - Foreign residents by main nationalities). Neither can we talk of a predominant religion: at the beginning of 2007 – figures from Caritas and the Ministry of the Interior – 18.6% of foreigners are Catholic, 24.9% of them are Orthodox (the total number of Christian foreigners is 49,1%), and 32.6% are Muslims (Table 3 – Foreign residents by main religions).

Before 11 September 2001, Italians' attitudes towards Islam were relatively tolerant. According to a comparative survey conducted by the European Union in 2000, only 10% of Italians were against the entry of workers from Islamic countries (against a European average of 18%), 30% declared themselves ready to welcome them without restrictions (European average 17%). The attitude towards foreigners from Eastern Europe (mainly Christians) differed little: 9% did not want them, 31% were ready to welcome them. The attitude of suspicion towards Islamic foreigners – Moroccans, Albanians, Tunisians – seemed determined more by their high crime rates than their religion. If we read the list, the gypsies are at the bottom, while the Senegalese encounter a certain popularity (Figure 1 – Degree of liking/dislike of different nationalities by Italians). Since September 11, hostility has increased: a third of Italians has declared feeling more wary of people of Arab origin after the terrorist attacks on the Twin Towers (ISPO, October 2001).

OUTLINE OF IMMIGRATION AND INTEGRATION POLICIES

Italian legislation on immigration and integration is based on the Single Act no. 286 of July 25, 1998 which consists of Law no. 40 of March 6, 1998, called the Turco-Napolitano Law (from the names of the then Centre-Left Government Ministers of Social Affairs and of the Interior) and Law no. 189 of July 30, 2002, called the Bossi-Fini Law (from the name of the Minister for Devolution and the Deputy Prime Minister of the then centre-right government, the leaders respectively of the Lega Nord and Alleanza Nazionale).

Entrance and residence measures

Italian legislation envisages a planned quota system. The quota is determined by one or more annual decrees.

⁴ Some foreigners have benefited from more than one act of indemnity. Indeed, in between these acts, they have relapsed into an illegal stay status.

After the introduction of the Turco-Napolitano Law legal entry for work purposes was granted to 58,000 people in 1998 and 1999, a figure which went up to 83,000 in 2000, to 89,400 in 2001, and to 79,500 in 2002, 2003 and 2004. The expiry dates of these decrees was fixed as the end of the preceding year, but only in 2000 and 2001 were the decrees voted by Parliament before the first half of the following year. Under the terms of the new law (Bossi-Fini) the annual decree is supposed to be approved by November 30 of the previous year, and if the decision has not been taken by that date, the President of the Council of Ministers (Prime Minister) can decide independently what the quotas should be, but not going beyond the previous year's highest limit and after consulting the Regions. Two immigration decrees have been approved for 2005. The first authorises the entry of 75,000 citizens from new EU countries (Czech Republic, Estonia, Lithuania, Latvia, Poland, Slovakia, Hungary and Slovenia); the second 75,000 foreigners from non EU countries.

The decree fixing immigrant entry for 2006 has increased the quotas from non-EU countries to 170,000. Another 170,000 entries are authorised for workers coming from the new members of the EU since Italy --up to July 2006-- decided to put into practice the provisions allowing for a delay in the application of free circulation of labour for employees who are citizens of eight of the ten countries that joined the EU on May 2005.

The 2007 "flow decree" still provides an amount of 170,000 entries. Among these entries, 110,900 concern non-seasonal contract workers (65,000 of which for domestic and care workers); 7,000 switch from permits to stay for study (3,000), training (2,500) and seasonal work (1,500). Moreover, 3,000 entries are for highly qualified self-employed workers (researchers, professional workers, artists, etc) and 1,500 for non-Communitarian foreign citizens who reside abroad and concluded in their country of origin training and education programmes.

In 2008, until now just 80,000 entries of seasonal contract workers have been authorised.

Five hundred entries for non seasonal employed or for self-employed workers are reserved for persons of Italian descent, who have at least one of their parents Italian, and a similar pattern up to the third generation of ancestors, resident in Argentina, Uruguay, and Venezuela.

Finally the flow decree schedules 47,100 entries for non seasonal employed workers specifically addressed to citizens from countries which have signed agreements to accept immigrants expelled from Italy. These countries have the right to special quotas. Already under the Turco-Napolitano law, special quotas could be used to reward or penalise co-operative or non co-operative behaviour by the countries of origin, and Morocco, for example, was punished by having its quotas reduced due to lack of sufficient co-operation. Furthermore, according to the Bossi-Fini law, preferential quotas are also assigned to foreign workers of Italian origin. Special quotas – outside the general annual quotas - are also allowed

for health staff, in accordance with Ministry for Health estimates of numbers required (previously health workers came under the general quota).

The number of applications presented in occasion of the 2007 flow decree was higher than the number of established entries, reaching 700,000. A similar situation happened for the 2006 flow decree: the centre left government elected in 2006 decided to accept also the 350,000 applications that would otherwise be rejected as exceeding the quota limit. Yet, this provision appears to be a sort of “masked regularization,” since almost all of those applications were actually made by foreigners who were in Italy already but who had no stay permit. Nevertheless, this mechanism would be, probably, useful in avoiding the reapplication effect which usually takes place when a new regularization is early announced.

The Centre-Right 2002 reform gave Regional Authorities a more significant role in deciding and managing inflows (this was partly due to pressure from Regions governed by the same centre-right political coalition); a more important role is also assigned to employers and labour unions.

The Single Act of 1998 (Turco-Napolitano) had introduced the job-seeker visa, providing for the allocation of an annual quota of residence permits to people in search of a job in Italy. These workers could enter the country sponsored by private individuals, regions, municipalities and associations listed in a register. Sponsors had to deposit an economic guarantee, offer appropriate accommodation and pay the contributions for public health insurance. This sponsorship mechanism was repealed by the 2002 Bossi-Fini law. The new law tightens the link between work contract and residence permit since these are brought together under one single *contratto di soggiorno-lavoro* (residence-employment contract).

The residence permit for work is made dependent on the immigrant having a job and the employer providing housing and undertaking to pay the costs of return to the country of origin in the event of being sacked and losing the residence-work permit. The regulations governing application of the law specify that, if the employer intends to subtract accommodation costs from monthly wages (a maximum of one third may be deducted for this purpose), this must be clearly specified in the contract proposed for the residence permit. The duration of the residence permit may not be longer than the employment contract; it can be no more than nine months for seasonal workers, twelve months for temporary workers and two years for workers with permanent contracts. It can be renewed only for the same length of time (and no longer for double the length as under the previous Turco-Napolitano law).

The Bossi-Fini law states that applications for renewal must be presented 30, 60 or 90 days before the old permit expires, according to the type of permit (the Turco-Napolitano law set a limit of 30 days for all types of permit). The regulations to implement the law do however envisage the extension of the period of renewal of permits for seasonal work (the issuing of a

three-year residence permit with the indication of the period of validity for each year). In contrast, the *carta di soggiorno* is subject to more frequent renewals: this will no longer be open-ended and subject to checks every ten years, but must be renewed every five years. However, there are some simplifications in the renewal procedures: the corrective decree 241/2004 converted into 271/2004 gives the possibility for the Ministry of the Interior to stipulate agreements with public service providers (for example, post offices) and other non public bodies to collect and forward to Ministry offices the applications for renewal of residence permits or for family reunion. These procedures were then decentralized to local bodies and civil society associations, and finally to Post Offices, where foreigners are asked to pay extra fees⁵.

Always with the aim to simplify procedures, the Bossi-Fini Law also envisages that all management of matters for the hiring of foreign contract workers and related controls be entrusted to the single immigration office set up at the decentralised government office (the former prefecture).

The task of this single office (*Sportello unico*), is to help demand meet supply in the immigrant labour market, having first checked that Italians, EU citizens or immigrants already present in Italy are not available to do the work requested (this is a condition which had been abolished by the Turco-Napolitano law of 1998). Workers trained in the countries of origins will have priority. Education and job training programmes can be set up in the countries of origin by public authorities, regional bodies and NGOs; foreigners who take part in these programmes have a priority entitlement to receive a work-residence permit in the sectors concerned by the training. In particular, the 2006 'flow decree' has set a quota of 2.000 entries of this kind of workers.

In autumn 2003 the then Minister for Welfare Roberto Maroni, proposed abolishing the quotas and letting entry be decided by demand and supply, as ascertained by agencies located abroad. The proposal saw no follow-up, however.

Likewise, during the XV legislation, the Prodi Government presented a bill for the adoption of a new legislative decree on immigration. Among the main goals there was the correction of the instruments determining the entry flows through the possibility of exceeding the employed or self-employed worker quota as well as the reconsideration for entries extra quotas. Moreover, there was an estimation of appropriate ways for the meeting of working supply and

⁵ See the Convention of April 2005 between the Ministry of Internal Affairs, the National Association of Italian Municipalities (ANCI), Caritas and Acli (Italian Christian Labor Association). This Convention foresees the involvement of patronages that enable immigrants to get the necessary documentation for the issue or renewal of the stay permit in three Municipalities (Pavia, Cuneo, Modena). On February 16th 2006, another convention between the Ministry of Internal Affairs and ANCI has set the basis for the simplification of bureaucratic procedures in permit renewal procedures. However, in May 2006 a circular unified and devolved the handling of renewal procedures to the Post Office and a 70 Euro fee was introduced.

demand for domestic and care workers. In this perspective, there was also the proposal to reinsert the sponsoring or auto-sponsoring entry in Italy in order to look for a job.

According to Italian immigration law, workers who lose their job and become unemployed have the right to be registered in the unemployment register and to legally remain in Italy for six months (instead of one year as used to be the case under the Turco-Napolitano law). An employer who dismisses an immigrant worker must notify the Local Immigration Office.

The regulation about family reunion was modified in October 2008 with the approval, by the Berlusconi Government, of a legislative decree modifying the one (legislative decree n. 5, 8th January 2007) which put into effect the 2003/86/CE communitarian act about family reunion. The new norms introduce some restrictive conditions for consorts, major child and parents. In order to be rejoined the consort has to be older than 18 and not legally separated; the major child has to be dependant, not married and fully disabled; parents have to be older than 64 years old and their other sons/daughters must be not able to take care of them due to heavy and documented health problems. Moreover, the legislative decree regulates also the way of check the family ties: it provides for the DNA test in case of uncertainty.

The Bossi-Fini law increased from five to six years the period of regular and certified residence in Italy required to obtain a permanent stay permit (*carta di soggiorno*); then, in 2006, the centre left government reduced this period to five years again following ruling 2003/109/CE of the EU.

Measures for cultural integration

The 2002 Bossi-Fini law did not change the 1998 Turco-Napolitano law as far as the treatment of cultural diversity is concerned. The use of cultural mediators is foreseen, multicultural educational programmes are funded with public money and these include the teaching of the language of the country of origin. Integration is also supported by providing special support for learning the vehicular language, i.e. Italian, in schools and in special classes for adult migrants. The goal of pluralism would be better achieved by passing the bill on religious freedom, which gives more freedom and benefits to religious minorities in Italy, thus enabling the Government to overcome the difficulty of signing conventions with Islamic associations, often rife with division and under excessive control of foreign governments. As it was with other minorities, the signing of agreements would represent a strong act of public recognition of the Islamic minorities. The approval of the bill would in any case constitute an important step forward because many measures in it correspond to needs expressed by the Islamic communities concerning the respect of religious edicts on food, holidays, prayer and burial of the dead.

Civil rights

Documented immigrants are treated like Italian citizens as far as civil rights are concerned.

Civil action against direct or even indirect discrimination (for reasons of race, colour, origin, and religious belief) is allowed. Italian legislation still does not comply, however, with the E.U. directive concerning anti-discrimination in two points. The 1998 law prohibited various forms of discrimination against citizens or immigrant workers, but did not provide for a reversal of the burden of proof in cases involving discrimination against workers by employers. The Bossi-Fini law has not touched upon this issue, but the European directive on the question was ratified by Legislative Decree 215 of 9 July 2003, which does not however contain explicit provisions on the burden of proof⁶. To protect victims of enforced prostitution and “new slavery” the 1998 law already envisaged a visa for reasons of “social protection”; the victims are offered special recovery and rehabilitation programmes. More in general, in no case can women be expelled during pregnancy or in the six months after giving birth.

Minors can be expelled only if they accompany their expelled parents or, when alone, if it is possible to trace their parents in the country of origin, or some institution that can take care of them properly. A special Committee for foreign minors is in charge of taking care of the return of non-accompanied minors to their country of origin. Foreign minors who cannot be expelled are granted a special residence permit. The Centre-Right government’s reform gives a work permit to those minors who come of age and have been included for a period no shorter than 2 years in integration programmes run by local authorities, voluntary associations and NGOs, that must certify that the minors attend the programmes.

In 2006, the law no. 7/2006 was approved, punishing the practice of infibulation with sentences from 4 to 12 years, to be increased of one third if the practice concerns minors. When the surgery is performed by a health worker, this latter risks disqualification from profession from 3 to 10 years. The guilty will be punished also if infibulation is performed abroad. Furthermore, the state is committed in starting information campaigns both in Italy and in the countries of origin. Instead, the proposal of the centre-left opposition of granting the right to asylum status to women who flee their countries because they refuse infibulation has not been accepted.

Social rights

Documented immigrants enjoy the same social rights as Italian citizens, with only minor exceptions, slightly increased by the Centre-Right reform (for example, access to public

⁶ However, according to a common legal interpretation, in the event of a dispute over the “burden of proof”, the judge should in any case apply what is envisaged by the European directive, as there is no provision in contrast with this.

housing is now tied to a two-year residence permit). Restrictions to social rights, however, had already been implemented by the last Centre-Left governments. After the 1998 Single Act a circular from the social security body INPS, which had specified that access to social aid was available to immigrants, was cancelled; the Maternity Law of March 8, 2000 limited the special maternity allowances for single mothers and for mothers of a third child (or more) to holders of a permanent residence card.

One of the problems most affecting foreigners is the risk that the social and pension contributions they pay for may bring them no return in benefits. Under the Bossi-Fini law, foreigners who return to their own country without having reached the minimum necessary to receive benefits (20 years of contributions, and a minimum age of 65), lose all their contributions if they have been a member of the retributive or mixed system. Only if they are members of the contributive system can they get back what they have paid in. Under the system which existed previously, in contrast, there was a special fund at INPS (the Italian national social and pension fund) for the return of these contributions (plus 5%).

The Turco-Napolitano law had already abolished the “repatriation fund”, which gave foreigners money to return home (this fund was partially financed by a contribution of 0.5% taken out of foreign workers’ wages).

Undocumented immigrants are given basic rights – essential public healthcare and state education. The 2002 Centre-Right reform changed undocumented immigrants’ rights very marginally. Undocumented immigrants are still entitled to all “essential services and treatment even if long-term”, not just to treatment in the event of emergency, pregnancy and for children, as is the rule in other countries. Undocumented immigrants are given a special anonymous public health card; they are asked to pay the normal contribution or to declare they are unable to pay it. For undocumented minors, public education is not only free, but also compulsory. Undocumented immigrants also have the right to legal aid.

The 1998 law limited temporary accommodation to legal immigrants only, but the Bossi-Fini law specifies that *all* “social integration measures” are limited to legal immigrants and therefore denies private bodies (for example, Catholic associations such as Caritas) the possibility of assisting and giving shelter to undocumented immigrants. Not all organisations have actually observed this regulation however. The possibility for the mayor to allow undocumented immigrants access to accommodation in the event of an emergency, envisaged by article 40 of the Turco-Napolitano law has not been abolished by the Bossi-Fini law, but transformed into a transitory measure (article 34) while completing the network of temporary accommodation and assistance centres.

The national fund for migration policies, set up by the Turco-Napolitano law, was incorporated by the Centre-Right government in 2001 in the national fund for social policies,

which maintains, however, a division in budget constraints. The 2003 finance law (law 289 of 27 December 2002) eliminated the specific destination of funds and considerably reduced their size.

Political rights and nationality law

The proposal to extend the vote at local elections to permanent cardholders, originally contained in the 1998 draft law, was later removed, as the legal office of the Chamber of Deputies decided that it was unconstitutional. A proposal to revise the Constitution (Chamber of Deputies bill 4167) was put forward, and then set aside by Centre-Left governments. Next, various bills to grant the right to vote in local elections have been presented by members of the left and centre-left. More surprise was aroused when the leader of Alleanza Nazionale Gianfranco Fini proposed the Constitution should be revised in order to make it possible to grant the vote in local elections to immigrants (Bill no. 4397 Chamber of Deputies). However for the time being no reform has been passed.

The same thing happened regarding proposals to reform law no. 91 of 1992 on citizenship, a law which had strengthened the principle of *jus sanguinis*. The previous 1912 Law did not make any distinction and set five years residence for all foreigners before being able to apply for nationality. The Law of 1992 demands instead three years of residence for aliens of Italian origin, four for aliens of E.U. countries, five for refugees, and ten years for aliens from non-EU countries. The *jus soli* criterion, i.e. non-discretionary access to citizenship for foreigners born in Italy when they turn 18, is thus modified: they must be legal residents since birth, and must prove their continuous presence in the country. These two requirements were not part of the 1912 law.

Under the 1992 law, 164,000 aliens of Italian origin (one Italian grand parent was sufficient), who had lost their Italian nationality by adopting a foreign one, could reacquire their former nationality (and keep their other nationality).

During the XV legislation, a law reform regarding citizenship was put forward by then Minister of Internal Affairs Amato. This reform foresaw an easier naturalization of foreigners and their children by reducing to 5 years the in-residence period required to non-European immigrants and the reinforcement of the *jus soli* principle--which grants immediate citizenship to individuals born in Italy with one parent who has been resident in the country for at least 5 years and with enough income level required to obtain a long-term resident permit. This more favourable procedure was compensated by the introduction of both language and integration requirements and the restriction of the access to citizenship through marriage, made possible only after two years of marriage.

The constitutional reform law no. 1 of 17 January 2000 and law no. 459 of 27 December 2001 gave Italian citizens resident abroad the right to vote in general elections. These citizens who vote for the macro-constituencies in which they live (Europe, including the Asian territories of the Russian Federation and Turkey; South America; North and Central America; Africa, Asia, Oceania and the Antarctic) are assigned 6 senators and 12 deputies; these parliamentarians will increase the current composition of the Senate (315 seats) and the Chamber of Deputies (630 seats). The 2002 Financial Act extended the “social increase” of minimum pensions to all Italians living abroad, making this up to 516,46 Euros a month for 13 annual payments, or the equivalent in local currency reflecting the cost of living in the country of residence.

In 2004, 11.934 people obtained Italian citizenship (Caritas - Ministry of the Interior), 83.7% of whom through marriage ([Table 4 – Acquisition of Italian citizenship](#)).

Measures against illegal immigration

The Single Act of 1998 had for the first time in Italy made it possible to detain undocumented immigrants in special centres of temporary custody in order to identify them, find out if they had a right to asylum status or deport them if need be.

The new law of 2002 introduced more restrictive provisions for undocumented and illegal immigrants. These may now be detained in the temporary detention centres for up to 60 days (previously it had been 30 days). If they have not been identified at the end of detention, they are ordered to leave the country within five days. This also happens when it is neither possible to proceed immediately with expulsion nor to hold individuals in the temporary detention centres. If they are identified, on the other hand, they must be repatriated immediately by the police. Those who are found in Italy, without a justified reason, beyond the term of five days as ordered by the *questore*, are subject to compulsory imprisonment and tried immediately as an administrative offence. The sentence initially envisaged was imprisonment from a minimum of six months to a maximum of one year. This was raised by corrective decrees (legislative decree 241/2004 converted into law 271) to imprisonment from one to four years. The same sentence is also applied for foreigners who, having been expelled from Italy, re-enter the country, violating the ten-year ban contained in the expulsion order. If expulsion had been decreed because the residence permit had expired by more than sixty days and renewal had not been requested, imprisonment is from six months to one year. The third violation of the laws on entry and residence commit a criminal offence: again imprisonment is envisaged, raised by law 271 of 12/11/2004, for a minimum one year and a maximum of four/five. In both cases, the arrest of the person concerned is obligatory even if not *in flagrante delicto*. The new crimes envisaged by the Bossi-Fini law have given rise to a very high number of

arrests, especially for the administrative offence of the crime of not observing the order to leave Italy within five days. In these cases, however, the judge can not apply any custodial measure and the immigrant is usually released at the arrest confirmation hearing and many of those arrested are transferred to temporary detention centres for expulsion. In addition, the percentage of those acquitted is fairly high. Those arrested may not apply for the amnesties, which thus appear as a form of permanent lottery.

Two years after the law was introduced the Constitutional Court declared unconstitutional the articles which imply arrest and special rapid trial without a controlling judge when the person in question had spent some time as an illegal immigrant (sentence 222 and 223, 15 July 2004). The government responded with Decree 241, 14 September 2004, converted by law 271 of 12/11/2004, which gave justices of the peace (in the presence of a lawyer defending the accused) the power to expel. If the decision is not confirmed, the *questore's* measure loses all effect. It is possible to appeal against the confirmation, without this implying, however, the suspension of execution of expulsion from the country. The solution to the sentence of unconstitutionality concerning arrest *in flagrante delictio* was found by raising the sentences, as said above, thus making the procedure legitimate.

While before the Bossi-Fini law fingerprints *could* be taken only of undocumented immigrants, with the new law of 2002 they *must* be taken of all non-EU foreigners who apply for or renew a residence permit. The current government ensures that in the future the fingerprints will also be taken of all Italian citizens who renew an identity card, a procedure already in operation in some large cities.

The Bossi-Fini law virtually confirms or very slightly tightens the previous punishments for smuggling and trafficking for purposes of sexual or labour exploitation. Smuggling was and is severely punished with imprisonment from one to five years, which become four to twelve years when the trafficking is done for profit; imprisonment can be extended to eighteen year in cases of trafficking for prostitution or exploitation of juvenile labour. People who employ undocumented immigrants are punished with imprisonment up to one year and a 3.000 Euro fine. This set of measures is backed up, on the one hand, by many bilateral re-entry agreements signed by Italy with emigration and transit countries, and, on the other, by police co-operation agreements. In the autumn of 2004 the Italian government also put on pressure to ensure that the embargo against Libya was revoked. The ending of the embargo was in fact agreed on by the Permanent Representatives Committee on 22 September and formalised on 11 October – thus enabling Italy to supply equipment to enable it to combat emigration and the transit of illegal migrants.

Simultaneously, law 271 of 12/11/2004, has established that the Ministry of the Interior, in the framework of support for preventive policies to combat illegal immigration, contributes to

the creation of structures designed to fight the illegal influxes of migrants towards Italy in the territories of origin of the countries involved.

In July 2008 (IV Berlusconi Government) approving the public security decree (passed as law no. 125 on 25th July 2008), the illegal presence on State territory becomes an aggravating circumstances (and for this reason it has been included in the list of aggravating circumstances contained in article 61 of Italian penal code). The security decree also provides a 6months – 33 years detention for those who, in order to get an unfair advantage, rent out apartments to foreign people without residence permit as well as harsher sentences for those who supply illegal employment.

Asylum-seekers and refugees

Italy does not have a law concerning asylum and refugee protection. Requests for asylum is still mainly regulated by art. 1 of Law no.39/1990, by the few articles included in the Bossi-Fini 2002 reform and by the legislative decrees that adopt the communitarian regulation on the issue.

The 1990 law repealed the Italian clause of ratification of the Geneva Convention which had previously limited the status of refugee in Italy to people from authoritarian European countries. The Dublin Convention of 1990 (ratified by Italy in 1992 but in force only since 1997) introduced the principle of refusing applications from people who have already been granted refugee status by other states considered to be “safe countries”, in terms of civil and political rights.

The Bossi-Fini law introduces a simplified procedure. The central Commission for the recognition of the status of refugee has been transformed into national Commission for the right to asylum. This Commission has the task of coordinating and addressing the regional Commissions, instituted within the Prefectures by law 189/2002 and which have assumed the function of determining the refugee status. A territorial commission is supposed to examine the application within 15 days of its receipt by the police, and then make a decision within 3 days. If the request is rejected, the asylum seeker can demand a re-examination of the request. During the examination, asylum seekers can be kept in “identification centres”. For the re-examination procedure, one member of the national commission joins the territorial commission and the decision should be taken within 10 days. In the event of a negative response by the re-examination commission, it is possible to appeal to a magistrate, but the appeal does not have the effect of suspending expulsion from the national territory. The applicant, however, can be allowed by the *Prefetto* to stay until the final decision is taken.

The Bossi-Fini law gives recognition and funds to the PNA (*Piano nazionale asilo* or National refugee plan) set up in 2000 by the Ministry of the Interior, the United Nations High

Commission for Refugees, and the National Association of Italian Municipalities. It also grants it institutional status by making it part of the “Italian system of protection for refugees and asylum-seekers”. This programme includes measures for temporary accommodation, assisted repatriation, protection and integration, including courses of vocational training for those claiming asylum – even though they are forbidden to work⁷.

With the 251/2007 legislative decree, in force since 19th January 2008, Italy has adopted the 2004/83/CE communitarian decision that defines the minimal requirements for the acquisition of the status of refugee and for the recognition of that rights linked to this status. A foreign citizen is a refugee if he/she, “due to a well-grounded fear to be persecuted for racial, religious, nationality reasons”, is away from his/her national country and due to this fear cannot make use of the protection of his/her State. The attribution of the subsidiary protection is assigned when a foreign citizen who has not the necessary requirements to be recognized as a refugee but is in danger if back in his/her country.

The residence permit for political asylum is in force for five years, with the possibility to be renewed while the one for subsidiary protection is in force for three years and can be renewed only if the conditions for its attributions still exist. The political asylum, as well as the subsidiary protection, involve the recognition of the same rights as the Italian citizens’ ones for what concerns social and medical assistance, education, work and training policies admittance.

With the approval of the 25/2008 legislative decree the rules of 2005/85/CE communitarian act (about the minimal requirements for the recognition and the removal of the refugee status) have been transposed into the Italian legislation. This decree was modified by the Berlusconi Government in October 2008. The main amendment concerns the possibility of rejecting the asylum demand for plain groundlessness in case of clear non-existence of the required conditions or if the demand has been presented just in order to delay or prevent an expulsion.

In 2007, 11,819 asylum applications were presented; 10,097 applications were examined and 1,097 accepted (Table 5 – Asylum applications and outcomes). In recent years, Italy has granted temporary residence permits for humanitarian reasons to people from Somalia, ex-Yugoslavia and Albania.

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⁷ This prohibition does not apply to family members joining relatives.

ANNEX

In this study, we use data from Istat --the official agency for statistics about Italy-- as well as data from Caritas. ISTAT provides data regarding residents, that is about individuals registered to the Municipality register; such registration, however, is not compulsory and this is the reason why not all foreigners seek immediate registration once they have obtained their stay permit or when they move from one Municipality into another. On the other hand, cancellation of personal information pertaining to foreigners whose stay permit has expired or foreigners who have moved to another Municipality might occur with some delay. Caritas, instead, provides data about stay permits. In this regard, according to Caritas, to the data provided by the Minister of Internal Affairs about registered stay permits an estimated quota can be added. Included in this quota are: first, the Visas issued to grant potential long term stay (work, family, religion, choice of residence, study, etc.) which were supposedly used for this purpose and second, an estimated number of foreign minors in Italy registered with their parents' stay permit.

Tab. 1a – Stay permits in Italy, 1996-2007 (1st January)

Year	Foreign residents
1996	729 159
1997	986 020
1998	1 022 896
1999	1 090 820
2000	1 340 655
2001	1 388 153
2002	1 362 630
2003	1 512 324
2004	2 193 999
2005	2 786 340
2006	2 271 680
2007	3 690 000

Source: Caritas

Tab. 1b – Residents in Italy, 2000-2008

Year	Foreign residents
2000	1 340 655
2001	1 379 749
2002	1 448 392
2003	1 503 286
2004	2 227 567
2005	2 245 548
2006	2 286 024
2007	2 414 972
2008	3 432 651

Source: Istat

Tab. 2a – Stay permits issued, by country of origin as of 31st December 2006

Country	Residence Permits	% on the total
Romania	555 997	15.1
Morocco	387 031	10.5
Albania	381 011	10.3
Ukraine	195 412	5.3
China	186 522	5.1
Philippines	113 907	3.1
Moldova	98 149	2.7
Tunisia	94 861	2.6
India	91 781	2.5
Poland	90 776	2.5
Serbia Montenegro	78 468	2.2
Bangladesh	77 229	2.1
Peru	76 406	2.1
Egypt	73 747	2.0
Sri Lanka	69 919	1.9
Ecuador	67 327	1.8
Macedonia	65 880	1.8
Senegal	65 136	1.8

Source: Caritas, data provided by Ministry of the Interior

Tab. 2 b – Foreign residents by country of origin as of 1st January 2008

Country	Residents
Romania	625 278
Albania	401 949
Morocco	365 908
China	156 519
Ukraine	132 718
Philippines	105 675
Tunisia	93 601
Poland	90 218
Macedonia, ex Rep Jug	78 090
India	77 432
Other countries	1 305 263
Total residents in Italy	3 432 651

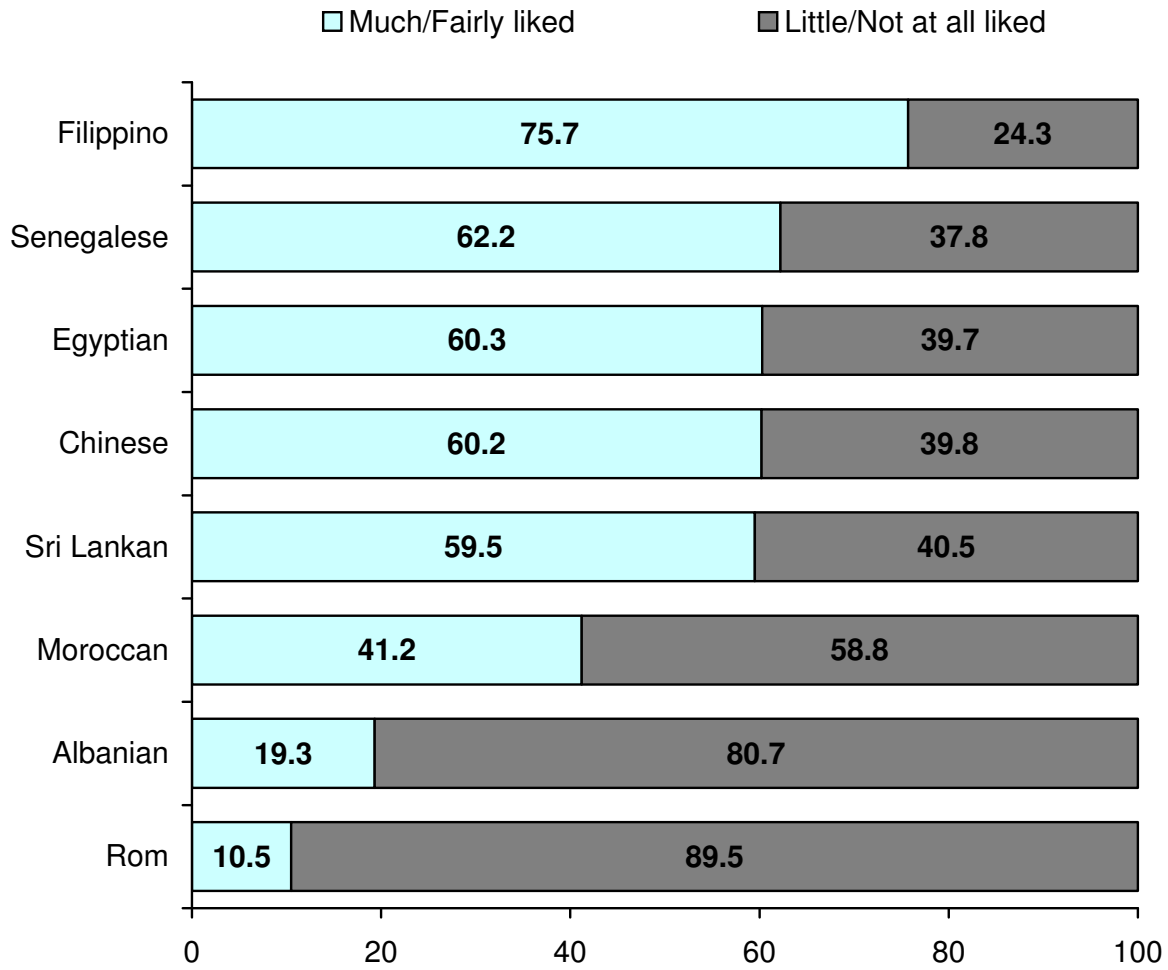
Source: Istat

Tab. 3 – Stay permits by main religions (2006)

Religion	%
Orthodox	24.9
Catholic	18.6
Protestant	3.5
Other Christians	1.6
Muslim	32.6
Jewish	0.2
Hindu	2.7
Buddhist	1.8
Traditional religions	1.1
Other religions	13.0
Total	100.0

Source: Caritas, esteem on data of Ministry of the Interior

Figure 1 – Degree of liking/dislike of different nationalities by Italians



Source: ISPO 2000

Tab. 4 – Acquisition of Italian nationality

Years	Acquisition of Italian nationality
1991	4 148
1992	4 395
1993	5 056
1994	6 613
1995	7 445
1996	8 823
1997	9 787
1998	12 013
1999	11 334
2000	9 555
2001	10 380
2002	10 618
2003	13 444
2004	11 934
2005	19 266
2006	35 266

Source: Our findings based on data provided by Ministry of the Interior

Tab. 5 – Asylum applications and outcomes (1990-2007)

Years	Applications by asylum seekers	Applications examined	Applications accepted
1990	4 830	1 466	824
1991	26 470	20 076	944
1992	6 040	6 960	336
1993	1 650	1 955	165
1994	1 790	1 699	298
1995	1 730	1 741	282
1996	680	791	175
1997	1 860	1 854	348
1998	11 120	5 005	1 108
1999	33 360	8 311	809
2000	15 560	2 438	1 642
2001	9 620	13 344	2 098
2002	16 015	17 193	1 270
2003	13 455	11 323	726
2004	9 722	8 701	780
2005	9 346	14 651	912
2006	10 110	9 400	846
2007	11 819	10 974	1 097

Source: Caritas--Ministry of the Interior-- National Commission for the Right to Asylum