

RESPOND

Working Papers

Global Migration: Consequences and Responses

Paper 2019/17, June 2019

Border Management and Migration Controls in Italy

Research report

Andrea Terlizzi

University of Florence

© Università degli Studi di Firenze

Reference: RESPOND [D2.2]

This research was conducted under the Horizon 2020 project 'RESPOND Multilevel Governance of Migration and Beyond' (770564).

The sole responsibility of this publication lies with the author. The European Union is not responsible for any use that may be made of the information contained therein

Any enquiries regarding this publication should be sent to: veronica.federico@unifi.it

This document is available for download at www.respondmigration.com

Horizon 2020
RESPOND: Multilevel Governance of
Migration in Europe and Beyond
(770564)



Co-funded by the Horizon 2020 programme
of the European Union

Contents

List of figures	4
List of tables	4
List of abbreviations	5
Acknowledgements	6
About the project	7
Executive summary	8
1. Introduction	9
2. Methodology	10
3. Developments since 2011: key aspects	12
4. Legal framework	13
4.1 Pre-entry measures	13
4.1.1 Visa policy	13
4.1.2 Carrier sanctions	16
4.1.3 Advance Passenger Information and Passenger Name Record	17
4.1.4 Immigration liaison officers	18
4.2 ‘At the border’ controls	18
4.2.1 Border surveillance (at sea) and search and sea rescue	20
4.2.2 Hotspots	21
4.3 Internal controls	22
4.4 Detention and return	23
5. Key discourses and narratives: the securitarian-humanitarian nexus	25
6. Implementation	28
6.1 Key actors	28
6.1.1 Pre-entry measures and internal controls	28
6.1.2 Border surveillance (at sea) and search and sea rescue	29
6.1.3 Hotspots	30
6.2 Key issues with implementing border and migration controls	32
6.2.1 Border surveillance	32
6.2.2 Hotspots, detention, and return	36
7. Conclusions	38
Appendix	41
List of interviews	41
List of speeches	41
EU Legislation	42
National Legislation	43
References	45

List of figures

Figure 1. Hotspot state of play	31
Figure 2. Start of operation and capacity of hotspots in Italy	31
Figure 3. Distribution of the EUTF among African countries and regions.....	34

List of tables

Table 1. Arrivals of non-EU nationals by sea.....	9
Table 2. Coding frame.....	11

List of abbreviations

API: Advance passenger information

ARCI: *Associazione Ricreativa Culturale Italiana* (Italian Recreative and Cultural Association)

ASGI: *Associazione per gli Studi Giuridici sull'Immigrazione* (Association for Legal Studies on Immigration)

CIEs: *Centri di Identificazione ed Espulsione* (Centers for Identification and Expulsion)

CPRs: *Centri di Permanenza per i Rimpatri* (Detention Centers for Repatriation)

CPT: European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

CPTAs: *Centri di Permanenza Temporanea e Assistenza* (Centres for Temporary Stay and Assistance)

DLgs: *Decreto Legislativo* (Legislative Decree)

EASO: European Asylum Support Office

EEA: European Economic Area

ENAC: *Ente Nazionale per l'Aviazione Civile* (Civil Aviation Authority)

EU: European Union

EUTF: EU Emergency Trust Fund for Africa

IOM: International Organization for Migration

LTV: Limited Territorial Validity Visa

MoU: Memorandum of Understanding

NGOs: Non-governmental Organizations

NTC: Libya's National Transitional Council

NV: National Long-Stay Visa

PNR: Passenger name record

QCA: Qualitative Content Analysis

SIS: Schengen Information System

SOPs: Standard Operating Procedures

UNHCR: United Nations High Commissioner for Refugees

USV: Uniform Schengen Visa

VIS: Visa Information System

Acknowledgements

The report underwent a three-stage review process: the internal review at UNIFI, the review by Dr Maria Chiara Locchi from the University of Perugia (Italy) who is a national expert on border management and migration, and Prof. Sabine Hesse, WP2 co-leader. I am grateful to all the reviewers; their comments and suggestions improved the quality of the report. I remain the sole responsible for the report's content.

About the project

“RESPOND: Multilevel Governance of Mass Migration in Europe and Beyond” is a comprehensive study of responses to the 2015 Refugee Crisis. One of the most visible impacts of the refugee crisis is the polarization of politics in EU Member States and intra-Member State policy incoherence in responding to the crisis. Incoherence stems from diverse constitutional structures, legal provisions, economic conditions, public policies and cultural norms. More research is needed to determine how to mitigate conflicting needs and objectives. With the goal of enhancing the governance capacity and policy coherence of the European Union (EU), its Member States and neighbours, RESPOND brings together fourteen partners from eleven countries and several different disciplines. In particular, the project aims to:

- provide an in-depth understanding of the governance of recent mass migration at macro, meso and micro levels through cross-country comparative research;
- critically analyse governance practices with the aim of enhancing the migration governance capacity and policy coherence of the EU, its member states and third countries.

The countries selected for the study are Austria, Germany, Greece, Hungary, Iraq, Italy, Lebanon, Poland, Sweden, Turkey and the United Kingdom. By focusing on these countries, RESPOND studies migration governance along five thematic fields: (1) Border management and security, (2) Refugee protection regimes, (3) Reception policies, (4) Integration policies, and (5) Conflicting Europeanization. These fields literally represent refugees’ journeys across borders, from their confrontations with protection policies, to their travels through reception centers, and in some cases, ending with their integration into new societies.

To explore all of these dimensions, RESPOND employs a truly interdisciplinary approach, using legal and political analysis, comparative historical analysis, political claims analysis, socio-economic and cultural analysis, longitudinal survey analysis, interview based analysis, and photo voice techniques (some of these methods are implemented later in the project). The research is innovatively designed as multi-level because research on migration governance now operates beyond macro level actors, such as states or the EU. Migration management engages meso and micro level actors as well. Local governments, NGOs, associations and refugees are not merely the passive recipients of policies, but are shaping policies from the ground-up.

The project also focuses on learning from refugees. RESPOND defines a new subject position for refugees, as people who have been forced to find creative solutions to life threatening situations and as people who can generate new forms of knowledge and information as a result.

Executive summary

This report explores the border management and migration control regime in Italy, analysing the development of its legal and policy framework and the institutions and actors involved in implementation. In particular, the primary aim is to assess whether Italian border management and migration control measures have been preventing the legitimate cross-border flows of migrants seeking asylum.

The report firstly traces the evolution of the national legislative framework between 2011 and 2017, focusing on pre-entry measures, ‘at the border’ controls, internal controls, detention and return. Secondly, key narratives and discourses related to border management and migration control are identified. The analysis shows that the dominant narratives have revolved around the need to save migrants' lives and protect their human rights (*humanitarianism*) and to combat illegal immigration, smuggling of migrants, and terrorism (*securitization*). These narratives have often gone hand in hand, showing the crucial role played by the humanitarian-securitarian nexus in the development of the overall Italian strategy. Moreover, evidence shows that decision-makers – from both the left and the right – have emphasized the necessity to establish a fair distribution of responsibilities between EU Member States in tackling migration flows (*solidarity*), as well as the need to establish cooperation with – and provide assistance to – North African countries (*externalization*). Thirdly, in presenting the main institutions and actors involved in the implementation of border management and migration control measures, the key issues at stake are identified. These are primarily related to access to the national territory for asylum seekers, the ‘hotspot approach’, and the externalization strategy.

In formulating policy recommendations, the report concludes that Italy should reinforce the ‘legal channels’ for asylum seekers to access the Italian asylum system. Currently, such channels are in effect guaranteed by non-governmental actors only. Moreover, blocking the migratory flows in the countries of origin/transit – preventing migrants from seeking asylum – should not be seen as the primary goal of the overall border management policy. In this regard, the Italian externalization strategy has in fact been mainly focused on limiting cross-border flows of migrants and therefore the legitimate movement of individuals seeking asylum.

1. Introduction

Work Package 2 focuses on border management and migration control in the EU and RESPOND countries. Its overall aim is to study the legal and policy framework in the area of border and migration control and to map the institutions and actors involved in implementation. Italy represents one of the EU external borders¹ and, given its geographical position, analysing its domestic legal and policy measures is vital to the understanding of the overall EU strategy.

In Italy, the real watershed in terms of migration flows is 2014 with 170.000 non-EU arrivals. Indeed, since then, Italy has been receiving the highest number of non-EU nationals in its history. Following a first peak in 2011 (when 62.692 people arrived in Italy), migration flows have decreased in 2012², and then increased again to reach a second peak in 2016, when 181.436 non-EU nationals landed Italian shores. However, since 2017 flows have been decreasing again. In 2018, the number dropped to 23.370 (-80,42% with respect to 2017 and -87.12 % with respect to 2016) (Table 1). Most refugees and migrants who reached Italy departed from Libya (90% in 2016) (UNHCR 2017).

Table 1. Arrivals of non-EU nationals by sea³

	Total
2011	62.692
2012	13.267
2013	42.925
2014	170.100
2015	153.842
2016	181.436
2017	119.310
2018	23.370

Source: Department for Civil Liberties and Immigration - Ministry of the Interior (2018);

Pannia, Federico, and D'Amato (2018)

Within this context of a sharp decrease in arrivals, this report explores the Italian border management and migration control regime and its developments from 2011 to 2017. As for conceptual and operational definitions, the report builds on Karamanidou and Kasperek (2018). The term *border management* refers to the ensemble of legislation, policy

¹ Overall, the Schengen area extends along around 44 000 km of external sea borders.

² The decrease in arrivals in 2012 is mostly due to a bilateral agreement signed between Italy and Tunisia that concerned Tunisian but also Sub-Saharan citizens. This agreement is part of the Italian externalization strategy that will be analysed in details in the remainder of the report.

³ Data refer to 31st of December of each year.

implementation practices, institutions, and actors that are concerned with defining, conceptualizing, and policing Italian borders. As for *migration control*, the term intends to “capture modes of control that might fall outside the scope of border management but relate to the regulation, control or inhibition of migratory movements” (2018: 9). The common challenge that governments face relates to how to facilitate legitimate movement of individuals while maintaining “secure borders”. The relationship between borders – conceived here as the boundaries of sovereign states – and security is certainly not easy to define. The concept of “security” itself is notoriously difficult to conceptualize and operationalize. However, we could agree that all border control policies aim at achieving two goals: “first, they want to ensure that movement deemed beneficial [...] is unimpeded; while unwanted movement [...] is blocked (Hansen and Papademetriou 2014: 2). According to this view, secure borders are therefore those that are free of unauthorized and other unwanted movements of individuals (2014: 3). The primary objective of this report is to assess whether the Italian border management and migration control regime has been preventing the legitimate cross-border flows of migrants seeking asylum. Indeed, an effective and efficient border control policy should be able to strike a balance between these two aspects, so that security aims do not outweigh humanitarian objectives at the risk of violating rights of refugees and asylum seekers.

The report is structured as follows: Section 2 illustrates the methods, as well as the sources of empirical material, providing a description of the coding scheme adopted for the analysis of narratives and discourses. Section 3 introduces the key features that have characterized the Italian border management and migration control policy between 2011 and 2017: the hotspot approach and the externalization of border controls. In particular, the section provides a definition of the concept of externalization, that is crucial to the analysis of the Italian strategy. In Section 4, the Italian legal framework is analysed, tracking the evolution of national legislation, which has mainly been implementing EU framework legislation. The main focus is on pre-entry measures (visa policy, carrier sanctions, passenger information data, immigration liaison officers), ‘at the border’ controls (border surveillance and search and sea rescue, hotspots), internal controls, detention and return. Section 5 traces the key narratives and discourses over border management and migration control, which have been developed during the period under consideration. Section 6 presents the main institutions and actors involved in implementation, providing an outline of their organization and role, and highlighting the key issues that have been arising over time. Primary focus is on pre-entry measures, border surveillance and search and sea rescue, hotspots, detention, and return. Finally, section 7 concludes, highlighting the main issues at stake and formulating policy recommendations.

2. Methodology

Empirical evidence provided in this report is mainly drawn from national, international and EU legislation, official government documents and reports by both governmental and non-governmental institutions, speeches by national policy-makers, sixteen interviews with experts, key informants, and decision-makers, secondary sources, and academic literature. Special focus has been put on speeches and statements delivered in institutional contexts – mainly parliamentary speeches – by government actors. Interviewees were selected through snowball sampling, where the starting point was relevant experts and informants in the field of migration. Interview questions were open ended, adjusted to the interviewees' profile, and

covered several aspects of the evolution of border management and migration control policies⁴. The period under consideration is 2011-2017.

Text data has been analysed using NVivo, a qualitative data analysis software that helps to structure, organize, manage and query a large amount of data. As for the analysis of dominant narratives and discourses (Section 5), an interpretive-discourse analysis – in particular, Qualitative Content Analysis (QCA) – has been carried out. QCA is a method for systematically interpreting and describing the meaning of qualitative material, allowing the researcher to translate all those meanings in the data into categories of a coding frame. In this way, it is possible to structure the data differentiating between different meanings *vis-à-vis* the research question. The coding frame is made of main categories, namely the key aspects on which the researcher wants to focus the analysis, and a set of subcategories for each main category, which specify the meaning of the material with respect to the main categories. That is, subcategories specify what is said in the data about the key aspects the researcher is interested in investigating. Main categories and subcategories identifying the key narratives and discourses over border management and migration control have been generated by a combination of deduction and induction, meaning that they have been created in a both concept-driven (before analysing the material) and data-driven (after analysing the material) way (Table 2). A mixed deductive-inductive approach is particularly useful in that it makes it possible to let emerge discourses and narratives from the data and to ‘test’ them against already developed categories, allowing the researcher to move back and forth between theory and evidence (see Schreier 2012).

Table 2. Coding frame

Categories	Subcategories
Externalization	Need to collaborate with North African countries
	Need to provide assistance to North African countries
Humanitarianism	Saving migrants' lives and protect their human rights
Securitization	Need to fight against illegal immigration, smuggling of migrants, and terrorism
Solidarity	‘Italy cannot be left alone’
	Need of a fair distribution of responsibilities between Member States (burden sharing)
	Need of intense and comprehensive collaboration with the EU
	Need to change/abandon the Dublin Regulation

⁴ The lists of interviews and speeches is provided in the Appendix.

3. Developments since 2011: key aspects

Between 2011 and 2017, Italy has focused on transposing and enforcing EU directives into national law. Beyond the implementation of EU law, two key features in the development of the Italian border management and migration control regime – that will be developed in detail in the remainder of the report – can be identified: the adoption of the ‘hotspot approach’ and the security-driven externalization of border controls.

The “hotspot approach” should aim at providing assistance to countries with high migratory pressure and coordinating the activities of EU and national authorities at the external borders of the EU. The approach has been launched as part of the European Agenda on Migration in 2015, shortly before the peak of the European migration crisis. As we shall see in detail, hotspots are facilities for initial reception, identification, registration and fingerprinting of migrants arriving in the EU by sea, and they have become crucial for the overall Italian asylum system in the areas of first reception and repatriation and for the relocation programme since 2015 (European Parliamentary Research Service 2018). However, the hotspot approach lacks a solid legal basis. The activities taking place within hotspots are in fact not regulated by any EU directive or regulation and – as we shall see – Italian legislation only makes a vague reference to them. This has been giving rise to several issues in implementation.

As for the process of externalization of border controls, it refers to those “extraterritorial state actions to prevent migrants, including asylum seekers, from entering the legal jurisdictions or territories of destination countries” (Frelick, Kysel, and Podkul 2016: 193). There is a wide range of actions that can be referred to as externalization measures, which include both direct actions (e.g. interdiction at the border and at sea) and indirect actions (e.g. assistance to border management policies in third countries). Externalization can occur through either bilateral and multilateral states’ agreements and initiatives or unilateral actions (Capesciotti 2017; Frelick, Kysel, and Podkul 2016), through which admission procedures and decisions become no longer confined to the actual physical border, but involve the point of departure – or of transit – as well (Menjívar 2014). In a nutshell, the term externalization refers to “a process that moves the migration control policies beyond the (European) external borders” (Biondi 2012: 149; see also Guild and Bigo 2005). The report traces the development of the agreements signed by Italy with countries of origin and transit to prevent irregular immigration and to establish procedure to enforce return. As we shall see, this strategy clearly serves “as enabling instruments for the Italian push-back policy” (Andrade 2014: 52), and poses important concerns in that cooperation is established with countries where systematic violations of migrants, asylum seekers, and refugee fundamental rights are reported (see Sections 5 and 6). Though the Italian externalization strategy has been supported by narratives that are both humanitarian and securitarian in nature, securitarian objective have centrainly prevailed (see Section 5). These developments have to be read in light of the evolution of the role of one of the most important players within the EU border management regime, that is, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex)⁵. Frontex – established in 2004 – represents a significant step forward in the direction of greater coordination in the management of EU’s external borders. Its mission is expressly to coordinate the actions undertaken by the Member States themselves in order to implement

⁵ In 2016, with Regulation (EU) 2016/1624⁵, the Agency was renamed European Border and Coast Guard Agency.

European measures. During the past few years, Frontex has been acquiring more and more importance in the overall EU strategy. In fact – and in particular since 2016 – the Agency no longer plays a merely coordination role, but it has acquired a proactive function that influences national strategies in border controls and in combating irregular immigration (Presidency of the Council of Ministers and Ministry of the Interior 2017; Keller et al. 2011). Frontex activities are relevant to the externalization strategies since the Agency gained more authority in the field of cooperation with non-EU countries. Eighteen work agreements enabling interception and joint return operations have in fact been signed⁶. Agreements on cooperation in training in border management and information exchange have also been negotiated with African countries such as Egypt, Libya, Mauritania, Morocco, Niger, Senegal and Tunisia (Hakkerman 2018; Red Cross EU Office 2013). Furthermore – and most importantly – where Member States conclude agreements with third-countries, they may also include provisions on the jurisdiction of the Agency to enable FRONTEX to act (Keller et al. 2011).

4. Legal framework

4.1 Pre-entry measures

4.1.1 Visa policy

Since Italy is part of the Schengen Area⁷, all EU and EEA (European Economic Area) nationals do not need a visa to cross Italian borders. Non-EU/EEA foreigners are instead required to have a valid passport (or equivalent travel document) and, if required, a visa issued in their country of origin. A proof that the foreigner has the adequate financial means to cover her or his stay in Italy and return to the country of origin may also be required. Moreover, as established by Article 4 of the Consolidated Law on Immigration⁸, a foreigner can be denied entry if she or he is considered to be a threat to public order or national security of Italy or of any other State that is part of the Schengen Area (see also Pannia, Federico, and D'Amato 2018). Non-EU/EEA country nationals who are required to be in possession of a visa when crossing the Italian borders are those listed in the Council Regulation No 539/2001⁹.

⁶ As reported by Hakkerman (2018: 22), “Frontex has working arrangements with 18 non-EU countries (the Russian Federation, Ukraine, Moldova, Georgia, the former Yugoslav Republic of Macedonia, Serbia, Albania, Bosnia and Herzegovina, the United States, Montenegro, Belarus, Canada, Cape Verde, Nigeria, Armenia, Turkey and Azerbaijan and Kosovo) and with two regional organisations: CIS Border Troop Commanders Council (Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Uzbekistan) and the MARRIO Regional Centre (Albania, Bosnia and Herzegovina, Croatia, Montenegro, Macedonia, Serbia)”.

⁷ Italy joined Schengen in 1990.

⁸ Legislative Decree No 286 of 25 July 1998, “*Testo unico delle disposizioni concernenti la disciplina dell’immigrazione e norme sulla condizione dello straniero*”.

⁹ Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

In accordance with Regulation (EC) No 810/2009¹⁰, visas are divided into three categories:

1. Uniform Schengen Visa (USV): it authorizes entry for short stay in or transit through the Schengen Area for a period not exceeding 90 days¹¹. Foreigners who wish to stay in Italy for tourism, business, visits or studies are not required to apply for a residence permit.
2. Limited Territorial Validity Visa (LTV): it is valid for the Schengen State whose representative issued the visa without any possibility of access to or transit through the territory of any other Schengen States. This type of visa is issued in specific cases such as humanitarian reasons or under international obligations as an exception to the USV system.
3. National Long-Stay Visa (NV): it is required for visits exceeding 90 days, with one or multiple entries, and may include transit through the territory of other States within the Schengen Area. This type of visa involves for the holder the granting of a residence permit in Italy with the same reason as that mentioned in the visa (Consolidated Law on Immigration, Art. 4). Foreigners who wish to stay in Italy for a period exceeding three months must apply for a residence permit within eight days. The expiring date of the residence permit is the same as the visa: up to nine months for seasonal work; up to one year for subordinate work with a temporary contract, and for study or training; up to two years for self-employed work, for subordinate permanent work and for family reunion (Consolidated Law on Immigration, Art. 5; Ministry of the Interior, n.d.).

As established by the Interministerial Decree No 850/2011 regarding entry visas, the Italian visa regime comprises 21 types of visa: adoption, business, medical treatment, diplomatic, sports competition, invitation, independent work, subordinate work, mission, family reasons, religious reasons, re-entry, elective residence, research, study, airport transit, transit, transport, tourism, working holiday, volunteer work. Conditions and requirements of the most important visa types – which are in line with EU Visa regulations – can be summarised as follows:

- Visa for the purpose of education/professional training: it is valid for the duration of the course to be attended. Foreigners can attend higher education courses or technical-vocational training courses by applying for a student visa to the competent Italian authorities in their country of origin (consulates or embassies). In addition to the enrolment certificate, the foreigner is required to have health insurance coverage and sufficient financial resources to stay in Italy and to return to her or his country of origin.
- Visa for family reunification: it is valid for a year from the date of issue. This type of visa is issued to the sponsoring migrant's family members following approval of a reunification application. Foreigners who hold an EC Long-Term Residence

¹⁰ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

¹¹ This category comprises those visas issued for airport transit (Type A) and for short-stay or travel valid for a period not exceeding 90 days (Type C) (See also Interministerial Decree No 850 of 11 May 2011).

Permit¹² or a residence permit for subordinate work, self-employment, asylum, study, family or religious reasons – valid for at least one year – can apply for a family clearance for a family member. Family members eligible for family reunification are: the spouse; children under 18; dependent children over 18 (in case of permanent inability to earn their living); dependent parents who have not adequate family support in the country of origin.

- Visa for employment purposes (indefinite, fixed-time or seasonal contracts): it can only be issued after obtaining work authorisation. In order to enter into an employment relationship with a non-EU national residing abroad, employers are required to apply for permission to hire an individual migrant worker. It is important to highlight that in order to obtain this type of visa the foreigner must receive an offer of employment *before* entering the national territory. If an employer wants to hire a non-EU foreigner living outside Italy, under the Quota Agreement '*decreto-flussi*' – which sets the annual maximum number of non-EU foreigners who can be allowed to come and work in Italy¹³ – she or he must submit an application to the Front Desk for Immigration (*Sportello Unico per l'Immigrazione*) at the Prefecture (*Prefettura*). Subordinate work authorisation is valid for six months from the date of issue. During this time, the worker must come to Italy and sign the contract. Once the foreign worker has received the work authorisation, she or he must apply for an appointment with the Italian Embassy or Consulate in the country of origin. The Embassy or Consulate then notifies the foreigner of the proposed contract and issues her or him an entry visa. Within eight days of entering Italy, the worker must sign the residence contract¹⁴ and submit an application for the residence permit. If the foreigner fails to do so, she or he is considered to be in the Italian territory illegally.
- Visa for self-employment purposes: may be applied to conduct a non-occasional, self-employed work; to set up a company or partnership; to access corporate managerial positions. In order to obtain this type of visa, foreigners must fulfil the same requirements demanded for Italian citizens by the law with regard to the type of activity that they intend to carry out (see Consolidated Law on Immigration; Ministry of the Interior, n.d.; see also Pannia, Federico, and D'Amato 2018).

¹² This type of permit was introduced by Legislative Decree No 3 of 8 January 2007 implementing the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents. It replaced the permanent residence card (*'carta di soggiorno'*) and grants permanent residence to third-country nationals who fulfil the following requirements: legal residence in Italy for at least five years; proof of sufficient financial resources; proof of appropriate language proficiency.

¹³ Priority is given to foreign workers trained abroad in preparation for emigration to Italy and sub-quotas may be reserved to descendants of Italian emigrants (see Pannia, Federico, and D'Amato 2018).

¹⁴ The residence contract for employment is essential precondition for the granting of a residence permit for employment. In order for the contract to be valid for the purpose of issuing a residence permit, it must include a guarantee that the worker may have accommodation that meets the minimum requirements established by the regulations in force with regard to public housing.

4.1.2 Carrier sanctions

The Convention Implementing the Schengen Agreement¹⁵ defines ‘carrier’ any “natural or legal person whose occupation it is to provide passenger transport by air, sea or land” (Art. 1). In particular, Article 26(1) establishes that if third-country nationals “are refused entry into the territory of one of the Contracting Parties, the carrier which brought them to the external border by air, sea or land shall be obliged immediately to assume responsibility for them again”. Moreover, “the carrier shall be obliged to take all the necessary measures to ensure that an alien carried by air or sea is in possession of the travel documents required for entry into the territories of the Contracting Parties” (Art. 26(1)). Therefore, Member States should impose penalties on carriers which transport third-country nationals who do not possess the necessary documents (Art. 26(2)).

The above Article is supplemented by the provisions of the Council Directive 2001/51/EC¹⁶, stating that Member States should take “the necessary measures to oblige carriers which are unable to effect the return of a third-country national whose entry is refused to find means of onward transportation immediately and to bear the cost thereof, or, if immediate onward transportation is not possible, to assume responsibility for the costs of the stay and return” (Art. 3). The Directive also establishes maximum and minimum amounts of the penalties imposed for non-compliance (Art. 4) and allows Member States to impose further sanctions such as immobilisation, seizure and confiscation of the carriers means of transport (Art. 5) (see also Karamanidou and Kasperek 2018).

With DLgs No 87/2003¹⁷, Italy faithfully transposed and implemented the Council Directive 2001/51/EC. The Decree modified Article 10 and Article 12 of the Consolidated Law on Immigration by adding the new normative provisions on carriers. In particular, Art. 10(3) – that was already concerned with carriers – now specifies that “the carrier who has brought an undocumented foreigner to the border shall immediately take him/her on board and bring him/her back to the State of origin or to the State which issued the travel document in the possession of the foreigner. This provision shall also apply when entry is denied to an alien in transit”. Moreover, Article 12(6) sets the maximum (EUR 5500 for each person carried) and minimum (EUR 3500 for each person carried) amounts of the financial penalties applicable to carriers. This is in compliance with Article 4 of the Council Directive establishing that “Member States should ensure that the financial penalties are dissuasive, effective and proportionate and that: (a) either the maximum amount of the applicable financial penalties is not less than EUR 5 000, for each person carried, or (b) the minimum amount of these penalties is not less than EUR 3 000 for each person carried, or (c) the maximum amount of the penalty imposed as a lump sum for each infringement is not less than EUR 500 000 irrespective of the number of persons carried”.

¹⁵ Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

¹⁶ Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985.

¹⁷ Legislative Decree No 87 of 7 April 2003, “Attuazione della direttiva 2001/51/CE che integra le disposizioni dell'articolo 26 della Convenzione applicativa dell'Accordo di Schengen del 14 giugno 1985”.

4.1.3 Advance Passenger Information and Passenger Name Record

Council Directive 2004/82/EC¹⁸ reaffirms the importance of improving border controls, curbing migratory flows and combating illegal immigration through the introduction of provisions laying down obligations on air carriers transporting passengers into the territory of EU Member States. In particular, the Directive obliges Member States to ensure that carriers provide national authorities with passenger data in advance of travel (Advance passenger information, API). Therefore, Member States, shall “take the necessary steps to establish an obligation for air carriers to transmit at the request of the authorities responsible for carrying out checks on persons at external borders [...] information concerning the passengers” (Art. 3(1)). Carriers that fail to do so will incur sanctions. Italy complies in full with this Directive and transposed it with DLgs No 144/2007¹⁹. Accordingly, carriers are obliged “to collect and transmit [...] upon specific request of the competent offices in charge of border police controls, as well as of the Customs Agency (*Agenzia delle Dogane*) and the Financial Guard (*Guardia di Finanza*), information on passengers” (Art. 3). A carrier who fails to transmit the data required by the authority shall be liable to a fine of between EUR 5000 and EUR 50000 for each journey for which passenger data were not communicated or were communicated incorrectly (Art. 5)²⁰.

Directive (EU) 2016/681²¹ obliges air carriers to transfer passenger name record (PNR) data to the competent national authorities, which can process these data “only for the purposes of preventing, detecting, investigating and prosecuting terrorist offences and serious crime” (Art. 1(2)). The aim is indeed to enhance internal security and to gather evidence about associates of criminals and unravel criminal networks. Though the Directive applies to extra-EU flights, Member States are free to include intra-EU flights. Relevant and necessary PNR data must be shared with other Member States and, unlike the Council Directive 2004/82/EC (API Directive), this Directive allows for data to be shared with EUROPOL and third countries as well (see Karamanidou and Kasperek 2018). Italy has fully transposed this Directive. DLgs No 53/2018²², which applies to both extra-EU and intra-EU flights, established an Information System at the Department of Public Security of the Ministry of the Interior for the purposes of the collection, processing and transfer of data (Art. 4(1)). Responsibility for data processing lies with the Criminal Police Central Directorate (*Direzione Centrale della Polizia Criminale*) and the Central Directorate for Immigration and Border Police (*Direzione Centrale dell'Immigrazione e della Polizia delle Frontiere*) (Art. 4(2)). A carrier who does not transmit the data required by the authority shall be liable to a fine of between EUR 5000 and EUR

¹⁸ Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data.

¹⁹ Legislative Decree No 144 of 2 August 2007, “Attuazione della direttiva 2004/82/CE concernente l'obbligo per i vettori aerei di comunicare i dati relativi alle persone trasportate”.

²⁰ Article 4 of the Directive states that the maximum and minimum amount of sanctions must be not less than EUR 5000 and EUR 3000 respectively.

²¹ Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

²² Legislative Decree No 53 of 21 May 2018, “Attuazione della direttiva (UE) 2016/681 del Parlamento europeo e del Consiglio, del 27 aprile 2016, sull'uso dei dati del codice di prenotazione (PNR) a fini di prevenzione, accertamento, indagine e azione penale nei confronti dei reati di terrorismo e dei reati gravi e disciplina dell'obbligo per i vettori di comunicare i dati relativi alle persone trasportate in attuazione della direttiva 2004/82/CE del Consiglio del 29 aprile 2004”.

100000 for each journey for which passenger data were not communicated or were communicated incorrectly.

4.1.4 Immigration liaison officers

With the aim of coordinating the fight against illegal immigration, Council Regulation (EC) No 377/2004²³ established a network of immigration liaison officers (ILOs), who are representatives “of one of the Member States, posted abroad [third-countries] by the immigration service or other competent authorities in order to establish and maintain contacts with the authorities of the host country” (Art. 1(1)). ILOs are responsible for collecting and sharing information mainly concerned with flows of illegal immigrants, routes, means of transport, smuggling, and counterfeit of documents (Art. 2(2)). The Regulation was amended by Regulation 493/2011²⁴ in view of the establishment of Frontex. Other key Regulations on the subject are Regulation (EU) No 1168/2011²⁵ and Regulation (EU) 2016/1624²⁶ (for details, see Karamanidou and Kasperek 2018), that will be discussed in the next section.

4.2 ‘At the border’ controls

As established by Regulation (EC) No 562/2006²⁷, all individuals crossing the external border of the EU shall undergo a minimum check in order to establish their identities on the basis of the production or presentation of their travel documents. Such a minimum check consists of a rapid verification. The minimum check shall be the rule for persons enjoying the right of free movement within the EU. Third-country nationals shall instead be subject to thorough checks, comprising verification of the conditions governing entry where applicable, of documents authorizing residence and the pursuit of a professional activity. Relevant to border checks is the Schengen Information System (SIS) that enables national authorities to have access to alerts on persons and property (Art. 92 of the Convention implementing the Schengen Agreement). The Italian Data Protection Authority is in charge of the national SIS office and supervises the application of national data protection rules on personal data entered in the SIS. It controls whether the use or processing of personal data infringes the rights of data subjects.

The Italian legislation envisages two different instruments for third-country nationals’ removal: rejections and expulsions. As for rejections, according to DLgs 13/2017²⁸,

²³ Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network.

²⁴ Regulation (EU) No 493/2011 of the European Parliament and of the Council of 5 April 2011 amending Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network.

²⁵ Regulation (EU) No 1168/2011 of the European Parliament and of the Council of 25 October 2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

²⁶ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

²⁷ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).

²⁸ Legislative Decree No 13 of 17 February 2017, “*Disposizioni urgenti per l’accelerazione dei procedimenti in materia di protezione internazionale, nonche’ per il contrasto dell’immigrazione illegale*”.

undocumented foreigners who have been intercepted in Italy or rescued during sea rescue operations are taken to the hotspots. Authorities then proceed to identification. If the foreigner does not have a valid visa, passport or document proving the aim of the stay²⁹ and if he or she does not intend to apply for asylum, an order refusing entry (*ordine di respingimento*) is issued. A deferred rejection order (*respingimento differito*) can be also adopted by the Police Headquarter against foreigners who have entered Italy avoiding border controls and have been intercepted, or against foreigners who entered irregularly and were temporarily admitted for emergency aid (Pannia, Federico, and D'Amato 2018).

Expulsions can be issued by administrative authorities (Ministry of the Interior and Prefects) against foreigners who represent a danger for public order and security or are illegally resident in the country, or by judicial authorities, as consequence of a criminal proceeding. In some cases – mainly related to public security issues – the effective enforcement of the expulsion is enacted through the compulsory escorting to the border (*accompagnamento forzato alla frontiera*) of the foreigner by police authorities (see also section 4.4)

The provisions of the Council Directive 2002/90/EC³⁰ regarding the facilitation of unauthorised entry, transit and residence has been fully incorporated within the Consolidated Law on Immigration. Article 1 of the directive provides that the Member States “shall adopt appropriate sanctions on: (a) any person who intentionally assists a person who is not a national of a Member State to enter, or transit across, the territory of a Member State in breach of the laws of the State concerned on the entry or transit of aliens; (b) any person who, for financial gain, intentionally assists a person who is not a national of a Member State to reside within the territory of a Member State in breach of the laws of the State concerned on the residence of aliens”. Moreover, Member States “shall take the measures necessary to ensure that the sanctions referred [...] are also applicable to any person who: (a) is the instigator of, (b) is an accomplice in, or (c) attempts to commit an infringement as referred to in Article 1(1)(a) or (b)”. Accordingly, the Consolidated Law on Immigration provides the penal sanctions to be applied to illegal immigrant smuggling, providing that anyone who “promotes, directs, organises, finances or transports foreigners into the territory of the State or carries out other acts aimed at illegally obtaining their entry into the territory of the State, or of another State of which the person is not a citizen or does not have the right of permanent residence, is liable to imprisonment for a period of between one and five years and a fine of €15000 for each person” (Art. 12(1)). Moreover, Art. 10-*bis*(1) – as amended by Law No 94/2009³¹ – establishes that a foreigner who enters or remains in the territory of the State, in violation of the provisions of the law, is liable to a fine of between EUR 5000 and EUR 10000 and can be subject to an expulsion order (the so-called crime of “clandestine immigration”). Immigrants who receive an expulsion order are barred from re-enter Italy for a period between three and five years,

²⁹ No definition of ‘undocumented migrant’ is provided by any law. However, according to the national *acquis* on migration, this status applies to: a) migrants who irregularly entered the country; b) migrants who have entered legally and then overstayed their visas; c) migrants who failed to renew their valid residence documents at a certain stage of their permanence in the country (Pannia, Federico, and D'Amato 2018).

³⁰ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence.

³¹ Law No 94 of 15 July 2009, “*Disposizioni in materia di sicurezza pubblica*”.

depending on the specific circumstances. In case of re-entry, they are prosecuted for a crime punished with the imprisonment from one to four years (Pannia, Federico, and D'Amato 2018).

According to the Consolidated Immigration Law, unaccompanied foreign children may never be rejected at the border, and expulsion is prohibited, unless they represent a danger for public order and security. The public security authorities shall be responsible for the identification of unaccompanied foreign children who reach the Italian coasts or are subsequently intercepted in the national territory. While being identified, their presence shall be reported to the General Directorate of Immigration at the Ministry of Labour, responsible for the unaccompanied children census. Public authorities are also required to place unaccompanied children in a safe location and, precisely, in dedicated facilities ensuring first assistance and protection. Children cannot be retained in centres for repatriation and their accommodation with unrelated adults is prohibited by law (Pannia, Federico, and D'Amato 2018).

4.2.1 Border surveillance (at sea) and search and sea rescue³²

As for border surveillance at sea, it is important to highlight that Italy has ratified the 1974 International Convention for the Safety of Life at Sea (1980), the 1979 International Convention on Maritime Search and Rescue (1989), and the 1982 United Nations Convention on the Law of the Sea (1994). The international law of the sea therefore provides that Italian authorities have the obligation to take all necessary measures to ensure that all rescued persons can disembark as soon as possible in a safe place. The refusal to allow the disembarkation – in particular of vulnerable persons – who have escaped torture and violence violates the rules protecting fundamental human rights and the protection of refugees as well as the principle of *non-refoulement* and the right of access to seek asylum enshrined in the Geneva Convention.

Crucial to border surveillance is the Council Regulation (EC) No 2007/2004³³ that established the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex). In 2016, with Regulation (EU) 2016/1624³⁴, the Agency was renamed European Border and Coast Guard Agency. Frontex's objectives include coordinating air, sea and land border patrolling missions at the external borders of EU Member States, as well as supporting Member States in joint return operations for irregular migrants (for details see Karamanidou and Kasperek 2018). The Italian authorities involved in Frontex activities are the Coast Guard (*Guardia Costiera*), the Financial Guard (*Guardia di Finanza*), and the National Police (*Polizia di Stato*)³⁵.

³² On sea rescue, see also Section 6.1.2.

³³ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU.

³⁴ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

³⁵ National authorities and specific aspects of border surveillance will further be discussed in section 6.

4.2.2 Hotspots

In 2015, at the peak of the European migration crisis, the European Commission presented the so-called 'hotspot approach' as part of the European Agenda on Migration³⁶. The hotspots are facilities for initial reception, identification, registration and fingerprinting of migrants arriving in the EU by sea. The approach aims at providing assistance to countries with high migratory pressure and at coordinating the activities of EU institutions (European Asylum Support Office (EASO), Frontex, Europol, and Eurojust) and national authorities at the external borders of the EU. Besides Italy, currently only Greece is hosting hotspots.

In implementing the European Agenda on Migration, in September 2015 the Ministry of the Interior has drafted a document titled 'Italian Roadmap'. In compliance with the 2015 Proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece³⁷, the document includes those measures aimed at improving "the capacity, quality and efficiency of the Italian asylum system in the areas of first reception and repatriation" (Ministry of the Interior 2015: 2). The roadmap also complies with DLgs No 142/2015³⁸ implementing Directive 2013/32/EU³⁹ and Directive 2013/33/EU⁴⁰.

Currently, there are five hotspots on the Italian territory (in Lampedusa, Messina, Pozzallo, Taranto and Trapani). The Ministry of Interior has issued a document containing the Standard Operating Procedures (SOPs) applicable to the Italian hotspots. As defined in the document, a hotspot is a "designated area, usually (but not necessarily) in the proximity of a landing place where, as soon as possible and consistent with the Italian regulatory framework, new arrivals land safely and are subjected to medical screenings, receive a leaflet on legislation concerning immigration and asylum, they are controlled, pre-identified, and, after having being informed about their current condition as irregular immigrants and the possibility to apply for international protection, they are fingerprinted. Subsequently, they receive detailed information on the procedure of international protection, the relocation programme and the assisted voluntary return" (Ministry of the Interior, n.d.: 4). The document also lists the basic staffing required for each hotspot: medical staff; Frontex team to provide support for pre-identification and screening activities; EASO experts to provide information on the relocation programme; Frontex expert for the verification of documents; forensic experts for the acquisition of fingerprints⁴¹.

³⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Agenda on Migration' (COM(2015) 240 final).

³⁷ COM(2015) 286 final. 2015/125 (NLE).

³⁸ Legislative Decree No 142 of 18 August 2015, "*Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale*".

³⁹ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection.

⁴⁰ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

⁴¹ Further details on the SOPs will be provided in Section 6.

4.3 Internal controls⁴²

According to a ruling of the Court of Cassation⁴³, an individual can refuse to show his/her identity card to the authorities without committing any offence. In fact, the Criminal Code only punishes the refusal to provide information on identity. However, the Court specifies that the conduct of a person who refuses to show an identity document to the authorities constitutes a violation in the event that he or she is a dangerous or suspect person. Therefore, if there is no reason to believe that a person has committed – or is about to commit – an offence, he or she cannot be forced to provide identity documents, but they can be asked for personal details such as name, surname, and address of residence. Needless to say that such an arrangement provides authorities with an extremely high degree of discretion.

As for the recognition of the refugee status, DLgs No 251/2007⁴⁴ fully implemented the Council Directive 2004/83/EC⁴⁵ establishing that “Member States may introduce or retain more favourable standards for determining who qualifies as a refugee or as a person eligible for subsidiary protection, and for determining the content of international protection” (Art. 3). The Italian provisions specify that for the purposes of assessing the recognition of the refugee status, the acts of persecutions must be “sufficiently serious, by their nature or frequency, to constitute a serious violation of fundamental human rights” (Art. 7(1)). Moreover, in order to be granted refugee status, the acts of persecution must be based on the following grounds: race, religion, nationality, particular social group, political opinion (Art. 8(1)). Holders of refugee and subsidiary protection status may move freely within the national territory (Art. 21(1))⁴⁶. The refugee or individual granted subsidiary protection is expelled when there are reasons to believe that she or he constitutes a danger to public order and security” (Art. 20) (on conditions of stay, see also section 4.1.1).

Crucial to internal control measures is also the Directive 2009/52/EC⁴⁷ that prohibits the employment of illegally staying third-country nationals, establishing that Member States must take the necessary measure to ensure that any infringement is subject to sanctions. The Directive has been transposed with DLgs No 109/2012⁴⁸ that modifies the Consolidated Law on Immigration⁴⁹. The Decree provides that “the Ministry of Labour and Social Policy shall

⁴² On internal controls, see also Section 6.1.1.

⁴³ Ruling No 42808/17 of 19 September 2017. The Court of Cassation is the highest court of appeal.

⁴⁴ Legislative Decree No 251 of 19 November 2007, “*Attuazione della direttiva 2004/83/CE recante norme minime sull’attribuzione, a cittadini di Paesi terzi o apolidi, della qualifica del rifugiato o di persona altrimenti bisognosa di protezione internazionale, nonché norme minime sul contenuto della protezione riconosciuta*”.

⁴⁵ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

⁴⁶ Italian legislation does not provide for limitations on the freedom of movement of asylum seekers. Nevertheless, the competent Prefect may limit the freedom of movement by delimiting a specific place of residence or a geographic area where asylum seekers may circulate. Moreover, freedom of movement of international protection applicants may be affected by the fact that it is not possible to temporarily leave the reception centres without prior authorisation (AIDA 2017).

⁴⁷ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

⁴⁸ Legislative Decree No 109 of 16 July 2012, “*Attuazione della direttiva 2009/52/CE che introduce norme minime relative a sanzioni e a provvedimenti nei confronti di datori di lavoro che impiegano cittadini di Paesi terzi il cui soggiorno è irregolare*”.

⁴⁹ As for medical personnel, Art. 35(5) of the Consolidated Law on Immigration states that “access to health facilities by foreigners who do not comply with the rules on stay cannot involve any kind of

carry out adequate and effective controls on the employment of illegally staying third-country nationals, as part of the annual planning of workplace surveillance activities and on the basis of a periodic risk assessment of the sectors of activity in which the phenomenon is most concentrated” (Art. 4(1)).

4.4 Detention and return

As for the pre-hotspots period, relevant to the detention and return regime are the Centers for Temporary Stay and Assistance (*Centri di Permanenza Temporanea e Assistenza*, CPTAs) established by Law No 40/1998⁵⁰ – that were included in the Consolidated Law on Immigration. CPTAs were structures for the detention of foreigners in irregular conditions and intended for expulsion. In the original formulation, the restriction of freedom was provided only for cases of serious danger to public order, with the intention of limiting the phenomenon of detention to a few cases. With Law No 189/2002⁵¹, CPTAs were renamed Centers for Identification and Expulsion (*Centri di Identificazione ed Espulsione*, CIEs). The Law has reconsidered expulsion procedures by introducing strong measures to fight against irregular immigration (see Pannia, Federico, and D’Amato 2018). CIEs were then renamed Detention Centres for Repatriation (*Centri di Permanenza per i Rimpatri*, CPRs) by Law No 46/2017⁵². The duration of the detention, that in CPTAs was 30 days maximum, has gradually increased. Until the approval of Decree Law No 113/2018⁵³, the limit was 90 days. The Decree Law has modified the limit and set it at 180 days.

In 2011, DLgs No 89⁵⁴ transposed Directive 2008/115/EC on returning illegally staying third-country nationals and emended the Consolidated Law on Immigration. The emended text establishes that the expulsion is ordered by the Prefect when: a) the foreigner has entered the territory of the State by evading border controls; b) the foreigner remained in the territory of the State without having applied for a residence permit within the prescribed period, or the residence permit has been revoked or is more than 60 days past due and no request for renewal has been submitted (Art. 13(2)). Moreover, the Law provides that the expulsion is carried out by the chief of police (*Questore*) with escort to the border when: a) there is a risk of escape; b) the application for a residence permit has been rejected as manifestly unfounded or fraudulent; c) the foreigner has not complied with the time limit allowed for voluntary departure. In the event of it not being possible to immediately carry out the expulsion, the chief of police orders the foreigner to be detained – for as long as is strictly necessary – at the nearest repatriation centre. However, Art. 19(1) provides that “under no circumstances can

reporting to the authority, except the cases where it is mandatory to report, on equal terms with Italian citizens”.

⁵⁰ Law No 40 of 6 March 1998, “*Disciplina dell’immigrazione e norme sulla condizione dello straniero*”.

⁵¹ Law No 189 of 30 July 2002, “*Modifica alla normativa in materia di immigrazione e di asilo*”.

⁵² Law No 16 of 13 April 2017, “*Conversione in legge, con modificazioni, del decreto-legge 17 febbraio 2017, n. 13, recante disposizioni urgenti per l’accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell’immigrazione illegale*”.

⁵³ Decree Law No 113 of 4 October 2018, “*Disposizioni urgenti in materia di protezione internazionale e immigrazione, sicurezza pubblica, nonché misure per la funzionalità del Ministero dell’interno e l’organizzazione e il funzionamento dell’Agenzia nazionale per l’amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità organizzata*”.

⁵⁴ Legislative Decree No 89 of 23 June 2011, “*Disposizioni urgenti per il completamento dell’attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini di Paesi terzi irregolari*”.

expulsion or rejection be ordered to a State where the foreigner may be persecuted for reasons of race, sex, language, nationality, religion, political opinion, personal or social condition, or may risk being returned to another State to which he or she is not protected from persecution". It is important to highlight that, following the transposition of the 2008 Directive, the ordinary method of enforcing expulsion should be voluntary return – that grants a deadline for voluntary departure –, while compulsory escorting to the border (*accompagnamento forzato alla frontiera*) should be conceived as the exception.

With DLgs No 24/2007⁵⁵, Italy has also implemented Council Directive 2003/110/EC regulating unescorted and escorted removals by air in cases of transit via the airport of another Member State⁵⁶. The Decree provides that, for the purpose of enforcing an expulsion order for a third-country national and after having examined whether it is possible to use a direct flight to the country of destination, the Central Directorate for Immigration and Border Police of the Ministry of the Interior submit a transit request to the 'transit Member State' – namely the Member State via whose airport of transit the transit is to be effected. The transit Member State may refuse transit if: a) the third-country national under national legislation in the transit Member State is charged with criminal offences; b) transit through other States or admission by the country of destination is not feasible; c) the removal measure requires a change of airport on the territory of the transit Member State; d) the requested assistance is impossible for practical reasons; e) the third-country national is considered a threat to the public security of the requested Member State (Art. 4(2)).

Relevant to return is certainly the Dublin system. According to the Dublin Regulation, the Member State responsible for examining the asylum application is the one through which the asylum seeker first entered the EU. In Italy, the national authority responsible for the Dublin procedure is the Dublin Unit within the Department for Civil Liberties and Immigration at the Ministry of the Interior. All asylum applicants are photographed and fingerprinted by police authorities who store their fingerprints in Eurodac. When there is a Eurodac hit, the Dublin Unit within the Ministry of Interior is contacted. The Dublin Unit – entrusted to identify the responsible Member State – has to inform the competent Territorial Commission and the *Questura* that is competent to organize the transfer. According to statistical data, the time for processing cases falling under the Dublin regulation in Italy is excessively long, mainly due to the large number of requests received by Italian authorities (see Pannia, Federico, and D'Amato 2018). As reported by AIDA (2017: 41), "according to Eurostat statistics for 2016, Italy received 64,844 incoming requests, far ahead of any other country. The number of incoming transfers implemented in 2016 was 4,061": A specific procedure is implemented in the *Questura* in the Friuli-Venezia Giulia region, "on the basis that all asylum seekers arriving in this region from Nordic countries or the Balkan route fall under the Dublin Regulation" (2017: 42-43).

⁵⁵ Legislative Decree No 24 of 25 January 2007, "Attuazione della direttiva 2003/110/CE, relativa all'assistenza durante il transito nell'ambito di provvedimenti di espulsione per via aerea".

⁵⁶ Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air.

5. Key discourses and narratives: the securitarian-humanitarian nexus

As a legal expert has commented, the Italian approach to border management in the last few years can be defined as ‘schizophrenic’. There have been times of harsh restriction in access to the territory and times of opening, above all for what search and sea rescue operations are concerned (Interview n. 4). The same definition might apply to the discourses developed in the public debate. As the analysis shows, there has been an alternation of narratives over *humanitarianism* and *securitization* of border management and migration control, with a constant emphasis on *solidarity* and *externalization* (see Section 2, Table 1).

Narratives of humanitarianism have been focusing on the commitment by the Italian government and EU institutions to save migrants’ lives and protect their human rights. However, the humanitarian discourse is strictly intertwined with that of securitization. Indeed humanitarianism and securitization have often gone hand in hand. Crucial to the analysis of the “securitarian-humanitarian nexus” is the discourse developed around the Mare Nostrum operation⁵⁷, officially an humanitarian mission launched by the Italian government in October 2013 as a response to the Lampedusa shipwreck of 3 October 2013, when 368 migrants died after their boat sank before reaching Italian shores (see Section 6.1.2). In fact, “although the stress was mainly put on the humanitarian aim of saving lives at sea, Mare Nostrum was also presented [...] as a security mission aiming at capturing smugglers. Indeed, besides the thousands of migrants rescued, authorities can also boast about the hundreds of smugglers detained” (Cuttitta 2014: 27).

The securitarian-humanitarian mix has also characterized the discourse over the need to establish cooperation with – and provide assistance to – North African countries, even before 2011 (see Section 6.2.1). Decision-makers – from both the centre-left and the centre-right – have always considered the externalization of border management and migration control as the winning strategy to curb migratory flows. As documented by Cuttitta (2014: 25), a cooperation agreement signed between Italy and Libya in 2003 “was publicly justified with the ‘strong determination’ of both parties to ‘jointly tackle criminal organizations devoted to the smuggling of human beings and the merciless exploitation of clandestine migrants’”. In 2007, another agreement for the joint patrolling of the Libyan coast was presented as necessary to stop smugglers, and therefore to save human lives and disrupt criminal organizations. In 2009, when several push-back operations were conducted by Italian authorities, “the Italian prime minister described them as ‘an act of great humanity [...] because they prevent tragedies at sea’” (2014: 25). These statements provide an example of a mixed securitarian-humanitarian approach in border management, that focuses on the “humanitarian consequences of smuggling and trafficking activities” (2014: 25), without however considering the humanitarian consequences of the restrictive control policies implemented in agreement with North African countries.

⁵⁷ Mare nostrum was a military operation launched on 14th October 2013 and enhanced by a resolution of the Council of Ministers approved on the same day. It started on the 18th October 2013 and ended on 31st October 2014.

As for the time period between 2011 and 2017⁵⁸, in 2013, the Parliamentary Committee Responsible for Monitoring the Implementation of the Schengen Agreement stated in a report that “with a view to solidarity in the management of external borders, it is necessary and urgent for the European Union to act as a counterpart to bilateral agreements with [...] African countries, in order to govern migration flows and to facilitate return policy” (Chamber of Deputies and Senate of the Republic 2013: 20). As also stated in a 2016 Communication of the European Commission, “development and neighbourhood policy tools should reinforce local capacity-building, including for border control, asylum, counter-smuggling and reintegration efforts. All actors – Member States, EU institutions and key third countries – need to work together in partnership to bring order into migratory flows”⁵⁹. In particular, “positive and negative incentives should be integrated in the EU's development policy, rewarding those countries that fulfil their international obligation to readmit their own nationals, and those that cooperate in managing the flows of irregular migrants from third countries [...]. Equally, there must be consequences for those who do not cooperate on readmission and return”⁶⁰. During the same year, in a letter to the Presidents of the European Commission and the European Council – Jean-Claude Juncker and Donald Tusk respectively –, the Italian Prime Minister Matteo Renzi (Democratic Party)⁶¹ stated that “the external dimension of migration policies is fundamental for the survival of Schengen and the principle of free movement. The management of migratory flows is no longer sustainable without a targeted and enhanced cooperation with third countries, both of origin and transit”⁶². The letter introduced the ‘non-paper’ named ‘Migration Compact’, which stressed that “[a]ll existing initiatives and instruments in the field of external action should be directed (in a coherent way with the internal ones) to developing an active strategy, focussing first and foremost on African countries of origin and transit”⁶³. Within this approach, what the EU may offer to third countries include investment projects, cooperation on security, legal migration opportunities, and resettlement schemes. For its part, the EU may ask commitment on effective border control and reduction of flows towards Europe, cooperation on returns/readmissions, management of migration and refugee flows, and to strengthen the fight against trafficking in human beings and smuggling of migrants.

In 2017, in a letter to the Council of Europe Commissioner for Human Rights, the Minister of the Interior Marco Minniti (Democratic Party)⁶⁴, remarked that in order to encourage a reduction in migratory flows, “the [...] Italian strategy [...] focuses [also] on supporting Libyan authorities responsible for border control and flow management. [This strategy] contributes to reducing the risk of accidents and shipwrecks, a risk that can only be eliminated by stopping departures”. In the same letter, the Minister specifies that the activity of the Italian authorities is limited to training, equipment and logistical support of the Libyan Coast Guard, with the aim of preventing “life-threatening crossings and ensuring compliance with international reception

⁵⁸ Between 2011 and 2017, there have been five governments: Berlusconi Government (center-right, 2008-2011), Monti Government (technical government, 2011-2013), Letta Government (center-left, 2013-2014), Renzi Government (center-left, 2014-2016), Gentiloni Government (center-left, 2016-2018).

⁵⁹ Communication from the Commission to the European Parliament, the European Council, the Council and the European Investment Bank on establishing a new Partnership Framework with third countries under the European Agenda on Migration (COM(2016) 385 final, Strasbourg, 7.6.2016, p. 2).

⁶⁰ COM(2016) 385 final, p. 9.

⁶¹ Center-left Government, 2014 – 2016.

⁶² Letter to the Presidents of the European Commission and the European Council, 15 April 2016.

⁶³ Migration Compact: Contribution to an EU strategy for external action on migration, April 2016, p. 1.

⁶⁴ Government led by Paolo Gentiloni (center-left, 2016 – 2018).

standards in Libya⁶⁵. Few months before, in a speech to the Democratic Party Congress, the Minister had stated that “it is a moral duty to welcome those who flee war, those who flee famine, unaccompanied minors: we will always welcome them!”, by adding that “part of this game is played outside national borders, a large part of this problem is in Africa, and we must clearly tell Europe that Africa is the mirror of Europe”⁶⁶.

Already in 2011, in a parliamentary speech, the Minister of the Interior Roberto Maroni (Northern League)⁶⁷ emphasized the necessity of intensifying the “diplomatic activity towards the countries of origin, first of all Tunisia, [and] strengthening the relations with other countries, first of all Egypt, Morocco and Algeria”⁶⁸. With regard to Tunisia, the Minister argued that “cooperation in border surveillance at sea is absolutely important, together with that of repatriation, because it serves to prevent landings, which is always the best thing to do since it makes it possible to save human lives”⁶⁹. One year later, during a parliamentary committee hearing, the Minister of the Interior Anna Maria Cancellieri (Independent)⁷⁰ stated that the “Government efforts to find effective means for combating illegal immigration continue. In this direction, [...] bilateral cooperation policy has been given new impetus and collaboration with North African countries, in particular Tunisia and Libya, has therefore been resumed. The need is to ensure greater efficiency in border control, combining it with respect for human rights [...]. [This strategy] of cooperation with the Libyan authorities in the field of migration is part of a context that favours [...] a preventive approach to the phenomenon, with a view to strengthening the capacity of the Libyan police forces in the fight against criminal organizations and better management [...] of the migrant population”⁷¹. The overall aim was therefore to help North African countries to ‘work’ better on their territory.

Beyond the mixed narratives and discourses on humanitarianism and securitization, within the strategy of externalization of border controls, security objectives certainly outweigh humanitarian aims (Cutitta 2014). The Memorandum of Understanding (MoU) signed between Italy and Libya in 2011 emphasized the need to strengthen cooperation in combating smuggling of migrants and terrorism. The same holds for the MoU signed between Italy and Sudan in 2016 and that signed again with Libya in 2017. This is all in line with a general orientation towards a more stringent regulation of the migration phenomenon to reduce the incidence of irregular immigration.

In the debate, the narrative – again shared from both the centre-left and the centre-right – related to the need of solidarity and fair share of responsibilities (burden-sharing) between EU Member States has also played a crucial role. As stated in 2011 by the Minister of the Interior Roberto Maroni⁷², “a system that leaves the individual coastal states of the southern Mediterranean alone to manage unilaterally or bilaterally such important issues as illegal immigration cannot work [...]. Italy cannot be the only country that carries out [actions] in all Maghreb countries”⁷³. In 2016, in its inaugural speech to Parliament, the Prime Minister Paolo

⁶⁵ Letter to the Council of Europe Commissioner for Human Rights, 11 October 2017.

⁶⁶ Speech to the Democratic Party Congress, 15 March 2017.

⁶⁷ Government led by Silvio Berlusconi (center-right, 2008-2011).

⁶⁸ Parliamentary intervention, 7 April 2011.

⁶⁹ Parliamentary intervention, 7 April 2011.

⁷⁰ Government led by Mario Monti (technocratic government, 2011 – 2013).

⁷¹ Hearing of the Minister of the Interior on Immigration Issues within the context of the Extraordinary Commission for the Protection and Promotion of Human Rights, 16 May 2012.

⁷² Government led by Silvio Berlusconi (center-right, 2008-2011).

⁷³ Parliamentary intervention, 7 April 2011.

Gentiloni (Democratic Party)⁷⁴ declared that “we cannot accept a Europe that is too strict on some aspects of its austerity policies and too tolerant towards countries that do not accept to share common responsibilities on immigration issues”⁷⁵. As also argued by the Parliamentary Committee Responsible for Monitoring the Implementation of the Schengen Agreement in 2013, it is “necessary to identify at European level concrete ways of supporting countries such as Italy, which are particularly exposed – due to their geographical location – to flows of refugees, especially in this historical phase of political instability in other Mediterranean countries. [Moreover, it is necessary] to ensure that the burden of flows is appropriately shared among the Member States of the European Union” (Chamber of Deputies and Senate of the Republic 2013: 16, 19). This discourse is certainly also linked to the pitfalls of the Dublin Regulation, which have been highlighted by national decision-makers in several occasions.

6. Implementation

6.1 Key actors

6.1.1 Pre-entry measures and internal controls

The authority over visas lies with the Ministry of Foreign Affairs and International Cooperation (*Ministero degli Affari Esteri e della Cooperazione Internazionale*), whose diplomatic and consular offices are responsible for assessing visa requests and for checking whether applicants comply with the necessary requirements. The Ministry is also responsible for data treatment within the Visa Information System (VIS)⁷⁶. As stated in the 2011 Interministerial Decree No 4516/495⁷⁷, “the Ministry of Foreign Affairs shall access the VIS for all purposes related to the examination of visa applications lodged abroad and the adoption of decisions to grant, refuse, annul, revoke or extend such visas” (Art. 3(1)). The Ministry of the Interior is also granted access “for the purposes relating to examination of the visa applications lodged at border crossing points [...] and the adoption of the relevant decisions” (Art. 3(2)). The Ministry of the Interiors is also “authorized to have access to search using the fingerprints of the asylum applicant for the purpose of determining the Member State responsible for examining the asylum application” (Art. 6(1)) and “for the purpose of prevention, detection and investigation of terrorist offenses and other serious crimes” (Art. 2(1)). The National Police (*Polizia di Stato*) and other police forces – either at the border crossing points or within the national territory – may also access the VIS to verify the identity of the visa holder, the authenticity of the visa itself, as well as to verify whether the conditions for entry, stay or residence are met (Art. 5(1)). The authority responsible for data protection is the Data Protection Authority (*Garante per la Protezione dei Dati Personali*).

Visa for employment purposes or for family reasons can only be issued after obtaining work authorisation from the Front Desk for Immigration (*Sportello Unico per l’Immigrazione*) at the Prefecture (*Prefettura*), that is the administrative office of the Ministry of the Interior in

⁷⁴ Center-left, 2016 – 2018.

⁷⁵ Inaugural speech to Parliament, 13 December 2016.

⁷⁶ VIS is the system for the exchange of visa data between Schengen area States (see Karamanidou and Kasperek 2018).

⁷⁷ Interministerial Decree No 4516/495 of 6 October 2011, “*Disposizioni concernenti il Visa Information System (VIS) e lo scambio dei dati tra gli stati membri*”.

each of the major Italian municipalities. The Front Desk seeks the opinion of the Provincial Police Chief (*Questore*) “to find out if there are obstacles on the part of the worker that may hinder work authorization [and] seeks the opinion of the Provincial Labour Office as to whether the required minimum contractual standards are met or not” (Ministry of the Interior, n.d.: 4).

Individuals whose visas are denied may lodge a claim with the Regional Administrative Court (*Tribunale Amministrativo Regionale*) of Lazio Region⁷⁸ within 60 days of receipt of notification of denial. Responsibility for issuing resident permits lies with the Police Headquarters (*Questura*) that has jurisdiction in the province where a foreign national is staying.

Application for asylum must be submitted to the Border Police Office on arrival or to the Immigration Office of the locally competent *Questura* if there is no Border Police Office in the place where the foreigner entered Italy. The authorities competent for examining the application are the Territorial Commissions for the Recognition of International Protection (*Commissioni Territoriali per il Riconoscimento della Protezione Internazionale*) (for details, see Pannia, Federico, and D’Amato 2018).

As for the obligations on air carriers transporting passengers into the national territory (see Section 4.1.3), responsibility over processing advance information on passengers (API) lies with the Customs Agency (*Agenzia delle Dogane*) and the Financial Guard (*Guardia di Finanza*). As for passenger name record (PNR) data, responsibility for data processing lies with the Criminal Police Central Directorate (*Direzione Centrale della Polizia Criminale*) and the Central Directorate for Immigration and Border Police (*Direzione Centrale dell’Immigrazione e della Polizia delle Frontiere*). A carrier who fails to transmit the data required by the authorities is liable to a fine. The competent authority to impose sanctions is the Civil Aviation Authority (*Ente Nazionale per l’Aviazione Civile*, ENAC).

6.1.2 Border surveillance (at sea) and search and sea rescue

As far as border surveillance is concerned, the key national authorities to consider are those involved in Frontex activities. These are:

- Coast Guard (*Guardia Costiera*). It is a specialised Corp of the Navy (*Marina Militare*). It is controlled mainly by the Ministry of Infrastructures and Transport (*Ministero delle Infrastrutture e dei Trasporti*). Its main activities include search and rescue and safety of navigation. The Coast Guard is in charge of the Italian Maritime Rescue Coordination Centre (IMRCC) functions (*Centro Nazionale di Coordinamento del Soccorso Marittimo*)⁷⁹.
- Financial Guard (*Guardia di Finanza*). It is a military police force that operates under the authority of the Ministry of Economy and Finance (*Ministero dell’Economia e delle*

⁷⁸ The Regional Administrative Court of Lazio Region is also competent for disputes relating to acts coming from a state administration with ultra-regional competence.

⁷⁹ The IMRCC in Rome, after having directly received report of an emergency outside its area of responsibility, in international waters, is required to assume the coordination of rescue operations, in compliance with the legal obligations assumed by Italy with the ratification of international conventions on the subject. At the same time, the IMRCC warns the competent SAR (Search and Rescue) authority, or the authority that can provide better assistance, for the purpose of assuming coordination. If the authority does not respond or is not available, the IMRCC coordinates the operations and identifies the place of safety.

Finanza). Its activities are focused on tax evasion and fraud, border control, and trafficking.

- National Police (*Polizia di Stato*). It belongs to the Department of Public Security within the Ministry of the Interior. The Department has several Central Directorates including the Central Directorate for Immigration and Border Police, within which the Border Police operates (*Polizia di Frontiera*).

With regard to search and sea rescue, it is crucial to mention the military and humanitarian operation Mare Nostrum launched by the Italian Government in October 2013 in the context of dramatic increase of migration flows in the Strait of Sicily. The operation started after the already mentioned Lampedusa tragedy of 3 October 2013 and aimed at tackling the emergency, safeguarding human life and contrasting human traffickers and migrant smugglers. The operation forces included the Navy, the Air Force (*Aeronautica Militare*), the Carabinieri Corps (*Carabinieri*)⁸⁰, the Financial Guard, the Coast Guard, the Italian Red Cross (*Croce Rossa Italiana*) military corps and the National Police. Mare Nostrum operated concurrently with Frontex and the European Border Surveillance system (Eurosur). The operation ended on October 2014 and was replaced by the Frontex operation Triton and then by the EUNAVFOR MED operation Sophia⁸¹.

6.1.3 Hotspots

The hotspot approach has been conceived as holistic and therefore, involves several and parallel activities carried out by a multitude of actors. The key players and stakeholders involved in the operation of Italian hotspots are as follows (Ministry of the Interior, n.d.):

- Medical triage activities on board or upon arrival: medical personnel on board, land-based medical personnel. UNHCR and IOM support national authorities for identification of persons with specific needs.
- Identification through photos before or immediately after landing: National Police, health personnel.
- Transfer to hotspots locations: National Police, Carabinieri Corps, Financial Guard, Prefecture.
- Personal security checks on entry into the Hotspot: National Police, Financial Guard, Navy, Coast Guard, EUNAVFOR Med⁸², Frontex.
- Registration and security checks: National Police, Frontex, cultural mediators.
- Documents checks: National Police, Frontex.
- Information activities on the current legislation on immigration and international protection procedure: UNHCR, IOM.
- Fingerprints verification and checks in national, European and international police data banks: National Police.

⁸⁰ Carabinieri Corps is a military force that operates under the authority of the Ministry of Defence.

⁸¹ As highlighted in a document by the Presidency of the Council of Ministers and Ministry of the Interior (2017: 21), the outcome of the operation “was summarised by the then Minister Angelino Alfano during a hearing at the Parliamentary Committee for the Control of the Implementation of the Schengen Agreement, for the Supervision of Europol's Activities, and for the Control and Supervision of Immigration: ‘Migrants rescued in the framework of the 563 interventions numbered 101,000, of which 12,000 were unaccompanied minors; 499 corpses were found, while the missing persons, on the basis of the testimony of the survivors, could be more than 1,800’. The cost of the operation was quantified at 9.5 million euros per month.

⁸² EU Naval Force Mediterranean – Operation Sophia (see <https://www.operationsophia.eu/>).

- Identification of potential unaccompanied foreign minors: National Police and medical personnel.
- Information campaign on relocation: EASO, UNHCR, cultural mediators.
- Specific provision for unaccompanied minors (UASC) and other persons with specific needs: Municipalities and Prefectures, National Police, EASO, UNHCR, cultural mediators.
- Transfers to reception centres, reception centres dedicated to relocation or pre-removal facilities: Ministry of the Interior – Department of Civil Liberties and Immigration, EASO, National Police.

Figures 1 and 2 show the capacity of the five Italian hotspots and the presence of EU personnel.

Figure 1. Hotspot state of play

HOTSPOTS IN ITALY					
Total Reception Capacity	LAMPEDUSA	POZZALO	TARANTO	TRAPANI	MESSINA
	500	300	400	400	
EU Presence	European Border and Coast Guard 13 experts	European Border and Coast Guard 13 experts	European Border and Coast Guard 6 experts	European Border and Coast Guard 12 experts	
	EASO 1 Member State Expert	EASO 1 Member State Expert	EASO 1 Member State Expert	EASO 1 Member State Expert	
	EASO 2 cultural mediators	EASO 3 cultural mediators	EASO 2 cultural mediators	EASO 6 cultural mediators	EASO 2 cultural mediators

Source: Policy Department for Citizens' Rights and Constitutional Affairs (2018)

Figure 2. Start of operation and capacity of hotspots in Italy

	Start of operation	Total reception capacity
Taranto	February 2016	400 Temporarily closed in March 2018
	December 2015	400
Messina	September 2017	250
Pozzallo	January 2016	300
Lampedusa	October 2015	500 Limited activities since March 2018
	Total capacity	

Source: European Parliamentary Research Service (2018)

6.2 Key issues with implementing border and migration controls

6.2.1 Border surveillance

Northern Borders

As reported by AIDA (2017, 2018), there have been several issues in access to the Italian territory in the past few years. Beyond problems linked to barriers to disembarkation in ports, crossing/access to the territory by land is also problematic. In particular, with regard to the Northern borders, in 2017 readmission measures have been implemented against migrants arriving from Austria⁸³, and “controls have reportedly been based on racial profiling, intercepting mostly Afghan and Pakistani nationals” (2017: 22). Moreover, in several cases migrants were “not provided with written notifications or explanations of the reasons for their readmission” (2017: 22). Push backs have also been reported on the Slovenian border, “under no formal readmission procedure” (2018: 12). In this regard, a crucial aspect to highlight is that Italy lacks any official border monitoring activities, which are fundamental to assess whether border management operations comply with refugee and human rights law. However, some NGOs and non-governmental actors carry out such activities⁸⁴.

At the Northern borders, the situation in Bolzano is particularly crucial. In fact, unlike Como/Ventimiglia (relevant for outgoing flows from Italy) and Trieste (relevant for incoming flows from the Balkan route), Bolzano represents a link between outgoing and incoming movements between North and South. As for the flows from the North, it concerns individuals “who have applied for international protection in other countries (Germany, Belgium, Sweden) where they have had a negative outcome. They therefore travel to other countries, especially Italy and France, hoping to make a new asylum application” (Fondazione Alexander Langer, ASGI, and Antenne Migranti 2017: 30). Flows from the South mainly concern: persons with a valid residence permit by Italy but without a passport or travel document; persons arriving from Greece or Turkey who have not yet applied – or do not intend to apply – for asylum in Italy; persons who have arrived in Sicily/Calabria but have not applied for asylum in any Italian city and who wish to continue towards Northern Europe (2017: 30).

As highlighted in a 2017 monitoring report by Fondazione Alexander Langer, ASGI, and Antenne Migranti (2017: 18), “it was found that about 10-20 people arrive daily at the Brenner Pass to try to cross the border to Italy. According to the Austrian police in Steinach am Brenner, 2 to 25 people were intercepted every day in July. From 1 January to 14 May 2017, a total of 2699 people irregularly entered the Tyrol were intercepted by the Austrian Police Force; in the

⁸³ Readmission is the act by which a State accepts the re-entry of an individual (own nationals, foreigner, or stateless person), who has been found illegally entering to – or being present in – another State. A differentiation is made between active readmissions (that is, those carried out at the request of the Italian authorities) and passive readmissions (that is, those proposed by the foreign border authorities). With regard to Austria, between 2010 and 2014, the total number of active readmissions was 169 (of which Austria accepted 80). The total number of passive readmissions proposed by Austria was 9,201, of which Italy accepted 8,472 (Fondazione Alexander Langer, ASGI, and Antenne Migranti 2017: 72).

⁸⁴ For example, the Association for Legal Studies on Immigration (*Associazione per gli Studi Giuridici sull'Immigrazione*, ASGI) operates in areas such as Ventimiglia, Bardonecchia or Chiasso and the project “Borders and Minors” (*Frontiere e Minori*) that is specifically concerned with “children pushed back to Austria or Slovenia from Friuli-Venezia Giulia, children intercepted in Verona following push back from Austria, and children disembarking in Apulia” (AIDA 2018: 17).

same period in 2016, the number of people intercepted was more than double with 5966 people. According to data provided by the Tyrolean police, irregular arrivals on trains from Italy were reduced by 75%". The Italian police systematically controls trains leaving and entering Italy. It has been reported that, on average, 10-15 law enforcement officers are on the platform where trains to Munich stop. During the Brenner stop, Italian authorities check every train coach (2017: 19). Those individuals who have been checked on trains leaving Italy and who are found without a residence permit are usually taken to the Police Commissioner for identification and are invited to report to the Police Headquarters in Bolzano. As for trains entering Italy, if during checks migrants are found entering Italy, two cases may occur: either they are taken to the Police Commissioner and receive an invitation to regularize their position at the Police Headquarters in Bolzano, or – after identification – they are escorted and forced to board a train to Austria (2017: 19-20).

Sea border

With regard to access by sea, search and rescue operations provided by NGOs have been discouraged as a result of the issue of a Code of Conduct by the Ministry of the Interior (AIDA 2018), according to which signatory NGOs enter into commitments such as that of not to enter Libyan territorial waters and not to obstruct search and rescue activities by the Libyan Coast Guard (Ministry of the Interior 2017). Several criminal investigations against NGOs – which have been accused of encouraging departures from Libya and favouring irregular immigration – were opened (Amnesty International 2018). However, as of early 2019, despite some enquiries, public prosecutors have found no evidence of crimes carried out by NGOs. Criticism of humanitarian search and rescue operations by NGOs revolves around the argument that the mere presence of rescue boats in the Mediterranean constitutes a 'pull factor', that is, a factor leading to more crossings⁸⁵. However, there is no empirical evidence supporting this narrative (see e.g., Heller and Pezzani 2017; Steinhilper and Grujters 2018; Villa, Grujters, and Steinhilper 2018).

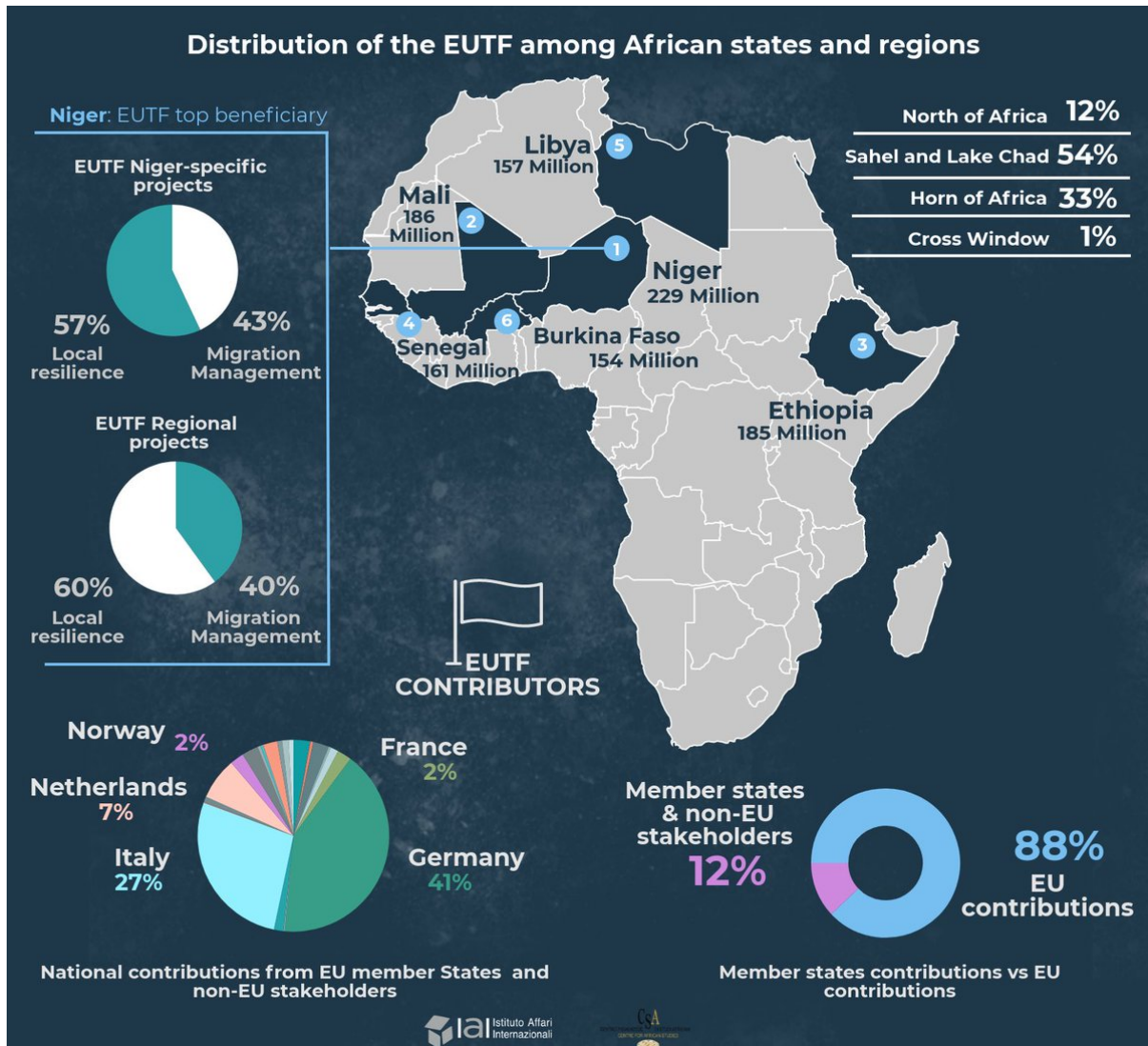
Externalization

Crucial to the implementation of border surveillance and migration controls in Italy certainly is the process of externalization (see Sections 3 and 5), which has been one of the most important features of the overall EU strategy. As stated in a document issued by the Italian Ricreative and Cultural Association (*Associazione Ricreativa Culturale Italiana*, ARCI), "the actual goal of the EU, with the Italian Government in the front line, is to try to draw up our borders in Africa, or even at the countries of departure themselves, blocking at source 'economic' migrants and asylum seekers" (ARCI 2016: 8). On November 2015, the EU Emergency Trust Fund for Africa (EUTF) was set up by the European Commission, 25 EU Member States, Norway and Switzerland. The aim is to foster stability and contribute to better migration management, as well as "to address the root causes of destabilisation, forced displacement and irregular migration by promoting economic and equal opportunities, security and development" (European Commission 2018: 7). Clearly, the objective of the fund is to support countries of origin and transit with the aim of blocking the flow of migrants, "as well as

⁸⁵ Even the operation Mare Nostrum has been considered to be a real contributory factor to the increase in the number of landings (Presidency of the Council of Ministers and Ministry of the Interior 2017).

to advance development projects aimed at removing the causes of migration, and to establish an African borders control system to identify transiting migrants” (ARCI 2016: 9). Italy’s fund contribution equals 27% of total funding (see Figure 3).

Figure 3. Distribution of the EUTF among African countries and regions



Source: Bajec (2018)

In order to curb migration flows, Italy has been relying upon cooperation with African countries since the 1990s, long before the establishment of the EUTF⁸⁶. As for the time period 2011-2017, important bilateral agreements were signed with Tunisia, Libya and Egypt. In 2011, the Friendship Treaty signed between Italy and Libya in 2008 was suspended when Italy recognized Libya’s National Transitional Council (NTC). A new MoU with the NTC was signed, according to which “the Parties shall exchange information on flows of illegal immigration [and] on the criminal organisations that facilitate them, [as well as] provide mutual assistance and cooperation in the fight against illegal immigration, including the return of illegal

⁸⁶ Agreements were signed with North African Mediterranean Countries Algeria, Egypt, Libya, Morocco, and Tunisia (see e.g., Marchetti 2010: 169). As for Italian-Libyan cooperation, see e.g. (Klepp 2010)

immigrants⁸⁷. Bilateral agreements between the two countries have been consolidated during 2012. As a result of these agreements, Italy committed to provide the necessary technical support to help Libyan authorities to control Libya's borders, which in turn is deemed to contribute controlling Italian borders, if we assume that border control means stopping people reaching Italy. In 2017, another MoU was signed between the Italian and Libyan governments. The agreement reactivated the Friendship, Partnership and Cooperation Treaty signed in 2008. As stated in the document, Italy commits to provide "support and funding for growth programmes in regions affected by illegal immigration, in various sectors, such as renewable energy, infrastructure, health, transport, human resource development, education, staff training and scientific research"⁸⁸. Moreover, Italy would provide technical and technological support to the Libyan authorities in charge of the fight against illegal immigration that are mainly represented by the Navy and the Coast Guard. As with the 2008 Treaty, several concerns have been raised by human rights organizations, which pointed to the "arbitrary detention of migrants, abuse and torture at the hands of the Libyan authorities" (Bajec 2018). As reported by Amnesty International (2018: 212), Italy has continued "to implement measures to increase the Libyan coastguard's capacity to intercept refugees and migrants and take them back to Libya. This was done amidst growing evidence of the Libyan coastguard's violent and reckless conduct during interceptions of boats and of its involvement in human rights violations".

In 2011, accords were signed with Egypt and Tunisia, with the latter setting "concrete measures to prevent irregular arrivals in Italy and to repatriate Tunisian nationals arriving in the country" (Paoletti 2012). By virtue of the MoU signed with Egypt, the Italian government repatriated Egyptian nationals who had reached Italy irregularly (1,662 in 2011 alone).

As argued by Paoletti (2012), bilateral relations between Italy and these three North African countries "demonstrates numerous elements of continuity pointing to the dominance of domestic interests over human rights considerations, [in that] border control is prioritized over a more comprehensive human rights policy framework". In fact, since cooperation is established with countries where systematic violations of human rights are reported, an externalization strategy certainly poses serious concerns in terms of respect of migrants, refugees, and asylum seekers fundamental rights (Interviews n. 10 and 11; see also Capesciotti 2017; Frelick, Kysel, and Podkul 2016; Steinhilper and Grujters 2018; Villa, Grujters, and Steinhilper 2018). Border externalization may indeed "attempt to (or effectively) limit formal legal obligations, including the right to seek and enjoy asylum, by preventing migrants from ever coming under the jurisdiction of destination states" (Frelick, Kysel, and Podkul 2016: 197).

In Italy there have been cases of collective push-backs preventing migrants to apply for asylum (Interview n. 4). In 2012, such practice was ruled unlawful by the European Court of Human Rights in the *Hirsi* judgment⁸⁹. Even though Italian governments have declared that no

⁸⁷ Memorandum of Understanding, 17 June 2011. Available at: <http://download.repubblica.it/pdf/2011/migrazione.pdf>.

⁸⁸ Memorandum of Understanding, 2 February 2017. Available at: <http://www.governo.it/sites/governo.it/files/Libia.pdf>. On similar grounds, in 2017 the Italian government has also renovated the cooperation over border management and security with Tunisia.

⁸⁹ "The case concerned Somali and Eritrean migrants travelling from Libya who had been intercepted at sea by the Italian authorities and sent back to Libya. Returning them to Libya without examining their case exposed them to a risk of ill-treatment and amounted to a collective expulsion". See

more push-backs will be carried out towards Libya, Italy is still engaged in strengthening cooperation in order to prevent migrants to reach Italian shores from North African countries (Cuttitta 2014). Moreover, as already mentioned, the cooperation with Libya for the purpose of migration control has not ceased.

In 2016, a police cooperation agreement was also reached between Italy and Sudan, that aims at preventing and combating crime in its various forms, including trafficking in persons and smuggling of migrants and irregular immigration. Moreover, the Department of Public Security of the Italian Ministry of the Interior and the Sudanese National Police “cooperate in the management of borders and migratory flows and in the field of repatriation, as well as in the prevention of and fight against international terrorism”⁹⁰.

Overall, what is striking is the weak presence of ‘legal channels’ for asylum seekers to access the Italian territory, which are mainly implemented through the ‘humanitarian corridors’ (*corridoi umanitari*) project (Interviews n. 6, 9, 13). This innovative project was launched in 2015 with a MoU between the Ministry of Foreigner Affairs, the Ministry of the Interior, the Community of Sant’Egidio (*Comunità di Sant’Egidio*), the Federation of Protestant Churches in Italy (*Federazione delle Chiese Evangeliche in Italia*) and the Waldensian Evangelical Church (*Chiesa Evangelica Valdese*). The legal basis of the project, which is not a government initiative and does not receive public financing, is Article 25 of the Regulation (EC) No 810/2009, according to which Member States can issue humanitarian visas valid for their territory (see Section 4.1.1). The aim is that of facilitating the legal and safe arrival in Italy of potential beneficiaries – in particular the most vulnerable – of international protection⁹¹.

6.2.2 Hotspots, detention, and return

As for the operation of hotspots, what is important to highlight is that, besides the ‘Italian Roadmap’ and the SOPs (section 4.2.2 and 6.1.3), hotspots lack a solid legal basis. The activities taking place within hotspots are not regulated by any EU directive or regulation nor by Italian legislation. Vague reference to hotspots is provided only in DLgs No 13/2017⁹² (Pannia, Federico, and D’Amato 2018; see also Oxfam 2016). Despite the absence of a clear legal framework regulating hotspots, the latter have become crucial within the Italian asylum system and the relocation procedure. However, several issues have been reported by non-governmental actors. For example, ASGI highlighted that hotspots have become part of “a

<http://www.asylumlawdatabase.eu/en/content/ecthr-hirsi-jamaa-and-others-v-italy-gc-application-no-2776509>.

⁹⁰ Memorandum of Understanding, 3 August 2016, Available at: http://www.asgi.it/wp-content/uploads/2016/10/accordo-polizia-Italia-Sudan_rev.pdf.

⁹¹ To date, around 2000 people (mostly Syrians) have arrived in Italy through the ‘humanitarian corridors’. Currently, two ‘corridors’ are active (with Lebanon and Ethiopia) (see <https://www.santegidio.org/pageID/30112/langID/it/CORRIDOI-UMANITARI.html>). As for resettlement, according to UNHCR data, between 2008 and 2012 just 288 refugees out of the 35.000 Italy recognised in that period were brought in Italy through a UNHCR relocation operation, that is to say, less than 0.01%. Indeed, Italy started accepting to resettle refugees originating from Iraq after its participation in the EU Fact-Finding Mission to Syria and Jordan in late 2008. In 2009, an ad-hoc agreement was signed to resettle approximately 180 Palestinians from Syria. Over the period 2014-2015, the Italian government agreed to resettle, in cooperation with UNHCR, 500 refugees (450 Syrians and 50 Eritreans). A new resettlement scheme was agreed upon on 20 July 2015 to resettle 1989 persons (mainly from Syria, but also from Eritrea, Iraq and Palestine) between 2015-2018.

⁹² Legislative Decree No 13 of 17 February 2017, “*Disposizioni urgenti per l’accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell’immigrazione illegale*”.

standard procedure [according to which] migrants are detained without any court order, forced to be fingerprinted, and classified as asylum seekers or economic migrants depending on a summary assessment, mainly carried out either by using questionnaires filled in by migrants at disembarkation, or by orally asking questions relating to the reason why they have come to Italy” (AIDA 2017: 25; this has been confirmed by the Extraordinary Commission for the Protection and Promotion of Human Rights 2017 and Interview n. 9) There are therefore several concerns about the actual understanding of the whole process by migrants (Extraordinary Commission for the Protection and Promotion of Human Rights 2017). In many occasions, migrants are classified as economic migrants only on the basis of their nationality (Interview n. 6) (mainly those from Nigeria, Gambia, Senegal, Morocco, Algerian and Tunisia) and are notified with an expulsion order and detained in pre-removal facilities (CPRs). Poor living conditions and severe violations of fundamental rights in hotspots and CPRs have been reported by NGOs and international organizations (Interview n. 2; see also Amnesty International 2016, 2018; Oxfam 2016; Pannia, Federico, and D’Amato 2018). In April 2018, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) released a report to the Italian government on its visit to Italy in June 2017 aimed at examining the situation of foreign nationals deprived of their liberty in the hotspots and pre-removal facilities (CPRs). As stated in the report, while living conditions were good at Pozzallo and Trapani and acceptable for short stays at Lampedusa, the occupancy levels in all three hotspots regularly exceeded the official capacity (CPT 2018). Moreover, “noting that several categories of foreign nationals may be prevented from leaving the hotspots, the CPT raises the issue of the legal basis for deprivation of liberty in these centres and related problems regarding the existence and operation of legal safeguards” (CPT, 2018: 3). As for pre-removal facilities, “critical comments are made about the austere and carceral environment observed at Caltanissetta and Turin CPRs, marked by a strong emphasis on security. In the light of practices observed at these two CPRs regarding the segregation of detainees, the CPT recommends that clear rules be adopted to regulate the use of segregation units/cells in CPRs” (2018: 4).

With regard to CPRs and the whole return policy, as highlighted by the Extraordinary Commission for the Protection and Promotion of Human Rights, “the analysis of the data of the Ministry of the Interior confirms the difficulties in carrying out returns and the ineffectiveness of the entire system of detention and expulsion of irregular foreigners. From 1 January to 15 September 2016, 1,968 people passed through the CIEs. Of those, only 876 were repatriated, about 44%. From 1 January to 20 December 2015, a total of 5,242 people passed through the CIEs, of whom 2,746 were actually repatriated, that is, 52% of the total number of detainees were returned to their country [...]. Despite European commitments, data continue to show that the average number of returns in relation to detained persons remains around 50%.” (Extraordinary Commission for the Protection and Promotion of Human Rights: 13). Moreover, return policy is not easy to implement, in that returns need to be agreed with the consular authority of the country of origin. Until January 2017, agreements were formalised with Egypt, Tunisia, Nigeria, Morocco and Sudan. Operational cooperation on returns was also established with Gambia, Ivory Coast, Ghana, Senegal, Bangladesh and Pakistan (Extraordinary Commission for the Protection and Promotion of Human Rights 2017; Interview n. 10).

Another issue concerns the place of disembarkation, that is determined by the Coast Guard which indicates to the ships with rescued migrants where to land. As highlighted in a

report by the Policy Department for Citizens' Rights and Constitutional Affairs (2018: 16), “one peculiarity of the Italian situation is that most disembarkations do not take place in a hotspot [...]. In 2016, out of a total of around 180.000 migrants who arrived in Italy irregularly by sea, less than one third (52.337) disembarked in one of the [...] hotspots”. Moreover, in many cases migrants refuse fingerprint identification since their actual aim is to reach other European countries (Extraordinary Commission for the Protection and Promotion of Human Rights 2017). A problem remains for those migrants “who are not intercepted at sea, and who therefore reach the Italian shores autonomously: during summer 2017, the media reported an increase in the number of persons who arrive to Italy directly on their own boat, without being recorded” (so called ‘*sbarchi fantasma*’ or ‘ghost disembarkations’) (2018: 16). It has also to be added that, though the identification rate in hotspots remains high (more than 90%), in order to ‘avoid’ the Dublin procedure, allegedly in some cases Italy has not identified migrants on purpose, because Italian authorities are aware that most of the people who arrive in Italy then have the desire to reach other countries (Interviews n. 6 and 9). However, despite the high identification rate, “no positive results were achieved in terms of relocated persons [...]. At the end of December 2016, only 2,350 people out of the total of 40,000 foreseen in the European plan⁹³ had been relocated from Italy to other Member States”⁹⁴ (Extraordinary Commission for the Protection and Promotion of Human Rights 2017: 29).

Critical issues had been reported even before the implementation of the hotspot approach – and before the time period covered by this report (2011-2017) (see e.g., Andrijasevic 2010). In 2013, the Parliamentary Committee Responsible for Monitoring the Implementation of the Schengen Agreement issued a report on its visit to Lampedusa in 2011, highlighting that “the number of migrants present on the island on March 21 exceeded that of the resident population (about 4,760 migrants compared to about 4,500 residents). [Moreover], [a] large proportion [of migrants] do not find shelter in any structure (permanent or temporary) [and the identification process] results particularly difficult” (Chamber of Deputies and Senate of the Republic 2013: 95).

7. Conclusions

The aim of this report has been to investigate the Italian border management and migration control regime and its developments from 2011 to 2017. Empirical material has been drawn from documents (national, international and EU legislation and reports), speeches by national policy-makers, interviews with experts, key informants, and decision-makers, secondary sources, and academic literature.

The report has firstly reviewed the main national legislation transposing EU Law, focusing on pre-entry measures, ‘at the border’ controls, controls within the national territory, detention, and return and readmission procedures. Through an interpretive-discourse analysis of text-data, the report has then presented the development of the key discourses and narratives related to border management and migration control. The categories identifying such

⁹³ In view of supporting Italy and Greece in coping with the emergency situation, the Council has adopted Decisions 2015/1523 and 2015/1601 on 14 and 22 September 2015, establishing measures in the area of international protection. The decisions include measures regarding relocation (AIDA 2017).

⁹⁴ The number rose to 11464 at the end of 2017 (Department for Civil Liberties and Immigration - Ministry of the Interior 2017).

narratives have been generated through a mix of deduction and induction. The analysis has shown that the dominant discourse has revolved around the need to save migrants' lives and protect their human rights (*humanitarianism*) and to combat illegal immigration, smuggling of migrants, and terrorism (*securitization*). Interestingly, these narratives have often gone hand in hand, showing the crucial role played by the humanitarian-securitarian nexus in the development of the overall Italian strategy. Moreover, it has been shown that decision-makers have constantly emphasized the necessity to establish a fair distribution of responsibilities between Member States in tackling migration flows (*solidarity*), as well as the need to establish cooperation with – and provide assistance to – North African countries (*externalization*). As for the latter, however, beyond the mixed humanitarian-securitarian narrative supporting externalization policies, security objectives have prevailed over humanitarian aims.

In reviewing the main institutions and actors involved in the implementation of border management and migration control measures, the key issues at stake have been identified. These are primarily related to: a) access to the national territory for asylum seekers; b) the 'hotspot approach'; and c) the externalization strategy. As for access – both from land and sea – Italy lacks any official border monitoring activities, which are fundamental to assess whether border management operations comply with human rights law and prove to be effective in border control. These activities are instead carried out by non-governmental organizations. Moreover, search and rescue operations provided by NGOs have been discouraged. NGOs have often been accused to encourage departures from North African shores and favour irregular immigration. Criticism of search and rescue operations by NGOs mainly builds upon the argument that the mere presence of rescue boats constitutes a 'pull factor' that leads to more crossings through sea. However, there is no empirical evidence supporting such claims. Finally, it is also important to highlight that the 'legal channels' to access international protection in the Italian territory are extremely weak.

As far as the implementation of the 'hotspot approach' is concerned, the activities taking place in hotspots lack a clear and solid legal basis. In fact, hotspots are not regulated by any EU directive or regulation nor by primary Italian legislation, as they are provided for and disciplined by secondary legislation. Moreover, several criticalities have been reported by non-governmental actors. Concerns have been related to the identification procedure, with migrants who have been often classified as asylum seekers or economic migrants depending on a summary assessment. Poor living conditions and severe violations of fundamental rights in hotspots and pre-removal facilities have also been detected. Moreover, though the identification rate in hotspots remains high, no positive results were achieved in terms of relocation policy.

With regard to the border externalization strategy, in order to curb migratory flows, Italy has signed several agreements with North African countries. However, since cooperation is established with countries where systematic violations of human rights are reported, such a strategy certainly poses serious concerns in terms of respect of migrants', refugees', and asylum seekers' fundamental rights. In this respect, humanitarian consequences of the restrictive control policies implemented in agreement with North African countries are not seriously considered by Italian authorities. Moreover, by preventing migrants from ever coming under the Italian jurisdiction, externalization might directly violate the right to seek and enjoy asylum.

Policy recommendations

Overall, in light of these issues, two main policy recommendations can be provided:

1. Italy should reinforce the 'legal channels' for asylum seekers to access the Italian asylum system. Currently, such channels are in effect guaranteed by the 'humanitarian corridors' (*corridoi umanitari*) only, which however do not constitute a governmental programme. Article 25 of the Regulation (EC) No 810/2009 provides that Member States can issue humanitarian visas valid for their territory. Strengthening the legal access would facilitate safe arrival in Italy of beneficiaries of international protection.
2. Blocking the migratory flows – preventing migrants from seeking asylum – should not be seen as the primary aim of border management policies. The Italian externalization strategy has indeed been mainly focused on limiting cross-border flows of migrants. In striking a balance between the aim of maintaining secure borders and of allowing the legitimate movement of individuals seeking asylum, Italy should better evaluate the humanitarian consequences of its securitarian border externalization policy.

Appendix

List of interviews

Only the types of actors/organizations are displayed.

- #1. Social cooperative
- #2. Legal association
- #3. Intercultural association
- #4. Legal association
- #5. Migration expert
- #6. Migration expert
- #7. Non-profit organization
- #8. Social cooperative
- #9. Non-profit organization
- #10. Social and artist collective
- #11. Migration expert
- #12. Reception center
- #13. Decision-maker
- #14. Legal association
- #15. Social cooperative
- #16. Migration expert

List of speeches

Actor	Position	Year	Context
Maroni (Northern League)	Government - Minister of the Interior	2011	Parliamentary intervention
Cancellieri (Independent)	Government - Minister of the Interior	2012	Hearing on Immigration Issues
Bonino (Italian Radicals)	Government - Minister of Foreign Affairs	2013	Speech at the State of the Union Conference
Gentiloni (Democratic Party)	Government - Prime Minister	2016	Inaugural speech (Chamber of Deputies)
Minniti (Democratic Party)	Government - Minister of the Interior	2017	Parliamentary intervention
Minniti (Democratic Party)	Government - Minister of the Interior	2017	Speech to the Democratic Party Congress

EU Legislation

Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985.

Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence.

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air.

Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data.

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network.

Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection.

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

Regulation (EU) No 1168/2011 of the European Parliament and of the Council of 25 October 2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

Regulation (EU) No 493/2011 of the European Parliament and of the Council of 5 April 2011 amending Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network.

National Legislation

Decree Law No 113 of 4 October 2018, "*Disposizioni urgenti in materia di protezione internazionale e immigrazione, sicurezza pubblica, nonché misure per la funzionalità del Ministero dell'interno e l'organizzazione e il funzionamento dell'Agenzia nazionale per l'amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità organizzata*".

Interministerial Decree No 850 of 11 May 2011 regarding entry visas.

Interministerial Decree No 4516/495 of 6 October 2011, "*Disposizioni concernenti il Visa Information System (VIS) e lo scambio dei dati tra gli stati membri*".

Law No 40 of 6 March 1998, "*Disciplina dell'immigrazione e norme sulla condizione dello straniero*".

Law No 189 of 30 July 2002, "*Modifica alla normativa in materia di immigrazione e di asilo*".

Law No 94 of 15 July 2009, "*Disposizioni in materia di sicurezza pubblica*".

Legislative Decree No 286 of 25 July 1998, "*Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero*" (Consolidated Law on Immigration).

Legislative Decree No 87 of 7 April 2003, "*Attuazione della direttiva 2001/51/CE che integra le disposizioni dell'articolo 26 della Convenzione applicativa dell'Accordo di Schengen del 14 giugno 1985*".

Legislative Decree No. 3 of 8 January 2007, "*Attuazione della direttiva 2003/109/CE relativa allo status di cittadini di Paesi terzi soggiornanti di lungo periodo*".

Legislative Decree No 24 of 25 January 2007, "*Attuazione della direttiva 2003/110/CE, relativa all'assistenza durante il transito nell'ambito di provvedimenti di espulsione per via aerea*".

- Legislative Decree No 144 of 2 August 2007, *“Attuazione della direttiva 2004/82/CE concernente l'obbligo per i vettori aerei di comunicare i dati relativi alle persone trasportate”*.
- Legislative Decree No 251 of 19 November 2007, *“Attuazione della direttiva 2004/83/CE recante norme minime sull'attribuzione, a cittadini di Paesi terzi o apolidi, della qualifica del rifugiato o di persona altrimenti bisognosa di protezione internazionale, nonché norme minime sul contenuto della protezione riconosciuta”*.
- Legislative Decree No 89 of 23 June 2011, *“Disposizioni urgenti per il completamento dell'attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini di Paesi terzi irregolari”*.
- Legislative Decree No 109 of 16 July 2012, *“Attuazione della direttiva 2009/52/CE che introduce norme minime relative a sanzioni e a provvedimenti nei confronti di datori di lavoro che impiegano cittadini di Paesi terzi il cui soggiorno è irregolare”*.
- Legislative Decree No 142 of 18 August 2015, *“Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale”*.
- Legislative Decree No 13 of 17 February 2017, *“Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale”*.
- Legislative Decree No 53 of 21 May 2018, *“Attuazione della direttiva (UE) 2016/681 del Parlamento europeo e del Consiglio, del 27 aprile 2016, sull'uso dei dati del codice di prenotazione (PNR) a fini di prevenzione, accertamento, indagine e azione penale nei confronti dei reati di terrorismo e dei reati gravi e disciplina dell'obbligo per i vettori di comunicare i dati relativi alle persone trasportate in attuazione della direttiva 2004/82/CE del Consiglio del 29 aprile 2004”*.

References

- AIDA. 2017. *Country Report: Italy*. AIDA: Asylum Information Database.
- . 2018. *Access to Protection in Europe: Borders and Entry into the Territory*. AIDA: Asylum Information Database.
- Amnesty International. 2016. *Hotspot Italia: Come Le Politiche Dell'Unione Europea Portano a Violazioni Dei Diritti Di Rifugiati e Migranti*. London: Amnesty International.
- . 2018. *Amnesty International Report 2017/2018: The State of the World's Human Rights*. London: Amnesty International.
- Andrade, Paula Garcia. 2014. "Initiatives of EU Member States in Managing Mixed Flows in the Mediterranean and the EU Distribution of Competences." In *The Common European Asylum System and Human Rights: Enhancing Protection in Times of Emergencies*, edited by Claudio Matera and Amanda Taylor. The Hague: Centre for the Law of EU External Relations, CLEER Working Papers 2014/7.
- Andrijasevic, Rutvica. 2010. "DEPORTED: The Right to Asylum at EU's External Border of Italy and Libya." *International Migration* 48 (1): 148–74. doi:10.1111/j.1468-2435.2009.00554.x.
- ARCI. 2016. *Steps in the Process of Externalisation of Border Controls to Africa, from the Valletta Summit to Today*. Rome: ARCI.
- Bajec, Alessandra. 2018. "Working to Control Migration Flows: Italy, Lybia and Tunisia." <https://www.aspeniaonline.it/working-to-control-migration-flows-italy-lybia-and-tunisia/>.
- Biondi, Paolo. 2012. "The Externalization of the EU's Southern Border in Light of the EU/Libya Framework Agreement: A Lawful Alternative or a Neo-Refoulement Strategy?" *Vienna Journal on International Constitutional Law* 6 (1): 144–207. doi:10.1111/j.1477-7053.2007.00251.x/abstract.
- Capesciotti, Marta. 2017. "Modes of Externalization: Making Sense of Recent Developments in the External Dimension of EU's Migration and Asylum Policies." *Fieri Working Papers*.
- Chamber of Deputies and Senate of the Republic. 2013. *Indagine Conoscitiva Sulle Nuove Politiche Europee in Materia Di Immigrazione*. Rome: Chamber of Deputies and Senate of the Republic.
- CPT. 2018. *Report to the Italian Government on the Visit to Italy Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 13 June 2017*. Strasbourg: Council of Europe.
- Cuttitta, Paolo. 2014. "From the Cap Anamur to Mare Nostrum: Humanitarianism and Migration Controls at the EU's Maritime Borders." In *The Common European Asylum System and Human Rights: Enhancing Protection in Times of Emergencies*, edited by Claudio Matera and Amanda Taylor. The Hague: Centre for the Law of EU External Relations, CLEER Working Papers 2014/7.
- Department for Civil Liberties and Immigration - Ministry of the Interior. 2017. *Cruscotto Statistico Giornaliero*. Rome: Ministry of the Interior. <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/crusc>

otto-statistico-giornaliero.

———. 2018. *Cruscotto Statistico Giornaliero*. Rome: Ministry of the Interior. <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/cruscotto-statistico-giornaliero>.

European Commission. 2018. *2017 Annual Report EU Trust Fund for Africa*. Luxembourg: Publications Office of the European Union.

European Parliamentary Research Service. 2018. *Hotspots at EU External Borders: State of Play*. European Parliament.

Extraordinary Commission for the Protection and Promotion of Human Rights. 2017. *Rapporto Sui Centri Di Identificazione Ed Espulsione in Italia*. Rome: Senate of the Republic.

Fondazione Alexander Langer, ASGI, and Antenne Migranti. 2017. *Lungo La Rotta Del Brennero: Rapporto Di Monitoraggio Sulla Situazione Dei Migranti a Bolzano e Al Brennero*.

Frelick, Bill, Ian M. Kysel, and Jennifer Podkul. 2016. "The Impact of Externalization of Migration Controls on the Rights of Asylum Seekers and Other Migrants." *Journal on Migration and Human Security* 4 (4): 190–220. doi:10.14240/jmhs.v4i4.68.

Guild, Elspeth, and Didier Bigo, eds. 2005. *Controlling Frontiers: Free Movement Into and Within Europe*. London: Routledge.

Hakkerman, Mark. 2018. *Expanding the Fortress: The Policies, the Profiteers and the People Shaped by EU's Border Externalisation Programme*. Amsterdam: Transnational Institute.

Hansen, Randall, and Demetrios G. Papademetriou. 2014. *Securing Borders: The Intended, Unintended, and Perverse Consequences*. Washington, D. C.: Migration Policy Institute.

Heller, Charles, and Lorenzo Pezzani. 2017. *Blaming the Rescuers*. London: University of London, Goldsmiths College. <https://blamingtherescuers.org/>.

Karamanidou, Lena, and Bernd Kasperek. 2018. "Border Management and Migration Control in the European Union." *Global Migration: Consequences and Responses – Working Paper Series, Paper 2018/14*, 1–113. doi:10.5281/zenodo.1418601.

Keller, Ska, Ulrike Lunacek, Barbara Lochbihler, and H el ene Flautre. 2011. *Frontex Agency: Which Guarantees for Human Rights?* Migreurop.

Klepp, Silja. 2010. "A Contested Asylum System : The European Union between Refugee Protection and Border Control in the Mediterranean Sea." *European Journal of Migration and Law* 12: 1–21. doi:10.1163/157181610X491169.

Marchetti, Chiara. 2010. "Expanded Borders: Policies and Practices of Preventive Refoulement in Italy." In *The Politics of International Migration*, edited by Martin Geiger and Antoine P ecoud. Basingstoke: Palgrave Macmillan.

Menj ivar, Cecilia. 2014. "Immigration Law Beyond Borders: Externalizing and Internalizing Border Controls in an Era of Securitization." *Annual Review of Law and Social Science* 10: 353–69. doi:10.1146/annurev-lawsocsci-110413-030842.

Ministry of the Interior. n.d. *Standard Operating Procedures (SOPs) Applicable to Italian Hotspots*. Rome: Ministry of the Interior.

———. n.d. *Staying in Italy Legally*. Rome: Ministry of the Interior.

- . 2015. *Roadmap Italiana*. Rome: Ministry of the Interior.
- . 2017. *Codice Di Condotta per Le ONG Impegnate Nelle Operazioni Di Salvataggio Dei Migranti in Mare*. Rome: Ministry of the Interior.
- Oxfam. 2016. *Hotspots, Rights Denied*. Oxford: Oxfam.
- Pannia, Paola, Veronica Federico, and Silvia D'Amato. 2018. "Italy – Country Report: Legal and Policy Framework of Migration Governance." *Global Migration: Consequences and Responses – Working Paper Series, Paper 2018/07*, 1–103. doi:10.5281/zenodo.1418579.
- Paoletti, Emanuela. 2012. "Migration Agreements between Italy and North Africa: Domestic Imperatives versus International Norms." https://www.mei.edu/publications/migration-agreements-between-italy-and-north-africa-domestic-imperatives-versus#_ftn6.
- Policy Department for Citizens' Rights and Constitutional Affairs. 2018. *Counter Terrorism and External Border Management in Italy*. Brussels: Policy Department for Citizens' Rights and Constitutional Affairs.
- Presidency of the Council of Ministers and Ministry of the Interior. 2017. *Controllo Delle Frontiere Esterne e Gestione Dei Flussi Migratori: Verso La Revisione Dei Sistemi Triton e Dublino*.
- Red Cross EU Office. 2013. *Shifting Borders: Externalising Migrant Vulnerabilities and Rights?* Brussels: Red Cross EU Office.
- Schreier, Margrit. 2012. *Qualitative Content Analysis in Practice*. London: SAGE.
- Steinhilper, Elias, and Rob J Grujters. 2018. "A Contested Crisis: Policy Narratives and Empirical Evidence on Border Deaths in the Mediterranean." *Sociology* 52 (3): 515–33. doi:10.1177/0038038518759248.
- UNHCR. 2017. *Desperate Journeys: Refugees and Migrants Entering and Crossing Europe via the Mediterranean and Western Balkans Routes*. UNHCR.
- Villa, Matteo, Rob Grujters, and Elias Steinhilper. 2018. "Outsourcing European Border Control: Recent Trends in Departures, Deaths and Search and Rescue Activities in the Central Mediterranean." <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2018/09/outsourcing>.