

I-CLAIM

Improving the Living
and Labour Conditions
of Irregularised Migrant
Households in Europe

Country report

The Legal and Policy Infrastructures of Irregularity

Italy

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Executive summary (English)

This report is part of the project “I-CLAIM: Improving the living and labour conditions of irregularised migrant households in Europe”, which aims to examine the various forms of irregularity involving migrant people – and particularly migrant workers – the reasons that determine and amplify them, and the repercussions they have on the family dynamics of these individuals.

Building on the concept of ‘irregularity assemblage’, the report critically analyses the political and legal devices and practices, referred to as ‘infrastructures of irregularity’, that have occurred in Italy over the last 20 years (2003-2023) contributing to the production and strengthening of various forms and dynamics of ‘irregularity’. The study considers irregularity as a multi-dimensional condition, referring to not only the absence of a residence permit, but also situations of legal precarious status involving regular migrant people, which can also include situations of undeclared work. The project also focuses on the dimensions of ‘limbo’ and uncertainty caused, for example, by prolonged waiting times for the issuance or renewal of a residence permit or by the lengthy and complex asylum application procedure.

Based on an analysis of European and national legislation, relevant case law, political documents, scholarly literature, and data collected through eight in-depth interviews with key experts and a meeting with relevant national stakeholders, this report explores, from a gender and intersectional perspective, how irregularity is produced and shaped in practice at the intersection of migration, employment, and welfare regimes. It pays special attention to the dynamics of irregularity and exploitation in core sectors such as domestic work and agriculture.

The report highlights how, over the last two decades, by fostering narratives on a ‘migrant invasion’ threatening the country, various Italian governments have adopted increasingly stringent migration and asylum policies. These policies have contributed to the ‘production of irregularity’ by narrowing the goalposts of regular channels and protection, and pushing individuals who are regular residents into an even more precarious status.

Firstly, there has been a progressive tightening of access to asylum in Italy, especially with the adoption of the 2018-2019 ‘Security’ Decrees (also named ‘Salvini’ Decrees) and, more recently, with the recent Law Decree 20/2023, the so-called ‘Cutro Decree’, which, among other things, has restricted the scope of the so-called ‘special protection’ (former ‘humanitarian protection’). All these restrictive reforms have either contributed to or, in the case of recent ones, are expected to lead to a growing number of people living in irregular situations. In this context, however, important judicial decisions have significantly challenged stringent national legislative and policy interventions. Additionally, challenges to restrictive national migration and asylum policies have also involved local actions taken, for instance, by some municipalities.

Secondly, the report underlines how the national entry system for third-country nationals (the Flows Decree system) serves as a legal device that fosters dynamics of irregularity and facilitates abusive and exploitative practices. For example, the data from our research reveal that many migrant people who arrived in Italy through the Flows Decree have not been hired by the employer or have fallen victim to scams, and so risk losing the opportunity to stay regularly in Italy.

Thirdly, the report highlights the challenges faced by migrant individuals lacking a residence permit or having precarious legal status in accessing fundamental rights, such as the right to health. We also underline how many migrant individuals find themselves in a bureaucratic limbo that hinders their regularisation process and access to healthcare or welfare measures. For example, despite the law stating that, during the

renewal process of the residence permit, migrants should be enrolled in the national healthcare system and be able to benefit from family support measures such as the universal child benefit, many public administration offices do not allow it. All this significantly affects the living and working conditions of migrant people, especially single migrant mothers.

Finally, by focusing on the interplay between migration, employment, and the welfare regime in Italy, the report highlights how forms of irregularity and exploitation involve not only migrant workers without residence permits but also non-EU citizens with regular residence, including asylum seekers, and EU citizens from less prosperous EU countries such as Romania and Bulgaria. In this context, the dynamics of irregularity and exploitation stem from the different situations of vulnerability experienced by migrant workers, within a context of structural and intersecting inequalities related to gender, nationality, class, skin colour, and legal status.

Sectors such as for instance domestic work and agriculture rely on the employment of a racialised, gendered, and legally stratified migrant labour force, and are characterised by weak labour rights protection, high rates of undeclared work, and exploitative dynamics. The report underscores how these dynamics are exacerbated in the case of women workers due to gender discrimination and abuse. In particular, pressures related to family and care responsibilities, which still predominantly fall on women's shoulders, along with the lack of fair employment alternatives, lead many women to 'accept' undeclared work and forms of exploitation, which also often involve gender and sexual abuse.

In recent years, there have been several institutional interventions aimed at addressing the exploitation of migrant workers, especially in the agricultural sector. However, little has been done in terms of structural actions. Furthermore, the majority of these interventions lack a gender and intersectional perspective.

Executive Summary (Italian)

Il presente rapporto fa parte del progetto 'I-CLAIM: Improving the living and labour conditions of irregularised migrant households in Europe', il cui obiettivo è esaminare le condizioni di vita e di lavoro delle persone migranti in situazioni di irregolarità, le cause che determinano e amplificano tali circostanze, e il loro impatto sulla dinamiche familiari di queste persone.

Partendo dal concetto di 'assemblaggi di irregolarità', il rapporto analizza le 'infrastrutture dell'irregolarità' sviluppatesi nell'arco negli ultimi 20 anni (dal 2003 al 2023) in Italia, ovvero quei dispositivi giuridici e politici, e le rispettive pratiche, che hanno contribuito e tutt'ora contribuiscono alla produzione e al rafforzamento di forme di 'irregolarità'. Lo studio considera l'irregolarità come una condizione multidimensionale, che non si limita solo all'assenza di un permesso di soggiorno, ma comprende anche situazioni di precarietà rispetto allo status giuridico. In questa prospettiva, il rapporto si concentra anche sulle condizioni di 'limbo' e incertezza in cui si trovano molte persone migranti, causate, ad esempio, dai tempi prolungati di attesa per il rilascio o il rinnovo di un permesso di soggiorno o dalla lunga e complessa procedura per la richiesta d'asilo. Inoltre, il rapporto presta attenzione alle situazioni di irregolarità rispetto ai rapporti di lavoro, ossia alle forme di lavoro sommerso che spesso coinvolgono le lavoratrici e i lavoratori migranti.

Sulla base dell'analisi della normativa europea e nazionale, della giurisprudenza in materia, dei documenti politici e della letteratura accademica, nonché dei dati raccolti attraverso interviste approfondite con otto esperti/e e un workshop con stakeholder di rilevanza nazionale, il presente rapporto mette in luce, da una prospettiva di genere e intersezionale, come l'irregolarità sia prodotta e modellata dall'intreccio dei regimi migratori, del lavoro e di welfare. Particolare attenzione è dedicata alle dinamiche irregolarità e sfruttamento in settori chiave come l'agricoltura e il lavoro domestico e di cura.

Più precisamente, il rapporto evidenzia come negli ultimi due decenni, i vari governi italiani, promuovendo la narrazione di una presunta invasione di migranti che minaccia la sicurezza del paese, abbiano adottato politiche migratorie e dell'asilo sempre più restrittive. Tali politiche hanno contribuito alla 'produzione di irregolarità', non solo riducendo i canali di ingresso legale e le forme di protezione per le persone migranti, ma anche rendendo sempre più precaria la condizione giuridica di coloro che risiedono regolarmente in Italia.

In primo luogo, c'è stata una progressiva restrizione nelle possibilità di accesso al diritto di asilo in Italia, culminata con l'adozione dei decreti 'sicurezza' 2018-2019 (detti anche decreti "Salvini") e, più recentemente, con il Decreto Legge 20/2023, il cosiddetto "decreto Cutro", che ha ristretto l'istituto della 'protezione speciale' (ex "protezione umanitaria"). Queste politiche restrittive hanno contribuito all'aumento delle persone in condizioni di irregolarità e, molto probabilmente, le riforme più recenti aggraveranno tale situazione. Tuttavia, il rapporto evidenzia il ruolo importante che diverse pronunce giurisprudenziali hanno avuto nel contestare e mettere in discussione tali politiche. Misure significative sono state adottate anche da alcune amministrazioni comunali che si sono opposte, ad esempio, alle disposizioni dei decreti sicurezza.

Il rapporto sottolinea altresì come il sistema del Decreto Flussi sia un dispositivo giuridico che alimenta dinamiche di irregolarità e facilita pratiche illegali e di sfruttamento. Ad esempio, i dati emersi dalla ricerca rivelano che molte persone migranti giunte in Italia attraverso il Decreto Flussi non sono state assunte dal datore di lavoro o sono state vittime di vere e proprie truffe, rischiando di perdere la possibilità di restare regolarmente in Italia.

Il rapporto mette inoltre in evidenza le difficoltà che le persone migranti senza permesso di soggiorno o con uno status giuridico precario incontrano nell'accedere a diritti fondamentali, come il diritto alla salute. In particolare, molte di esse si trovano in una sorta di limbo burocratico, causato dai lunghi tempi per il rilascio o rinnovo del permesso di soggiorno, che ostacola il loro processo di regolarizzazione e l'accesso al servizio sanitario o misure di welfare. Per esempio, nonostante la legge preveda che, nelle more del procedimento di rinnovo del permesso di soggiorno, la persona sia iscritta al servizio sanitario nazionale e possa usufruire di misure a sostegno della famiglia, come l'assegno unico universale, molte pubbliche amministrazioni non lo consentono. Tutto ciò incide significativamente sulle condizioni di vita e di lavoro delle persone migranti, in particolare delle donne migranti madri sole.

Infine, focalizzandosi sull'interazione tra i regimi migratori, del lavoro e di welfare in Italia, il presente studio evidenzia come le dinamiche di irregolarità e sfruttamento coinvolgano non solo lavoratrici e lavoratori migranti extra-UE privi permesso di soggiorno, ma anche persone regolarmente soggiornanti, tra cui i/le richiedenti asilo, e le/i cittadine/i comunitarie/i provenienti da Paesi europei come la Romania e Bulgaria. In questo contesto, le pratiche di lavoro sommerso e di sfruttamento si basano sulle diverse situazioni di vulnerabilità in cui si trovano molti lavoratori e lavoratrici migranti, in un contesto di disuguaglianze strutturali e sistemiche connesse al genere, alla nazionalità, alla classe, al colore della pelle e allo status giuridico.

Settori quali l'agricoltura e il lavoro domestico e di cura dipendono dall'impiego di una forza lavoro migrante razzializzata, con una forte connotazione di genere e giuridicamente stratificata, e sono caratterizzati da scarse tutele, elevati tassi di lavoro irregolare e diffuse pratiche di sfruttamento. Il report sottolinea come queste dinamiche siano evidenti nel caso delle lavoratrici migranti. In particolare, il peso del carico delle responsabilità familiari e di cura, che ricade ancora prevalentemente sulle spalle delle donne, insieme all'assenza di alternative lavorative decenti, portano molte donne ad 'accettare' condizioni di lavoro sommerso e di sfruttamento che spesso si intersecano con forme di violenza di genere.

Negli ultimi anni, ci sono stati diversi interventi istituzionali volti ad affrontare lo sfruttamento delle lavoratrici e dei lavoratori migranti, soprattutto nel settore agricolo. Tuttavia, poco è stato fatto in termini di azioni strutturali. Inoltre, in molti di questi interventi è assente una prospettiva di genere e intersezionale.

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Introduction

This report is part of the project “I-CLAIM: Improving the living and labour conditions of irregularised migrant households in Europe”, which aims to examine the living and working conditions of individuals in six European countries (Finland, Poland, Italy, Germany, the Netherlands, and the United Kingdom). The main objective is to understand the various forms of irregularity involving migrant people, particularly migrant workers, the factors that create and amplify them, and their repercussions on the family dynamics of these individuals.

This project considers irregularity as a multi-dimensional condition, involving not only those migrant people without a residence permit, but also people with a precarious legal status. The latter, for instance, include those who reside regularly in a country but hold temporary residence permits and are afraid of losing their status and, as such, their right to stay. From this standpoint, irregularity may also involve informality in employment, i.e. undeclared work. The project also explores the ‘limbo’ created when waiting for the issuance or renewal of a residence permit and then maintained in the fear of losing it, examining the impact this has on the living and working conditions of migrant people and their families.

From a methodological perspective, the research pays specific attention to an intersectional and gender approach to inequalities. It points out that the working and living conditions of those in irregular and precarious legal conditions cannot be explored without taking into account gender related issues and the interweaving of discriminatory factors that determine the specific vulnerabilities of migrant women; many of whom are employed in the informal economy and in jobs related to social reproduction, including domestic and care work and agriculture (Garofalo Geymonat et al. 2023).

More specifically, this report analyses the ‘infrastructures of irregularity’ that have been developed in Italy over the last 20 years (2003-2023). By ‘infrastructures of irregularity’ we mean the political and legal devices and practices that contribute to the production and strengthening of various forms and dynamics of ‘irregularity.’ From this perspective, we use the concept of ‘irregularity assemblage’ (Sigona et al. 2021), to draw attention to the dynamic set of policies, laws, practices, narratives and actors, both at national and regional/local levels, that intervene to shape contingent and situated configurations of irregularity. Our research thus examines the infrastructures of irregularity, taking into account the intersection of migration, labour, and welfare regimes, exploring their effects on the daily lives and working conditions of migrant people and their families. The terms ‘irregularised migrant people’ and ‘irregular conditions’ are used to reflect the nuanced understanding of irregularity as the product of a certain irregularity assemblage in which multiple elements converge and interact – notably laws and policies at the intersection of labour, immigration and welfare regimes, and political and public narratives – impacting people’s lives unevenly depending on their race, age, class and gender positions.

This report is based on an analysis of European and national legislation, relevant case law, political documents, and the literature on the subject. In addition, between November 2023 and January 2024, eight in-depth interviews were conducted with key national stakeholders, including lawyers, legal experts, and government actors. We have mentioned in the text only the names of those interviewees who allowed to be identified.

The preliminary results of this research were also presented during a national meeting with stakeholders on these issues organised by Ca’ Foscari University of Venice in collaboration with ActionAid Italy on the 6th of December 2023 in Rome. The meeting focused on the main challenges related to the living and working conditions of migrant people in irregular conditions and their families. The opportunity to discuss the

findings with these stakeholders has helped to better identify and understand the complexity of certain dynamics and dimensions of irregularity.

This report is made up of three sections. The first section provides an overview of the general trends and features regarding the specific national context of irregularity in Italy, highlighting how increasingly restrictive migration and asylum policies have contributed to irregular and more precarious legal conditions. Building on the concept of the irregularity assemblage, Section 2 focuses on the relevant legal and policy frameworks, underlining the challenges faced by migrant people without a residence permit or with a precarious legal status in relation to accessing fundamental rights, especially concerning employment, healthcare, and housing. This section also explores pathways to regularisation for undocumented migrant people in Italy. Lastly, Section 3 explores how irregularity is produced and shaped in practice at the nexus between migration, employment, and welfare regimes, paying special attention to dynamics of irregularity, undeclared work and exploitation in agriculture and domestic and care work.

1. Migrant irregularity: General trends and features

1.1. Definitions and estimates

'Migrant irregularity' primarily refers to migrant people lacking the proper documentation authorising their entry into Italy and/or without a residence permit, as outlined in Articles 4 and 5 of the Consolidated Act on Immigration (Legislative Decree 286/1998). Migrant people can find themselves without a residence permit either because they entered the state's territory irregularly through evading border controls, or because they entered in a regular manner, for example with a tourist or work visa, but then overstayed that visa.

The condition of irregularity is thus mainly considered in relation to migratory legal status. Especially in national political and media discourses, third country nationals in conditions of irregularity are also referred to as 'undocumented migrants', '*clandestini*' or 'illegal migrants'.

According to recent estimates based on data from the Italian institute of statistics (ISTAT), 5.775 million migrant people¹ were living in Italy as of 1st of January 2023 (ISMU 2024). Recent IDOS data indicate that, in 2021, the top five nationalities of migrants regularly residing in Italy were Romanian, followed by Moroccan, Albanian, Chinese, and Ukrainian (IDOS 2023). According to ISMU estimates, approximately three-quarters of migrant people regularly residing in Italy as of January 1st 2023 were from non-EU countries. The data confirms that 40% of these non-EU migrants come from four countries: Morocco, Albania, Ukraine, and China (ISMU 2024).

Approximately 458,000 of the 5.775 million migrant people living in Italy are estimated to be lacking a residence permit, and thus to be in a condition of administrative irregularity (ISMU 2024). They represent 7.9% of migrant people in Italy. There is no available data on the socio-demographic composition of irregular migrant people.

Table 1: Migrant people in Italy from January 1, 2019, to January 1, 2023 (thousands)

Status	1/01/2020	1/01/2021	1/01/2022	1/01/2023
Residents	5,040	5,172	5,031	5,141
% of the total of residents in country	8.5	8.7	8.5	8.7
Non-resident regular migrants ²	366	224	293	176
Irregular migrant people	517	519	506	458
Total	5,923	5,915	5,830	5,775

Source: ISMU estimates on ISTAT data (ISMU 2024: 19)

¹ This data also includes EU mobile citizens.

² ISMU uses 'non-resident regular migrants' (*regolari non residenti*) to mean those migrant people present in Italy with a valid residence permit, but not included (or not yet included) among those registered in the civil registry (*anagrafe*). These are mostly EU citizens or newcomers from third countries, including asylum seekers who have not formally registered their residence with an Italian municipality (ISMU 2024: 19).

Estimates show that the number of irregular migrant people has decreased from the 506,000 of the previous year (see Table 1). This is mainly due to the outcome of the regularisation scheme that was adopted in 2020 (according to Article 103 of Law Decree 34/2020) during the height of the Covid-19 pandemic, targeting undocumented migrant workers employed in the domestic and care work sector and in the agri-food sector. Data provided by the Ministry of the Interior regarding the around 200,000 applications under the 2020 regularisation scheme revealed that the top five nationalities of migrant domestic and care worker applicants were: Ukrainians, Pakistanis, Bangladeshis, Georgians, and Moroccans (Ministero dell'Interno, 2020). As for the agri-food sector, the main nationalities included Albanians, Moroccans, Indians, Pakistanis, and Moroccans (ibid.).

According to data provided by the campaign 'Ero Straniero', which monitors this lengthy and cumbersome regularisation procedure, in 2023 – three years after the adoption of the 2020 regularisation scheme – only 65,166 residence permits were issued of the 207,000 applications submitted. This represents approximately 31.5% of the applications, while rejections account for nearly 15% (Coresi et al. 2023). The remaining applications are still awaiting a response due to a lengthy bureaucratic process, as outlined in Section 2. The same data show that the main five nationalities of people who have been regularised so far under the 2020 regularisation scheme include Georgians, Ukrainians, Pakistanis, Moroccans and Bangladeshis (Ero Straniero 2023).

Regarding EU citizens, they may find themselves in a condition of irregularity if they do not register their residence after staying in Italy for three months. Italian law (Legislative Decree 30/2007), transposing Directive 38/2004/EU³), requires that to register their residence EU citizens must provide, in addition to identification documents, documentation attesting to the possession of sufficient economic resources, either derived from employment or personal resources, and in the latter case, also health insurance covering all health risks in the national territory. Qualitative research reveals that many EU citizens from less prosperous EU countries, such as Romania and Bulgaria, do not register their residence due to insufficient economic resources and their lack of stable declared employment (Barbariol 2022; D'Agostino 2023). Irregular EU citizens are prevented from accessing a number of social assistance and health-related services (see Section 2).

As mentioned in the introduction, we also consider dynamics of irregularity that encompass informal employment and working conditions, namely, undeclared work. This may involve undocumented migrant people, as well as those who are regular residents in Italy but who are employed without a proper labour contract or under conditions that deviate from the terms stipulated in the contract (for instance, in terms of working hours, salary or insurance coverage). As one of the stakeholders interviewed for this research underlined:

As clarified by the 2022-2025 National Plan against Undeclared Work, undeclared work occurs irrespective of the nationality and legal status of the worker involved, as it concerns irregularities regarding working and employment conditions. (Interview GVT-02)

³ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

Indeed, while irregularity in migratory status invariably corresponds to irregularity in employment and working conditions, the inverse is not necessarily true. Consequently, migrant workers involved in undeclared work are not necessarily undocumented. They may also be regular third country nationals with a precarious legal status, such as non-EU asylum seekers, and regular intra-EU mobile citizens.

Along the same lines, the Italian National Plan against Undeclared Work (2022-25) clarifies that the term ‘undeclared work’ “does not have a single legal or statistical definition, as the phenomenon of irregular work is broad and multifaceted, encompassing not only those who engage in work activities without notifying the competent authorities but also those employment relationships that, while formally declared, do not comply with all the laws that regulate them in practice” (Ministero del Lavoro e delle Politiche Sociali 2023, p. 6). The Plan identifies the most common irregularities as the “failure to declare the employment relationship, hours worked, or overtime; fraudulent use of false forms of self-employment; and the employment of workers in clandestine conditions” (ibid. p.6).

In a national labour market characterised by strong segmentation and occupational segregation based on gender, class, nationality, and skin colour, migrant workers considered as ‘unskilled’ mainly find jobs in sectors affected by widespread undeclared work and precarious conditions. These sectors include, among others, domestic and care work, agriculture, construction, hotels and catering services (IDOS 2023). In particular, as we will discuss in the final section of this report, the domestic work and agricultural sectors have higher estimates of undeclared work: 52.3% for domestic work and 24.3% for agriculture (ISTAT data mentioned in Ministero del Lavoro e delle Politiche Sociali 2023).

1.2. The increasingly restrictive approach of national migration and asylum policies over the last two decades

Since the 1990s, the issue of migration has become highly politicised in Italy, leading to the progressive introduction of restrictive migration laws and policies in response to a significant increase in the number of migrant workers in the national labour market (Colucci 2018). Emblematic, in this regard, was the adoption of Law 189/2002, the so-called ‘Bossi-Fini’ Law, which strengthened the ‘securitarian’ approach already characterising existing migration legislation, notably Law No. 40/1998 (the ‘Turco Napolitano Law’) (Dal Lago 2004). For instance, the Bossi-Fini Law abolished the so-called ‘sponsorship entry system’ that provided migrant workers with a temporary residence permit in order to look for work in Italy. The Bossi-Fini Law formally tied the issuance of a work-related residence permit to the possession of a labour contract, the so-called ‘residence contract’ (Article 5-bis of the Consolidated Act on Immigration), thereby linking the residence permit to a migrant person’s ability to work and earn an income. As migration lawyer Nazzarena Zorzella argued during her interview with us:

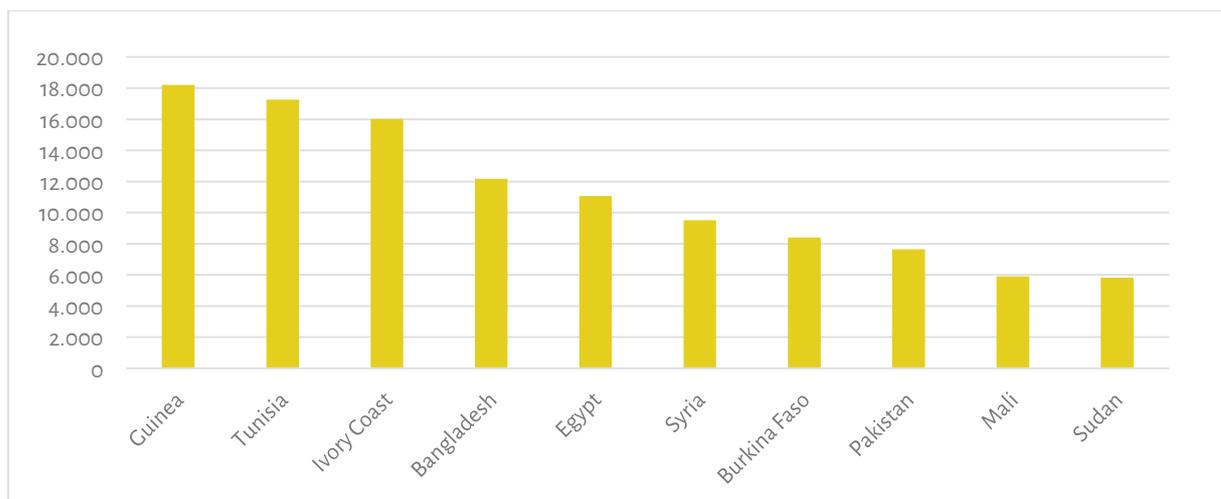
Since the implementation of the Bossi-Fini law and subsequent policies, there has been a deliberate effort to render the legal status of migrant people, especially migrant workers, more precarious. This is achieved by closely intertwining residence permits, work, and housing. Consequently, these measures have resulted in precarious conditions for migrants, as they are provided with insecure employment contracts linked to the duration of their permits. (Interview with Legal-01)

It is also worth pointing out that the Bossi-Fini law, with its provisions strengthening the link between labour contracts and residence permits, was adopted around the same time as major Italian labour law reforms (such as Law 30/2003, so called Biagi law) leading to deregulation and the fragmentation of employment contracts (Colucci 2018; Belluccio 2020). The proliferation of precarious and flexible contracts has made obtaining and renewing residence permits even more difficult. It has also hampered access to social rights and related protection (Belluccio 2020), thus fostering migrant people’s ‘differential inclusion’ in the labour market regime and society in general. The interplay of these various laws has contributed to the precarisation of migrant people’s legal conditions.

Since the late 2000s, a number of factors, including the enlargement process of the European Union, the 2008 economic crisis, and the 2015-16 so-called ‘refugee crisis’⁴, together with the lack of adequate national entry routes for third-country migrant workers, have contributed to a change in migratory movements towards Italy. This is reflected in the current composition of the migrant workforce, notably characterised by a large number of beneficiaries of international protection, asylum seekers and EU mobile citizens (see, for instance, Dines and Rigo 2016; Corrado and Palumbo 2022).

In particular, the spread and intensification of conflicts and wars since 2011 in countries such as Tunisia, Libya, and Syria have led to a significant increase in the number of migrant people reaching Europe, especially Italy, through dangerous routes across the Mediterranean Sea. This peaked in the years of the so-called ‘refugee crisis’, most notably in 2016, which saw 181,436 migrant people arriving in Italy by sea (Ministero dell’Interno 2023). Following the 2017 memorandum between Italy and Libya on ‘cooperation to fight illegal immigration and human trafficking’, aimed at pursuing the externalisation of border controls to reduce and contain the arrival of migrant people in Italy (see, for example, Cecchini et al. 2020), there was a noteworthy decline in sea arrivals (ISMU 2023). However, since 2020, arrivals have resumed an upward trend, reaching 157,652 in 2023 (Ministero dell’Interno 2023).

Table 2 Top 10 nationalities of migrant people arriving in Italy by sea in 2023



Source: Our elaboration of Ministry of the Interior data (Ministero dell’Interno 2023, consulted on December 28, 2023).

⁴ For a critical analysis of the so-called ‘refugee crisis’ see, for example, Sciarba 2021.

As several studies have stressed, the high number of sea arrivals needs to be understood in conjunction with the very limited, and almost complete lack of, legal entry channels for third-country nationals to Italy and Europe (see, for instance, Ciabbarri 2020; Sciarba 2021), especially channels related to migration for work reasons. Moreover, as the data reveals, with the increase in sea arrivals since 2011, there has not been a ‘crisis’ in quantitative terms, as the total number of third-country nationals entering Italy has stabilised, if not declined (Colucci 2018, pp. 184-185).

The fluctuation in the number of sea arrivals must therefore be considered in connection with the stringent EU and national interventions undertaken to curb irregular migration and limit access to the asylum procedure. Moreover, both the EU and Italy have reacted to the so-called ‘refugee crisis’ by intensifying the externalisation of border controls through agreements with countries of transit in the Middle East, such as Turkey, and in North Africa, such as Libya and, more recently, Tunisia (ASGI 2020; Giuffrè et al. 2022). As borders have been externalised and tightened, the routes chosen by migrant people have also changed, often becoming more dangerous (Sciarba 2021).

The significant role of beneficiaries of international and complementary protection and of asylum seekers amongst migrant people in Italy, many of whom are employed in key sectors of the national labour market, such as agriculture (Dines and Rigo 2016; Omizzolo 2020), challenges the prevailing categories in legal and policy discourses on migration. It reveals, for instance, the limitations of making a rigid distinction between ‘economic migration’ and ‘forced migration’ (Jubilut and Casagrande 2019). By overlooking the heterogeneity of subjective conditions in migratory experiences and in related economic, social, and environmental factors (Mezzadra 2013), this distinction also fails to recognise the impact of inadequate Italian entry routes for third-country migrant workers (the ‘Flows Decree’ mechanism). Indeed, the shortcomings of the entry route system and the decrease in quotas for the entry of migrant workers have had the effect of leading them into other channels that also allow them to work, such as the asylum route (Recchia 2020). As lawyer Nazzarena Zorzella pointed out:

It is crucial to clarify that the asylum mechanism is not instrumentalised, as a particular prevailing narrative suggests. The core issue lies in the absence of effective channels for regular entry and adequate mechanisms for the regularisation of individuals already in Italy. This compels those migrants attempting to enter the national territory to resort to seeking international protection. In practice, this denies individuals the right to choose the legal migratory path that they would prefer to pursue, whether they are in a situation that could lead to them obtaining international protection or they have a different circumstance. In both cases, what is denied is the right to choose which legal instrument to make use of. (Interview with Legal-01)

In this context, and primarily in response to these changes in migratory patterns, the issue of asylum has taken centre stage in government policies aimed at migration containment. This peaked with policies such as Law Decree 13/2017, the ‘Minniti Decree’⁵; the already mentioned 2017 Memorandum of Understanding

⁵ The 2017 ‘Minniti Decree’ considerably reduced asylum seekers’ right of defence in court by abolishing the second stage of appeal for those who have appealed a denial. The decree was converted into Law No. 13 of 18th April 2017.

between Italy and Libya (renewed in 2020 and 2022); Law Decrees No. 113/2018 and No. 53/2019,⁶ known as the ‘Security Decrees’ (also called the ‘Salvini Decrees’); and the recent Law Decree 20/2023, known as the ‘Cutro Decree’.⁷

In particular, the first ‘Security Decree’ (Law Decree No. 113/2018) introduced several restrictive and overly-securitarian measures that have heavily affected legal provisions and protection for migrant people in Italy, especially asylum seekers (see, for example, Curi 2019). For instance, among other measures, it abolished the residence permit for humanitarian reasons, known as ‘humanitarian protection’ (former Article 5(6) of the Consolidated Act on Immigration), which aimed to safeguard individuals in situations of vulnerability or facing violations of constitutionally protected human rights but who were not eligible for refugee status or subsidiary protection. The 2019 follow-up ‘Security Decree’ (Law Decree No. 53/2019) further hindered migrants’ access to asylum. In particular, it restricted access to ports in Italy for NGO ships transporting migrant people rescued in the Mediterranean Sea by toughening sanctions against them on the grounds that their activities were a ‘pull factor’ for attracting irregular migrants (Sciurba 2021).

These stringent reforms have reflected a change in how migrant people and asylum seekers are viewed and perceived at the political level. As Andrea Morniroli, an expert on trafficking and exploitation related issues, pointed out:

The current national migration politics prioritises representation over reality and constructs propaganda based on that representation. This politics engages in campaigns that dismantle the culture of rights by depicting migration as a threat and altering the common understanding of these complex social phenomena. (Interview with Social-01)

In this context, especially since the 2010s, dominant political and public discourses have associated asylum seekers with the threat of an unprecedented ‘invasion’ – even though, as mentioned above, this is refuted by the official data (Colucci 2018) – as well as with the suspicion that economic migrants pose as asylum seekers, thus abusing the national protection system (Pastore and Zorzella 2020).

In 2020, Law Decree 130/2020⁸, the ‘Lamorgese Decree’, introduced the residence permit for ‘special protection’ (Article 19 of the Consolidated Act on Immigration) to replace the former ‘humanitarian protection’. However, the scope of special protection has been restricted following Law Decree 20/2023 (known as the ‘Cutro Decree’). The latter decree was adopted after the shipwreck that occurred off the coast of Cutro (in Calabria) in February 2023, resulting in the deaths of 94 people, including children. In line with previous national restrictive migration and asylum policy and legal reforms, the government’s reaction to this tragedy was to increase penalties for the crime of facilitating irregular migration and to strengthen the role of repatriation centres with the aim of accelerating migrant deportations and repatriations. As we have said above, the decree also narrowed the scope of the application of ‘special protection’, which, by covering a broad range of situations of vulnerability, functioned as a form of ‘low-intensity regularization’, similarly to the former humanitarian protection (Caproglio et al., 2023). Specifically, it removed the part of Article 19

⁶ Law Decree 13/2018 was converted into Law No. 132 of 1st December 2018; Law Decree 53/2019 was converted into Law No. 77 of 8th August 2019.

⁷ Law Decree 20/2023 was converted into Law No. 50 of 5th May 2023.

⁸ Law Decree 130/2020 was converted into Law No. 173 of 18th December 2020.

of the Consolidated Act on Immigration that granted special protection based on a migrant person's family ties and their social inclusion in Italy (see Section 2). Additionally, the decree eliminated the possibility of converting a residence permit for special protection into a work permit. This has meant that individuals who had obtained this protection are no longer supported in a process of labour inclusion and so are further exposed to the risks of irregularity.

Following the so-called 'Cutro Decree', further restrictive reforms were adopted, reducing the chances for asylum seekers to obtain protection in Italy. These include an update to the national list of Safe Countries of Origin (Interministerial Decree of 17 March 2023), including countries such as Nigeria, The Gambia, Ivory Coast, and Georgia. Furthermore, with the subsequent Law Decree No. 124/2023⁹ and the Interministerial Decree of 14th September 2023, additional measures were introduced. These entail extending stays in repatriation centres to up to 18 months and requiring migrant people from safe countries to pay a deposit of approximately 5,000 euros to avoid being detained in a repatriation centre while awaiting the outcome of their asylum application. All these new stringent measures will probably lead to an increase in the number of migrant people in irregular and precarious situations.

In this scenario, however, various significant judicial decisions have challenged the increasingly restrictive national legislative and policy interventions (see, for instance, the recent decision of the Tribunal of Catania of September 2023, contesting the stringent provisions of Interministerial Decree 14/2023). At a local level, challenges to restrictive national migration and asylum policies have also involved actions taken, for instance, by some municipalities. For example, several municipalities, including those of the cities of Palermo and Naples, challenged the tough provisions introduced by the 2018 Security Decree, such as the provision – established as unconstitutional by the Constitutional Court in 2020 (Decision No. 186/2020) – that denied asylum seekers the right to be enrolled in the civil registry (see, for instance, *Melting Pot* 2019). Additionally, some municipalities governed by left-leaning administrations have supported the opening of ports to boats rescuing migrants, in contrast to the right-wing government's policies of 'closed harbours' (Wintour et al. 2018).

Other tensions between national and local (municipal) policies on migration concern issues related to citizenship. For instance, to be granted Italian citizenship at birth, children must have at least one parent who is a citizen. Children born in Italy to non-Italian parents may apply for citizenship only after the age of 18 and if they fulfil a series of stringent requests. Therefore, many young people with migrant backgrounds (but born and raised in Italy) risk finding themselves in irregular situations and at risk of deportation. In this context, some municipalities such as those of Cosenza and Bologna have introduced into their statutes a motion to offer 'honorary jus soli' to foreign minors who were born or went to school in these cities (see, for example, *InfoMigrants* 2023). This symbolic act aims to support the social integration of migrant minors born in Italy and to fully affirm their fundamental rights.

⁹ Law Decree 124/2023 was converted into Law No. 13 of 13th November 2023.

2. Relevant national legal and policy framework

In the previous section we highlighted the key trends of the increasingly restrictive migration and asylum laws and policies adopted in Italy over the past two decades. This section explores the challenges faced by migrant people without a residence permit or with a precarious legal status, which affects their access to fundamental rights, particularly in relation to employment, healthcare, and housing. Building on the concept of ‘irregularity assemblage’, we highlight how policies, laws, and related practices, both at the national and regional levels, contribute to creating irregularity and/or exacerbating precarious conditions for migrant people, which also has consequences for their families. This section also outlines the main routes followed by undocumented third-country nationals in Italy to regularise their migratory status.

2.1. Access to work, healthcare and housing

2.1.1. *Migrant workers' rights and the entry route system for foreign workers*

According to the Italian Constitution, the protection of work ‘in all its forms and practices’ – including precarious or unstable employment – applies regardless of the nationality of the workers (Article 35). Italian labour law is based on the principle of equal treatment between third-country national workers and national/EU workers. The Consolidated Law on Immigration stipulates that migrant workers with a work permit have the right to receive the same remuneration, social security benefits, and assistance as an Italian worker. Yet, undocumented migrant people cannot be employed legally, leading them to resort to undeclared work. In line with the EU Employer Sanctions Directive, the Italian Consolidated Law on Immigration (Article 22(12)) imposes criminal sanctions on the employers of undocumented third-country workers. However, undocumented migrant workers do have some forms of protection, especially regarding remuneration and social security contributions, although in practice it is difficult to obtain them (Chiaramonte 2018).

As discussed in this section, entering Italy as a regular migrant worker is not easy and poses significant challenges. At the same time, for migrant people who regularly reside in Italy for reasons other than work, obtaining the right to work can be challenging as some types of residence permit do not allow for employment. Furthermore, it is difficult, especially for those considered to be ‘low-skilled workers’, to find employment that offers fair working conditions (see Section 3), which are also necessary for converting a residence permit into a work-permit. Moreover, recent restrictive national migration laws (such as the above mentioned Law Decree 20/2023) have prevented certain categories of residence permit, such as those for ‘special protection’ and for medical treatment (see below Section 2.2.2), from being converted into residence permits for work purposes.

With regard to the system of third-country migrant workers’ entry, this is regulated by Law 40 1998, the ‘Turco-Napolitano Law’ subsequently merged into the Consolidated Act on Immigration. This Act establishes two levels of regulation in relation to entry routes for work reasons. The first is a Three-year Plan (*Programmazione Triennale*) defining broad criteria for annual entry flows into the national territory (Article 3, paras 1-3). The second is the Flows Decree (*Decreto Flussi*), which is issued annually to set maximum quotas for workers to be admitted into the national territory based on labour market needs and sector shortages. However, the adoption of three-year plans has been rare, with a 20 year gap between the current Three-year Plan (2023-2025) and the previous one. As a result the Flows Decree is the primary instrument regulating the admission of third-country migrant workers into the national labour market.

The annual Flows Decree sets quotas for both dependent work (including seasonal and non-seasonal workers) and self-employed work. This entry system is based on an employer-driven mechanism that requires resident employers (Italian nationals or regularly resident foreigners) to submit an application to the relevant special office for immigration (*Sportello Unico*) at the local prefecture. Employers must provide a proposed ‘residence contract’, guaranteeing the availability of suitable accommodation for the workers and ensuring that they will cover return travel expenses when migrant workers stop renewing their residence permits. If the employer’s application is successful, the *Sportello Unico* then authorises the relevant Italian consular offices in the country of the prospective worker to issue an entry visa to the migrant worker. The consular office then issues an entry visa for work reasons to the migrant worker who, once in Italy, signs the residence contract for work reasons. Then the residence permit for work reasons is issued.

Therefore, according to this employer-based system, prospective migrant workers can enter Italy only after securing a job and the related visa authorisation, within the annual entry quotas provided by the Flows Decree. However, over the years, this system has proven difficult to apply, inadequate in responding to the needs of employers (including private households), and not only ineffective in preventing irregular migration but even contributing to its production.

First, such quotas are typically below the actual needs of the labour market for the migrant workforce. Furthermore, from 2011 to 2020, the quotas were drastically cut – especially for non-seasonal work – while there has been an increase since 2021 (Corrado et al. 2018; ISMU 2023). In addition, the Flows Decree system involves a lengthy and convoluted bureaucratic procedure, based on the (false) assumption that prospective migrant workers remain in their home countries until the entry visa is issued, and thus are not in Italy before that (Ambrosini 2013). This mechanism of long-distance matching between job demand and supply hinders effective and transparent procedures (Chiaromonte and Federico 2021). Instead, it fosters the circumvention of the Flows Decree regulation, for there is often an ‘agreement’ between an employer and an irregular migrant worker already present in Italy that the latter will return to their country of origin until they obtain an entry visa. In this context, the Flows Decree system works as a sort of ‘ex-post regularisation’¹⁰ (Sciarrà and Chiaromonte 2014).

As many stakeholders interviewed for this research pointed out, the Flows Decree procedure is also open to abusive and illegal practices, including the selling of employment offers for substantial sums of money. These offers can sometimes turn out to be false, so that once workers arrive in Italy they find themselves without a job, and thus risk falling into conditions of irregularity. As migration lawyer Roberta Aria pointed out to us:

There are numerous migrants who have arrived in Italy through the Flows Decree and have been unable to regularise their status for many months. This is for various reasons, such as the employers who initially applied to bring them to Italy no longer being traceable. Consequently, these individuals, although they had arrived in Italy with a valid visa, are then unable to secure the work contract for which they came to the country. (Interview Legal-02)

¹⁰ In practice, according to an ‘agreement’ between the employer and the undocumented migrant worker already in Italy, once a flows decree is issued, the employer submits a request to hire a foreign worker, and, in the case of a positive outcome, the worker goes back to their country of origin and, after obtaining a visa for work purposes, returns to Italy and signs a contract.

This trend also emerged from the research conducted by the campaign ‘Ero straniero’ (2023), which has revealed that the percentage of entry visas authorised within the Flows Decree system and then converted into residence permits is very low: only one-third of workers entering Italy through the Flows Decree system manage to regularise their employment situation and obtain a residence permit, while the majority, employed by companies only on the basis of the entry visa, find themselves in a condition of irregularity and precariousness once this employment ends.

The intersection of all these factors has turned the Flows Decree system into a (legalised) device for creating irregularity. It has pushed many migrant workers towards irregular recruitment channels (Chiaromonte 2018) and encouraged many employers to turn to undocumented migrants already in Italy. In this context, undocumented migrants have sought to regularise their status either through an incorrect use of the Flows Decree system as an ‘ex-post regularisation’ (Sciarra and Chiaromonte 2014) or through the periodic amnesty/regularisation schemes implemented by the Italian government.

The recent reform to the Flows Decree introduced by Law Decree 20/2023 allows some entry routes for migrant workers which are not included within the official quotas, and are for those workers attending pre-departure professional training courses recognised by the Italian Ministry of Labour on the basis of specific agreements with public or private organisations in migrants’ countries of origin. This reform has nonetheless kept the overall structure of the system regulating entries for work intact, with all its contradictions, ambiguities, and inefficiencies (see, for instance, Paggi 2023).

In conclusion, the combination of both the deficiencies of the Flows Decree system and the widespread recourse to informal employment in sectors such as domestic and care work and agriculture, have created today’s situation in which labour demands in these key segments are mainly fulfilled by, in addition to undocumented migrant workers, EU migrant citizens from Eastern European countries, as well as non-EU asylum seekers and beneficiaries of international protection (Corrado et al. 2018; Palumbo forthcoming).

2.1.2. *The right to health*

Health is a fundamental right protected by Article 32 of the Italian Constitution. Third-country nationals legally residing in Italy are required to enrol in the national health service – the *Servizio Sanitario Nazionale* – and are given equal treatment to and full equality of rights and duties with Italian citizens. These include migrant people legally residing or those who have applied for the renewal of their residence permit for subordinate or autonomous work, family reasons, international or complementary protection, or as asylum seekers. However, numerous challenges exist for regular migrant people in accessing the healthcare system. The regionally based administrative structure of the healthcare system leads to fragmented access to services, resulting in differential inclusion in healthcare access (Simm 2023). This is also due to the interaction of several factors, such as inadequate procedures and practices by relevant institutions (see Section 2.2) and the gradual decline in the types of services offered in reception centres, including informative and psychological support for asylum seekers and refugees, thus hindering their access to assistance and health-related services.

In Italy, undocumented third-country nationals have the right to receive all urgent or essential medical care, including continuous care, for illnesses and injuries. Protecting the health of irregularly staying migrants is considered a priority, and healthcare professionals treating undocumented foreigners are forbidden from reporting them to the relevant authorities, ensuring effective protection of the individuals and their physical

and mental integrity (Article 35(5) of the Consolidated Act on Immigration). Undocumented migrant people are provided with a regional code called an ‘STP’ code (*Straniero Temporaneamente Presente*, i.e. foreigner who is in Italy temporary) which serves as a health-card for undocumented migrants, and ensures their anonymity. However, some regional health administrations, such as that in Lombardy, have narrowly interpreted the concept of “essential and urgent care, even if continuous” for those possessing an STP code, including only allowing access to emergency care and to treatments for conditions in advanced stages of severity (Simm 2023).

EU citizens who have not registered their residence after 3 months of being in the country and therefore are irregularly staying in the national territory, can access essential, urgent, and continuous health services through a card with an individual code, the so-called ENI code (*Europeo Non Iscritto*). However, not all regions have adopted the ENI code, which contributes to weakening the protection of the right to health for indigent EU citizens (ASGI 2021).

In general, whether or not they are in conditions of irregularity, migrant people frequently face limited and insufficient access to healthcare services, especially with regard to reproductive rights and maternal and child health (see Section 3), infectious diseases (HIV), and mental health (Simm 2023; Aria 2023).

2.1.3. *Housing and welfare benefits*

As stipulated in the Consolidated Immigration Act (Article 43), regular migrant people are entitled to have access to housing without discrimination, on equal terms with Italian citizens. They can access social housing, whether collective or private, established according to criteria set forth by regional laws, while waiting to secure permanent housing (Article 40). However, in the long term, housing is subject to limitations. Specifically, the Consolidated Law on Immigration provides that only foreigners holding an EU long-term residence permit or foreign workers with a permit to stay of no less than 2 years are eligible for public housing and housing support measures (Article 40). The Constitutional Court (see Decisions No. 44/2020; No. 73/2023; No. 45/2023) has declared illegitimate the five-year residence requirement demanded by some regions for access to public housing.

Undocumented migrant people cannot enter into a rental contract and, consequently, have no access to housing benefits.

It is worth stressing that one of the essential requirements for a person to have regular entry into Italy and acquire a residence permit in the country (for work reasons, family reunification, or EU long-term residence) is that they have suitable accommodation once they arrive. Accommodation can be obtained through being hosted at someone else’s house or by renting or purchasing a house. The accommodation indicated for the purpose of issuing/renewing the residence permit must meet certain requirements in terms of habitability and hygiene, and comply with the minimum standards set by individual regional laws for public residential buildings. However, as discussed below, these requirements are particularly difficult to meet for many migrants, especially considering the significant challenges they face in finding housing.

These challenges are due to the interplay of factors including both the high prices and rigid requirements for renting or buying an apartment, as well as to the stereotypes and racist prejudices that hinder access to housing for foreign and/or racialised individuals (see Toccaceli 2023).¹¹

In this scenario, it is not surprising that, according to a recent study, around 10,000 migrant workers live in informal encampments (e.g. occupied buildings, shacks, and tents) (Giovannetti 2022). In many of these settlements, there are family units with minors.

With regard to anti-poverty welfare measures, the so-called ‘inclusion allowance’ (*assegno di inclusione*) addresses poor Italians, regular EU citizens, and third-country nationals with a long-term residence permit, provided they can demonstrate having resided in Italy for at least 5 years continuously, with the last two being uninterrupted. These requirements significantly exclude migrant people in precarious conditions from accessing these benefits (Guariso 2023).

Likewise, the ‘single and universal allowance’ (*assegno unico e universale per i figli a carico*), which provides economic support for families with dependent children, applies not only to Italians but also to regular EU citizens, third-country nationals with a long-term residence permit, and those holding a single work permit for a period exceeding six months.

Lastly, it is worth also mentioning that the ‘freedom income’ (*reddito di libertà*), which is an economic support (400 euros per month for twelve months) provided to women, with or without children, who are victims of violence and receive assistance from anti-violence centres participating in the national anti-violence network.¹² The beneficiaries of this economic support can be Italian or EU citizens, or third-country nationals with a valid residence permit. Migrant women in irregular conditions, including EU citizens who have not registered their residence within three months of their arrival in Italy, are not eligible for this measure.

2.2. Pathways to regularisation: Challenges and limits

In this section, we outline the main regularisation routes taken by undocumented third-country nationals who enter Italy irregularly or who enter in a regular manner, e.g. with a tourist or work visa, but overstay their permit. We distinguish between large scale regularisation schemes (*sanatorie*) that are periodically applied to undocumented migrant populations or specific groups thereof, and individualised regularisation pathways that occur on an individual basis through the application for specific types of residence permits.

2.2.1. Large-scale regularisation schemes

Since the 1980s, different Italian governments have periodically adopted regularisation schemes for undocumented workers in order to manage (labour) migration (Barbagli et al. 2004; Colucci 2018). This practice of periodically resorting to regularisation plans reveals a system fostering irregular stay as the primary route towards migrants’ social integration, rather than making regular migratory channels to Italy

¹¹ See in this regard “Non si affitta agli stranieri”: i video testimonial raccolti da Almaterra <https://www.asgi.it/notizie/non-si-affitta-agli-stranieri-i-video-testimonial-raccolti-da-almaterra/>

¹² On the shortcomings of this measures see, for instance, Orfano and Silvestre 2023.

more viable and accessible (Palumbo 2017). This, in turn, has fuelled an undeclared labour market, exploitation, and criminal activities (Papa 2018; Amnesty International 2012).

Table 3 Regularisation schemes

Year	Categories/sectors involved	Number of regularised migrant people
1986	Employed workers	105,000
1990	Employed and self-employed workers	218,000
1995	Employed workers and reunited family members	244,000
1999	Employed workers and reunited family members	217,000
2002	Employed workers; domestic and care workers	642,000
2009	Domestic and care workers	238,000
2012	Employed workers; domestic and care workers	99,000
2020	Employed workers in agriculture and domestic and care work sectors	The procedure is not yet completed. At the time of writing, 132,000 applications have been accepted.

Source: Our elaboration of data from ISTAT (2005), IDOS (2024), *Ero Straniero* (2023).

The last regularisation scheme was adopted in August 2020 (Article 103 of Law Decree 34/2020 converted into Law 70/2020) to address the impact of the Covid-19 pandemic and to ‘facilitate the emergence of irregular employment relationships’. It only applied to the agricultural and domestic work sectors, and aimed to cover all those doing undeclared work, whether undocumented foreign workers, Italian citizens, EU migrants, or regular non-EU migrants. The regularisation scheme established two channels. The first channel allowed employers to apply to conclude a fixed-term employment contract for foreign nationals or to declare the existence of a relationship of irregular employment with Italian/EU citizens or foreign nationals present in Italy before 8 March 2020, who had also not left the country since that date. The second channel allowed foreign citizens (with a residence permit that had expired since 31 October 2019, who were able to prove they worked in one of the eligible sectors before that date and who had been present in Italy before 8 March 2020) to apply for a six-month temporary residence permit to look for a job in these sectors.

However, from the beginning it was clear that significant shortcomings in the regularisation scheme would affect its impact, resulting in a limited number of regularised migrants, especially migrant farmworkers (Palumbo 2020; Schiavone 2020).

First of all, in line with the previous regularisation schemes, the 2020 regularisation scheme has mainly relied on an employer-driven approach, providing limited room for manoeuvre for workers. The temporary residence permit to search for work, established in the second channel of the plan, is a relative novelty for the Italian legal system, which since the adoption of the 2002 Bossi-Fini Law has closely linked residence

permits for work reasons to the existence of a work contract. Yet, the prerequisites for this second path significantly limited its scope, leaving out numerous migrants in situations of irregularity and precariousness (Palumbo 2020). Furthermore, by applying only to the agriculture and domestic and care work sectors, the scheme overlooked sectors such as logistics, construction, tourism, and food services that have high rates of undeclared work, which also involve migrant workers in exploitative conditions. This decision clearly highlighted the economic and labour market logic behind the regularisation.

According to official data provided by the Italian Minister of the Interior, there have been 220,528 applications for both channels of regularisation: respectively, 207,542 for the first channel, (mainly in the domestic and care work sector), and 12,986 for the second (mainly in agriculture) (Ministero dell'Interno, 2020). Strikingly, 64% of applications in domestic and care work were from migrant men. Given the high percentage of women in this sector, this suggests that there have been illegal practices such as the sale of 'false' job contracts to allow people to access regularisation (Rondi, 2021).

The processing of the applications has been incredibly slow. As the campaign 'Ero Straniero' (2023) has pointed out, over three years from the launch of the regularisation scheme, there are thousands of pending applications by migrant people living in Italy who are still awaiting a response. With regard to the first channel of the regularisation scheme, it has been emphasised that in June 2023 approximately 132,000 applications concluded with a positive outcome, resulting in a request for the issuance of a residence permit (Ero Straniero 2023). As mentioned previously, after three years, only 65,166 residence permits were issued of the 207,542 applications submitted, which represents approximately 31.5% of the applications (Coresi et al. 2023). Ero Straniero reported the most serious delays in Rome and Milan. However, the interviews collected for this research revealed that there are delays in all cities across the country, due mainly to a shortage of human resources in public administration.

The 2020 regularisation scheme has clearly revealed how temporary, selective, emergency-based, and excessively bureaucratic measures cannot be the solution to addressing the conditions of irregularity and related vulnerabilities experienced by many migrant people in Italy, especially when it comes to addressing the exploitation of migrant workers. As our interviewees underlined, it is necessary to adopt regularisation channels that allow migrant people social and labour inclusion in the long term, including residence permits for job seeking or individualised regularisation channels.

2.2.2. *Individualised regularisation pathways*

Residence permit as an asylum seeker

Applying for international or complementary protection, and thus obtaining a residence permit as an asylum seeker, is one of the main routes pursued by migrant people in conditions of irregularity in Italy. In 2022, there were approximately 77,200 initial applications for international protection and around 7,000 repeated asylum applications (Napoli e Ripamonti 2023). These data include both asylum applications submitted at the borders and those submitted by individuals already in the territory, including, for instance, those who have entered the country regularly, such as with a tourist visa.

It is worth underlining that in addition to refugee status and subsidiary protection, Italian legislation provides for complementary protection named 'special protection' (Article 19 of the Consolidated Act on Immigration). However, as already mentioned, Decree 20/2023, commonly known as the 'Cutro Decree', has recently narrowed the grounds and channels for obtaining special protection. In particular, Decree 20/2023

has eliminated the possibility for migrant people to submit a request for special protection directly to the local police headquarters. Consequently, the sole avenue for applying for special protection is now through the asylum procedure, which includes a hearing before local commissions (*Commissioni territoriali*) for the recognition of international protection. Furthermore, Decree 20/2023 has narrowed the scope of application of this protection by removing the provision that allowed for it to be granted based on the migrant's family ties and their social and labour inclusion in Italy. However, it should be emphasised that respect for the state's constitutional and international obligations remains in the national legal framework,¹³ including the respect for Article 8 of the European Convention on Human Rights (ECHR), which enshrines the right to respect for private and family life. In any case, the new regulatory framework will make the procedures more complex, and will also lead to an increase in judicial appeals.

Asylum seekers have a temporary residence permit that is valid within the national territory for six months, renewable until a decision on their asylum application is made. As discussed below, the wait for a final decision can go on for years. During this time, asylum seekers are entitled to enrol in the national health service and have the right to enrol in the national education system. Once 60 days have passed from their asylum application they are allowed to work. Yet, the residence permit for asylum application cannot be converted into a residence permit for work purposes and does not entitle the holder to family reunification. Asylum seekers without means of subsistence are entitled to be hosted in reception centres, where they are provided with accommodation, meals, and an allowance of roughly 2.50 euros per day. However, as discussed below, it depends on the context and the type of centre. Support and assistance services in reception centres are often inadequate (see, for instance, Carnassale and Marchetti, forthcoming). This has become even more evident with the recent restrictive national reforms on asylum and migration, which have also negatively affected the reception system, reducing the services and resources allocated to it.

It is worth noting that over recent years there has been an increase in the number of rejected asylum applications (CIR 2023), resulting in significant numbers of irregularised migrant people living and working in Italy in conditions of marginalization and exploitation (Carnassale and Marchetti, forthcoming).

Residence permit for family ties with Italian citizens

Undocumented migrant people cohabiting with an Italian national who is their relative up to the second degree or an Italian spouse cannot be expelled from the country and are entitled to a family-based residence permit for a duration of two years, which is renewable (Article 19, para. 2, letter c of the Consolidated Act on Immigration). This residence permit allows for work and study, and can be converted into a residence permit for work reasons.

Residence permit for medical treatment

Undocumented migrant people in particularly serious health conditions can apply for a permit for medical treatment according to Article 19 (para 2, letter d-bis) of the Consolidated Act on Immigration. This residence permit lasts for one year, renewable according to certified medical needs.

However, even this residence permit has been significantly undermined by Law Decree 20/2023. This decree has limited the eligibility of this permit only to those people with health conditions stemming from “pathologies of particular seriousness not adequately treatable in the country of origin”. This violates the

¹³ See in this regard Art. 5 (para 6) of the Consolidated Act on Immigration.

right to health (Article 32 of the Italian Constitution) because in most countries of origin medical care is not guaranteed for those who cannot afford significant economic costs (Vassallo Paleologo 2023). Furthermore, Decree 20/2023 has eliminated the possibility of converting a residence permit issued for medical treatment into a work permit, thereby preventing migrant people once again from a process of social and labour inclusion in the country.

Residence permit for pregnant women

Undocumented migrant pregnant women can obtain a residence permit for medical treatments covering the period of the pregnancy and the six months following the birth of the child (Article 19, para 2, letter d of the Consolidated Act on Immigration). As a result of the Constitutional Court judgement of 27th July 2000, no. 376, this residence permit must also be granted to the cohabiting husband of the pregnant woman for the same duration.

As a migration lawyer interviewed for this research pointed out, “the limited duration of this residence permit together with the long waiting times for its issuance by the police headquarters, end up discouraging many women from applying for this type of permit” (Interview with Legal-02). Moreover, it is not possible for the mother or father of the minor to convert this permit into a residence permit for work purposes. However, this permit can be converted into a residence permit for family reasons, provided that the income and housing requirements for family reunification are met.

Residence permit for the care of minors

In addition to applying for 'special protection', another pathway for regularisation based on family ties, and more specifically on the care of minors, is provided by Article 31 of the Consolidated Act on Immigration. This article allows for the issuance of a residence permit to a family member (parents or relatives) of a child who is in the Italian territory, upon authorisation from the Juvenile Tribunal. In particular, according to this provision, a residence permit for an undocumented individual already in Italy, who is a parent or relative of a child, can be granted when it is demonstrated that the child is enrolled in school and has an emotional bond with that parent or relative, and the close presence of this parent/relative is considered to be in the child's best interest.

However, the proceedings at the Juvenile Tribunal are lengthy (they can last for more than a year), and the applicant remains irregular until the tribunal makes a decision. This residence permit allows for employment, and it can be converted into a work permit.

Residence permits for victims of trafficking and exploitation

Italian assistance provisions for migrant people who are victims of trafficking and exploitation are considered good practice at international level.

This especially regards the provisions under Article 18 of the Consolidated Act on Immigration, especially its so-called 'social path', which provides victims of exploitation and trafficking with the possibility of assistance and a residence permit irrespective of their cooperation with relevant law enforcement authorities and of the outcome of criminal proceedings. However, despite being considered an innovative and good practice, the 'social path' provided by Article 18 is inadequately implemented (see, for instance, Palumbo and Romano 2022). In fact, most victims are required to cooperate with relevant authorities to obtain a residence permit. Article 18 also provides for victims to participate in social inclusion programs, which, however, often have

been experienced by exploited/trafficked people as moments of isolation and a deprivation of their personal freedom and autonomy.

In addition to the Article 18 residence permit, undocumented migrant workers who are victims of labour exploitation and file a complaint and cooperate in criminal proceedings, can obtain a permit under Article 22 (para 12-quater) of the Consolidated Act on Immigration.

In recent years, there has been an increase in the issuance of Article 22 residence permits, thanks to the coordinated efforts of the National Labour Inspectorate and the International Organisation of Migration (IOM) (see below Section 3.5). However, the number of these residence permits is still limited, mainly because, given the lack of concrete non-exploitative job alternatives, many workers are not interested in reporting their employers and are reluctant to cooperate with the relevant authorities.

Residence permits issued in accordance with Article 18 and Article 22 last 6 months and can be renewed for one year, or for a longer period if this is needed for reasons of justice. These residence permits allow for employment and, at the end of their validity period, if the person has an ongoing employment relationship, they can be converted into a work permit. However, the limited duration of these residence permits hinders any effective process of labour and social inclusion for the victim. It also appears disconnected from the real time that it takes to be included in the Italian job market. These limitations concerning Articles 18 and 22 residence permits have led many exploited and trafficked migrant people to opt for the asylum track, as this guarantees greater possibilities for autonomy and long-term regularisation.

Residence permit for victims of gender violence

Building on the model of Article 18 of the Consolidated Act on Immigration, a residence permit for victims of gender-based violence (including domestic violence) is provided through Article 18-bis of the same act, which was introduced by Law 119 of 15 October 2013. Article 18-bis implemented the provision set forth in Article 59 (para 1) of the 2011 Council of Europe Convention on preventing and combatting violence against women and domestic violence, which is also known as the Istanbul Convention. The Article 18-bis residence permit can only be requested pending a criminal proceeding, initiated ex officio or following a complaint from the victim. The residence permit is valid for one year and can be renewed if the dangerous conditions for which it was issued still persist. This residence permit allows for employment and can be converted into a work permit.

Data shows that between 2013 and 2018, only 111 permits under Article 18-bis were issued (GREVIO 2019). These low numbers confirm that this permit has encountered several obstacles in its implementation (Boiano et al. 2020). One of the main obstacles concerns the fact that the issuance of the residence permit under Article 18-bis is tied to the initiation of criminal proceedings. In fact, undocumented migrant women victims of gender violence often refrain from turning to the police, fearing that contacting the authorities may lead to the initiation of an expulsion procedure against them (Boiano et al. 2020; GREVIO 2020: 78).

Temporary protection for people fleeing war in Ukraine

In accordance with Directive 55/2001/EU activated by the EU following the Russian invasion of Ukraine in February 2022, Italy has provided the possibility of temporary protection to people displaced from Ukraine since 24 February 2022. Between March and December 2022, temporary protection was

granted to 150,478 Ukrainian citizens, 260 Russian citizens, 179 Moldovan citizens, and 518 individuals of other nationalities (Napoli e Ripamonti 2023).

Applicants and beneficiaries of temporary protection are entitled to enrol in the national health service and in schools, and to work. They can also be hosted in reception centres. The latest budget law, approved on 30 December 2023, allows for the extension of the validity of temporary protection residence permits until 31 December 2024, and permits the conversion of these residence permits for work purposes.

These last provisions will undoubtedly bring greater protection and open up opportunities for all those displaced from Ukraine. On the other hand, what cannot be overlooked is how deeply they contrast with the restrictive provisions contained in the recent decrees on migration and asylum issued during 2023 by the current government, which have aimed at limiting (other) migrant people's access to residence permits and their conversion into permits for work reasons. What emerges is a differential access to the right to protection and residence permits, rooted also in racialising models and frameworks.

2.3. Legal mechanisms, rules and practices amplifying legal precariousness and uncertainty

2.3.1. *The long and exhausting bureaucratic processes*

Many migrant people who have applied for a residence permit find themselves in a bureaucratic limbo that hinders their regularisation process in Italy. As migration lawyer Aria stressed:

If, on the one hand, there are people who do not have a residence permit because they arrived irregularly in Italy and have never applied for it, on the other hand, many people are in irregular and legal precarious situations due to being victims of 'bureaucratic violence' and indefinite processing times. (Interview Legal-02)

This 'bureaucratic violence' – which aligns with the concept of 'legal violence' introduced by Menjívar and Abrego (2012) to refer to laws and related legal practices affecting the living and working conditions of migrant people – applies to various cases. One example is the case described above of migrant workers entering Italy through the Flows Decree system. They find themselves in limbo due to long bureaucratic processing times or as a result of the 'disappearance' of prospective employers, making it challenging for them to regularise their status. There is also the case of migrant workers awaiting responses from the 2020 regularisation scheme or the case of asylum seekers waiting for the outcome of their asylum applications (see below). Finally, there are those who have the right to come to Italy through family reunification, but struggle with the long processing times at embassies. In general, there is a broad segment of migrant people trapped in bureaucratic processes who are unable to regularise their status.

Significant delays also occur for the renewal of residence permits, with negative consequences for migrant people's access to the labour market and healthcare, amongst other things. Although migrant people receive official certificates allowing them to work during the process of renewal of their permits, often employers and job agencies are distrustful of this documentation.

Despite the fact that, according to Italian law, migrant people should remain enrolled in the national health service and in the civil registry during the renewal of their residence permits, public administrations often create significant challenges in this regard. As migration lawyer Zorzella argued:

In many local administration offices, they say to migrant people in the process of renewing their residence permits, “well, for now, you can have the STP, that is the temporary foreigner’s card that allows undocumented individuals access to emergency measures”. Furthermore, there are registry offices that either cancel or do not allow their registration in the civil registry. This means that not only are fundamental rights such as enrolment in the National Health Service undermined, but it also affects the person’s ability to open a bank account, which is one of the prerequisites for employment. (Interview Legal-01)

The long waiting period may also have a negative impact on access to welfare services. For instance, in some local contexts, there have been cases in which the Social Security Office (INPS) suspended the Single and Universal Allowance for parents with dependent children during the residence permit’s renewal time, despite the fact that it should be guaranteed. This has a significant negative impact on families in poverty, especially in the case of single mothers, as described by migration lawyer Aria in her interview:

Let’s imagine a woman living alone, perhaps working as a domestic worker, with a salary of around 700 euros (per month). She has a child and still has to pay rent during the residence permit renewal period, as well as continue to pay contributions. Now, consider what happens if she is deprived of a fixed monthly income of around 300-350 euros, roughly equivalent to the universal child benefit. This is a significant damage that has a profound impact, as I have recently observed, on the psychological wellbeing of the woman, who becomes very disheartened. Consequently, this also affects the children, who obviously see their mother in a state of extreme distress. (Interview with Roberta Aria, Legal-02)

2.3.2. *The ever-present risk of losing a residence permit and its impact on family members*

As many stakeholders interviewed for this research pointed out, the strictness of the rules regarding the issuance and maintenance of residence permits is another factor that contributes to fostering conditions of uncertainty and precariousness for migrant people. This particularly concerns the requirements related to migrants’ earning capacity and the availability of suitable accommodation, as in the case of the issuance of residence permits for work reasons and family reunification. These requirements do not seem to take into account the characteristics and crisis of the Italian labour market, as well as the enormous difficulties faced by migrant people looking for housing. Moreover, as lawyer Zorzella pointed out during the interview:

The formal prerequisite of housing suitability for the issuing of the resident permit for work reasons or for family reunification or of the EU long-term residence permit also imposes specific hygiene and health requirements on foreign individuals and families, requirements that are not imposed on Italian households. This thus constitutes systemic discrimination. The requirement of housing suitability is sometimes mistakenly requested for the renewal of residence permits. The Consolidated Act on Immigration only requires that a domicile address be provided for the renewal. (Interview Legal-01)

The challenges and burdensome bureaucratic procedures associated with obtaining a residence permit inevitably affect migrant people's wellbeing. The fear of losing one's residence permit impacts on daily life, making it difficult to make plans for the future and worsening already precarious living conditions. This, in turn, has negative repercussions on family members' wellbeing and legal status. For instance, children, who are often integrated into Italy's social context and education system, risk losing their regular legal status if their parents lose theirs.

Family reunification, obstacles, and precarious situations

Migrant people applying for family reunification face numerous obstacles and challenges, including the applicant's income capacity, the availability of suitable accommodation, and long processing times, which can take approximately two years.

By focusing on the specific and seldom discussed case of family reunification with dependent parents (referred to as 'reunification of grandparents'), some stakeholders have highlighted that the difficulties in obtaining this form of reunification have been exacerbated by the provisions of the 2023 financial law. This requires the reunified parent to enrol in the national health service by paying 2,000 euros. As highlighted by lawyer Zorzella (Interview Legal-01), this measure represents a significant obstacle to access the labour market for migrant women, many of whom have primary responsibility for care and reproductive activities within the family – activities that could be significantly supported by grandparents. This, in turn, has a significant impact on the level of family income and, consequently, on migrant women's ability to maintain their residence permit, increasing their risk of finding themselves in situations of irregularity.

Feminist legal literature has highlighted how European and national migration legislation, including family reunification legislation, have been structured around the distinction between productive work and (unpaid) reproductive work, traditionally carried out by women within the household sphere (see, for example, Rigo 2022). Within this framework, the work associated with care and domestic activities is not considered relevant among the conditions necessary for obtaining a residence permit.

Furthermore, such a model, which significantly affects women's migration paths, also generates dynamics of precariousness and even dependency among reunified family members, which tend to intensify in case of relationships that are no longer desired and/or become violent.

2.3.3. *The limbo of asylum seekers' conditions*

Migrant people who manage to arrive in Italy – often after experiencing violence, abuse and dangerous journeys – and apply for asylum, find themselves in a limbo of repeated renewals of temporary six-month residence permits while waiting for the outcome of their asylum applications; applications that, as highlighted above, are often rejected, especially since 2014 (Sciurba 2021).

In many places, reception centres for asylum seekers have turned into labour pools from which employers and labour intermediaries recruit low-cost workers for sectors such as agriculture and textiles (see, for instance, Corrado et al. 2018; Caprioglio and Rigo 2020). Furthermore, asylum seekers hosted in reception centres cannot have an income higher than the annual national social allowance (currently around 5,983.64 euros), otherwise they lose access to the reception system. This leads many asylum seekers to resort to

accepting undeclared work, especially when they need to financially support their families by sending remittances to their country of origin (L'Altro Diritto and FlaiCGIL 2022).

Asylum seekers are particularly exposed to dynamics of labour exploitation and abuse due to the fact that they regularly reside in the territory while also having a fragile legal and social status (Altro diritto and Flai-Cgil 2022; Palumbo 2022). Asylum seekers' status has been further undermined by the stringent measures introduced by Law Decree 20/2023 (the 'Cutro Decree'), which reduced the services provided in the Centres for First Reception (CPA) and in the Extraordinary Reception Centres (CAS), including eliminating all psychological and legal assistance. It also limited asylum seekers' access to the Reception and Integration System (SAI), which usually provides better social and support services and structures than, for instance, CAS centres. These stringent measures significantly undermine the legal protection and social inclusion assistance provided to asylum seekers, affecting their wellbeing and amplifying their risk of becoming involved in dynamics of undeclared work and exploitation.

3. Entanglements between migration, employment, and welfare regimes

Building on the concept of irregularity assemblage, this section explores how irregular conditions are produced and shaped by the intersection of migration, employment, and welfare regimes. Special attention is given to dynamics of irregularity and exploitation in domestic and care work and agriculture.

3.1. The legal stratification of the migrant labour force and racialised and gendered dynamics

As seen in the first section, key sectors of the Italian labour market, including agriculture and domestic and care work, heavily depend on the migrant labour force. This workforce is racialised and gendered and often exposed to inadequate protection, informal employment, and exploitation (see, for instance, Sciarba 2015; Palumbo and Corrado 2022).

In the absence of an effective entry system for third country workers, labour demand in sectors such as agriculture and domestic and care work has been primarily met by the recruitment of undocumented migrants, citizens of eastern EU countries (Romanians, Poles, Bulgarians), regular non-EU migrant workers (including seasonal workers), and regular non-EU nationals with a residence permit not issued for work reasons, but which entitles them to work (Palumbo 2022). The latter notably include, especially in the case of the agricultural sector, asylum seekers and beneficiaries of international protection mainly from Sub-Saharan Africa and Southeast Asia (Corrado and Caruso 2022). This has led to what is referred to as a ‘refugeeisation of the agricultural workforce’, particularly with regard to agricultural work in seasonal cultivation (Dines and Rigo 2015).

The high demand for short-term and extremely flexible labour, widespread irregularity, shortcomings in employment centres, the isolation of workers and their dependency on employers, the lack of inspections, and the limited access to justice for those workers who are exploited, all contribute to fostering and perpetuating undeclared work and exploitation in the agriculture, domestic and care work sectors. These dynamics involve abusive employers, intermediaries, employment agencies, and/or pseudo-cooperatives (Corrado et al. 2018; L’Altro Diritto and FlaiCgil 2022).

In this context, racialised and gendered representations inform how labour skills are perceived in these two sectors. In domestic and care work, the emotional labour and skills of migrant domestic workers tend to be rendered invisible, fuelled by the historical undervaluation of reproductive work and the notion of an inherent predisposition for such tasks among women of specific nationalities (Marchetti 2023). In the agricultural sector too, skills and tasks are highly gendered and racialised, often according to specific bodily characteristics and stereotypes (Piro 2021), which also affect gender discrimination and salary disparities, as will be discussed below.

3.2. Irregular and exploitative dynamics in the domestic and care work sector

Domestic and care work is a highly feminised and “migrantised” sector: 84 per cent of workers are women and 70 per cent are migrant workers, chiefly from Eastern Europe (Romania, Ukraine, Moldova, and Albania), Asia (Philippines, Sri Lanka, and India), and Latin America (such as Peru and Ecuador) (Domina 2022). Despite the relevance of these estimates, more accurate data is difficult to obtain due to the high degree of undeclared work in this sector. The significant presence of migrant women workers is part of what has been

termed a “migrant-in-the-family model of care” (Bettio et al. 2006) that is characteristic of the Italian care system. This model organises domestic and care activities within a family-centric welfare system, relying on outsourcing these activities by employing a low-cost (female) migrant workforce, often in conditions of irregularity and exploitation. This ‘cost-effective solution’ leads to significant savings in public spending while allowing households to save money and maintain a gendered division of productive and reproductive activities (Sarti 2022; Näre 2013).

Italian migration policies have played a crucial and contradictory role in sustaining the growing presence of migrant workers in the domestic and care sector. Quotas specifically for domestic and care workers within the Flows Decree system were established from 2005 to 2011 and then reinstated in 2023, after a decade-long absence. However, the inadequacies and limits of the Flows Decree system have become very clear in the case of domestic and care work – particularly with regard to the mechanism of long-distance matching between job demand and supply. In addition to the difficulties associated with long and complex bureaucratic procedures, many employers of domestic and care workers are not willing to hire a person whom they have not met, especially when they would have to share their home with them (Ambrosini 2013). Many thus opt to employ migrant workers already in Italy, including irregular migrants trying to regularise their status, for instance through regularisation schemes or through the improper use of the Flows Decree system, resulting in undocumented people already in Italy returning to their home countries while awaiting their visa (see Section 2). It is worth noting that domestic and care workers are among the main beneficiaries of the regularisation schemes adopted by the Italian government over the last decades (in particular, in 2002, 2009, 2012, and lastly in 2020 in connection to the pandemic). This reveals the significant dependence of Italian families on migrant labour.

Domestic work is regulated by national Law 339/1958, which establishes the rights and duties of workers and employers and defines labour standards and conditions. Since 1974, collective bargaining has had a major role in this sector, providing a framework of rights and protection within domestic and care work, and representing the main source of regulation in the sector. Furthermore, in 2013, Italy ratified ILO Convention No. 189 on decent work for domestic workers (Marchetti et al. 2021). Despite this important development, several factors still limit the protection of the rights of this category of workers (Borelli 2021). For example, domestic and care workers have limited social security protections and have no sickness allowance, which is covered by the employer only for a restricted period (Article 27 CCNL). They can be dismissed even without just cause, and maternity leave is only partially guaranteed.

The constant blurring between family and employment relationships, along with the limited protection and rights of domestic workers, leads to deregulation and undermines workers’ living and working conditions (Maioni 2022). For instance, while according to the national collective agreement the maximum working time for live-in domestic workers is 54 hours per week, many migrant domestic and care workers, especially those who live in, often work for more than ten hours a day and must also attend to elderly or dependent persons during the night, without this extra time being recognized as overtime. Even in cases of cohabitation, the most common solution adopted by employers and employees is to arrange a contract for a ‘fictitious’ duration of 25 hours per week. This is the result of a ‘downward convergence’ of interests between employers and workers: employers pay social security contributions for the number of hours they consider ‘adequate’, considering the costs associated with that, while the threshold of 25 hours is sufficient for migrant workers to have the minimum income required (equal to the national social allowance) for obtaining a residence permit (Marchetti 2016).

The social reproduction of domestic and care workers is one of the main areas where there is a compression of labour costs (Rigo 2022). For example, the fact that employers provide accommodation for live-in domestic workers, which is also often substandard, serves as a way to "justify" their low salaries. Furthermore, in a live-in situation, where there are no clear boundaries in terms of what tasks do or do not fall within their remit, and in which there is also a blurring of the distinction between free time and working time, a worker's privacy may be highly restricted (Palumbo 2017). Isolation and invisibility are factors that amplify migrant domestic workers' situations of vulnerability to undeclared work and exploitation, including severe exploitation (Palumbo 2017).

In recent years, employment agencies have become increasingly involved in the recruitment of workers in sectors such as domestic and care work (Amorosi 2022). While some agencies respect the relevant legislation and the rights of workers, others act without the legally required authorisation or move in a 'grey area', taking advantage of loopholes in regulations.

3.3. Irregular and exploitative dynamics in the agricultural sector

Like domestic and care work, especially since the 1990s agricultural work has become one of the main channels that migrant workers use to access the Italian labour market, often under informal conditions (Colloca and Corrado 2013; Corrado et al. 2018).

The migrant labour force employed in the agricultural sector in Italy includes workers of different nationalities and legal statuses. Among EU migrant workers, Romanians continue to be the largest group of farmworkers in Italy, despite the drop in their number, especially since the Covid-19 pandemic (IDOS 2023, pp. 291-292). The number of non-EU workers has significantly increased, with a particularly large increase between 2007 and 2020. This number includes, for instance, Albanians, Moroccans, Indians, and Pakistanis (Corrado and Caruso 2022). In terms of gender, the official data show that from 2007 to 2017, there was a significant increase in women migrant workers, particularly EU citizens from Romania and Bulgaria (Moschetti and Valentino 2019). However, the number of EU migrant women farmworkers has declined since 2019, particularly in the post-pandemic period (Di Gregorio and Moffa 2022). Due to the widespread undeclared work in agriculture akin to that in domestic and care work, the official data cannot offer an exact representation of the actual situation.

The increasing recourse to the migrant labour force has served to support the capitalist development of the agri-food system (Corrado et al. 2016). In a context of the continuous intensification, capitalisation, and innovation of agri-food production and processing, many businesses have made increasing recourse to a low-wage, flexible, and exploitable migrant labour force to cope with market and price pressures from large retail groups (Corrado et al. 2018). This system has been facilitated by particular features of agricultural work, such as its seasonality and the fact that it has historically been characterised by weak labour protections and high rates of undeclared work. At the same time, as with domestic and care work, this system takes advantage of the vulnerable situations of certain migrant workers and of their weak bargaining power, which are themselves consequences of national legislation and policies in the fields of migration, social, and labour rights.

As a number of studies have shown, most migrant agricultural workers work long hours for low pay, are exposed to dangerous pesticides, and have to endure tough weather conditions (extreme heat in summer and extreme cold in winter). Moreover, many workers live in inadequate and substandard accommodation located in isolated rural areas, in some cases without access to basic services (Corrado et al. 2018; L'Altro

Diritto and Flai Cgil 2022; Palumbo 2022). Similar to the case of domestic and care work, the compression of the social reproduction of agricultural workers plays a crucial role in lowering labour costs and deepening dynamics of irregular work and exploitation (Rigo 2022; Palumbo 2022). Indeed, low wages are often justified by providing migrant workers with accommodation, which is often substandard, or, in the case of asylum seekers, by taking advantage of the fact that many of them are hosted in reception centres.

Specific elements characterise the working and living conditions of women agricultural workers and, consequently, the dynamics of exploitation they face. For instance, women agricultural workers, especially migrant women workers, are often paid less than men. In some rural areas, they earn 30-35 euros per day while male workers are paid 40-45 euros (Giammarinaro and Palumbo 2022). Gendered stereotypes about skills, physical strength, and attitudes are used to justify these wage inequalities.

Another significant factor is the widespread occurrence of temporary and undeclared employment among migrant women farmworkers. This is due to gendered roles within families and social spheres, as well as discriminatory dynamics (Palumbo 2022). Often migrant women agricultural workers have a fixed-term contract of fewer than 51 annual workdays or 102 biennial workdays (Moschetti and Valentino 2019) when in fact their real number of workdays is higher. Many women migrant workers are thus excluded from accessing welfare services such as, for instance, agricultural unemployment benefits and maternity allowances that are guaranteed only to those workers with contracts of at least 51 workdays per year.

In circumstances characterised by significant invisibility, marginalisation, and dependence on employers or illegal intermediaries (so-called “caporali”), which also impact workers’ potential for mobility, the dynamics of labour exploitation experienced by women workers are often coupled with sexual blackmail and abuse (Palumbo and Sciarba 2018; Palumbo 2022; ActionAid 2022). In some rural contexts women workers’ children are also subject to these conditions; for instance, in Ragusa, in Sicily, women migrant farmworkers live with their children in crumbling shelters close to the greenhouses that they work in. Their children are thus also often subject to abusive and exploitative dynamics (see below Section 3.4) (Palumbo and Sciarba 2018; Save the Children 2023).

Access to reproductive rights and abortion

As highlighted by interviews collected for this research, migrant women workers employed in sectors such as domestic and care work and agriculture encounter challenges in accessing gynaecological services and assistance. As Roberta Aria pointed out:

Many migrant women employed in domestic work, deeply committed to caring for other families, often lack the opportunity to have free afternoons. Consequently, they also find it challenging to allocate time for visits to gynaecological clinics (interview Legal-02)

In the case of women farmworkers these difficulties are amplified by the fact that usually there are few public gynaecological clinics in rural areas, and many of these have limited reception hours that hardly meet the working time and needs of women farmworkers. Furthermore, many migrant women farmworkers face challenges in accessing these services because they live in areas not served by public transportation and often do not have their own vehicles (Palumbo 2022).

In addition, it is worth mentioning the significant number of Italian doctors with a 'conscientious objection' to abortion, who, for personal or religious reasons, refuse to perform voluntary abortions. This significantly impedes women's access to abortion. In this context, some women choose to return to their home countries, like Romania, to undergo abortion procedures in hospitals, while others resort to unsafe and perilous methods for clandestine abortions (Giammarinaro and Palumbo 2022; ActionAid Italy 2022).

Mother migrant workers challenging the inadequacies in welfare services

In the case of migrant women who are mothers, the burden of family responsibilities and reproductive work, which still significantly affects all women workers, is exacerbated by lower wages, harsher working and living conditions, isolation, the absence of family and social networks, and the inefficiencies in welfare services, including support services for children and adolescents (Giammarinaro and Palumbo 2022).

All of these factors expose migrant women to anxiety and stress, addressing the challenges related to balancing work and family/care responsibilities. This, in turn, contributes to a considerable rate of school dropout (Save the Children 2023). Indeed, many minors do not attend school because because their parents cannot bring them due to work schedules, or, as seen with numerous migrant women farmworkers in isolated rural areas, lack the means to accompany them to schools in the nearest urban centres. In many agricultural areas, there is a lack of public transportation services (for instance school buses), that would enable children and teenagers to reach urban centres. In this context, in some rural areas, migrant women workers pay (off the books) other migrant women who run informal childcare facilities (ActionAid Italia 2022; Save the Children 2023). In other contexts, such as in Ragusa, minors (aged 13 to 17), when not taking care of their younger siblings while their parents are in the fields, also work as labourers to contribute to the family income (Palumbo 2022).

Studies have underlined how the burden of family responsibilities is a key factor that increases the situations of vulnerability of migrant women to undeclared and exploitative work (Palumbo 2022; Giammarinaro 2022; ActionAid Italy 2022). The fear of losing their jobs, and thus being unable to financially support their children, either in their home country or in Italy, prevents women workers from reporting labour rights violations, and compels them to accept irregular and exploitative working conditions.

3.4. The link between irregular and exploitative conditions and gender violence

Verbal insults, blackmail, harassment, and various forms of violence – psychological, verbal, physical, and sexual – are a pervasive reality in the daily lives of numerous women workers (see, for instance, ActionAid 2022). Often, women workers who oppose abuse by their employers (or by the family members of their employers) and/or by intermediaries are subject to threats, such as the possibility of being fired, not being paid, or having fewer declared working days. Isolation and limitations on movement, especially with live-in domestic and care workers and migrant farmworkers, further aggravates these dynamics (Sciurba 2015; Palumbo 2022).

It is not uncommon for threats to extend to these women's children. In addition to witnessing various abuses, including those of a sexual nature, the children sometimes become an additional instrument for blackmail by employers, intermediaries, or others on whom workers rely for housing, transportation, and access to services. Emblematic is the case of an employer who threatened a woman migrant farmworker by stating that he would not take her children to school everyday if she did not comply with his sexual requests (relying on him for transport was the only way her children could go to school) (Palumbo and Sciurba 2018). There are also cases in which the minors are themselves victims of violence and abuse (Save the Children 2023).

In a national labour market with severely restricted mobility, migrant women in particular often find themselves confined to a few sectors such as domestic and care work and agriculture, where, as we have seen, labour exploitation and sexual abuse frequently intersect. Consequently, for many migrant women workers, transitioning from one sector to another often means moving from one form of labour exploitation to another, while also experiencing various forms of gender-based violence (Giammarinaro 2022; Palumbo forthcoming). These dynamics affect migrant women without residence permits, but also regular migrant women in precarious conditions, including asylum seekers, and poor EU citizens.

Workplaces, including private homes in the case of domestic and care workers, that are characterised by these tough, exploitative and violent employment relationships significantly impact the self-esteem and psychophysical health of women workers (ActionAid 2022; Palumbo 2017). Women workers often employ solidarity strategies to cope with and resist these dynamics. For instance, in some rural areas, women farmworkers try to protect younger workers by informing them of living places and workplaces where there is a risk that they would be exposed to sexual abuse (Giammarinaro and Palumbo 2022). Likewise, domestic workers are very active on Whatsapp or Facebook groups in which they alert each other about abusive employers.

3.5. National interventions against undeclared and exploitative work

In recent years, in a context of increasingly stringent migration and asylum policies, there has been greater institutional focus on labour exploitation, especially in certain sectors such as agriculture. Undeclared and exploitative dynamics in domestic and care work instead tend to remain unaddressed by these interventions, due also to the difficulties of conducting labour inspections in private homes.

In 2016, Law 199/2016 addressing labour exploitation and illegal gang-mastering in agriculture was adopted, introducing, among other provisions, the crime of "labour exploitation" (Article 603-bis) into the Criminal Code.

Since the adoption of Law 199/2016, several projects have been implemented or are currently underway within the framework of the “Three-Year Plan to Combat Labour Exploitation in Agriculture and Illegal Gang-Mastering” (2020-2022), which has recently been renewed. The aim of the plan is to prevent and address the labour exploitation of migrant workers, as well as to provide support for the assistance of victims of exploitation and their social and work inclusion. Many of these interventions have contributed to creating or strengthening collaboration among various institutions and stakeholders in civil society, developing multi-agency and multi-disciplinary practices and supporting processes of participatory planning.

One of these interventions includes the multi-agency model developed within the projects ‘Su.Pr.Eme’ and ‘A.L.T. Caporalato!’ (followed by the ongoing A.L.T. Caporalato D.U.E.), which provides, among other things, for the involvement of intercultural mediators from the International Organisation on Migration (IOM) in the activities of the National Labour Inspectorate, with the aim of assisting and supporting exploited migrant workers. As one of the stakeholders interviewed for this research pointed out:

this collaboration between the IOM and the Labour Inspectorate aims to inform workers of the possibilities they have of accessing residence permits, including, for example, permits under Articles 18 and 22 of the Consolidated Act on Immigration... but above all, to support them in a process of social and labour inclusion. However, it is not always easy to gain the trust of these workers, especially in the case of irregular migrant workers, given that being a worker without a residence permit found at work clearly has a series of implications under the Italian legislation that transposed the Employer Sanctions Directive. The inspectorate is also there to protect undocumented workers. However, when the Labour Inspectorate intercepts a worker without a residence permit, it must identify them as such in order to penalize the employer. This action may have consequences in terms of immigration legislation and this, in turn, risks undermining relationships of trust between the labour inspectorate and the workers, where the aforementioned procedures for issuing a residence permit are not activated in a timely way. So, through this project with the IOM, the Labour Inspectorate aims, first and foremost, to offer assistance and support to the workers. (Interview with GVT-01)

This multiagency intervention between the Labour Inspectorate and the IOM has helped to ensure timely and concrete assistance is given to exploited migrant workers. As a result, there has been an increase in the number of residence permits granted under Articles 18 and 22 of the Consolidated Act on Immigration (Ministero del lavoro e delle politiche sociali 2022).

However, as emerged from our other interviews, there are also some problems with this multi-agency intervention between the Labour Inspectorate and the IOM, particularly regarding coordinating with local associations and NGOs to support victims. While in some contexts, this operating model was able to merge with the local network of NGOs and associations active on issues of exploitation and victim protection, in other areas it appeared disconnected from local dynamics and activities, creating difficulties in terms of coordination.

It is worth noting that, in relation to initiatives supported by the Ministry of Labour and Social Policies to address and prevent labour exploitation and illegal gang-mastering, neither national nor European resources can be used for interventions aimed at directly assisting undocumented migrants. As many stakeholders involved in this research stressed, this is a significant obstacle for interventions aimed at protecting exploited migrant workers without a residence permit.

However, since 2020, in the framework of the “National Plan to Combat Labour Exploitation in Agriculture and Illegal Gang-mastering”, the Ministry of Labour and Social Policies has supported and promoted several projects to prevent and address labour exploitation by developing low-threshold services to inform workers about their rights and protection. These services can also be accessed by migrant people in conditions of irregularity. Furthermore, the ‘National Guidelines on the Identification, Protection, and Assistance of Victims of Labour Exploitation’, approved in the Unified Conference of the Ministry of Labour in October 2021, emphasise the fundamental principle that all workers, regardless of their migration status or nationality, are the intended beneficiaries of these assistance and protection measures.

In 2022, the National Plan to Combat Undeclared Work was approved (2022-2025) in the ambit of the National Recovery and Resilience Plan (PNRR). This national Plan pays particular attention to the agricultural sector and domestic and care work. As stressed by one of the stakeholders interviewed:

The National Plan to Combat Undeclared Work aims to eliminate or at least significantly reduce irregular work in our country, irrespective of the nationality or origin of the workers involved. Indeed, the Plan aims to ensure that national employers gradually change their behaviour from less transparent to more transparent employment relationships, in all sectors. (Interview with GVT-O2)

The data collected for this research thus reveals that various interventions adopted in recent years have provided significant support to exploited migrant workers, promoting multi-agency and multidisciplinary cooperation networks between stakeholders. However, little – if anything – has been done in terms of structural and long-term interventions. For example, no structural intervention has been made on the issue of the housing conditions and mobility of migrant workers, especially in agriculture.

Another significant problem is that very few of these interventions seek to address the complexity of exploitation and irregular work by taking a gender and intersectional perspective (ActionAid 2022). Such an approach, which should be adopted by these interventions, takes into account the intertwining factors that contribute to the situations of vulnerability of migrant workers, within a socio-economic framework marked by profound inequalities, persistent patriarchal legacies, and increasingly restrictive and selective migration policies. This gender and intersectional perspective is fundamental for understanding and addressing the structural and systemic dimension of labour exploitation dynamics and its links with forms of gender violence (Palumbo 2022; Giammarinaro 2021).

5. Concluding Remarks

Building on the concept of ‘irregularity assemblage’, this report has focused on the legal and policy infrastructures of irregularity in Italy over the last 20 years (2003-2023), exploring the legal and policy frameworks and related practices that have contributed to the production and reproduction of various forms and dynamics of ‘irregularity’. This study has critically examined the infrastructures of irregularity at the intersection of immigration, labour, and welfare regimes, considering their impact on the living and working conditions of migrant people and their families in Italy.

Over the last two decades, by fostering the narrative of migrants’ ‘invading’ the country and being a threat to security, different Italian governments have adopted increasingly restrictive migration and asylum policies that have significantly reduced the rights of migrant people. This has contributed to the ‘production of irregularity’ by narrowing migrant people’s access to protection and regularisation, while simultaneously pushing regular migrants into precarious and irregular conditions. In particular, there has been an increasing attempt to restrict migrant people’s access to asylum in Italy, especially after the 2018-2019 Security Decrees and, more recently, after Law Decree 20/2023 (the so-called ‘Cutro Decree’), which, among other things, restricted the scope of so-called ‘special protection’ (former ‘humanitarian protection’). This protection has allowed for the regularisation of many migrant people in situations of vulnerability, including those in exploitative working conditions. Although there is still no clear data on the impact of the ‘Cutro Decree’ and other recent restrictive asylum measures (including an update of the list of Safe Countries of Origin), they will likely have significant social consequences, forcing an increasing number of people to live in irregular conditions.

This report has emphasised how the national entry system for third-country national workers (the Flows Decree system) favours de facto irregularity and exploitative practices. There is thus a clear need to establish safe and effective channels for the entry for migrant workers. Effective and individualised regularisation channels must also be created, including residence permits for those looking for work, supporting the social and labour inclusion of migrant people in the long term.

This report has also highlighted how many migrant people find themselves in a bureaucratic limbo that hinders their regularisation. For instance, the renewal of residence permits often takes several months, hindering their access to the labour market and welfare services. This, in turn, impacts negatively on their living conditions, particularly in the case of migrant women who are single mothers. Furthermore, the rigid conditions required to renew a residence permit, and the ever-present risk of losing it, inevitably impact the family members of migrant people, particularly minor children who also risk finding themselves in situations of irregularity.

This report has also critically focused on the entanglements between migration, employment, and welfare regimes. It has highlighted that – in a context in which migrant workers in key sectors are stratified into different legal positions – forms of undeclared work, abuse, and exploitation involve not only migrant workers without residence permits but also those regularly residing in the territory, such as asylum seekers and EU mobile citizens, especially from Eastern European countries. The dynamics of irregularity and exploitation are rooted in the different situations of vulnerability in which migrant workers find themselves, within a context of structural and intersectional inequalities related to gender, nationality, class, skin colour, and legal status (Palumbo, forthcoming). Sectors such as domestic and care work and agriculture rely on the employment of a racialised, gendered, and legally stratified migrant labour force, which is often subjected

to practices of undeclared work and exploitation. Both these sectors are characterised by weak labour rights protection and high rates of informality. This report underlines how in both these sectors dynamics of irregularity and exploitation rely on reducing the costs of the social reproduction of migrant workers, such as those related to accommodation. These dynamics are amplified in the case of women workers who bear greater family and care responsibilities. Consequently, these migrant women face a doubly heavy and stressful workload, where gruelling working conditions are compounded by the responsibilities of reproductive work within the family and the related need for immediate income.

Although there have been several interventions in recent years aimed at addressing the exploitation of migrant workers and their poor living conditions, these have primarily consisted of short-term and project based actions, which risk prolonging and reproducing the same dynamics that they aim to counter, without supporting structural changes. Moreover, at least in principle, the interventions promoted within the framework of the National Plan against labour exploitation cannot be used to support undocumented migrant workers, again highlighting the ambiguities and shortcomings of policies aimed at addressing labour exploitation.

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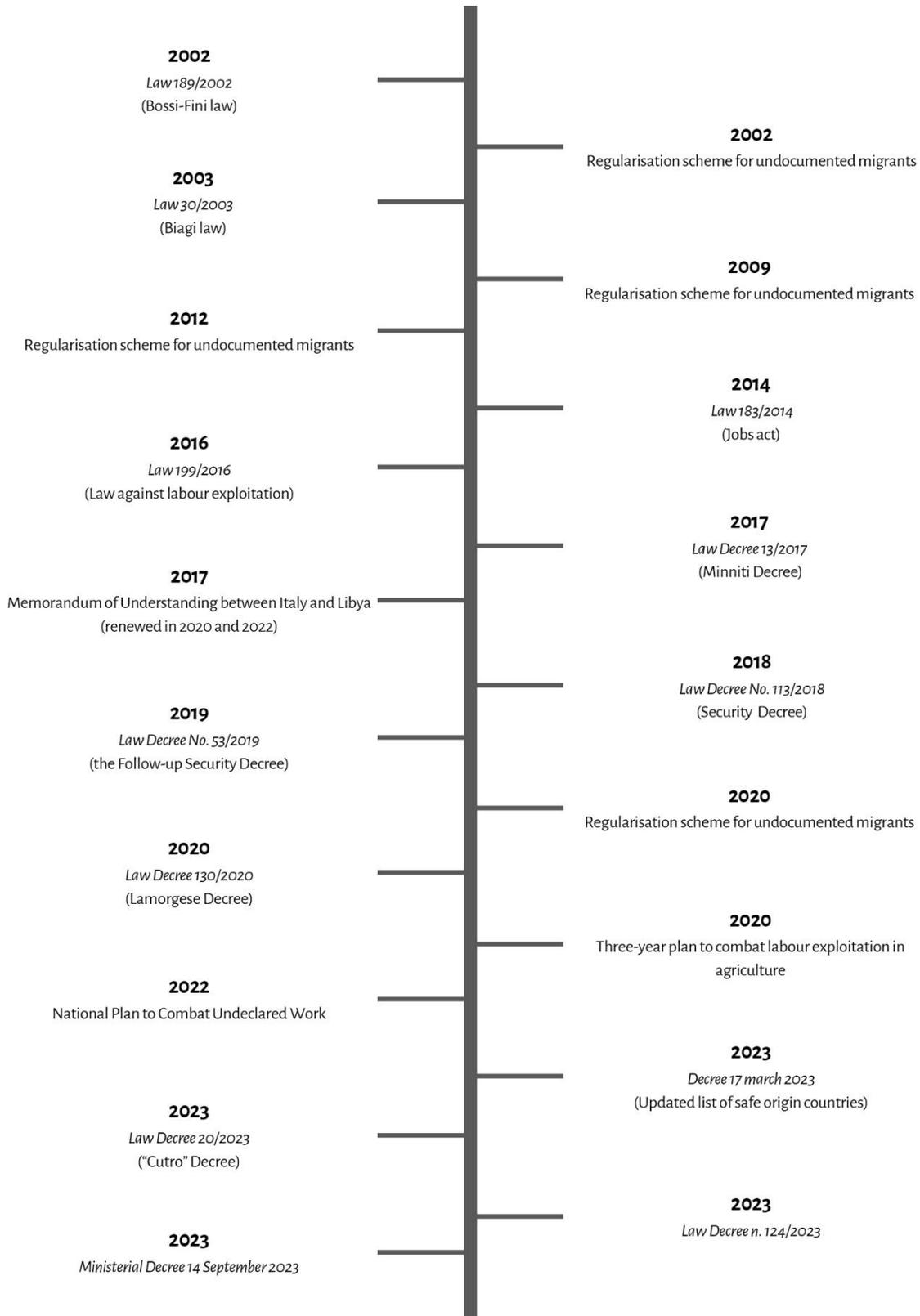
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Annex 1: Timeline of key Legislative/Policy interventions over the last two decades



Annex 2: List of Interviews/Stakeholders consulted

SECTOR	POSITION	DATE	No
Legal	Lawyer– migration	20/11/2023	LAW-01
Legal	Lawyer– migration	22/11/2023	LAW-02
NGO	Social Worker	08/1/2024	NGO-01
NGO	Social Worker	22/1/2024	NGO-02
Government	Official	22/11/2023	GVT-01
Government	Official	27/11/2023	GVT-02
Government	Official	27/11/2023	GVT-03
Government	Official	27/11/2023	GVT-04

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University
of Venice
Department of Philosophy
and Cultural Heritage



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HELSINGIN YLIOPISTO
HELSINGFORS UNIVERSITET
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Katholische
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TRADE UNION



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Improving the Living
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of Irregularised Migrant
Households in Europe