



Action: EMN NCPs are asked to complete this template and submit their National Report by 2 November 2020
Further clarifications can be provided by directly contacting the EMN Service Provider (ICF) at emn@icf.com; Sara Bagnato (Sara.Bagnato@icf.com); Tatiana Kistruga (Tatiana.Kistruga@icf.com); Norma Rose (Norma.Rose@icf.com).

BACKGROUND AND RATIONALE FOR THE STUDY

- Return Directive (Directive 2008/115/EC) sets the obligation for Member States to issue a return decision for third-country nationals once it has been established that they are not eligible for legal stay.¹

AIM: a) reducing situations of legal uncertainty for third-country nationals; ² b) policies and practical measures EU-wide overview regarding this group of third-country nationals

In practice, a certain share of third-country nationals issued with a return decision **do not leave the territory** of Member States.

National authorities might be **unable to proceed with removals due to either legal or practical obstacles:**

1. Issuance of a return decision allows for a period of voluntary departure, however a third-country national could be unwilling to leave voluntarily.
2. Forced return may be impossible to enforce without some level of co-operation from the third-country national. In other cases, national authorities postpone return to respect the principle of non-refoulement, individual circumstances or other practical reasons impeding the enforcement of a return decision.³
3. Additionally, there are cases of third-country nationals whose residence permits expire and renewal is not secured, or who for other reasons do not or no longer fulfil conditions for legal stay, and who were not issued a return decision for a variety of administrative and practical reasons.
4. In some cases, third-country nationals may disappear from the supervision of the competent authorities involved. In other cases, migrant who entered illegally remained undetected by migration authorities.

The Study covers the period from 2015 – October 2020.

DEFINITIONS

There are several key terms used in this template. The definitions listed below are defined with help from the **EMN Glossary**,⁴ version 6. Please see the table below.

Term	Definition
Entry ban	An administrative or judicial decision or act prohibiting entry into and stay in the territory of the EU Member States for a specified period, accompanying a return decision.
Family members	A third-country national, as specified in Article 4(1) of Directive 2003/86/EC (normally members of the nuclear family – i.e. the spouse and the minor children), who has entered the territory of the European Union for the purpose of family reunification

¹ Article 6 of the Return Directive. The directive applies to all EU countries except Ireland, nevertheless the concepts covered by the study are also relevant to the Member State.

² European Commission, Return Handbook (section 1.2 'illegal stay').

For the purpose of this study, illegal stay and irregular stay (as used in the EMN Glossary) will be used interchangeably.

³ According to Article 9 of the Return Directive, Member States should postpone removal where it would infringe the respect of the principle of non-refoulement or where the return decision is reviewed by a competent national authority. Member States may postpone return by taking into account the specific individual circumstances of the third-country national or for practical reasons impeding removal (lack of identification of the third-country nationals or transport capacity).

⁴ Available at: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en.

Term	Definition
Forced return	The process of going back – whether in voluntary or enforced compliance with an obligation to return – to one’s country of origin, a country of transit in accordance with EU or bilateral readmission agreements or other arrangements; or another third country, to which the third-country national concerned voluntarily decides to return and in which they will be accepted (Article 3(3) of the Return Directive).
Illegal or irregular stay	The presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Art. 5 of the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in that EU Member State.
Irregular migration	The movement of persons to a new place of residence or transit that takes place outside the regulatory norms of the sending, transit and receiving countries.
Non-refoulement	A core principle of international refugee and human rights law that prohibits States from returning individuals to a country where there is a real risk of being subjected to persecution, torture, inhuman or degrading treatment or any other human rights violation.
Overstayer	A person remaining in a country beyond the period for which entry was granted. In the EU context, a person who has legally entered an EU State, but who has stayed beyond the expiry of his/her visa and/or residence permit.
Regularisation	State procedure by which illegally staying third-country nationals are awarded a legal status.
Residence permit	An authorisation issued using the format laid down in Regulation (EC) No 1030/2002 entitling its holder to stay legally on the territory of a Member State.
Return	The movement of a person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced, assisted or spontaneous.
Return decision	An administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return.
Social protection benefits	For the purpose of this study please refer to the definition of ‘core benefits’ as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum - income support, assistance in the case of illness, or pregnancy, and parental assistance.

TEMPLATE FOR NATIONAL CONTRIBUTIONS

The template provided below outlines the information that should be included in the National Contributions of EMN NCPs to this Study. The indicative number of pages to be covered by each section is provided in the guidance note. For National Contributions, the total number of pages should not exceed 40 pages, including the questions and excluding the introduction of the study. A limit of 30 pages will also apply to the Synthesis Report, in order to ensure that it remains concise and accessible.

[Common Template of EMN Study 2020](#)

Responses to long-term irregularly staying migrants: practices and challenges in EU Member States and Norway

National Contribution from *Member State*⁵

Disclaimer: The following information has been provided primarily for the purpose of contributing to a Synthesis Report for this EMN Study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.

Top-line factsheet [max. 1 page]

The top-line factsheet will serve as a summary of the **national contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers. The top-line factsheet should be a stand-alone product. Please add any innovative or visual presentations that can carry through into the synthesis report as possible infographics and visual elements.

⁵ Replace highlighted text with your **Member State** name here.

The migratory phenomenon in Italy has undergone strong evolutions in recent years.

The attention of the recent national political and public debate on the entry and presence of irregular migrants has often intertwined with the issues concerning the phenomenon of landings of third country nationals along the national coasts.

The migration policies implemented in the two previous legislations had as main institutional commitment to reduce the number of irregular individuals present on the territory, strengthening and making more efficient the system of border controls, reception of asylum seekers and forced returns of those foreign citizens, who cannot legalize their status in the territory.

The case, which is the object of this study, concerns a condition that is not explicitly regulated by the Italian law, namely that of the "long term" irregular migrant. As will be reiterated several times, according to the rules regarding the stay in Italy, there are no different categories of third-country nationals in a condition of irregularity based on the length of their stay.

In Italy it is in fact possible to distinguish three legal types of irregular third country nationals: a) citizens of Third Countries who have entered our country illegally b) citizens of Third Countries who, although entering legally, have stayed beyond the expiry date of the entry visa or the period of stay granted without a visa, and in any case have never applied for/acquired a residence permit; c) citizens of Third Countries who were in possession of a residence permit which, once expired, has not been renewed or converted, and who do not return to their country.

Citizens of Third Countries without a regular residence permit are in any case guaranteed access to basic services concerning, primarily, medical assistance and access to compulsory education, provided by national and local authorities and other basic services offered by Third Sector entities (associations, NGOs, charities). These rights and benefits, as listed below, are addressed to the category of migrants without a residence permit, also in this case, regardless of the length of their stay.

The inter-institutional exchange between central and local authorities in Italy (Conferenza Stato Regioni), is based on the provision of resources to allow the use of services and performances, which must be guaranteed to foreign citizens, including irregular ones, in order to protect fundamental rights enshrined in the Constitution, in the national and European legislation in force, and in compliance with the obligations arising from the international treaties.

With regard to the control of the territory and the coordination between different institutional levels, it is important to emphasize the role of the Prefect, who is responsible for the protection of public order and security at the local level, and makes use of the Provincial Committee for Order and Public Security. This advisory body includes the President of the Province, the Commissioner, the Provincial Commander of the Carabinieri, the Commander of the Guardia di Finanza Group and the Provincial Commander of the Forestry Corps, the composition of which can also be extended to subjects outside the Public Security Administration.

The Mayor is also part of the Committee and is called to collaborate in the areas of competence of the local authority for the best performance of the function of public safety. It should be noted that the Prefect is also attributed the expulsive power against irregular foreign citizens.

As said, the policies adopted by the National Government on the issue of the presence of irregular foreign nationals tout court, mainly concern the implementation of forced and voluntary return procedures, border control and the implementation of rejections to deal with irregular entry of migrants, the strengthening of controls on the territory, the detention in the CPR of migrants to be returned in order to combat and reduce the phenomenon of irregular stay. On the regulatory profile, it should be remembered that, precisely with a view to combating the phenomenon of irregular immigrants, was introduced in Italy, with Law No. 94/2009, the crime of illegal entry and stay, punished as a contravention with a fine ranging from 5 thousand to 10 thousand euros (introduced with Art. 10-bis of the Consolidated Act on Immigration (Legislative Decree 286/1998) containing the Consolidated Act on Immigration and rules on the condition of foreigners).

It's good to remember that any provision and legislative action described in this study, concerns the condition of irregularity of residence of foreign citizens, present in the territory, regardless of the duration of their stay.

It is necessary to point out that these regularization measures exclude citizens of third countries affected by previous expulsions by the Ministry of the Interior or for the prevention of terrorism, including international terrorism, and expulsions for reasons of social dangerousness ex art. 13, paragraph 2, letter c) T.U.

Foreign citizens who have been reported (on the basis of existing international agreements or reports) for the purposes of non-admission to the territory of the State or who are considered a threat to public order or security of the State or of one of the countries with which Italy has signed agreements for the abolition of internal border controls and the free movement of persons are not eligible for regularization procedures.

With respect to the criminal convictions that hinder regularization, it is important to emphasize that these concern in particular certain violations such as: crimes against personal liberty or drug related crimes, aiding and abetting illegal immigration to Italy and illegal emigration from Italy to other States or for crimes aimed at the recruitment of persons to be used for prostitution or exploitation of prostitution or minors to be employed in illegal activities.

It should be added, however, that the phenomenon is actually present in Italy, due to the prevalence of economic migrants in irregular migration flows. Therefore, in order to reduce the irregular presence of third country nationals who do not have a

residence permit on the Italian territory and who in fact cannot be promptly returned to their countries of origin, the Italian government has used the adoption of extraordinary measures that provide for the issuance of a residence permit for reasons of employment to those who are in possession of a job or job offer. These measures have been adopted whenever the "physiological" threshold of the estimated number of irregular migrants has been exceeded. Each regularization measure has introduced, as a requirement of access to the procedure, documentary evidence of the prior presence in the national territory of the foreign citizen and the absence of criminal records. During the past five years, the measure of extraordinary regularization of irregular employment relationships in the agricultural sector adopted by the Government currently in office, provided for in Article 103 of Legislative Decree No. 34/2020, as a measure to respond to the health emergency Covid 19, has become very relevant. As the Final Report on Emergence 2020 of the Ministry of Interior will highlight, the applications sent for the emergence of irregular employment relationships exceed 200,000 units. The procedure, which concerned only the sectors of agricultural and domestic work, will allow many citizens of Third Countries to regularize their administrative position in Italy, receiving a residence permit for reasons of work or expected employment that they can renew.

Section 1: National legal and policy framework

This introductory section of the synthesis report will map the institutional, legal and political contexts on the issue of long-term irregular migrants and aims to provide an overview of main points of discussion in Member States and Norway.

The primary questions addressed in this section are:

- To what extent are central, regional and local authorities in your Member State confronted with the issue of long-term irregular migrants?
- What is the political and policy debate on the situation of long-term irregular migrants?
- What are the characteristics of the group of third-country nationals who remained in a protracted situation of illegal stay? What information is available on the size of the (sub)groups or categories?

SECTION 1.1: CATEGORIES OF LONG-TERM IRREGULAR MIGRANTS AT NATIONAL LEVEL

Q1a. Is there a distinction between 'short-term' irregular migrants and 'long-term' irregular migrants (as defined in the scope of this study) in your (Member) State?

Yes

No

If yes, please explain how these are defined and where (policy, legislation and/or practice):

Q1b. Are different categories of **long-term** irregular migrants (as defined in the scope of this study) – stemming from law or practice – present in your (Member) State?

Yes

No

Q1f. If no to Q1b, please explain why this is not the case (in the box below)

The Italian legislative framework does not provide an explicit definition of "long-term irregularity".

It is possible to distinguish only three categories of irregulars, according to Italian law:

1. Citizens of Third Countries who entered our country illegally
2. those who, despite entering regularly, have stayed beyond the expiry date of the entry visa or the period of stay granted without a visa, and have never applied for/acquired a residence permit;
3. Citizens of Third Countries who were in possession of a residence permit that, once expired, has not been renewed or converted, and who do not return to their own country.

The permanence in the territory with an expired residence permit, is regulated by the combined provisions of art. 5 and art. 13 of the Immigration Consolidation Act (D.lgs. 286/98 and following mod. - forward T.U.Imm.), which makes possible the presentation of the request for the renewal of the residence permit up to 60 days after its expiration. In any case, if the foreigner has not been subject to an expulsion order and has, even beyond 60 days, submitted the application for renewal, his/her work situation must be taken into account and then proceed with the renewal (see on this point the Italian Jurisprudence - among all the United Sections of the Civil Cassation SS.UU. n. 7892/2003). Also in this specific case, it is not possible to speak of a case concerning the condition of "long-term irregularity".

Q2. If a third-country national is subject to a return decision but there are **legal obstacles to return** (i.e. for non-refoulement reasons, medical reasons, etc), can they receive:

Tick as many boxes as applicable in your (Member) State and use the box below to briefly describe the situation (e.g. procedure followed, conditions of application).

For instance, please indicate if the option ticked is based on **i)** an administrative practice (please explain the practice); **ii)** legislation (please legislation); **iii)** case law (indicate case law reference and a short summary), or **iv)** other (e.g. policy).

Please briefly describe also indicating estimations of the scale/numbers per year between January 2015-October 2020), if available.

For clarifications on categories below, please refer to section 2.

Written confirmation of postponement of return (please briefly explain the procedure, conditions below):

ii) legislation (rif. art. 13, 5° comma Testo Unico Imm. D.lgs. 286/98 and following mod.)

Expulsion with voluntary departure: granting the deadline for voluntary departure.

Following the assessment of each individual case, with the same expulsion order, if the Prefect verifies that the expulsion conditions are met, can order the foreigner to leave the territory of the State within a period that varies between three, seven and thirty days. This term can be extended for a reasonable period – based on the request of the foreigner - in the presence of particular situations related to family or social needs (for example the existence of minors attending school). The foreign citizen is given a multilingual form where he is informed of this right (Art. 13, 5th paragraph D.lgs. 286/98 (has been replaced by D.L. 23 June 2011, n. 89). In order for this measure to be granted, the Quaestor asks the foreigner to demonstrate the availability of sufficient economic resources from lawful sources, for an amount proportionate to the period of stay granted, between 460€ and 1380€. The Quaestor can apply one or more of the following measures against the foreigner: a) delivery of the passport or other equivalent valid document, to be returned at the moment of departure; b) obligation to stay in a place previously identified, where the foreigner can be easily traced: c) the obligation to show up, on established days and time, at a public force office competent for the territory.

Temporary/tolerated stay (please briefly explain the conditions, application procedure below:

Residence permit (please briefly explain the conditions, application procedure, duration of status below:

ii) legislation (rif. artt. 18, 18 bis, 19, 20, 20 bis, Testo Unico Imm. D.lgs. 286/98 and following mod.)

The Italian law provides that a third country national cannot be removed from the national territory if he or she is in certain conditions (situation of exploitation, victim of gender violence, pregnancy, etc...) or has certain requirements or a certain type of status (e.g. being a family member or spouse of a cohabitant Italian citizen).

The Italian law establishes in these circumstances and at the request of the interested party, the issuance of the following types of residence permits:

Residence permit for social protection: when situations of violence or serious exploitation against a foreigner are ascertained and represent a concrete danger for his/her safety, emerging from attempts to the conditions imposed by a criminal association or the declarations made during the preliminary investigation or judgment procedures (Art. 18 T.U.Imm.)

Residence permit for victims of domestic violence: domestic violence is defined as one or more acts, serious or not episodic, of physical, sexual, psychological or economic violence occurring within the family or household or between persons linked, currently or in the past, by marriage or emotional relationship, even if not cohabiting (Art. 18 bis T.U.Imm.)

Permit for medical treatment (pregnancy): it is forbidden to expel pregnant women or in the six months following the birth of the child. Pregnant women can apply for a residence permit for medical treatment (pregnancy) from the moment the pregnancy status is certified and for the period of six months after the birth of the child. The residence permit for medical treatment is revoked in case of voluntary interruption of pregnancy while it is renewed up to six months from the presumed date of birth of the child even in case of death of the unborn child at birth. The PDS for medical treatment does not allow you to work. The father of the unborn child married to the mother, thanks to a ruling of the Constitutional Court, in July 2000, declared the constitutional illegitimacy of Article 19, paragraph 2, letter d) in the part in which it does not provide the same right to the husband cohabiting with the pregnant woman.

Therefore, the residence permit for medical treatment is also issued in favor of the husband of the pregnant woman, and 'excluded from the issuance of the PDS for medical treatment the unmarried father until the time of recognition of the child (art. 19, paragraph 2, letter d, T.U.Imm.- Sent. Court Cost. n. 376/2000)

Permits for family reasons - inexpellability of the third-country national family member within the second degree of kinship, or spouse, cohabiting with the Italian citizen (art. 19, paragraph 2, letter c, T.U.Imm. The cohabitation must be effective and proven. A permit is issued for two years for family reasons and can be renewed or converted if certain requirements are met.

Permit for special cases - health reasons: introduced by Decree-Law no. 113/2018 on Immigration Security, is issued to foreigners who "are in particularly serious health conditions, ascertained by appropriate documentation issued by a public health facility or a doctor affiliated with the National Health Service, such as to determine a significant damage to their health, in case of return to the country of origin or origin. In such cases, the Commissioner issues a residence permit for medical treatment, for the time certified by the health certificate, however, not exceeding one year, renewable as long as the health conditions of particular gravity duly certified persist. The permit is valid only in the national territory, in general, allows the performance of work, always taking into account the state of health of the person concerned (art. 19, 2nd paragraph letter d) bis of Legislative Decree 286/98 Circular Ministry of the Interior of 15/03/2019, n. 43323).

Residence permit for special cases - natural disaster: regulated by Decree-Law n. 113/2018 on Immigration Security. They must be requested directly at the Police Headquarters, without applying for international protection. This permit is issued when "the country to which the foreigner should return is in a situation of contingent and exceptional calamity that does not allow the return and stay in safe conditions". These are mainly situations of natural disasters and serious environmental or health disasters. It is valid only in Italy, lasts a maximum of six months and is renewable after verification of the existence of the conditions. It allows the foreigner to work but is not convertible into a work permit (art. 20 bis T.U.Imm.).

Residence permit for labor exploitation: It is issued "in cases of particular labor exploitation", i.e. when the number of irregularly staying workers employed by the same employer is: more than three; or minors of non-working age, or subjected to the other conditions of particular exploitation provided for by art. 603-bis of the Penal Code (pay clearly different from national collective agreements, or otherwise disproportionate; repeated violation of rules on working hours, rest, leave, vacation, safety and hygiene; degrading working conditions and housing situations). It is valid for six months and is renewable for one additional year. It allows the foreigner to work and can be converted into a work permit. (art. 22 paragraph 12 quater of Legislative Decree 286/98)

Permit for assistance of minors -The authorization of the TM and consequent issuance of the residence permit for medical treatment / minor assistance (Art. 31 T.U.Imm.) allows the foreign parent, a third country national, to regularize his/her position on the national territory, when there are serious reasons related to the psycho-physical development of the minor who is in Italy.

Permit for acts of particular civil value: governed by Decree-Law no. 113/2018 on Immigration Security, is issued when "the foreigner has performed acts of particular civil value", i.e. has exposed his life to a real danger to save people exposed to imminent and serious danger, to prevent or reduce the damage of a serious public or private disaster, to restore public order, to participate in the arrest of wrongdoers, for the progress of science or generally for the good of humanity, or to keep up the name and prestige of the country. It is valid for two years and is renewable. It allows to work and can be converted into a work permit (art. 42-bis of Legislative Decree 286/98).

Permit for Justice reasons: it is issued at the request of the Judicial Authority, for a maximum duration of 3 months, extendable for another 6 months, in cases where the foreigner must be present in the territory in relation to ongoing criminal proceedings (Art. 11 paragraph 1 letter c-bis D.P.R.). 334/99 - "[residence permit] for reasons of justice, upon request of the Judicial Authority, for a maximum duration of three months, extendable for the same period, in cases in which the presence of the foreigner on the national territory is indispensable in relation to criminal proceedings in progress for one of the crimes referred to in article 380 of the Code of Criminal Procedure, as well as for some of the crimes referred to in article 3 of Law no. 75 of 20 February 1958."

Extension of the short-stay visa

Extension of the voluntary departure period

II) legislation (rif. art. 13, 5° comma D.lgs.286/98 and following mod.)

Expulsion with voluntary removal: granting of the term for voluntary departure. The Prefect, having assessed the individual case, can extend the term of voluntary departure (therefore beyond 30 days) for an appropriate period - at the request of the foreigner - in the presence of particular situations connected to family or social needs (for example the existence of minors attending school). The foreign citizen is given a multilingual form where he is informed of this right (see note 1 paragraph II) legislation (ref. Art. 13, 5th paragraph of the Consolidated Law on Immigration).

In order for this measure to be granted, the commissioner asks the foreigner to demonstrate the availability of sufficient economic resources deriving from lawful sources, for an amount proportionate to the term granted, between € 460 and € 1380.

In any case, the Quaestor can apply one or more of the following measures:

- a) delivery of the passport or other equivalent document valid, to be returned upon departure;
- b) obligation to stay in a place previously identified, where it can be easily traced;
- c) obligation to show up, on established days and times, to a territorially competent public force office.

No return decision issued (for administrative or other reasons including non-refoulement)

Other (e.g. no other form of certificate/tolerated stay/residence permit granted)

Q3. If a third-country national is subject to a return decision but there are **practical obstacles to return** (i.e. lack of means of transportation, lack of identification or travel documents, lack of cooperation of the third-country national, absconding etc.), can they receive:

Tick as many boxes as applicable in your (Member) State and use the box below to briefly describe the situation (e.g. procedure followed, conditions of application).

*For instance, please indicate if the option ticked is based on **i)** an administrative practice (please explain the practice); **ii)** legislation (please legislation); **iii)** case law (indicate case law reference and a short summary), or **iv)** other (e.g. policy).*

Please briefly describe also indicating estimations of the scale/numbers per year can be provided for the years 2015-October 2020), if available.

For clarifications on categories below, please refer to section 2

A written confirmation of postponement of return (please briefly explain the procedure, conditions below):

ii) legislation (rif. art. 13, 5° comma D.lgs.286/98 and following mod.)

Concession of the term for the voluntary departure: the Prefect, having evaluated each single case, with the same expulsion measure, upon verification of the required conditions, orders the foreigner to leave the territory of the State within a term varying between 7 and 30 days. This term can be extended for an appropriate period (therefore indefinite) - at the request of the foreigner - in the presence of particular situations related to family or social needs (for example, the existence of minors attending school, etc.). The foreign citizen is given a multilingual card where he is informed of this faculty (see note 1 paragraph II) legislation (ref. art. 13, 5th paragraph T.U.Imm).

The Commissioner has one or more of the following measures against the foreigner:

- a) Delivery of the passport or other equivalent valid document by the Public Security Authorities, to be returned at the time of departure;
- b) obligation to stay in a place previously identified, where he/she can be easily traced;
- c) obligation to show up, in established days and times, at an office of the public force territorially competent.

ii) legislation (rif. art. 14, D.lgs. 286/98 - Esecuzione dell'espulsione. (Legge 6 marzo 1998, n. 40, art. 12))

Trattenimento nel Centro di permanenza per il rimpatrio: Detention in the Retention Center for repatriation. *When it is not possible to carry out a repatriation, the Commissioner will arrange for detention at the nearest Return Stay Center. Among the situations that legitimize detention are: when there is a risk of escape (the foreigner does not have an identification document -*

passport or equivalent title - does not have accommodation where he can be traced, has previously declared false personal details, has not left the territory within the time limit for voluntary departure or has violated one of the measures established for voluntary departure). The foreigner is held in the center in such a way as to ensure the necessary assistance and full respect for his dignity. The detained foreigner can address oral or written requests or complaints, in a sealed envelope, to the National Guarantor and to the regional or local guarantors of the rights of persons detained or deprived of their personal freedom (Art. 3 of DL130/2020 has introduced changes to the rule reported here). In any case, freedom of correspondence is guaranteed, even by telephone with the outside world. The foreigner is admitted to legal assistance by a trusted lawyer with special power of attorney. **The foreigner is also admitted to free legal aid, and if he does not have a lawyer, he is assisted by a lawyer appointed ex officio.** The validation of the detention involves the stay in the center for a total period of 30 days. If the verification of identity and nationality or the acquisition of documents for travel presents serious difficulties, the judge, at the request of the quaestor, may extend the period up to 30 days. After this deadline, the Commissioner may ask the Small claims judge for one or more extensions if concrete elements have emerged that allow to consider the identification probable or it is necessary in order to organize the repatriation operations. **In any case, the maximum period of detention of the foreigner in the detention center for repatriation cannot exceed 90 days.** A foreigner who has already been detained at a prison for a period equal to that indicated in the above, may be detained at the center for a maximum period of 30 days, if the foreigner is a citizen of a third country with which Italy has signed a repatriation agreement.

A temporary/tolerated stay (please briefly explain the conditions, application procedure):

A residence permit (please briefly explain the conditions, application procedure, duration of status below):

An extension of the short-stay visa

No return decision issued (for administrative or other reasons including non-refoulement)

Other (e.g. no other form of certificate/tolerated stay/residence permit granted)

SECTION 1.2: PRIORITIES AND DEBATES AT A NATIONAL LEVEL

Q4a. Has the issue of long-term irregular migrants been subject to **policy or legislative debate** (i.e. discussions) in your (Member) State since 2015?

Yes

No

If yes, (i) what was the debate about and (ii) how has the debate evolved since 2015 (include debates related to Covid-19)? Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015. Please indicate the main stakeholders involved. Please provide qualitative evidence to support your answer (e.g. national parliamentary debates, strategies, other policy documents).

As already noted, there is no difference, for the Italian legal system, between "long-term" irregular Third Country nationals and irregular Third Country nationals tout-court. The issue of irregular stay of Third Country nationals has been addressed in the parliamentary and political debate with a view to contrasting irregular entry and stay, the strengthening of forced returns to those who have lost the conditions of legal residence or have never applied for and obtained a residence permit, as well as regularization measures to ensure a legal status to those migrants eligible during the COVID period.

We therefore report the main legislative debates at parliamentary level that have made significant changes to the legal status in Italy of foreign citizens, with reference to the issue of irregularity of stay.

Among the main objectives at the national level, we highlight **the contrast of illegal immigration**, the planning and management of the reception of applicants for international protection and the reduction of the timeframe for the processing of applications for international protection. Finally, the regulation of detention in the Centers for Identification and Repatriation and the strengthening of repatriation operations.

During the seventeenth legislature (March 15, 2013 - March 22, 2018), the Italian Parliament and Government adopted several measures to deal with the high number of migrants arriving in the national territory. Decree-Law No. 13 of 2017 was adopted, to address the issue of international protection and the fight against illegal immigration.

At the same time, the Parliament gave the go-ahead for Italy's participation in the bilateral mission of assistance and support in Libya which objective is to assist the Libyan National Agreement Government through the performance of a series of tasks including the control of illegal immigration. Moreover, a Code of Conduct for NGOs involved in the rescue of migrants on the sea has been drawn up by the Government.

The main institutional discussions on the mentioned topics are:

COMMISSIONE: III AFFARI ESTERI I AFFARI COSTITUZIONALI del 31/01/2018 - COMMISSION III: FOREIGN AND CONSTITUTIONAL AFFAIRS

(https://www.camera.it/leg17/465?tema=immigrazione_clandestina#m)

The Government's 2017 Immigration Plan and the Immigration Law Decree

In the first months of 2017, in the face of the protracted emergency situation, the Parliament approved Decree Law No. 13 of 2017, which introduced urgent provisions on immigration and an organic law on measures to protect unaccompanied foreign minors.

The content of the measure and the lines of action of the Government in the last year of the legislature (Plan for Immigration 2017) were presented to the Parliament by the Minister of the Interior Minniti during the hearing on the policy lines of his department on February 8, 2017:

- re-launch the commitment of partial "relocation" in other EU countries of the refugees who have arrived in Italy (at the moment there are 2,300 relocations out of the 40,000 to be carried out by 2017);
- strengthen strategic dialogue with African countries to contain flows. In this regard, the Minister recalled the Memorandum of Understanding signed with Libya on 2 February 2017 followed by the final communiqué of the EU summit in Malta
- to develop a model of "widespread reception" starting from the agreement concluded on December 14 with ANCI through which municipalities, on a voluntary basis, engage in the reception in their territory of migrants in small reception centers that allow a greater involvement of local communities and associations;
- Strengthening the **transparency** of the management procedures of the reception centers: the Government has moved in this direction with the signing of a protocol with ANAC for the procurement of reception centers, which are followed by the definition of a standard contract;
- Reduce the time required for the examination of applications for international protection through the reduction of the level of judgment of the appeal procedure against the rejection of applications and the recruitment of qualified personnel for the Territorial Commissions for the examination of asylum applications;
- fill the gap of the waiting period for asylum seekers by engaging them in works of public utility;
- take appropriate measures to deal with the increased presence of unaccompanied foreign minors found in our country;
- carry out an efficient activity of forced repatriation and at the same time encourage the use of assisted voluntary repatriation;
- transformation of the CIEs into permanent repatriation centers (CPR) with a total national capacity of 1,600 people, one per region, small, outside urban centers, close to transport infrastructure, with transparent governance and unlimited access by the guarantor of personal freedoms.

Source <https://documenti.camera.it/leg17/dossier/pdf/D17013.pdf>

During the current legislature (XVIII), in office since March 23, 2018, an important institutional and public debate has focused on immigration issues with particular attention to the issue of landings of third country nationals on Italian territory. This has led to the amendment of the rules concerning in particular the procedures for the application for international protection and the

reception of asylum seekers, announcing the adoption of measures such as the abolition of humanitarian permits and the strengthening of forced returns of irregular third country nationals.

The debate during the health emergency COVID 19

In relation to the issue of irregular stay of Third Country nationals, the main extraordinary measure adopted by the current Government, in response to the health crisis caused by the spread of Covid-19, was the emergence of irregular workers of Third Country nationals in agriculture and domestic work.

According to estimates made by the Government there are 600,000 irregular immigrants in Italy, many of them employed in the agricultural sector and in the care work. For this, laborers, carers, domestic helpers and babysitters have been identified as categories for which a selective regularization was necessary, aimed at bringing them into compliance by categories.

Source Chamber parliamentary debate on migrants and pandemic

The hearing of September 24, 2020 of the new Interior Minister on the issue of immigration, asylum and Europol policies, in the face of the spread of the Covid-19 health emergency, but also control and prevention of transnational activities related to smuggling and trafficking of migrants.

Audizione Ministra Lamorgese Audition of the Minister of the Interior : Luciana Lamorghese

Recent changes regarding the residence of third country nationals.

On 5 October 2020 the Council of Ministers approved the amendment of the so-called security decrees

The Council of Ministers approved a new immigration decree that came into force on October 22, 2020.

In particular, the provisions on the reception of migrants have been modified, with the restoration of a form of humanitarian protection and the widespread reception system.

The new immigration decree is structured in twelve articles and will be converted into law by the parliament that can make further changes during the discussion. It entered into force on October 22, 2020.

Q5a. Has the issue of long-term irregular migrants been subject to **inter-institutional debate** between local (municipal, regional, federal) and central level authorities, in your (Member) State since 2015?

Yes

No

If yes, please indicate the main stakeholders involved in your answer and qualitative evidence (e.g. public debates, policy documents).

The inter-institutional debate on the issue of irregularity of foreign citizens between the Central Government and local authorities, in particular the Regions and Autonomous Provinces of Trento and Bolzano, is mainly based on the provision of services to protect the fundamental rights of citizens of third countries irregularly present on the territory. Particularly relevant is the debate between the Central State and the Regions on the provision of basic health services and the necessary and urgent specialized services that must be available regardless of the possession of a residence permit and on equal terms with Italian or foreign citizens legally residing. We point out the Agreement between State and Regions of 20 December 2020 (Accordo Stato Regioni 20 Dicembre 2020)

We would also like to point out the resolutions of the Interministerial Committee for Economic Planning in agreement with the Conference on the distribution between the Regions and Autonomous Provinces of Trento and Bolzano of the financial availability for health care to irregular foreigners in the national territory.: : DELIBERA CIPE Agosto 2015; Seduta 22 Novembre 2018 Conferenza Stato Regioni;DELIBERA 28 novembre 2018.

Q5b. If yes to Q5a, (i) what was the debate about and (ii) how has it evolved since 2015?

Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015.

It is necessary to specify that the inter-institutional debate on the irregularity of migrants focuses on the provision of health services to foreigners regularly and irregularly present, as already highlighted.

The Permanent Conference for relations between the State, the Regions and the Autonomous Provinces of Trento and Bolzano, at its meeting on December 20, 2012, promoted an Agreement called "**Indications for the correct application of the regulations for health care to the foreign population by the Regions and Autonomous Provinces**", having considered it necessary to identify, with regard to this category of population, the most effective initiatives to be implemented to ensure greater uniformity, in the Regions and Autonomous Provinces, of the paths of access and delivery of health services, referred to in the Prime Ministerial Decree on essential levels of care;

This agreement is the conclusion of a path started years ago both with specific research and within the Interregional Team on Immigrants and Health Services at the Health Commission of the Conference of Regions and Public Administration. (document approved in September 2011) and which has seen the participation of third sector bodies and NGOs. The agreement concerns, among other issues, the compulsory enrolment of foreign minors in the SSN even in the absence of a residence permit; the compulsory enrolment in the SSN of individuals in the process of legalization; the prior issue of the STP code (code foreigners temporarily present) - a tool for the application of the right to health care by non-EU citizens irregularly present on the territory. The STP code is issued by the local Health Authorities, at the time of the treatment request or at the request of the interested party) to facilitate access to treatment; definition of the ticket exemption code for the STP; the guarantee to the STP of the essential treatments to ensure the complete therapeutic and rehabilitative cycle to the possible resolution of the morbid event, including also possible transplants.

Finally, we recall the debate on the National Plan for the distribution of migrants landing on the Italian coasts. The National Plan recognizes the need to plan the distribution of migrants arriving on the Italian coasts and establishes that this distribution should take place on a regional basis. December 14, 2016, the National Coordination Table provided for by Legislative Decree no. 142 of 2015 agreed to start the National Plan of distribution.

The Plan, to which municipalities adhere on a voluntary basis, is based on two key principles:

- the proportionality of the reception of migrants with respect to the resident population, which, in principle, is about 2.5 reception places for every 1,000 residents, with the necessary corrective measures for small municipalities and capital cities and earthquake zones;
- the involvement of prefects and local institutions so that the territories they welcome are excluded from tenders aimed at acquiring structures in the same territories.

In order to facilitate the start of the distribution system, the directive of the Minister of the Interior of October 11, 2016 also provided a clause according to which the municipalities that belong to the SPRAR network, or intend to join it, are exempt from the activation of further forms of reception, as long as the number of SPRAR posts meets the quota of posts allocated to each municipality (safeguard clause).

Q6. If yes to Q4a and/or Q5a, has the debate influenced **policy or legislative measures** (e.g. national strategies or plans, legislative framework, etc.)?

Yes

No

If yes, please indicate the policy or legislative measures adopted:

The political and legislative debate in the last five years has been characterized by the theme of the irregularity of the stay of third country nationals in the main fight against **illegal immigration**. These policies are aimed at combating the irregular entry and stay of long-term Third Country subjects on the national territory. The condition of "long-term" irregularity is not regulated as a legal case in the national system. We list below the main legislative measures adopted with reference to the policies concerning the management of immigration in Italy, resulting from the above mentioned debate

Minniti Decree: il decreto legge 17 febbraio 2017, n. 13 (the law decree of 17 February 2017, n. 13) introduced measures for the acceleration of administrative and judicial procedures in the field of international protection and provides for measures to facilitate operations. The provision, approved by the Senate on 6 April 2017, was definitively approved by the House on 12 April 2017 (A.C. 4394) The main interventions can be summarized as follows:

- Establishment of court chambers specialized in immigration and asylum;
- abolition of the second instance in proceedings relating to the recognition of international protection;

- introduction of new technologies to the procedure, such as the use of certified e-mail in notifications and video recordings in personal interviews of asylum seekers;
- use of applicants for international protection in socially useful activities;
- acceleration of the identification procedures and for the definition of the legal position of non-EU third country nationals,
- Strengthening of the network of identification and deportation centers that are being renamed Returnee Residence Centers (CPR).

Provisions on irregular immigration

The Director of the Central Directorate of the Prevention Police of the Ministry of the Interior has been identified as the competent authority in our system to adopt the decision to enter into the Schengen system the alert of a third country national for the purpose of refusal of entry, and assigns the relevant disputes to the competence of the Lazio Regional Administrative Court.

A new hypothesis of abbreviated procedure is foreseen in the administrative process, to be applied for the definition of appeals against expulsion measures for reasons of public order and national security and for reasons of terrorism prevention.

Provisions are introduced for the identification of foreigners rescued in sea rescue operations or traced as irregular when crossing the border. It is prescribed that the foreigner is taken to special "crisis points" and that here he is subjected to photodactyloscopic and signage detection and, at the same time, receive information on the international protection procedure, the relocation program in other EU Member States and the possibility of assisted voluntary repatriation.

It is established that the Department of Public Security of the Ministry of the Interior is required to ensure the management and monitoring, through IT tools, of administrative procedures regarding irregular entry and stay, also through the activation of an Automated Information System - SIA, which must be interconnected with the centers and systems indicated therein, also ensuring the timely exchange of information with the reception management system of the Department for Civil Liberties and Immigration of the same Ministry of the Interior. To this end, a new paragraph 9-septies has been added to article 12 of the Consolidated Law on immigration (legislative decree No. 286 of 1998) and resources are allocated for the activation of the System.

Finally, the article attributes to the competence of the District Prosecutor's Office the investigation of crimes of conspiracy to commit criminal offences aimed at all aggravated forms of organized smuggling of migrants.

The text also intervenes with the aim of strengthening the effectiveness of expulsions and to strengthen a network of detention centers for repatriation.

First of all, the identification and deportation centers are as stay centers for returnees, qualified as limited capacity facilities, located throughout the national territory, after hearing the presidents of the region, with a network aimed at reaching a total capacity of 1,600 places. The provisions on visits as per art. 67 of Law No. 354/1975 on the penitentiary system apply to these centers.

At the same time, the measure allows the extension, subject to validation by the Small claims judge, of a further 15 days of the maximum period of detention in the centers in cases of "particular complexity of the procedures for identification and organization of repatriation", with reference to the foreigner who has already been detained at the prison facilities for 90 days and further detained in the center for 30 days. In addition, in the event that expulsion has been ordered as a sanction or alternative to detention but it is not possible to order repatriation for reasons of force majeure, it is expected that the judicial authorities will still order the restoration of the state of detention for the time "strictly necessary" for the execution of the expulsion order.

At the same time, it authorizes the allocation of resources for the construction and management of the centers as well as for the execution of expulsions, rejections and removals of irregular foreigners.

The Security Decrees adopted by the Minister of the Interior Salvini

Following the general elections of March 2018 and the beginning of the XVIII legislature, the Minister of the Interior Matteo Salvini proposed an important reform of the rules on immigration by adopting in the form of a Decree Law, with the aim of achieving a timely legislative intervention to change the rules on immigration, international protection and the granting and revocation of Italian citizenship. It should be noted that the adoption of these legislative measures does not have as its main beneficiaries the citizens of irregular Third Countries, but makes significant changes to the condition of foreign citizens present on Italian territory by restricting access to the right to obtain a residence permit in special circumstances to the only cases identified by the new legislation (see the introduction of permits in special cases and the abolition of the permit for humanitarian reasons).

Decree n. 113/2018 was approved by the Council of Ministers and then signed by the President of the Republic Sergio Mattarella on October 4 and is in force **since October 5, 2018**. On November 27, the Chamber of Deputies approved with 396 votes in favor the DDL n. 840/2018 in the version in which it had been **amended and approved by the Senate on November 7**.

Please see the following link:

■ [Vedi il Decreto-Legge convertito con modificazioni dalla L. 1 dicembre 2018, n. 132 \(in G.U. 03/12/2018, n. 281\).](#)

Decrees as a consequence of the health emergency COVID 19

It is necessary also in this case to underline that the measures reported concern in general the citizens of Third Countries present on the national territory and not specifically the citizens of "long term" irregular Third Countries because the above mentioned case is not provided for by the national law in force.

The **decree-law no. 18 of March 25, 2020 ("Cura Italia")**, which introduces several measures to deal with the epidemiological emergency from Covid-19, also includes some provisions relating to the reception and health protection of immigrants in view of the needs related to the state of emergency. First, it **extends to December 31, 2020 the projects for the reception of migrants from local authorities expiring on June 30**. These are the projects foreseen within the Protection System for holders of international protection and for unaccompanied foreign minors (SIPROIMI), the so-called second reception. In addition, foreigners can stay - until the end of the state of emergency - in the reception centers that host them (first and second reception centers and CAS - Centri di accoglienza straordinaria), even if the conditions for their stay, provided for by the provisions in force, in the same facilities are no longer met. In particular, unaccompanied minors may remain in the reception centers even after reaching the age of majority.

Applicants for international protection and holders of humanitarian protection subject to the quarantine period with active supervision or "stay at home" trust with active supervision can be hosted (at the prefect's disposal) in SIPROIMI facilities, ordinarily intended only for refugees and unaccompanied minors.

With regard to the regularization of third country nationals irregularly present on the territory before March 8, 2020 (date of the beginning of the lockdown), the Minister of Agriculture, Bellanova, speaking at the Chamber of Deputies on April 15 2020 on the finding of the necessary manpower for the agricultural sector in the context of the current health and economic crisis, announced an emergency action plan for agricultural work in three places

- the implementation of the measures of the three-year plan of prevention and contrast to the corporate, with an urgent mapping of the needs of agricultural work and the use of projects already funded by the Ministries of Labour and Interior, to address the emergency;
- the acceleration of the platform useful to match supply and demand present in the prevention plan of the corporate, to be activated also in emergency forms;
- the release of the "DPCM July 7, 2020", can ensure, on the one hand, the conversion of existing seasonal contracts already in place, on the other hand, the use of the 18 thousand quotas of seasonal inputs reserved for agriculture and tourism.

On this point, it is necessary to highlight the measures adopted in the so-called Relaunch Decree (Legislative Decree 34/2020) to regularize citizens of third countries illegally present on the national territory as of March 8, 2020. The emergence of employment relationships governed by Article 103 of DL 34/2020, as converted into Law No. 77 of July 17, 2020, is part of the overall necessary and unavoidable responses to the health emergency Covid 19. The objective is to better protect public health and intervene in situations that could favor a resurgence of contagion from Covid-19 in Italy. It also wants to restore dignity to workers, removing them from situations of real or potential exploitation, promote legality and safety, ensure essential and regular labor in sectors particularly affected by the consequences of the pandemic.

The procedure for the emergence of employment relationships, initiated last June 1, pursuant to Article 103, paragraph 1, of Decree-Law No. 34 of May 19, 2020, concerned the sectors of agriculture, domestic work and personal care.

The total number of applications received by the portal of the Ministry of the Interior amounts to 207,542.

The final report shows a prevalence of those concerning domestic work and personal care, which constitutes 85% of the total applications submitted (176,848), compared to the applications for the emergence of subordinate work, which therefore covered 15% of the total (30,694).

Lombardy is the region from which the greatest number of requests for domestic work and personal assistance have been sent (47,357) while the first place for subordinate work is Campania (6,962).

Sui 176.848 datori di lavoro che hanno presentato domanda di emersione per il settore domestico, 136.138 sono di nazionalità italiana, mentre, per il lavoro subordinato, sono italiani 28.013 datori su 30.694 richiedenti.

Regarding the country of origin of the workers, finally, in the first places are Ukraine, Bangladesh and Pakistan for domestic work and personal care; Albania, Morocco and India for subordinate work. With regards to the applications for temporary residence permit submitted to the post office counter by foreign citizens (pursuant to article 103, paragraph 2, of the relaunch decree), the total amounts to 12,986.

Finally, it should be noted that the Government has adopted measures to strengthen actions to protect the health of migrant citizens residing in irregular settlements in order to prevent the spread of contagion from COVID-19 in these contexts particularly at risk. In this regard, it is worth mentioning the interventions foreseen by the SU.PR.EME Programme. Italy, within the AMIF - Emergency Funds (AP2019) that the European Commission - DG Migration and Home Affairs has made available to a large partnership led by the Ministry of Labour with different regions of the South.

On September 7, 2020, the Minister of the Interior and the Minister of Health established an inter-ministerial task force composed of the health personnel of the State Police, the Fire Brigade and the USMAF (Maritime, Air and Border Health Office)-

SASN Sicily, to ensure support to the prefects of the provinces of the Sicilian Region involved in the implementation of the necessary interventions to adapt the reception facilities for migrants. : The implementation of these interventions is linked to the Covid-19 health emergency situation, which requires the adoption of strict prevention measures aimed at containing the risk of contagion, according to the indications contained in the National Guidelines for Health and Hygiene Profiles. With regard to the information given to migrants on the emergency in progress, the following initiatives should be noted:

- Unhcr, the UN refugee agency, in collaboration with Arci, has created a portal in 14 languages to inform refugees, asylum seekers and migrants living in Italy about the epidemiological emergency Covid-19. The portal contains a section dedicated to the rules and behaviors to be followed to protect themselves from contagion recommended by the Ministry of Health and another one with updates on asylum and immigration;
- on the Migrants Integration Portal, edited by the Ministry of Labor, a section dedicated (Emergenza Coronavirus) to the Coronavirus Emergency is being updated with institutional, third sector and local initiatives to inform and assist migrants
- The local authorities that adhere to the SIPROIMI reception system have undertaken numerous initiatives for the information and help of migrants. A collection of the initiatives of the projects to face the Covid-19 emergency is published on the SIPROIMI website.

Immigration Decree, n. 130 of 21 October 2020

It is summarized by points::

Special protection

The residence permit for humanitarian reasons that was provided for in the 1998 Consolidated Act on Immigration, now called "special protection", is reinstated. This type of permit will be granted to foreigners who have serious reasons, in particular of a humanitarian nature or "resulting from constitutional or international obligations of the Italian state". The protection will last for two years. They become convertible into residence permits for work reasons, "where the requirements are met", residence permits for special protection, for disasters, for elective residence, for acquisition of citizenship or statelessness, for sports activities, for artistic work, for religious reasons, for child care.

Article 1 of the decree also introduces a new principle of non-refoulement or repatriation to a state where human rights are systematically violated and also prevents the repatriation of those who have an established life in Italy. "Refoulement or expulsion or extradition of a person to a state is not allowed if there are well-founded reasons to believe that the person risks being subjected to torture or inhuman or degrading treatment. In the evaluation of these reasons, account is also taken of the existence, in such a state, of systematic and serious violations of human rights", it is written in the text. "Refoulement or expulsion or extradition of a person to a state - continues the text - is also not allowed if there are well-founded reasons to believe that expulsion from the national territory involves a violation of the right to respect for one's private and family life, unless it is necessary for reasons of national security or public order and security".

Rescue at sea

Article 1 of the new decree also deals with rescue at sea. The principle remains valid according to which the Minister of the Interior, in agreement with the Minister of Defence and Transport, informing the Prime Minister, may prohibit the entry and transit in Italian waters of non-military vessels. However, if these ships have carried out rescue operations in accordance with international conventions, have communicated the operations to the competent authorities (and in the case of foreign ships to their flag state), this paragraph cannot be applied. The Decree also provides that, in case of feared violation, a magistrate intervenes and a criminal trial is initiated at the end of which fines ranging from 10 thousand to 50 thousand euros may be imposed. The seizure of the ship is no longer envisaged.

Registration

The ban on registration at the municipal registry offices of asylum seekers, who will be issued with an identity document valid for three years, is also removed.

Reduction of detention time in Cpr

Foreigners who are detained in the Centers of Stay for Repatriation (CPR) waiting to be repatriated, with the new decree can be detained for up to a maximum of 90 days (previously they could be detained for a maximum of 180 days), with a possible extension of a further thirty days for those who come from countries with which Italy has repatriation agreements. Deferred flagrancy is introduced for those who organize protests and damages within the Repatriation Centers.

Reception system

The Sprar/Siproimi reception system (sistema di accoglienza Sprar/Siproimi) is renamed Reception and Integration System. In this way the widespread reception system managed by the municipalities as a priority system is restored. In addition, first level services for applicants for international protection (which include material reception, health care, social and psychological

assistance, linguistic-cultural mediation, Italian language courses, and legal and territorial orientation services) are distinguished from second level services that aim at integration and include work orientation and vocational training. Membership of the system, which is managed by the municipalities, will always be on a voluntary basis and there are no plans to abolish the prefectural system of reception, the one that gave rise to the extraordinary reception centers (Cas).

Q7a. Has the issue of long-term irregular migrants been subject to public debate (i.e. media/NGOs) in your (Member) State since 2015??

Si

No

Q7b. If yes to Q7a, (i) please indicate the main stakeholders involved (ii) the main circumstances of the debate and (iii) if there has been any change in the debate since 2015? Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015.

Please provide qualitative evidence to support your answer (e.g. reliable media reports, statements or reports of NGO/civil society organisations or International Organisations (IOs), research studies, official surveys, barometers, other policy documents).

As already reported, there is no national focus on the presence, management or policies related to long-term irregular migration. The public debate, as well as the institutional debate, are focused on the phenomenon of irregular migration more generally, with a specific attention to the issue of irregular entries (and their contrast).

Q8. Has the issue of long-term irregularly staying migrants been subject to policy or public debate in your (Member) State specifically in connection with the measures taken in responses to COVID-19 and their impacts?

In relation to the issue of **irregular stay of Third Country nationals**, the main extraordinary measure adopted by the current Government, in response to the health crisis caused by the spread of Covid-19, was the emergence of irregular workers of Third Country nationals in agriculture and domestic work.

According to estimates made by the Government there were **600,000 irregular immigrants** in Italy, many of them employed in agriculture and care work. For this reason, **agricultural workers, care givers, domestic helpers and babysitters** have been identified as categories for which a **selective regularization** was necessary, aimed at bringing them into compliance by categories.

In view of these data and the recent debate on the increase in the number of irregular citizens in Italy, the current Government has approved, among other extraordinary measures to deal with the health emergency, **the emergence of irregular employment of foreign citizens present on the national territory** (see art. 103, of the so-called *Decreto Rilancio* DL 34/2020).

In fact, since June 1, 2020, the procedure of **regularization of irregular workers employed only in agriculture, domestic work and personal care** has started. The deadline for the submission of applications expired on August 15, 2020 (initially it was indicated for July 15, then extended).

In general, in order to guarantee the reception of migrants and ensure the protection of their health due to the epidemiological emergency COVID -19, **several measures have been taken such as the extension of the reception projects of the municipalities, the possibility to host migrants in the centers, as an exception to the current provisions, the extension of the validity of residence permits**. In addition, screening and health security measures have been strengthened in the detention centers for repatriation and in the spontaneous settlements of agricultural workers. Forced repatriation has been suspended.

Main hearings of the Minister of the Interior, Luciana Lamorgese, on the subject of migrants

The Parliamentary Control Committee on the implementation of the Schengen Agreement has audited the Minister of the Interior on immigration, asylum and Europol policies, also in the face of the spread of the health emergency due to COVID-19 outbreak. The Committee dedicated two sessions to the hearing: June 30, 2020 and September 24, 2020.

[Hearing June 30, 2020](#)

Emergence of irregular work.

The Minister of Agricultural Policies, Teresa Bellanova, speaking at the Chamber of Deputies on April 15, 2020 on the finding of **manpower necessary for the agricultural sector** in the context of the current **health and economic crisis**, announced, at the study of the Government, **an emergency action plan for agricultural work** in three points:

- 1) the implementation of the three-years plan of **prevention and contrast to the caporalato** (illegal exploiting hiring) related measures, with an urgent mapping of the needs of agricultural work. In order to address the emergency, the use of projects already funded by the Ministries of Labour and Interior was taken into account ;
- 2) the acceleration of the **platform useful to match supply and demand** present in the prevention plan of the capolarato, to be activated also in emergency forms;
- 3) the release of the "**DPCM flussi 2020**", whose text, already ready and shared between the administrations, can guarantee the conversion of existing seasonal contracts; on the other hand, it allows the use of the 18 thousand quotas of seasonal entries reserved for agriculture and tourism sectors.

This proposal has taken the form of a provision included in Decree-Law 34/2020 (so-called Rilancio). In Art. 103 it introduces two forms of workers' **regularization**, both Italian and foreign who are employed in **agriculture, personal care and domestic work**.

The measure "seeks contribution to stabilize, make visible and transparent working relationships, already existing before the spread of the pandemic in sectors such as agriculture and domestic, where traditionally people are more at risk of exploitation and deprivation of all rights, including fundamental ones". Likewise, the rule contained in decree-law no. 34 of 2020 aims to facilitate the conclusion of regular employment contracts in the same sectors by people who, although legally arrived in Italy, are currently without a (still) valid residence permit . [...] Simultaneously, it contains the danger of contagion and perhaps also dangers of public order" (Parliamentary Control Committee on the implementation of the Schengen Agreement, supervision of the activity of Europol, control and supervision of immigration; session June 10, 2020).

As already mentioned, the Government has adopted measures **to strengthen actions to protect the health of migrant citizens residing in irregular settlements**. It intends to prevent the spread of contagion from COVID-19 in such contexts particularly at risk. See **SU.PR.EME Programme. Italy, within the AMIF - Emergency Funds (AP2019) that the European Commission (DG Migration and Home Affairs) has made available to a large partnership led by the Ministry of Labour with different regions of the South**.

The planned health interventions consist of integrated actions of assistance, treatment, protection and prevention in favor of citizens of third countries (to date, about 2500 presences) in conditions of vulnerability, who find employment in intensive work in camps and who, due to their conditions of "stay", are particularly exposed to risks related to Covid-19 (Ministry of Labour and Social Policy, communiqué of March 27, 2020).

On September 7, 2020, the Minister of the Interior Luciana Lamorgese and the Minister of Health Roberto Speranza set up an inter-ministerial task force composed of the health personnel of the State Police, the Fire Brigade and the USMAF (Maritime, Air and Border Health Office)-SASN Sicily. The task force was established to ensure the support to the prefects of the Sicilian Region's provinces involved in the implementation of all necessary interventions to adapt the reception facilities for migrants. The implementation of these interventions is linked to the Covid-19 health emergency situation. It requires the adoption of strict prevention measures aimed at containing the risk of contagion, according to the indications contained in the National Guidelines

for Health and Hygiene Profiles. With regard to the **information** given to migrants about the emergency in progress, the following initiatives should be noted:

- UNHCR, the UN refugee agency, in collaboration with Arci, has created a portal in 14 languages to inform refugees, asylum seekers and migrants living in Italy concerning the epidemiological emergency Covid-19. The portal contains a section dedicated to the rules and behaviors to be followed in order to protect themselves from contagion recommended by the Ministry of Health and another section providing updates on asylum and immigration;

- The Migrants Integration Portal, edited by the Ministry of Labour, displays a section dedicated to the Coronavirus Emergency which is being updated with institutional, third sector and territorial initiatives designed to inform and assist migrants;

- the local authorities which adhere to the SIPROIMI reception system have undertaken numerous initiatives for the migrants' information and assistance. A collection of the initiatives of the projects to deal with the Covid-19 emergency is published on the SIPROIMI website.

Q9. Are there any legislative/policy/practice changes concerning long-term irregular migrants in your (Member) State?

Yes, there are changes in the law. Please explain below:

Yes, policy changes are planned. Explain below:

Yes, there are planned changes in practice. Explain below:

No.

Section 2: National policies and approaches regarding long-term irregular migrants. This section aims to provide an overview of national policy in (member) States and Norway on how States deal with long-term irregularity. It will address the following research issues *A quali diritti e servizi pubblici hanno accesso i migranti in posizione?*

- *What rights and public services do migrants in position have access to?*
- *What is the role of central, regional and local authorities in dealing with this group of migrants?*
- *To what extent are regional and local authorities involved and cooperate with the central government?*
- *What is the role of civil society organizations or other entities with regard to access to public services for long-term irregular migrants?*
- *What measures (e.g. policy, practical tools, guidance) have been implemented regarding access to public services for long-term irregular migrants?*
- *Have studies or research on the effectiveness of these measures been published?*

SECTION 2.1: RIGHTS AND ACCESS TO SERVICES OF LONG-TERM IRREGULAR MIGRANTS

This section aims to understand **the rights and services accessible to long-term irregular migrants**, which central, regional and local authorities are involved in the provision of services, as well as **the role of civil society organizations**.

Q10. Which services are accessible to long-term irregular migrants who have received a return decision, but return cannot be implemented due to legal or practical obstacles?

Please fill in the table below for each type or residence authorization or status indicated in Q2 and Q3 (i.e. written confirmation of return, temporary or tolerated stay, residence permit, return decision only).

Please fill in the following table for each relevant status. If two or more types of residence permits give the same access to services, please fill in the table only once.

Table 1: Rights and services available for long-term irregular migrants who have received a return decision				
Type of stay or status as identified in Q2 and/or Q3: [_____].				
Service type	Service provided? (YES/NO)	Is the provision of the service mandatory or discretionary ? ⁶	Brief description Please consider, for each type of service, the long-term irregular migrants to whom they are entitled or to whom they have access: i. Does this access stems from national law or practice? Is it due to local (regional, municipal) norms or practices? ii. Which authorities are competent to provide access to services? Is access provided by other entities (NGOs, charities, private entities, etc.) as service providers on behalf of national or local authorities?	Please evaluate and explain briefly whether the rights and access to services are more limited, equal or more favorable than those of legal migrants or nationals?
Accommodation				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Alloggio <i>If yes, please describe briefly</i>	Yes	Mandatory	Provided by national and local Authorities Foreign citizens who have entered Italy irregularly are hosted in reception centers where, if they apply for international protection, they are hosted during the time required for the procedures to ascertain the relevant requirements; in the absence of a request for international protection, they are detained pending the expulsion, or, following the changes introduced by the Salvini Decree, in	<i>Given the specificity of the condition in which the irregular foreigner affected by a removal order from the territory, the right of access to housing is strictly limited to certain cases. The irregular third country national has no right to the allocation of residential housing of social housing, nor can he regularly rent an apartment on the private market because without a residence permit.</i>

⁶ For example, in some cases it is possible to access a service, but the costs must be borne by the individual rather than the State/National Authority.

		<p>"different and suitable facilities at the disposal of the Public Security Authority". If the detention cannot be implemented, the Police Commissioner can order the expelled foreigner to leave the State's territory within 7 days, punishable by criminal sanctions for his violation.</p> <p>In addition to the Hotspots, which are real first aid and reception facilities, (defined "crisis points" by art. 10 ter of Legislative Decree no. 286/98 - introduced by Legislative Decree no. 13/2017 conv. in Law no. 46/17), once the identification and photo-reporting procedures have been completed, migrants who have expressed their willingness to seek asylum in Italy, are transferred to first level reception facilities, located throughout the country where they remain waiting for the definition of the application for international protection (CPA or CAS).</p> <p>Foreigners arriving irregularly in Italy who do not apply for international protection or do not meet the requirements for international protection are detained in the Centres of Permanence for Repatriation (CPR), ex art. 14 D. Legislative Decree 286/1998, established to allow the expulsion order to be executed by the Police. With regard to the structural requirements of the CPR, Article 19, paragraph 3 of the aforementioned Legislative Decree 13/2017, has provided that it is up to the Minister of the Interior, in agreement with the Minister of Economy and Finance, to take initiatives to expand the network of CPR. The relocation of the newly established centers must take place, after consultation with the President of the Region concerned: it gives priority to the sites and areas outside the urban centers which are more easily accessible and in which there are publicly owned structures that can be, including through adaptation or restructuring, made suitable for the purpose. This must take into account the need to create structures of limited capacity suitable to ensure</p>	
--	--	---	--

			<p>conditions of detention that guarantee absolute respect for the dignity of the person.</p> <p>The decree distinguishes the reception facilities, divided into individual housing units, from collective centers, characterized by the pooling of all services. The choice of the two models is made in relation to the type of center and its capacity.</p> <p>The centers must be structured in such a way as to ensure the provision of services set out in the tender specifications, such as the provision of food and accommodation, hygiene care, general personal care (including psychological protection), health care (with the establishment of a fixed medical center blacks centers with capacity exceeding 50 seats). In this regard, see Circular No. 14810 of November 21, 2018 illustrating the decree and in particular the paragraph Facilities, services and personnel.</p> <p>Source: Ministry of the Interior - Last update June 19, 2020.</p>	
<p>Special accommodation facilities (e.g. shelters for victims of violence, children, etc.) <i>If yes, please describe briefly</i></p>	Yes	Mandatory	<p>Provided by national and local authorities and other entities (NGOs, charities, private entities)</p> <p>Anti-violence centers and shelters for victims of gender-based violence</p> <p>Anti-violence centers are facilities where women of all ages and their underage children, who have suffered violence or who are exposed to the threat of all forms of violence, will be received free of charge, regardless of their place of residence, . The associations and organizations that manage such structures must be enrolled in the regional registers of volunteering, promotion or social cooperation. Alternatively, they must be enrolled in the regional registers of non-profit organizations at the Revenue Agency or in regional registers established for this purpose.</p> <p>In addition, they must have in their Statute the themes regarding fight against gender-based violence, support, protection and assistance of women victims of violence and their children as exclusive or priority goals, in line with the objectives of the Istanbul Convention, or demonstrate a consolidated and proven experience of at least five years in the commitment against violence against women.</p>	<p><i>Reception in these facilities is permitted on equal terms to national citizens.</i></p>

		<p>The structure intended to be the operational headquarters of the Anti-Violence Center must meet the requirements of liveability and must be divided into rooms that guarantee different activities in the respect of privacy. The Center can also be articulated with offices in the territory where the different activities are carried out.</p> <p>The Center must be open at least 5 days a week, including public holidays, and must guarantee a dedicated telephone number active 24h/24. The Center must comply with the national telephone number of public utility 1522 and must ensure the entry in the mapping held by the Department for Equal Opportunities of the Presidency of the Council of Ministers, as well as the registration in the appropriate registers provided for by regional regulations and/or accreditation. The Center adopts the Service Charter: it thus ensures the reception in rooms specifically dedicated to this activity, displaying the days and hours of opening to the public.</p> <p>The shelters are dedicated structures, with secret address, which provide free of charge safe accommodation to women who suffer violence and their children, regardless of their place of residence. It aims at protecting them and safeguarding their physical and mental safety. Shelter houses can be promoted by:</p> <ul style="list-style-type: none">a) local authorities, individually or in partnership;b) associations and organizations working in the field of support and aid to women victims of violence, who have gained specific experience and expertise in the field of violence against women. Namely, the use of reception methodology based on the relationship between women, with specifically trained staff;c) persons referred to in points a) and b), in concert, by agreement or in consortium. <p>The associations and organizations referred to in paragraph 2, letter b) must:</p> <p>be enrolled in the regional registers or enrolled in the regional registers of Onlus at the Revenue Agency. They must declare in their Statute the theme of the fight against gender-based violence as a priority objective, consistent with the objectives of the Istanbul Convention Alternatively, they must demonstrate a consolidated and proven experience of at least five years in the protection and support of women victims of violence. The Shelter House corresponds to a civil</p>	
--	--	--	--

			<p>dwelling house or a community structure, articulated in premises suitable to guarantee the reception services in respect of dignity.</p> <p>The House must guarantee anonymity and confidentiality.</p> <p>The House must provide housing and primary goods for daily life for women who are victims of violence and their children.</p> <p>The House must interact with the anti-violence centers and other services in the area, in order to ensure psychological, legal and social support for women who have suffered violence and their children.</p> <p>In the Official Gazette No. 40 of February 18, 2015 is published the agreement between the Government, Regions and Autonomous Provinces on the minimum requirements for Anti-Violence Centers and Shelter Homes.</p> <p>In particular, see:</p> <p>“Allegato Centri Antiviolenza”</p> <p>Reception centers for victims of human trafficking.</p> <p>Finally, these centers provide dedicated reception channels and measures of assistance to victims of human trafficking as provided by art. 12 of the Council of Europe Convention on Action against Trafficking in Human Beings, through the assistance and social integration programs implemented by public and private social entities provided by art. 18 of the Consolidated Act on Immigration (and in detail by art. 27 of its implementing regulation, Presidential Decree 394/99) and by art. 13 of Law 228/13 (and in detail by the implementing regulation adopted by Presidential Decree 237/05).</p>	
Other forms of accommodation, shelter or specialized center	<i>No</i>			
Healthcare				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Emergency health care <i>If yes, describe, as this notion can be understood in a broad or restrictive way</i>	<i>Yes</i>	<i>Mandatory</i>	<p>Provided by national and local Authorities</p> <p>All irregular foreigners are recognized and guaranteed the right to access to healthcare. Irregular foreigners are supplied with all urgent and essential medical care, even if continuous for illness and injury. Preventive medicine programs are also extended in their favor. In particular, the law recognizes: the</p>	<p><i>Il cittadino straniero sprovvisto di titolo di soggiorno ha accesso alle prestazioni sanitarie che sono ritenute urgenti e “salva-vita”.</i></p> <p><i>The foreign citizen without a residence permit has access to health</i></p>

			<p>protection of pregnancy and maternity, the protection of children's health, vaccinations as part of collective prevention interventions, international prophylaxis, prophylaxis and treatment of infectious diseases. It is specified that:</p> <ul style="list-style-type: none"> • Urgent care means care that cannot be postponed without danger or damage to the health of the person; • by essential care we mean the health, diagnostic and therapeutic services, related to pathologies that are not dangerous in the immediate and short term, but that over time could cause greater damage to health or risks to life (complications, chronicity or aggravation). <p>The assessment of the urgency of the service falls under the responsibility of the Doctor.</p> <p>Irregular foreigners benefit from treatment through the provision of the STP - Foreigners temporarily present.</p> <p>The STP card is issued upon simple declaration of their personal details, is valid throughout the national territory and has a (renewable) duration of six months. It can be issued by the local health authorities, hospitals, scientific research and treatment institutes, university polyclinics. For the exemption from the payment of the health ticket, the foreigner without economic resources can make the declaration of the state of indigence. The access to the health facilities of an irregular foreigner does not involve reporting to the police authorities except in cases of mandatory reporting.</p> <p>The services provided through the STP card, are reported separately by the body that provides them, and then ask for reimbursement to the Central State. Health services and emergency medical care can also be provided by NGOs and charities as part of specific assistance projects or dedicated services.</p> <p>Access to medical care and the protection of the right to health are governed by art. 32 Cost. art. 35 Legislative Decree 286/98 and Circular Ministry of Health 19/2/2008)- Conference State Regions 20/12/2012-.</p>	<p><i>services that are considered urgent and "life-saving".</i></p> <p><i>There is no provision at the national level for the assignment of a reference doctor for the irregular adult migrant whereas, concerning minors without a residence permit, the Regions must ensure access to health care on equal terms with Italian minors and the right to have a pediatrician of reference is recognized (Conferenza Stato Regioni 20/12/2012)</i></p>
<p>Basic medical care <i>If yes, please describe briefly</i></p>	<p><i>Yes</i></p>	<p><i>Mandatory</i></p>	<p>Provided by national and local Authorities</p> <p>As already mentioned in the previous box, the irregular foreigner is provided</p>	

			<p>with all urgent and essential medical care, even if continuous for illness and injury. Preventive medicine programs are also extended in his favor. Accordingly, a STP code is assigned and the exemption to health care expenditure is possible in conditions of indigence of the foreigner. It has also been affirmed the principle of continuity of urgent and essential care, namely ensuring the patient's complete therapeutic and rehabilitative cycle regarding the possible resolution of the morbid event or injury.</p> <p>The assessment of the essentiality of the service, as well as the urgency, falls under the responsibility of the Doctor.</p> <p>In addition, the STP code gives the right to pharmaceutical prescriptions, on regional recipe book by a specialist doctor of public or private accredited structure, and to prosthetic assistance services, always in the context of urgent and essential care.</p> <p>Health services and basic medical care can also be provided by NGOs and charities as part of specific assistance projects or dedicated services.</p>	
Specialised care <i>If yes, please describe briefly</i>	Yes	Mandatory	<p>Provided by national and local Authorities</p> <p>As already mentioned in the previous box, the irregular foreigner is supplied with all urgent and essential medical and hospital care, even if continuous for illness and injury. These can certainly include certain specialized care.</p> <p>It should also be noted that irregular foreign citizens also apply the provisions of the Consolidated Law on Narcotic Drugs and Psychotropic Substances (Presidential Decree no. 309/90), and therefore receive assistance in the prevention and treatment of drug addiction.</p> <p><i>Health services and specialized medical care can also be provided by NGOs and charities as part of specific assistance projects or dedicated services.</i></p>	
Other health services <i>If yes, please describe briefly</i>	No			
Social assistance				less <input checked="" type="checkbox"/> equal <input type="checkbox"/> more <input type="checkbox"/>
I migranti in soggiorno irregolare di lunga durata hanno diritto a sussidi sociali? <i>In caso affermativo, descrivere brevemente quali sono queste prestazioni</i>	Yes	Mandatory	<p>Provided by national and local Authorities</p> <p>To the foreigner who is detained in the Repatriation Centers, adequate hygienic-sanitary and housing standards are assured, with modalities such as to ensure the necessary information regarding his status, the assistance and the full respect of his dignity, according to the provisions of article 21, paragraph 8, of</p>	

		<p>the Decree of the President of the Republic 31 August 1999, n. 394 (art. 14, paragraph 2 of the T.U.Imm. as modified by the D.L. 130720209.</p> <p>With regard to anti-violence Centers and Shelter Houses, an adequate presence of specific professional figures is guaranteed, such as: social workers, psychologists, professional educators and civil and criminal lawyers with a specific training on the topic of gender violence and recorded in the register of legal aid.</p> <p>The Center must guarantee minimum services free of charge such as:</p> <ul style="list-style-type: none">a) Listening: telephone and preliminary interviews at the headquarters to identify needs and provide the first useful information;b) Reception: Provide free protection and reception to women victims of violence following structured interviews aimed at developing an individual path of accompaniment through a personalized project of exit from violence;c) Psychological assistance: Individual psychological support or even through self-help groups, also using hospital facilities and territorial services;d) Legal assistance: Information and guidance interviews, legal support both in civil and criminal law, and information and help for access to free legal aid, at all stages of the criminal and civil process, referred to in Article 2, paragraph 1, of Law No. 119 of 2013;e) Support to minors who are victims of witnessing violence;f) Work orientation through information and contacts with social services and employment centers to identify a path of work inclusion towards economic autonomy;g) Orientation to housing autonomy through conventions and protocols with local authorities and other agencies.	
--	--	---	--

			<p>The Center guarantees free of charge protection and hospitality to women and their underage children, safeguarding their physical and mental safety, for the time provided by the personalized path.</p> <p>The Center defines and implements the personalized project aimed at the women's escape from violence, also providing for the care of any minors in charge. The project's timing and procedure are agreed with the hosted woman.</p> <p>The Center operates integrately with the network of social, health services and territorial welfare, taking into account the fundamental needs for the protection of people who suffer violence.</p> <p>The Center must provide adequate educational services and school support to the minor children of women who suffer violence.</p> <p>These requirements are defined in the 'Understanding of November 27, 2014 - PRESIDENCY OF THE COUNCIL OF MINISTERS UNIFIED CONFERENCE, published in the Official Gazette No. 40 of February 18, 2015' Understanding, pursuant to Article 8, paragraph 6, of Law June 5, 2003, n. 131, between the Government and the regions, the autonomous provinces of Trento and Bolzano and the local autonomies, concerning the minimum requirements for anti-violence centers and refuge houses, provided by article 3, paragraph 4, of the D.P.C.M. of July 24, 2014. (Rep. Acts n. 146/CU").</p>	
Employment				Less <input checked="" type="checkbox"/> Equal <input type="checkbox"/> More <input type="checkbox"/>
Are there circumstances in your MS where long-term irregular migrants are entitled to access to the labour market? If so, describe the specific conditions related to their employment.	No			
Education				Più limitati <input checked="" type="checkbox"/> uguali <input type="checkbox"/> più favorevoli <input type="checkbox"/>
Do children (long-term irregular migrants) have access to compulsory education? If yes, please describe briefly the access.	Yes	Mandatory	<p>Provided by national and local Authorities</p> <p>The Italian Constitution and the relevant legislation guarantee the right to education to all minors, without discrimination based on nationality or regularity of residence, therefore also to foreign minors without a residence permit. Among the most important statements of this principle, we limit ourselves to remember:</p>	<i>Irregular minors have the same right of access to compulsory education as Italian minors.</i>

- Art. 34 of the Constitution: "The school is open to all. The lower education, given for at least eight years, is compulsory and free";
- Art. 2, para. 1 of T.U. 286/98 recognizes also to the foreigner irregularly residing "the fundamental rights of the human person provided by the rules of domestic law, international conventions in force and the generally recognized principles of international law", among which certainly includes the right to education enshrined in the Constitution and international conventions;
- art. 38 of T.U. 286/98 and art. 45 of D.P.R. 394/99 establishes that foreign minors present on the territory, independently from the ownership of a residence permit and the registry documents, have the right to education, on an equal basis with Italian citizens, in schools of every order and grade (therefore even beyond the first 10 years of schooling), specifying that all the provisions in force on the right to education and access to educational services apply to them. they also have the right to the achievement of the final qualifications of the study of schools' courses for every order and grade(16).

The right of foreign minors without a residence permit to use the offer of education and training up to the age of 18 years is also reaffirmed by Legislative Decree no. 76/2005.

However, in the Italian school system, the final qualification of upper secondary school is usually obtained after reaching the age of majority. Of course, beyond the age of 18 there is no longer the duty of education and training. This does not imply that, upon reaching the age of majority, the foreign student irregularly residing must abruptly interrupt the course of study begun during the minor and not yet completed, but can obtain the final diploma of the course of study undertaken.

On this point, see Council of State judgment 1734 of 27.2.2007, in which denying access to the baccalaureate examination at the end of a course of study "leads to unreasonable results", having "the unacceptable effect of preventing the foreign citizen from completing the course of higher education for the sole reason that he has reached adult age".

How foreign minors are included in Italian schools: according to 'art. 45, paragraph 1 of Presidential Decree 394/99, taken up and specified by **Circular 25/01/13, prot. 375** foreign minors subject to compulsory schooling "are enrolled in the class corresponding to the age ", unless the board of teachers decides otherwise, taking into account the previous school experience of the child (art. 45, paragraph 2 Presidential Decree 394/99).

			<p>For the purposes of enrolment at the school of any order and grade, a foreign minor without a residence permit can self-certify his or her personal details or provide only an identity document (e.g. passport).</p> <p>To promote the reception and integration of foreign students, guidelines were issued with the Circular of the Ministry of Education of the University and Research n.24 Prot. n.1148/A6, March 1, 2006 and subsequently updated with the <u>Circular of the M.I.U.R of 19/02/2014, protocol n.4233.</u></p> <p>In the case of foreign minors seeking international protection are applicable: art.21, paragraph 2, Legislative Decree of August 18, 2015 n.142, provides that "they are subject to compulsory schooling, pursuant to Article 38 of Legislative Decree of July 25, 1998, n.286, and access courses and initiatives for learning the Italian language referred to in paragraph 2 of the same article"; for unaccompanied foreign minors, art.14, paragraph 3, Law April 7, 2017 n.47 provides that "From the time of the inclusion of the minor in the reception facilities, the educational institutions ... activate measures to promote the completion of compulsory schooling, pursuant to Article 21, paragraph 2, of Legislative Decree 18 August 2015, n. 142, and training by unaccompanied foreign minors, including through the preparation of specific projects that provide, where possible, the use or coordination of cultural mediators, as well as 'agreements to promote specific apprenticeship programs. It should be added that the right of access to school for minors without a residence permit is also extended to preschool, although not mandatory, since it is part of the overall education and training system (Law 53/03, art. 2, para. 1). The law clearly states that the preschool, although not compulsory, is in direct functional connection with compulsory schooling, establishing that it "achieves educational continuity with elementary school", as well as providing for the possibility that preschool can be aggregated with primary and secondary schools within inclusive institutions (Legislative Decree 59/04, Art. 1, para. 1 and Art. 4, para. 6; in this sense, see the order of the Court of Milan of 11.2.2008). Given this functional connection of preschool to compulsory schooling, it can be argued that the notion of "compulsory schooling services" should be extended to include preschool as well and therefore the right of access also for the minor children of irregular foreigners.</p>	
<p>Do adult migrants in long-term irregular stay have the right to participate in educational and/or vocational training programs? If so, what types of education and under what conditions?</p>	<p><i>No</i></p>			
<p>Legal assistance</p>				<p>less <input checked="" type="checkbox"/> equal <input type="checkbox"/> more <input type="checkbox"/></p>

<p>Do long-term irregular migrants have access to legal or welfare services? If yes, please list briefly and explain</p>	<p>Yes</p>	<p>Mandatory</p>	<p>Provided by National Authorities</p> <p>In the repatriation centers, detainees must receive information (in a language they understand) about the reasons for detention, the procedures for challenging the detention and the possibility of free access to legal assistance.</p> <p>As far as the prefect ordered judicial protection against administrative expulsion measures of non EU citizens is concerned, it is regulated by art. 18, Legislative Decree 150/2011, which, in turn, is included in Chapter III of the same legislative decree entitled "Disputes regulated by the summary rite of knowledge".</p> <p>The jurisdiction in matters of expulsion of foreign citizens is attributed to the Justice of the Peace of the place where the authority that issued the contested measure is located. The attribution to the Justice of the Peace of the matter of appeals against the administrative measures of expulsion meets, however, one exception: according to art. 1 bis, D.L. 241/2004, converted into Law 271/2004, the competence of the court in monocratic composition remains unchanged - in case of a pending judgment concerning the right to family unity or authorization to enter and/or stay of the family member of a foreign minor (art. 31, para. 3, T.U.) - to know the legitimacy of the expulsion decrees issued against foreigners who have pending judgements in the matters indicated, which is an exception to the jurisdiction of the Justice of the Peace on appeals against the expulsions of the Prefect.</p> <p>Still about jurisdiction, it should be noted that with Law 46/2017 (so-called "Minniti Law") the sections specialized in immigration, international protection and free movement of EU citizens have been established, at the ordinary courts of the place where the Courts of Appeal are based.</p> <p>The foreigner must be in court with the assistance of a lawyer who must be given special power of attorney, the lawyer must authenticate the signature, as in all civil cases. Art. 18, para. 4, Legislative Decree 150/2011, prescribes that if the plaintiff does not have a lawyer, he/she is assisted by a lawyer designated by the judge from the list of lawyers registered in the list of public defender provided for the criminal trial (art. 29, Legislative Decree 271/89, implementation provisions c.p.p.).</p> <p>Art. 18, para. 4 cit. also provides that the foreigner is admitted to legal aid: in these specific disputes the admission to legal aid operates <i>ex lege</i>, therefore independently of the income conditions of the foreigner. Therefore, there is no need for: self-certification, consular declarations regarding the income produced</p>	<p><i>It should be noted that in proceedings aimed at challenging an expulsion decree against a citizen of a Third Country, admission to legal aid is granted ex lege regardless of the socio-economic condition of the applicant.</i></p>
---	------------	------------------	--	--

		<p>in the country of origin or identity documents or registry certificates or even the tax code.</p> <p>However, it is necessary that the applicant, i.e. the party, makes a specific request for admission. The fact that the admission works <i>ex lege</i> does not mean that it is not necessary to request it, since the applicant could afford the legal fees. In practice, it is advisable that the appellant expressly requests the admission to legal aid, with the special power of attorney conferred on the lawyer or with a separate document to be attached to the appeal.</p> <p>This norm must be integrated with art. 142, D.P.R. 115/2002 (Consolidated Act on expenses of justice) – (T.U spese di giustizia) that provides that "in the trial against the expulsion of the citizen of States not belonging to the European Union, referred to in article 13, of the legislative decree 25 July 1998, n. 286, the fee and expenses for the lawyer and the auxiliary of the magistrate are charged to the Treasury and are liquidated by the magistrate to the extent and in the manner provided by Articles 82 and 83 and opposition is allowed under Article 84".</p>	
Other?			less <input type="checkbox"/> equal <input type="checkbox"/> more <input type="checkbox"/>
Are there any other rights to mention here? <i>If yes, please explain</i>	No		

Q11. Which services are accessible to long-term irregular migrants who have not received a return decision, and who have remained unknown to the migration authorities (see answer to Q1)?

Please fill in the table below for each type or residence authorization or status indicated in Q2 and Q3 (i.e. written confirmation of return, temporary or tolerated stay, residence permit, return decision only).

Please fill in the following table for each relevant status. If two or more types of residence permits give the same access to services, please fill in the table only once.

Tabella 2: : Rights and services available for long-term irregular migrants unknown to competent authorities (e.g. in long term irregular stay, irregular entries) .				
Type of stay or status as identified in Q2 and/or Q3: [_____].				
Service type	Service provided? (YES/NO)	Is the provision of the service mandatory or discretionary? ⁷	Brief description Please consider for each type of services the long-term irregular migrants are entitled or have access to: i. Does this access stem from national law or practice? Does it stem from local (regional, municipal) rules or practice? ii. Which authorities are competent to provide access to services? Please indicate if access is provided by other entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities?	Please briefly assess and explain if the rights and access to services are more limited, same or more favourable than those of legal migrants or of nationals?
Accommodation				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Accommodation <i>If yes, please briefly describe</i>	Y	<i>Discretionary</i>	Provided by other entities (NGO, charities, private entities, etc) Third-Country Nationals irregularly present in the territory can find accommodation in first level facilities and housing projects for people at risk of poverty, families with children, homeless dormitories managed by the Third Sector, NGOs and charities, if they are in conditions of particular need or deprivation.	<i>Generally, Italians and foreigners access these structures with equal socio-economic status. We can affirm that the right to be hosted in a reception structure, whether it is a center or a residence, is offered to Italian and foreign citizens on equal conditions (for example, people at risk of marginalization).</i> <i>Irregular third-country nationals are not entitled to the assignment of social housing, nor can they regularly rent an apartment on the private market</i>

⁷ For example, in some cases it is possible to access a service, but the costs must be borne by the individual rather than the State/National Authority.

				<i>because they do not have a residence permit.</i>
Special accommodation facilities (i.e. shelter for victims of violence, children etc.) <i>If yes, please briefly describe</i>	Y	<i>Mandatory</i>	Provided by National and local authorities and by other entities (NGO, charities, private entities, etc.) Anti-violence centers and shelters for victims of gender-based violence Anti-violence centers are facilities where women of all ages, who have suffered violence or are exposed to the threat of all forms of violence, are welcomed free of charge with their underage children, regardless of their place of residence. The associations and organizations that manage them must be enrolled in the regional registers of volunteering, promotion or social cooperation or enrolled in the regional registers of non-profit organizations at the Italian Revenue Agency or in regional registers established for this purpose. In line with the objectives of the Istanbul Convention, their Statute must contain as exclusive or priority purposes the fight against gender-based violence, the support, protection and assistance of women victims of violence and their children. Alternatively, they must demonstrate a consolidated and proven experience of at least five years in the commitment against gender-based violence. The structure intended to be the operational headquarter of the Anti-Violence Center must meet the requirements of habitability and must be divided into suitable premises to ensure the different activities in the respect of privacy. The Center can also be articulated with offices on the territory where different activities are carried out. The Center must guarantee an opening of at least 5 days a week, including holidays. It must, also, guarantee a dedicated telephone number 24 hours a day. The Center must adhere to the national telephone number of public utility (1522) and to the mapping held by the Department for Equal Opportunities of the Presidency of the Council of Ministers. In addition, the Center must ensure the registration in the appropriate registers provided by regional regulations and /or the accreditation, according to the requirements of regional regulations. The Center adopts the Service Charter, ensuring the reception and specifying opening days and hours in dedicated rooms. Shelter houses are dedicated structures, with secret addresses, which provide safe accommodation for women subjected to violence and their children, with the aim	<i>Reception in these facilities is permitted on equal terms with nationals.</i>

		<p>of protecting them and safeguarding their physical and mental safety. They are free of charge and regardless of women's place of residence. Shelter houses can be promoted by:</p> <ul style="list-style-type: none">a) local authorities, in single or associated form;b) associations and organizations working in the field of support and aid to women victims of violence, who have gained specific experience and expertise in the field of violence against women, using a reception methodology based on the relationship between women, with specifically trained staff;c) subjects referred to in letters a) and b), in concert, by agreement or in consortium form. <p>The associations and organizations referred to in paragraph 2, letter b) must: be enrolled in the regional registers or enrolled in the regional registers of Onlus organisations at the Italian Revenue Agency and their Statute must contain the fight against gender-based violence as a priority objective consistent with the objectives of the Istanbul Convention. Alternatively, they must demonstrate a consolidated and proven experience of at least five years in the protection and support of women victims of violence. The Shelter House corresponds to a civil dwelling house or to a community structure, articulated in premises suitable to guarantee the reception services with dignity.</p> <p>The House must guarantee anonymity and confidentiality. The House must provide housing and primary goods for daily life for women who suffer violence and their children. The House must liaise with the anti-violence centers and other services in the area in order to ensure psychological, legal and social support for women who have suffered violence and their children. In the Official Gazette n. 40 of February 18, 2015 is published the agreement between the Government, Regions and Autonomous Provinces on the minimum requirements for Anti-Violence Centers and Shelter Homes.</p> <p>In particular, see:</p> <p><u>Attachment Anti-Violence Centers</u></p> <p>Finally, there are dedicated reception channels and assistance measures for trafficking victims, as provided by art. 12 of the Council of Europe Convention on Action against Trafficking in Human Beings, through the assistance and social integration programs implemented by public and private social bodies provided by art. 18 of the Consolidated Act on Immigration (and in detail by art. 27 of its implementing regulation, Presidential Decree 394/99) and by art. 13 of Law</p>	
--	--	--	--

			228/13 (and in detail by the implementing regulation adopted by Presidential Decree 237/05).	
Other forms of accommodation or shelter or specialised centre	N			
Healthcare				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Emergency healthcare <i>If yes please describe, as this notion can be understood in a large or restrictive way</i>	Y	Mandatory	<p>Provided by National and local authorities and by other entities (NGO, charities, private entities, etc)</p> <p>All irregular foreigners are recognized and guaranteed the right to access to health care. Irregular foreigners are given all urgent and essential outpatient and hospital healthcare services together with continuous treatment for illness and injury. In addition, preventive medicine programs are extended in their favor. In particular, the law recognizes him: the protection of pregnancy and maternity, the protection of children's health, vaccinations as part of collective prevention interventions, international prophylaxis, prophylaxis and treatment of infectious diseases. It is specified that:</p> <ul style="list-style-type: none"> • urgent care means care that cannot be postponed without danger or harm to the health of the person; • essential care means health care, diagnostic and therapeutic services, relating to diseases that are not dangerous in the immediate and short term, but which over time could cause greater damage to health or risk to life (complications, chronicity or aggravation). <p>The assessment of the urgency of the service falls under the responsibility of the Doctor.</p> <p>Irregular foreigners benefit from treatment through the provision of the STP code, which stand for "Stranieri Temporaneamente Presenti" (i.e. Foreigners temporarily present).</p> <p>The STP card is issued upon declaration of the personal details. It is valid throughout the national territory and it has a duration of six months, renewable. It can be issued by the local health authorities, hospitals, scientific research and treatment institutes and university polyclinics. For the payment exemption of the health ticket, the foreigner without economic resources can make the declaration of the state of poverty. The access to the health facilities of an irregular foreigner does not involve reporting to the police authorities, except in cases of mandatory reporting.</p> <p>The services provided through the STP card, are reported separately by the body that provides them, who later will ask for reimbursement to the Central State.</p>	<p><i>The foreign citizen without a residence permit has access to health services that are considered urgent and "life-saving".</i></p> <p><i>There is no provision at the national level for the assignment of a reference doctor for the irregular adult migrant, while for minors without a residence permit, the Regions must ensure access to health care on equal terms with Italian minors and the right to have a pediatrician of reference. (State-Regions Conference 20/12/2012)</i></p>

			<p>Health services and emergency medical care can also be provided by NGOs and charities as part of specific assistance projects or dedicated services.</p> <p>Access to medical care and the protection of the right to health are governed by art. 32 Cost. art. 35 Legislative Decree 286/98 and Circular Ministry of Health 19/2/2008)- Conference State Regions 20/12/2012.</p>	
<p>Basic medical care <i>If yes, please briefly describe</i></p>	Y	Mandatory	<p>Provided by National and local authorities and by other entities (NGO, charities, private entities, etc)</p> <p>As already mentioned in the previous box, irregular foreigners are given all urgent and essential outpatient and hospital healthcare services together with continuous treatment for illness and injury. In addition, preventive medicine programs are extended in their favor. For this purpose, an STP code is assigned to the foreigner and, in case of poverty, the exemption to health care expenditure is possible. It has also been affirmed the principle of continuity of urgent and essential care, in the sense of ensuring the patient the complete therapeutic and rehabilitative cycle regarding the possible resolution of the morbid event or injury. The assessment of the essentiality of the service, as well as the urgency, falls under the responsibility of the Doctor.</p> <p>In addition, the STP code gives the right to pharmaceutical prescriptions, on the regional recipe book by a health professional of a public or private accredited structure, and to prosthetic assistance services, always in the context of urgent and essential care.</p> <p>Health services and basic medical care can also be provided by NGOs and charities as part of specific assistance projects or dedicated services.</p>	<p>Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/></p>
<p>Specialised care <i>If yes, please briefly describe</i></p>	Y	Mandatory	<p>Provided by National and local authorities and by other entities (NGO, charities, private entities, etc)</p> <p>As already mentioned in the previous box, irregular foreigners are given all urgent and essential outpatient and hospital healthcare services together with continuous treatment for illness and injury. In addition, preventive medicine programs are extended in their favor. These can certainly include certain specialised care.</p> <p>It should also be noted that irregular foreign citizens also apply the provisions of the Consolidated Law on Narcotic Drugs and Psychotropic Substances (Presidential Decree no. 309/90). Therefore, they receive assistance in the prevention and treatment of drug addiction.</p> <p>Health services and specialized medical care can also be provided by NGOs and charities as part of specific assistance projects or dedicated services.</p>	<p><i>The foreign citizen without a residence permit has access to health services that are considered urgent and "life-saving".</i></p> <p><i>There is no provision at the national level for the assignment of a reference doctor for the irregular adult migrant, while for minors without a residence permit, the Regions must ensure access to health care on equal terms with Italian minors and the right to have a pediatrician of reference. (<u>State-Regions Conference 20/12/2012</u>)</i></p>

Other healthcare services <i>If yes, please briefly describe</i>	Y	<i>Discretionary</i>	Provided by other entities (NGO, charities, private entities, etc) <i>Psychological counselling run by associations or organizations of the Third Sector (NGOs, associations, charities).</i>	
Social assistance				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are long-term irregularly staying migrants entitled to receive social benefits?⁸ <i>If yes, please briefly describe what these benefits are</i>	N		Provided by National and local authorities and by other entities (NGO, charities, private entities, etc) Foreign citizens' access to social security benefits and services is one of the most sensitive issues in the immigration discipline. According to art. 41 of the Consolidated Act on Immigration (legislative decree n. 286/1998), the benefits established by local administrations are guaranteed to all foreigners holding a residence permit of at least one year. The social assistance services that irregular third country nationals can receive are mainly provided by charitable organizations, NGOs and third sector associations (food package, free meals, clothes, support to parenting, after school and homework help ...). We point out, however, that during the epidemiological emergency from Covid-19, the Government has provided several measures to combat the impoverishment of the population and food solidarity through Food Vouchers ("Buoni Spesa") and Food Packages ("Pacchi Alimentari"), which were also provided and allocated to citizens of irregular Third Countries by local authorities in collaboration with Third Sector associations and NGOs. <i>See circolare 14 aprile 2020 covid-19 dpcm 10 aprile 2020.pdf</i>	<i>Services are recognized only in extraordinary conditions and of particular need or poverty.</i>
Employment				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market? <i>If yes, please describe any specific conditions attached to their employment.</i>	N			
Education				Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/>

⁸ Please consider the definition of 'core benefits' as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum - income support, assistance in the case of illness, or pregnancy, and parental assistance.

<p>Do (long-term irregular migrant) children have access to compulsory education?</p> <p><i>If yes, please briefly describe access.</i></p>	<p>Y</p>	<p><i>Mandatory</i></p>	<p>Provided by National and local authorities</p> <p>The Italian Constitution and the relevant legislation guarantee the right to education to all minors, without discrimination based on nationality or regularity of residence, therefore also to foreign minors without a residence permit. Among the most important statements of this principle, we limit ourselves to remember:</p> <ul style="list-style-type: none"> - Art. 34 of the Constitution: "The school is open to all. The lower education, given for at least eight years, is compulsory and free"; - Art. 2, par. 1 of T.U. 286/98 recognizes also to the foreigner irregularly residing "the fundamental rights of the human person provided by the rules of domestic law, international conventions in force and the generally recognized principles of international law", among which certainly includes the right to education enshrined in the Constitution and international conventions; - art. 38 of T.U. 286/98 and art. 45 of D.P.R. 394/99 establishes that foreign minors present on the territory, independently from the ownership of a residence permit and the registry documents, have the right to education, on an equal basis with Italian citizens, in schools of every order and grade (therefore even beyond the first 10 years of schooling), specifying that all the provisions in force on the right to education and access to educational services apply to them. they also have the right to the achievement of the final qualifications of the study of schools' courses for every order and grade(16). <p>The right of foreign minors without a residence permit to use the offer of education and training up to the age of 18 years is also reaffirmed by Legislative Decree no. 76/2005.</p> <p>However, in the Italian school system, the final qualification of upper secondary school is usually obtained after reaching the age of majority. Of course, beyond the age of 18 there is no longer the duty of education and training. This does not imply that, upon reaching the age of majority, the foreign student irregularly residing must abruptly interrupt the course of study begun during the minor and not yet completed, but can obtain the final diploma of the course of study undertaken.</p> <p>On this point, see Council of State judgment 1734 of 27.2.2007, in which denying access to the baccaureate examination at the end of a course of study "leads to unreasonable results", having "the unacceptable effect of preventing the foreign citizen from completing the course of higher education for the sole reason that he has reached adult age".</p>	<p><i>Irregular minors have the same right of access to compulsory education as Italian minors.</i></p>
--	----------	-------------------------	---	---

			<p>How foreign minors are included in Italian schools: according to 'art. 45, paragraph 1 of Presidential Decree 394/99, taken up and specified by Circular 25/01/13, prot. 375 foreign minors subject to compulsory schooling "are enrolled in the class corresponding to the age ", unless the board of teachers decides otherwise, taking into account the previous school experience of the child (art. 45, paragraph 2 Presidential Decree 394/99).</p> <p>For the purposes of enrolment at the school of any order and grade, a foreign minor without a residence permit can self-certify his or her personal details or provide only an identity document (e.g. passport).</p> <p>To promote the reception and integration of foreign students, guidelines were issued with the Circular of the Ministry of Education of the University and Research n.24 Prot. n.1148/A6, March 1, 2006 and subsequently updated with the Circular of the M.I.U.R of 19/02/2014, protocol n.4233.</p> <p>In the case of foreign minors seeking international protection are applicable: art.21, paragraph 2, Legislative Decree of August 18, 2015 n.142, provides that "they are subject to compulsory schooling, pursuant to Article 38 of Legislative Decree of July 25, 1998, n.286, and access courses and initiatives for learning the Italian language referred to in paragraph 2 of the same article"; for unaccompanied foreign minors, art.14, paragraph 3, Law April 7, 2017 n.47 provides that "From the time of the inclusion of the minor in the reception facilities, the educational institutions ... activate measures to promote the completion of compulsory schooling, pursuant to Article 21, paragraph 2, of Legislative Decree 18 August 2015, n. 142, and training by unaccompanied foreign minors, including through the preparation of specific projects that provide, where possible, the use or coordination of cultural mediators, as well as 'agreements to promote specific apprenticeship programs. It should be added that the right of access to school for minors without a residence permit is also extended to preschool, although not mandatory, since it is part of the overall education and training system (Law 53/03, art. 2, para. 1). The law clearly states that the preschool, although not compulsory, is in direct functional connection with compulsory schooling, establishing that it "achieves educational continuity with elementary school", as well as providing for the possibility that preschool can be aggregated with primary and secondary schools within inclusive institutions (Legislative Decree 59/04, Art. 1, para. 1 and Art. 4, para. 6; in this sense, see the order of the Court of Milan of 11.2.2008). Given this functional connection of preschool to compulsory schooling, it can be argued that the notion of "compulsory schooling services" should be extended to include preschool as well and therefore the right of access also for the minor children of irregular foreigners.</p>	
--	--	--	--	--

<p>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training? <i>If yes, what types of education and under which conditions?</i></p>	<p>N</p>			
<p>Legal aid or assistance</p>				<p>Less <input type="checkbox"/> Same <input type="checkbox"/> More <input checked="" type="checkbox"/></p>
<p>Do long-term irregular migrants have access to legal aid or assistance type of services? <i>If yes, please briefly enumerate and explain</i></p>	<p>Y</p>	<p><i>Mandatory</i></p>	<p>Provided by National authorities and by other entities (NGO, charities, private entities, etc)</p> <p>On the national territory there is a network of branches and free legal assistance centers managed by charities, NGOs and associations of the Third Sector dedicated to foreign people, even irregularly, present on the territory.</p> <p>As far as the prefect ordered judicial protection against administrative expulsion measures of non-EU citizens is concerned, it is regulated by art. 18, Legislative Decree 150/2011, which, in turn, is included in Chapter III of the same legislative decree entitled "Disputes regulated by the summary rite of knowledge".</p> <p>The jurisdiction in matters of expulsion of foreign citizens is attributed to the Justice of the Peace of the place where the authority that issued the contested measure is located. The attribution to the Justice of the Peace of the matter of appeals against the administrative measures of expulsion meets, however, one exception: according to art. 1 bis, D.L. 241/2004, converted into Law 271/2004, the competence of the court in monocratic composition remains unchanged - in case of a pending judgment concerning the right to family unity or authorization to enter and/or stay of the family member of a foreign minor (art. 31, para. 3, T.U.) - to know the legitimacy of the expulsion decrees issued against foreigners who have pending judgements in the matters indicated, which is an exception to the jurisdiction of the Justice of the Peace on appeals against the expulsions of the Prefect.</p> <p>Still about jurisdiction, it should be noted that with Law 46/2017 (so-called "Minniti Law") the sections specialized in immigration, international protection and free movement of EU citizens have been established, at the ordinary courts of the place where the Courts of Appeal are based.</p> <p>The foreigner must be in court with the assistance of a lawyer who must be given special power of attorney, the lawyer must authenticate the signature, as in all civil cases. Art. 18, para. 4, Legislative Decree 150/2011, prescribes that if</p>	<p><i>It should be noted that in proceedings aimed at challenging an expulsion decree against a citizen of a Third Country, admission to legal aid is granted ex lege regardless of the socio-economic condition of the applicant.</i></p>

		<p>the plaintiff does not have a lawyer, he/she is assisted by a lawyer designated by the judge from the list of lawyers registered in the list of public defender provided for the criminal trial (art. 29, Legislative Decree 271/89, implementation provisions c.p.p.).</p> <p>Art. 18, para. 4 cit. also provides that the foreigner is admitted to legal aid: in these specific disputes the admission to legal aid operates <i>ex lege</i>, therefore independently of the income conditions of the foreigner. Therefore, there is no need for: self-certification, consular declarations regarding the income produced in the country of origin or identity documents or registry certificates or even the tax code.</p> <p>However, it is necessary that the applicant, i.e. the party, makes a specific request for admission. The fact that the admission works <i>ex lege</i> does not mean that it is not necessary to request it, since the applicant could afford the legal fees. In practice, it is advisable that the appellant expressly requests the admission to legal aid, with the special power of attorney conferred on the lawyer or with a separate document to be attached to the appeal.</p> <p>This norm must be integrated with art. 142, D.P.R. 115/2002 (Consolidated Act on expenses of justice - T.U. sulle spese di giustizia) that provides that "in the trial against the expulsion of the citizen of States not belonging to the European Union, referred to in article 13, of the legislative decree 25 July 1998, n. 286, the fee and expenses for the lawyer and the auxiliary of the magistrate are charged to the Treasury and are liquidated by the magistrate to the extent and in the manner provided by Articles 82 and 83 and opposition is allowed under Article 84".</p>	
Other?			
Are any other rights relevant to mention here? Please describe	N		

Q12. Do **authorities** (at central or local level) need to **check the migration status** (or the lack thereof) **before providing access to a service** (e.g. accommodation, healthcare, education), or are there 'firewall provisions' allowing persons concerned to access services without fear of being apprehended?

Access to school

The application for enrollment in public school by foreign minors has to be accompanied by the same documents required of Italian citizens (or, however, having the relevant requirements). In addition to that, foreign minors must provide some other documents such as birth certificate, residence permit of the parents and minors (see the note below) and the vaccination certificate (see point 3.2). Minors without a residence permit are enrolled with reservation. However, they obtain a valid qualification even if the assessments carried out by the Administration do not give any result, 'as long as the result is not negative', as specified in Art. 45 of D.P.R. n.394/99 (i.e. the data declared at the time of enrollment are not found to be false during subsequent assessment). In other words, even if the assessments made by the Administration do not obtain results, the student continues his or her studies regularly. Generally, it is not necessary that the documents are attached to the application; the documents to be submitted for enrolment in schools of all levels can be replaced by a self-certification signed by the owner of the parental responsibility at the time of the application to the school, as required by laws n. 15/1968 and n.127/97, the implementing regulation (D.P.R. n.403/98) referred to by various ministerial notes on bureaucratic simplification and enrollment of students. In case of doubt about the submitted declarations, the Public Administration may request (within 15 days) the exhibition of the documents, which the interested party will produce in original or in photostatic copy (art.2 of Presidential Decree no. 403/98), or the same P.A. may acquire them directly at the office that should have produced the document.

Access to medical healthcare

Non-EU citizens who do not comply with the rules on entry and stay have the right to outpatient and hospital healthcare services provided by accredited public or private facilities in relation to:

- urgent and essential care
- protection of pregnancy and maternity, protection of the child
- vaccinations, prophylaxis, diagnosis and treatment of infectious diseases
- pharmaceutical assistance
- prosthetic assistance

The access to the health facilities of the irregular foreigner does not imply reporting to institutional bodies, except in cases where it is compulsory. The assistance of the family doctor and the pediatrician is not provided.

The foreigner requires from any Territorial Health Protection Agency or Hospital Agency a card, called S.T.P. (*Straniero Temporaneamente Presente*, i.e. "Foreigner Temporarily Present"), valid for six months and renewable, declaring his personal details and his/her lack of economic resources. The card can also be issued without the indication of name and surname and in any case, it is not necessary to show identity documents.

Q13. Is **cooperation to return to the country of origin an obligation** if one of the services are provided (under Q10 and Q11) to the long-term irregularly staying migrant?

Yes

No

If yes, please explain the applicable procedures and how it is carried out.

Q14. Are there **any specific projects and/or (ad-hoc) programmes** implemented at **local level** (by municipalities, regions, etc) in your (Member) State specifically targeting the access to services for long-term irregularly staying migrants?

Yes

No

If yes, please provide examples (e.g. which stakeholders are involved in the design, implementation and effects of the projects or programmes, any evaluations conducted on the projects or programmes and any key learning points identified)

As mentioned above, all services specifically addressed to the category of irregular migrants are provided regardless of the length of the irregular stay. In addition to the services provided by current legislation, local health agencies provide information on the prevention of infectious diseases, free screening programmes, access to basic care and support programmes for pregnancy and maternity without charge to those who request it if they lack resources. In addition, in February 2014 the Italian Ministry of Education issued the new "Guidelines for the reception and integration of foreign students". They are an update of the previous Guidelines, issued in 2006.

See also Chamber of Deputies Documentation on this point.

Q15a. With the exception of organisations acting as a service provider for public authorities (Q10 and Q11), are **other entities or organisations** (e.g. NGOs, charities, other private entities) involved in providing or facilitating access to services for long term irregularly staying migrants?

Yes

No

If yes, please specify which entities, what type of involvement and service (e.g. accommodation, health care, counselling) are they involved in and, which type of funding used to support their activities.

The organization involved in the provision of services to foreign citizens, regardless of their regularity of stay, are mainly charities (Caritas, etc.) or NGOs and liberal foundations. These charities are financed privately or by public funds, also of European origin (through calls for proposals and funding programmes). The main services provided aim to guarantee the first reception, in some cases providing beds or houses for migrants without a home, canteens and food parcels for people at risk of distress, economic aid for the payment of basic necessities. Often this type of activity is carried out locally by Parishes through the involvement of volunteers or voluntary associations (e.g. City Angels). Other services are designed to guarantee basic or specialist medical care in medical clinics staffed by volunteers (e.g. Popular Medical Outpatient Clinic). In these medical clinics, the services are provided free of charge and without any need to report to the public security or local/national authorities, except in cases where reporting and reporting is required by current legislation. There are also many projects aimed at migrants, including adults, to guarantee the right to education and, in some cases, real schools, whose access is not precluded to those who cannot show a residence permit (see for example the Network of Schools Without Permission). (Rete delle scuole senza permesso)

Q15b. Do these **entities or organisations** need to **report on the migration status** (or the lack thereof) **before providing access to a service** (e.g. accommodation, healthcare, education), or are there 'firewall provisions' allowing persons concerned to access services without fear of being apprehended?

No, there is no registration or reporting of irregular migrants to the authorities, except in the cases provided for by current legislation (e.g. when a migrant is a victim of crime).

Q16. If a long-term irregular migrant is a **victim of or witness to an offence** (e.g. labour exploitation, domestic violence, etc), are there any available '**safe reporting**'⁹ channels between the TCN concerned and public authorities to report the incident without divulging their situation of illegal stay?

Yes

No

If yes, please briefly describe the channel/reporting mechanism:

According to Italian law, anyone who is aware of a crime can submit a report to a police officer or the Public Prosecutor in oral or written form, personally or by proxy. For some types of crime (minor crimes or some serious crimes such as stalking or sexual violence) the report must be presented by the person who suffered the crime, in other cases it can be presented by anyone who is aware of the fact.

The possibility of presenting a complaint by proxy (e.g. to a lawyer) is significant for the purposes of this application because the proxy to the lawyer limits direct contact between the victim irregularly present on the national territory and the Police. However, it is understood that the identification of the victim and the participation in the trial are necessary for the continuation of the procedure.

Public authorities receiving reports or complaints have a duty to inform victims of all the rights they can exercise during criminal proceedings (according to the transposition of Directive 29/2012/EU25). These rights include: the right to understand and be understood, the right to a translator, the right to be informed of all stages of criminal proceedings, the right to be assisted by a lawyer, and all information relating to reimbursement, social assistance and compensation.

The Directive provides that these rights apply to all victims of crime, including migrants in an irregular situation.

For a complete and updated description please refer to: [Compas Italy 2019 Report](#)

Q17. Are there any **assisted voluntary return (AVR) projects or programmes** implemented in your (Member) State that also specifically foresee support to access to services (in the host (Member) State, thus before departure) for long-term irregular migrants?

Yes ?

No - The services offered concern all irregular migrants in the territory who take part in a voluntary assisted return program, regardless of the duration of their irregular permanence in Italy.

If yes, please describe (e.g. please consider any specific conditions to access the service(s)):

Q18. Please provide if applicable **illustrative (and anonymised) case(s)** of measures adopted by authorities (a) at central, (b) regional and (c) local level (e.g. municipalities) to provide access to services (e.g. accommodation, health, etc) – up to two examples.

Example: National Immigration Facilities in Groningen, The Netherlands (Landelijke Vreemdelingenvoorzieningen)

Background

The Ministry of Justice and Security reached an agreement on 28 November 2018 with the Dutch Association of Dutch Municipalities (VNG) on the development of National Immigration Facilities (LVVs). The LVVs are intended for migrants who are not entitled to stay and who have not left the Netherlands voluntary or by force, including long-term irregularly staying migrants. Municipalities are often confronted with the impact of illegal residence, and therefore the LVVs will be set up, where this specific group of migrants can be accommodated temporarily and under certain conditions.

Process

New guests usually register themselves. The group that applies for a National Immigration Facility ranges a lot: from a mother and her adult son, of whom he does and she certainly does not want to return to the country of origin, to a man who has been in the Netherlands for almost twenty years but who was just outside of the pardon schemes and whose return has never been successful. Uncertainty about family ties, nationality and identity often plays a role. This hinders both lawful residence in the Netherlands and return to the country of origin.

First, it is tested whether they really have nowhere else to go, whether they have an identification number for third country nationals (the so-called 'V-number') and whether there is any connection to the region where they apply for stay. Those who qualify for residence sign an agreement. By doing so, he or she agrees to work on his or her future (e.g. towards return), collaborates with representatives from the organizations working together in the Dutch migration process and to respect any house rules at the facilities.

Q19. Did any change happen in relation to access of long-term irregular migrants to social services as described above, as consequence of measures taken in response to the COVID-19 pandemic?

Yes

No

If yes, please describe by referring to all relevant aspects and services covered in **Q10-Q17**.

As previously mentioned, measures have been taken to support poverty to address the health emergency and the need to distribute Vouchers for the population at risk of hardship. These support measures are addressed to all those who were in certain socio-economic conditions, regardless of the possession of a residence permit.

Medical assistance in the event of an epidemic and the prevention of contagion of infectious diseases is also a right guaranteed to citizens of third countries irregularly present on the territory.

Q20. Is there any research available in your (Member) State on irregular migrants accessing rights and services listed above (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source.

Please note the [Document on Foreigners-and-Access-to-Social Performances Sett2020 ASGI.pdf](#).

The document is a regulatory review of the evolution of jurisprudence on the access to social benefits and services by foreign citizens in the national territory. There is a large part dedicated to the recognition of social rights and related benefits for regular citizens, although there are profiles that deal with the issue of the recognition of rights to fundamental benefits regardless of the regularity of the stay.

SECTION 2.2: COOPERATION MECHANISMS BETWEEN CENTRAL, REGIONAL AND LOCAL AUTHORITIES

This section will focus on the cooperation between central authorities and, regional authorities as well as municipalities in the implementation of national policies on long-term irregular migration.

Q21. Were specific measures (legislative, administrative, practices) implemented by central authorities to help regional and local authorities to anticipate and/or to respond to the situation of long-term irregular migrants in their territories?

Monitoring and follow-up approaches of long-term irregularly staying migrants

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

Information exchange between central and local authorities about long-term irregularly staying migrants

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

Every time a Third Country national (who does not have a residency permit and who is in a state of poverty) contacts the local health authority for the provision of urgent and necessary health care (as listed in the previous paragraphs), a code is issued which allows him/her to take advantage of the services provided by the Regional Health Service. Then this code is communicated to the competent office of the Ministry of the Interior for the reporting of expenses incurred by the health structure for reimbursement purposes. In the identification code there is the acronym STP (Foreigner Temporarily on the Territory), the code of the public health facility issuing it and a progressive number assigned at the time of issue. The code is recognised throughout the national territory and identifies the person assisted for all the services referred to in Article 35, paragraph 3 of the Consolidated Act on Immigration (Legislative Decree 286/98). This code must also be used for the reporting of

services provided by public and private facilities accredited for reimbursement and the prescription, on the basis of a regional recipe book, of medicines that can be dispensed, on equal terms with Italian citizens, by affiliated pharmacies. The state of destitution of the foreign citizen can be attested by a self-declaration presented to the health care provider. The communication to the Ministry of the Interior for the purposes of reimbursement is made anonymously, through the S.T.P. regional code, indicating the diagnosis, the type of service provided and the amount for which reimbursement is requested.

See on this point [art. 43 of Presidential Decree 394/99](#).

Guidance or any other form of established practice made available to regional and local authorities on how to assist long-term irregularly staying migrants (e.g. training sessions, guidance (e.g. written instructions or guidelines), other)

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

Other measure(s)

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

With relation to the profile of security and control of the territory, the figure of the Prefect is characterised by a dual role at provincial level: he is responsible for the implementation of ministerial directives and the coordination of police forces, and he is also the provincial responsible for public order and security.

In implementation of the ministerial directives, the Prefect prepares coordinated plans for the control of the territory, which the heads of the police forces must implement.

In the formulation of these plans, like in general for the implementation of police coordination activities, the Prefect makes use of the Provincial Committee for the Order and Public Security – (“Comitato Provinciale per l’Ordine e la Sicurezza Pubblica”)

(. This committee is a consultative body that consists of the President of the Province, the Quaestor, the Provincial Commander of the Carabinieri, the Commander of the Guardia di Finanza Group and the Provincial Commander of the Forestry Corps. The composition, which can also be extended to subjects outside the Public Security Administration.

The Committee also includes the Mayor in charge of collaborating in the areas of competence of the local authority for the best performance of the public safety function. Safeguarding public order is not only a repressive activity, but includes all determination to avoid conflicts and their degeneration into episodes of disturbance.

In this scenario the role of the Prefect at the service of the institutions and the citizen is fundamental. For this reason the Prefect needs a continuous contact with all institutional and social levels, a patient work of weaving relationships and balanced and far-sighted understandings, a constant attention to emerging social tensions and conflicts.

Where necessary, it is a work to activate interventions and initiatives suitable to guarantee the normal course of life and the free operation of the institutions. It should be remembered that the **power to expel foreigners** is one of the main provisions under the competence of the Prefect (as Provincial Public Security Authority).

Q22. Do local authorities in your Member State participate in **horizontal cooperation networks** (of local authorities) to develop good practices and/or programmes to address the situation of long-term irregular migrants?

Yes

No

If yes, please provide examples.

Q23. Were there any studies or research published on the effectiveness of any of the measures mentioned in Q21?

Yes

No

If yes, please mention references and brief description of the studies or piece of research:

SECTION 2.3: GOOD PRACTICES

Q24. What are **good practices** regarding policy measures concerning long-term irregularly staying migrants?

*For each good practice mentioned, please describe **a)** for whom it is a good practice (policy-maker, organisation, other stakeholders), **b)** why it is considered a good practice and **c)** whether the assessment that this is a good practice is based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).*

Providing services (housing, health care, other measures)

Please provide a brief explanation:

Exchanging information between national and local authorities on long-term irregularly staying migrants

Please provide a brief explanation:

Exchanging information between Member States?

Please provide a brief explanation:

Other good practices

Please provide a brief explanation:

Section 3: Responses to end long term irregular stay

This section will focus on policies and good practices implemented in finding approaches to address (and end) the issue of long-term irregularity. This section aims to research the following:

- *What measures (e.g. policies, practical tools, guidance) were implemented to bring protracted situations of illegal stay to an end?*
- *Were there any studies or research published on the effectiveness of these measures?*
- *What are the key challenges and good practices in terms of policy regarding long-term irregularly staying migrants?*

Q25. What options are available in your Member State to end long-term illegal stay of third-country nationals (e.g. return, legalisation of stay, other)? Which are prioritized?

It should be noted that these options generally relate to the objective of combating the irregular presence of Third Country nationals. The main measures adopted can be listed in:

- 1- Implementation of forced return procedures
 - 2- Borders control and rejections

- 3- Retention in CPR
- 4- The issuance of a residence permit, even temporary, subject to particular conditions and requirements
- 5- Extraordinary regularisation of irregular workers

SECTION 3.1. MEASURES TO PROMOTE RETURN OR DISCOURAGE ILLEGAL STAY

Q26. What measures to **promote return or discourage illegal stay** are in place in your Member (State) specifically for long term irregular migrants (as identified in this study)?

e.g. restricted access to mainstream services or specific programmes geared towards third-country nationals in a prolonged situation of irregular stay, specific cooperation measures between national, regional and local authorities.

Please note that various measures directly related to the enforcement of a return decision such as AVR programmes or other incentives to return were already captured in numerous other EMN studies and discussions at expert group level and are not the primary focus of this study.

On this point there are no specific forecasts addressed to the subject of the study (long term irregular migrants). The main actions aimed at promoting voluntary return are realized towards irregular migrants regardless of the length of their irregular stay in Italy. In order to discourage irregular stay, we can point out that the current legislation of the Testo Unico Imm., modified in 2009, has introduced the obligation to show the residence permit in order to apply for licences, authorisations or registration. Law no. 94/09 has in fact modified Art. 6, § 2 of the Consolidated Law on Immigration (Legislative Decree no. 286/98) which regulates the cases in which a foreign national from outside the European Union must produce a residency permit in order to obtain licences, authorisations, registrations and other measures of interest to him/her. The previous legislation excluded from the burden of producing a residency permit all measures concerning access to public services. An exception is made for measures concerning: sport and leisure activities, access to urgent and unavoidable health services, fundamental rights such as the right to recognise one's own child or to marry, etc., and compulsory school services.

We briefly list the main regulatory interventions aimed at discouraging irregular stay:

Increased penalties for the employer employing an irregular foreigner. With the Legislative Decree no. 109 of 16 July 2012, Community Directive 2009/52/EC aimed at strengthening cooperation between Member States in the fight against illegal immigration has been implemented. For this reason, a ban on employers employing illegally staying third-country nationals has been introduced, as well as minimum standards for sanctions and measures against such employers. This is a measure already provided for by Italian legislation (Article 22, paragraph 12 of the Consolidated Law on Immigration provides that the employment of foreigners whose stay is irregular is punished with imprisonment from six months to three years and a fine of 5,000 Euros for each worker employed). Therefore, with the Legislative Decree, only a few modifications have been introduced to the existing legal system.

The measure provides for aggravating circumstances (with penalties increased from one third to half) in cases where the prohibition of employment of foreign citizens whose stay is irregular is characterised by "particular exploitation".

"Particular exploitation" means:

- more than three workers are illegally employed;
- minors of non-working age are employed;
- the cases of exploitation referred to in Article 603 bis of the Criminal Code (Codice Penale) are applicable.

In addition to the sanctions already provided for by current legislation, an accessory administrative sanction is introduced, which the judge applies with the sentence. This sanction is equivalent to the payment of an amount equal to the average cost of repatriation of the irregularly employed foreigner (the criteria for determining this cost will be established by a subsequent inter-ministerial decree).

Introduction of sanctions against anyone who, in order to make an unfair profit, "**gives accommodation or transfers, for a consideration, even in rent, a property to a foreigner without a residence permit**" (see Art. 12, paragraph 5bis of Legislative Decree 286/98). In this case, the person who committed the offence is punished with a term of imprisonment ranging from 6 months to three years.

Q27a. What are the **good practices as identified in your Member States to promote return or discourage illegal stay** for long term irregular migrants identified in your (Member) State?

For each good practice mentioned, please describe a) for whom it is a good practice (policy-maker, organisation, migrant, other stakeholders), b) why it is considered a good practice and c) what is the source of the statement – e.g. based on input from experts, surveys, evaluation reports or from other sources (please indicate which ones).

Q27b. Is there any research available in your (Member) State on **promotion of return or the discouragement illegal stay** (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source .

We can note the **OIM RVA Report** which offers an analysis of the Individual Reintegration Plans (PIR) – (Piani di Reintegrazione Individuali) . The plans are implemented by the migrants who left with the five projects of Assisted Voluntary Return and Reintegration - (RVA&R) - in the period June 2016 - June 2018 and financed by the AMIF 2014-2020 fund based on the Notice adopted by the Responsible Authority with its Decree n. 19738 on 24/12/2015.

The mission of the report is to illustrate the reintegration pathways and analyse the areas in which the beneficiaries wanted to invest the reintegration grant provided by the RVA&R projects, once they returned to their country of origin.

The survey sample

It is represented by 753 individuals, including 610 individual beneficiaries or heads of families and 143 accompanying relatives. The 82% of participants in RVA&R projects are male and the average age is 38 - with a minimum age of 18 and a maximum age of 85. The 50% of the beneficiaries are under 35 years of age, 36% are between 36 and 52 years of age and 14% are over 52 years of age.

The duration of the previous stay

An interesting fact concerns the period of permanence spent in Italy by the beneficiaries before making the choice to leave. From the processing of the data it emerges that, on average, the beneficiaries spent 6.9 years in Italy before participating in return projects. It is noted that, every year, the period of stay in Italy decreases: 7.8 years of stay for migrants who left in 2016, 7 for those who left in 2017 and 5.9 for those who left in 2018. This trend indicates that access to the RVA & R measure of potential beneficiaries has improved over time. This is also thanks to the dissemination activity of the measure foreseen within the RE.V.ITA project. (active from the second half of 2017) as well as other awareness raising activities carried out in the period under review for assisted voluntary return. **The average of the years spent in Italy varies according to the migrant's legal status.**

The beneficiaries in possession of a residence permit spent an average of 12 years in Italy before the choice of return; the average number of years drops to 7.8 for irregular migrants on the national territory and to 1.7 years for asylum seekers, deniers and renouncers.

The legal status of the beneficiaries on the total sample

It should be noted that 52% were in a state of irregularity on Italian territory at the time of participation in the RVA&R programme. The 26% are asylum seekers, deniers, and renouncers. The 21% is represented by regular migrants holding a residence permit (mainly for work reasons). The 1% is represented by migrants in the process of identification. Finally, it results that 37% of the patients are in a situation of **vulnerability**, understood according to the questionnaire as one of the following conditions: minor, unaccompanied foreign minor, elderly over 65, single parent with child(s) or minors, illiterate, homeless, affected by health problems. Specifically, 11% are homeless, 9% have health problems, 12% are illiterate and therefore have limited guidance tools, 3% are single parents and 2% fall into the category of the elderly.

The reasons

An interesting fact is **the reason why migrants return to their country**. The analysis shows how beneficiaries decide to return to their country for these reasons: 57% because of their precarious socio-economic conditions; **17% because of family needs; 13% because of irregularity and impossibility to regularize themselves**; 4% because of health reasons; 2% because of job loss and difficulties to find other jobs in Italy. The remaining 7% includes cases of migrants who decide to return to their own country because of nostalgia or because the conditions that drove them to leave their country of origin have changed. 90% of the sample has a **parental network** in their country of origin.

Q28. Please provide **illustrative example(s)** of responses and/or good practices to **promote return or discourage illegal stay** adopted by authorities (a) at central level, (b) regional and/or (c) at local level (e.g. municipalities) – up to two examples, in the form of anonymised case studies of individual long-term irregularly staying migrants):

SECTION 3.2: LEGALISATION OF STAY OPEN SPECIFICALLY TO LONG-TERM IRREGULAR MIGRANTS

Q29. Are **options for legalisation of stay** open specifically to long-term irregular migrants in your Member (State)?

E.g. a specific status/residence permit for legalising the stay of long-term irregularly staying migrants (see section 1)? specific schemes established at national level for legalising the stay of long-term irregular migrants? Or do such options form part of the system of residence permits available to all migrants?

If yes, please briefly explain the criteria considered (e.g. integration in labour market, length of stay, language skills, absence of criminal record, social and family ties, having entered the country as a minor):

The prevalence of economic migrants in irregular migration flows is the cause of the presence of Third-Country nationals without a residence permit (regardless of the length of their stay in Italy).
The Italian Government has adopted extraordinary measures to reduce the irregular presence of Third Country nationals (who do not have a residence permit on Italian territory and who cannot be promptly returned to their countries of origin). These measures concern the emission of a residency permit for reasons of subordinate employment to those who are in possession of a job or a job offer.
These measures have been adopted whenever the "physiological" threshold of the estimated number of irregular migrants is exceeded. Each regularization measure has introduced, as a requirement for access to the procedure, documentary evidence of the **presence of the foreign national on the national territory by regularizing before the submission of the application (usually at least 4 months before) and the absence of criminal record.**

The regularization measure may concern all or only a few working sectors and is in any case addressed to all Third Country nationals irregularly present on the national territory from a certain period defined by the regulation. In the history of the Italian Republic, numerous measures have been adopted with the aim of reducing the presence of irregular foreigners on the national territory and bringing to light irregular labour relations. Requests for regularisation for such measures may only be sent **for a certain period of time**, under penalty of exclusion from regularisation and the application of a criminal or administrative sanction, if due. It's good to remember that any provision and legislative action described in this study, concerns the condition of irregularity of residence of foreign citizens, present in the territory, regardless of the duration of their stay.
It is necessary to point out that these regularization measures exclude citizens of third countries affected by previous expulsions by the Ministry of the Interior or for the prevention of terrorism, including international terrorism, and expulsions for reasons of social dangerousness ex art. 13, paragraph 2, letter c) T.U.
Foreign citizens who have been reported (on the basis of existing international agreements or reports) for the purposes of non-admission to the territory of the State or who are considered a threat to public order or security of the State or of one of the countries with which Italy has signed agreements for the abolition of internal border controls and the free movement of persons are not eligible for regularization procedures.
With respect to the criminal convictions that hinder regularization, it is important to emphasize that these concern in particular certain violations such as: crimes against personal liberty or drug related crimes, aiding and abetting illegal immigration to Italy and illegal emigration from Italy to other States or for crimes aimed at the recruitment of persons to be used for prostitution or exploitation of prostitution or minors to be employed in illegal activities.

Q30a. What are the **good practices as identified in your Member States with regards to legalisation of stay** identified in your (Member) State?

For each good practice mentioned, please describe a) for whom it is a good practice (policy-maker, national or local authority, organisation, migrant, other stakeholders), b) why it is considered a good practice and c) what is the source of the statement – e.g. based on input from experts, surveys, evaluation reports or from other sources (please indicate which ones).

Q30b. Is there any research available in your (Member) State on **practices with regards to options for legalisation of stay** available specifically to irregular migrants (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source

Q31. Please provide **illustrative example(s)** of responses and good practices related to the **legalisation of stay measures** adopted by authorities (a) at central level, (b) regional and/or (c) at local level (e.g. municipalities) – up to two examples, in the form of anonymised case studies of individual long-term irregularly staying migrants):

SECTION 3.3.: MEASURES TAKEN IN RESPONSE TO THE COVID-19 PANDEMIC

Q32. Were measures taken to end the situation of long-term irregular migrants specifically in connection to the responses to and **impacts of the COVID-19** (e.g. legalisation of migrant workers employed in specific sectors)? Please describe.

It isn't possible to answer the question without specifying again that in the Italian system there isn't definition of long-term irregular immigrant and irregular Third Country citizen.

The main objective of the measures adopted by the Italian Government in relation to the spread of Covid 19 is to "maintain" the regularity of the stay of all Third Country nationals present on the national territory and thus avoid the loss of the conditions of regularity of stay due to *lockdown* and the suspension of many working activities.

In the second phase of the virus spread, the Government adopted extraordinary **measures to regularize irregular foreign migrants** present in Italy, starting from 8/03/2020 (date when the *lockdown* started in Italy).

Italy has also taken note of the position of the UN Migration Network of which the International Organization for Migration (IOM), the UN High Commissioner for Refugees (UNHCR) and the World Health Organization (WHO) are also members. Italy has also adopted measures aimed at **suspending forced return activities**.

Decree Law no. 18 of 25 March 2020, no. 18 "Cura Italia" (which introduces various measures to deal with the epidemiological emergency from Covid-19) also includes some dispositions regarding the reception and health protection of immigrants in consideration of the needs related to the state of emergency.

The Decree intervenes on **residency permits**, so the validity of **residency permits and other residence permits** in Italy is extended until 31 August 2020. These permits **include type C visas (less than 90 days) and short stays without a visa**. The Decree extends the terms for the conversion of residence permits from study to subordinate work and from seasonal work to non-seasonal work.

Decree Law no. 34 of 19 May 2020, so-called "Rilancio", provided for further measures on the subject, such as the introduction of a procedure for the emergence of irregular employment of foreign and Italian citizens employed in the agriculture, domestic work and personal care sectors. These two sectors have been considered as priorities for this extraordinary procedure, adopted by the Government, precisely with reference to the high rate of irregular labour employed.

There are two types of access to the regularization process (whose convocations are still in progress):

- With the first one, **employers may apply to hire** foreign nationals present in the national territory or to **declare the existence of a pre-existing irregular employment relationship** with foreign workers. They have been subject to photo-dactyloscopic surveys before 8 March 2020 or staying in Italy before that date, according to the required certificates, for the purpose of **regularising the employment relationship**.
- the second one consists in issuing a **temporary residency permit** for 6 months, valid only in the national territory, to **foreigners** with a residency permit that expired on 31 October 2019 who apply for it and who are present in the national territory on 8 March 2020; have worked in the agricultural and domestic sectors before 31 October 2019 and on the basis of documentation found by the National Labour Inspectorate; **have been present in the national territory** continuously since **8 March 2020**. The temporary permit is valid only in the national territory **and is converted into a residence permit** for work if the worker is hired.

Applications for regularisation were submitted from 1 June to 15 August 2020 for a total of 207,542 units.

See also the [Emergence of working relationships \(Report finale Emersione 2020\)](#) of the Ministry of the Interior.

It was also issued by the Ministry of Health on 14/07/2020, the note that clarifies that foreign citizens in emergence must be granted the right to mandatory health care consistent with the principles of protection of the person and dignity of the worker contained in art. 34 of T.U. 286/98.

The obligatory registration to the SSN will start from the date on which the application for emersion or the temporary permit is submitted, and will be provisional until the completion of the emersion procedures.

It should also be noted that the foreign citizen will have to be issued with a health card but not with the TEAM, which can be issued after verification of the requirements and only when the foreign citizen has been issued with a regular residence permit for work.

The said decree-law also provided for extraordinary measures for the reception of asylum seekers. This is through the use of available places in the Protection System facilities for holders of international protection and for unaccompanied foreign minors (SIPROIMI) for the reception of asylum seekers (i.e. foreign nationals who have made an application for international protection on which a final decision has not yet been taken)

Is a temporary measure, which applies for a maximum of six months after the end of the state of emergency (i.e. until 31 January 2021). The disposition expressly derogates from the provisions of Article 1-sexies of D.L. 426/1989, which, following the amendments introduced by D.L. 113/2018, reserves the reception in SIPROIMI to those who have been granted the status of international protection and not also, as previously, to applicants for the status (Art. 16).

Section 4: Challenges and future actions

Q33. What are the challenges regarding **policy measures** concerning long-term irregularly staying migrants?

*For each challenge mentioned, please describe **a)** for whom it is a challenge (policy-maker, organisation, other stakeholders), **b)** why it is considered a challenge and **c)** whether the assessment that this is a challenge is based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).*

Providing services (e.g. housing, health care, etc)

Please provide a brief explanation:

Challenges exchanging information and/or cooperation between national and local authorities on long-term irregularly staying migrants

Please provide a brief explanation:

Challenges exchanging information between Member States?

Please provide a brief explanation:

Other challenges (e.g. other measures mentioned in section 3) Please provide a brief explanation:

Q34. What are the challenges regarding **policy measures** concerning long-term irregularly staying migrants specifically linked to the reposes to and impacts of the **COVID-19 pandemic**?

Once again, it should be noted that the measures taken by Italian Government against irregular Third Country nationals, in response to the effects of the spread of Covid – 19, have been arranged regardless of the length of their irregular stay on the national territory.

Q35. What are the challenges of **promoting return or discouraging illegal stay** concerning long-term irregularly staying migrants? Please describe any additional challenges specifically linked to the reposes to and impacts of the **COVID-19 pandemic**?

The same considerations apply as in the previous answer.

Q36. What are the challenges regarding the **options for legalisation of stay** available to long-term irregularly staying migrants? Please describe any additional challenges specifically linked to the reposes to and impacts of the **COVID-19 pandemic**?

The challenges of the Italian Government on this issue mainly concern the fight against the irregular entry and stay of Third Country nationals on the national territory regardless of the length of their stay on the territory.

Q37. According to (central and/or local) stakeholders in your (Member) State, what actions could be taken **at EU level** to support (Member) States to effectively cooperate and overcome the challenges faced in relation to long-term irregularly staying migrants?

For each suggested improvement mentioned, please describe a) for whom it is a suggestion (policy-maker, organisation, other stakeholders), b) why it is considered a suggestion and c) whether the assessment that this is a suggested improvement based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).

On this point it is necessary to refer to the considerations expressed in the previous points, as there isn't "long term" irregular migrant in the Italian law.

Section 5: Conclusions

This section of the Synthesis Report will draw conclusions as to the Member States' existing policies, practices and case law related to long-term irregularly staying migrants.

Q38. With regard to the aims of this study (policy responses to long-term irregular migrants), what conclusions would you draw from your findings reached in elaborating your national contribution?

With reference to the primary research question, please elaborate your conclusions highlighting the relevance of your findings to (national and/or EU level) policy-makers. You may cover the following points:

- The size of the problem of long-term irregular migrants in your country
- the most topical issues raised in the political and policy debate on the situation of long-term irregularly staying migrants
- The main concerns and issues related to providing access to public services to long-term irregularly staying migrants
- The main concerns and issues related to implementing measures to bring protracted situations of illegal stay to an end

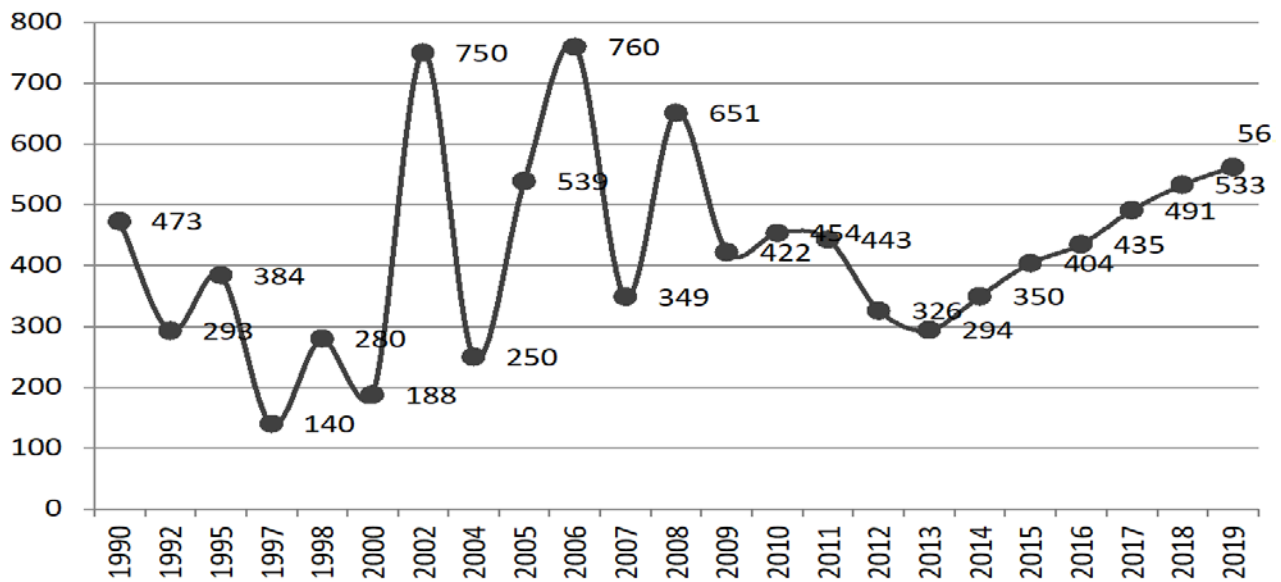
The current presence in Italy of legally residing foreign citizens (from 1 August 2019 to 31 July 2020) has been estimated at 4,016,129 units, out of a national population of 60,244,639. It is therefore equal to 8.8% (ISTAT data as at 31 December 2019), with a variation of 4.2% less than the same period of the previous year. In the country, on the other hand, there was a persistent decline in birth rates and the demographic crisis continued. Still today the highest number of residence permits issued concerns family reasons (1,771,414 units), the second group for the number of regular presences is composed of foreigners residing for work reasons (1,327,312).

Source [Dossier_viminal_2020](#)

As regards the presence of Third Country nationals irregularly present on the national territory, it can be estimated at around 562,000 units.

Source XXV Ismu Report on Migration 2019

Descriptive trend of the presence of irregular migrants in Italy. Years 1990-2019



The graph shows well that the number of irregular citizens drops with the adoption of extraordinary regularisation measures (2002, 2006) and during periods of severe economic crisis and, therefore, lack of employment. However, the number of irregular migrants has increased in recent years also due to the rejection of an increasing number of applications for international protection submitted by economic migrants.

It should be noted that in the political and media debate of the last few years, the issue of irregularity of Third Country nationals is related to the phenomenon of landings of Third Country nationals and the reception of asylum seekers, without there being any specific investigation on the issue of the duration of the irregularity of the foreigner's stay.