

Sachdokumentation:

Signatur: DS 1776

Permalink: www.sachdokumentation.ch/bestand/ds/1776



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MUTUAL TRUST IS STILL NOT ENOUGH

The situation of persons with special reception needs
transferred to Italy under the Dublin III Regulation

Bern/Copenhagen 12th December 2018

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Executive Summary

In 2016 the Danish Refugee Council and the Swiss Refugee Council started a joint monitoring project, documenting the experiences of asylum seekers transferred to Italy under the Dublin III Regulation. Following the first monitoring report from February 2017, which documented the situation of six families with minor children, this second report documents the situation of 13 vulnerable individuals and families transferred to Italy from other European countries.

The 13 case studies show that it is arbitrary how vulnerable asylum seekers transferred to Italy are received upon arrival, despite the guarantees provided by the Italian authorities following the judgment of the European Court of Human Rights in *Tarakhel v. Switzerland*.

By monitoring the situation of 13 vulnerable Dublin returnees, the Danish Refugee Council and the Swiss Refugee Council document how some are denied access to the Italian reception system upon arrival altogether or must wait a long time before they are accommodated, which significantly hinders their effective access to the Italian asylum procedure.

The experiences of the participating asylum seekers show that after accessing reception conditions, which are often far from adequate to meet their special reception needs, vulnerable Dublin returnees risk losing the right to accommodation without due consideration of their vulnerable situation.

Following the cases documented through the monitoring project, the Danish Refugee Council and the Swiss Refugee Council find that it is clear, that there is a real risk of vulnerable Dublin returnees not being provided with adequate reception conditions upon arrival in Italy, exposing them to a risk of ill-treatment contrary to Article 3 of the ECHR and Article 4 of the EU Charter of fundamental rights.

The risk that the fundamental rights of Dublin returnees will be violated upon return to Italy has only increased following the changes to the Italian reception system introduced by the Salvini Decree, which entered into force on 5 October 2018 and which significantly affect the Italian reception system for the worse.

Finally, the experiences of the monitored vulnerable Dublin returnees emphasize that Member States must abide by their obligations under the Dublin III Regulation to ensure that the special needs of Dublin returnees are adequately addressed following a Dublin transfer to the responsible Member State. As illustrated by the case studies in this report, those responsible for addressing the special needs of vulnerable Dublin returnees often seem to be unaware of these, in spite of the transferring Member States' obligations under Articles 31 and 32 of the Dublin III Regulation to transmit information on any special needs of the person to be transferred.

1. Introduction

1.1. Background and objectives

In February 2017 the Danish Refugee Council (DRC) and the Swiss Refugee Council (OSAR) published a monitoring report with six case studies from the Dublin Returnee Monitoring Project (DRMP) through which the DRC and OSAR had monitored six families with minor children transferred to Italy under the Dublin III Regulation.¹

Through the DRMP, the DRC and OSAR found that despite the guarantees given by the Italian Ministry of Interior following the *Tarakhel v. Switzerland*² judgment, ensuring that families with minor children will be accommodated in a SPRAR³ centre after being returned to Italy under the Dublin III Regulation⁴, none of the six families with minor children had access to SPRAR centres upon arrival in Italy. On the contrary, it was very arbitrary how the Italian authorities had received them and despite belonging to a vulnerable group with special reception needs the Italian authorities did not seem to take these needs into consideration when deciding how to accommodate the families.

The DRMP report from February 2017 has since been referenced both nationally⁵ and internationally⁶ by legal practitioners in cases concerning Dublin transfers to Italy. In the case of *H and Others v. Switzerland* concerning the transfer of a family with minor children to Italy under the Dublin III Regulation, the ECtHR noted that the DRMP report shows that the assurances given by the Italian authorities are not always complied with in practice. However, the Court considered that the DRMP report only documented six cases and found that although this number of cases is not insignificant, at the same time it is not so high as to suggest that the assurances provided by the Italian authorities are *per se* unreliable.⁷

1 The Danish Refugee Council & Swiss Refugee Council, February 2017, *Is Mutual Trust Enough? The situation of persons with special reception needs upon return to Italy*.

2 ECtHR, *Tarakhel v. Switzerland*, application no. 29217/12. In its judgment from 4 November 2014, the ECtHR stated that returning a family with minor children to Italy may constitute a violation of Article 3 of the ECHR if the applicants were to be returned to Italy without the Swiss authorities having first obtained individual guarantees from the Italian authorities that the applicants would be taken charge of in a manner adapted to the age of the children and that the family would be kept together.

3 Sistema di protezione per richiedenti asilo e rifugiati.

4 Following the ECtHR's *Tarakhel* Judgment, the Italian Ministry of Interior sent a Circular Letter to all Dublin Units on 8 June 2015, guaranteeing that families with minor children returned to Italy under the Dublin III Regulation will be accommodated in a SPRAR project. Several such circular letters followed. The most recent Circular Letter from the Italian Ministry of Interior sent to all Dublin Units is from 4 July 2018 and lists 79 SPRAR projects dedicated to families transferred to Italy under the Dublin III Regulation.

5 The DRMP report has been used e.g. by the Rennes Administrative Tribunal (case no. 1705747) in its decision from 5 January 2018 to annul the decision to transfer a Sudanese asylum seeker from France to Italy under the Dublin III Regulation, as the Tribunal found that there are systemic deficiencies in the Italian asylum procedure and in the reception conditions which amount to inhuman or degrading treatment.

6 See ECtHR, *H and others v. Switzerland*, application no. 67981/16.

7 ECtHR, *H and others v. Switzerland*, application no. 67981/16, paragraph 21, emphasis in original. Although not referring to the DRMP report, on 3 September 2018 the CAT found that the transfer of a male torture victim to Italy under the Dublin III Regulation would violate his rights as protected by Articles 3, 14 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, see CAT, *A.N. v. Switzerland*, communication No. 742/2016.

It is against this background that the DRC and OSAR decided to continue the DRMP and to expand the monitoring project by including all persons considered vulnerable within the meaning of Article 21 of the Reception conditions Directive (recast) (RCD)⁸, who therefore have special reception needs⁹ within the meaning of Article 22 of the RCD, which states that Member States shall address the special reception needs of vulnerable persons.

By documenting 13 cases of vulnerable individuals and families transferred to Italy under the Dublin III Regulation, this report follows up on the findings from the first DRMP report from February 2017. By producing a second DRMP report, the DRC and OSAR aim to provide further insights into the Italian authorities' identification of vulnerable persons transferred to Italy as well as the reception conditions and access to the asylum procedure for Dublin returnees, whose special reception needs Member States are obliged to address in accordance with Article 22 of the RCD.

Furthermore, the case studies presented in this report demonstrate that the Member States do not comply with their obligations under Articles 31 and 32 of the Dublin III Regulation to cooperate in order to ensure that the special needs of vulnerable Dublin returnees are adequately addressed upon arrival in Italy. The case studies demonstrate that further action is required to ensure that the Dublin III Regulation is implemented in a way that safeguards the rights and immediate special needs of the Dublin returnees.

1.2. Recent political developments and their implications on the Italian asylum system

The number of new asylum seekers registered in Italy has steadily decreased in 2017 and 2018, in part because of the Italian authorities' cooperation with Libyan counterparts. A Memorandum of Understanding between the Italian and Libyan authorities¹⁰ was signed and entered into force in February 2017 for a period of three years. The Memorandum and other forms of cooperation¹¹ between the two countries to stem the flow of migration to Italy have been heavily criticized by international human rights organizations¹² and intergovernmental organizations¹³ alike. Similar past agreements between Gaddafi's Libya and Italy were condemned by the ECtHR in its judgment in *Hirsi Jamaa and others v. Italy*¹⁴, in which the Court ruled that the

8 Article 21 RCD (recast) 2013/33/EU contains a non-exhaustive list of vulnerable persons including minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

9 Article 2k RCD (recast) defines an applicant with special reception needs as a vulnerable person, in accordance with Article 21, who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in the directive.

10 For an English version of the Memorandum, see www.eumigrationlawblog.eu/wp-content/uploads/2017/10/MEMORANDUM_translation_finalversion.doc.pdf (last visited on 30 November 2018).

11 The Italian authorities allegedly approved payments made by the Libyan authorities to militias active in human trafficking to stop migrants in the city of Sabratha, as reported by the Associated Press, see Maggie, Michael, 29 August 2017, *Backed by Italy, Libya enlists militias to stop migrants*, www.apnews.com/9e808574a4d04eb38fa8c688d110a23d (last visited on 30 November 2018). The same article was referred to in parliamentary question of a Member of the European Parliament to which the Commission answered that it was not in a position to verify and comment on the allegations, see Question for written answer P-005567-17 to the Commission, available at: www.europarl.europa.eu/doceo/document//P-8-2017-005567_EN.html (last visited on 30 November 2018).

12 See among others Amnesty International, 1 February 2018, *A year after Italy-Libya migration deal, time to release thousands trapped in misery*, www.amnesty.org/en/latest/news/2018/02/a-year-after-italy-libya-migration-deal-time-to-release-thousands-trapped-in-misery/ and Human Rights Watch, 11 June 2018, *Italy's Dangerous Direction on Migration*, www.hrw.org/news/2018/06/11/italys-dangerous-direction-migration (both websites last visited on 30 November 2018).

13 See among others UNHCR, 10 April 2018, *Desperate Journeys – January 2017 to March 2018*, page 9, where UNHCR raises concerns that those intercepted or rescued at sea are transferred to detention facilities in Libya. See also the letter from the Commissioner for Human Rights from the Council of Europe to the Italian Minister of Interior of 28 September 2017, <https://rm.coe.int/letter-to-the-minister-of-interior-of-italy-regarding-government-s-res/168075baea> (last visited on 30 November 2018).

14 ECtHR, *Hirsi Jamaa and Others v. Italy*, Application no. 27765/09, 23 February 2012.

partnerships violated the principle of *non-refoulement*¹⁵ and the prohibition of collective expulsions.¹⁶

UNHCR reported 21,000 new arrivals in Italy by sea from January to September 2018, compared to 105,400 during the same months in 2017.¹⁷ This does not mean, however, that the pressure on the Italian asylum system is gone, as at the end of 2017 there were still 145,906 pending asylum applications at first instance.¹⁸

Furthermore, the Italian asylum system has undergone significant changes since the national elections in March 2018. Lega's Matteo Salvini – who has become Italy's Minister of Interior – pushed the Decree on Security and Migration, also known as the Salvini Decree. This Decree, which preliminarily entered into force on 5 October 2018 and was approved as law by the Italian Parliament on 28 November 2018, has considerably aggravated the situation of asylum seekers and migrants in Italy. The Salvini Decree will be discussed in more detail in Chapter 3.¹⁹

15 The Court found that when returning the complainants to Libya, the Italian authorities knew or should have known that the complainants became exposed to a risk of being arbitrarily returned to their countries of origin, see *Hirsi Jamaa and Others v. Italy*, Application no. 27765/09, 23 February 2012, paragraphs 156-158.

16 ECtHR, *Hirsi Jamaa and Others v. Italy*, Application no. 27765/09, 23 February 2012, paragraphs 185-186. In paragraphs 136-138 the Court also stated that the Italian Government exposed the complainants to a real risk of being subjected to treatment in Libya contrary to Art. 3 ECHR.

17 UNHCR, 30 September 2018, *Refugees & Migrants Arrivals to Europe in 2018 (Jan – Sep 2018)*, data2.unhcr.org/en/documents/download/66580 (last visited on 30 November 2018).

18 AIDA, March 2018, *Country Report: Italy*, page 7.

19 Already in October 2018 the changes to the Italian asylum system introduced by the Salvini Decree led national courts in other European countries to overturn decisions to transfer asylum seekers to Italy under the Dublin III Regulation due to asylum seekers' restricted access to reception conditions and health care upon arrival, see among others *Rechtbank Den Haag*, no. NL18.17748 of 18 October 2018 and *Le Tribunal Administratif de Pau*, N. 1802323 of 15 October 2018.

2. Legal Framework

According to well-established case law of the ECtHR, asylum seekers are a particularly underprivileged and vulnerable population group in need of special protection,²⁰ with asylum seeking children being identified as an extremely vulnerable group even when accompanied by their parents.²¹

In its M.S.S. judgment, the ECtHR found that poor reception conditions for asylum seekers and a lack of effective access to the asylum procedure can constitute a violation of Article 3 of the European Convention on Human Rights (ECHR).²² In *Tarakhel v. Switzerland* the ECtHR stated that the assessment of whether ill-treatment has attained a minimum level of severity and therefore falls within the scope of Article 3 is relative and depends on all circumstances of the case, such as the duration of the treatment and its physical or mental effects and, in some instances, the sex, age and state of health of the victim.²³

This was repeated by the ECtHR in *O.M. v. Hungary*²⁴, where the Court found that also lesbian, gay, bisexual, transgender or intersex (LGBTI) asylum seekers belong to a particular vulnerable group. The Court found that in order to avoid situations which may reproduce the plight that forced these persons to flee in the first place, the authorities should exercise particular care in the course of placement of asylum seekers who claim to be a part of a vulnerable group in the country which they had to leave.²⁵

Relevant case law concerning Dublin transfers of families with children to Italy, including the ECtHR judgments in the cases *Tarakhel v. Switzerland* and *N.A. v. Denmark*²⁶ is described in the DRMP report from February 2017, which also introduces relevant provisions concerning the rights of the child.²⁷

In the following the DRC and OSAR will introduce the most relevant provisions concerning Member States' obligations concerning the special needs of vulnerable asylum seekers. The focus is on the Reception Conditions Directive (recast) (RCD) and the obligations of Member States under Articles 31 and 32 of the Dublin III Regulation to cooperate in order to ensure that the special needs of vulnerable asylum seekers are met by the Member State responsible following a Dublin transfer.²⁸

2.1. Vulnerability in EU asylum law

Despite the lack of a consistent and principled understanding of the vulnerability of asylum seekers in EU law, the different Directives forming the Common European Asylum System (CEAS) contain different descriptions and definitions of which asylum seekers are considered vulnerable or as having special reception needs.

20 ECtHR, *M.S.S. v. Belgium and Greece*, application No. 30696/09, paragraph 251.

21 ECtHR, *Tarakhel v. Switzerland*, application no. 29217/12, paragraph 119.

22 ECtHR, *M.S.S. v. Belgium and Greece*, application No. 30696/09.

23 ECtHR, *Tarakhel v. Switzerland*, application no. 29217/12, paragraph 118.

24 ECtHR, *O.M. v. Hungary*, application 9912/15.

25 ECtHR, *O.M. v. Hungary*, application 9912/15, paragraph 53.

26 ECtHR *N.A. v. Denmark*, Application no 15636/16, judgment of 21st July 2016.

27 The Danish Refugee Council & Swiss Refugee Council, February 2017, *Is Mutual Trust Enough? The situation of persons with special reception needs upon return to Italy*, pages 7-10.

28 For more information on the concept and theoretical framework of vulnerability and special needs of applicants for international protection in EU law and international conventions, see ECRE, September 2017, *The concept of vulnerability in European asylum procedures*.

In its 2017 report on the concept of vulnerability in European asylum procedures²⁹, ECRE highlights the effect of the different ways of approaching and defining vulnerability under CEAS. This means that asylum seekers may be considered as in need of procedural guarantees under Article 29 of the Asylum Procedures Directive due to their gender or their sexual orientation or gender orientation, while not being explicitly considered as vulnerable or as having special reception needs under Article 21 of the RCD.³⁰

When determining which Dublin returnees to include in this report, the DRC and OSAR chose to rely on Article 22(3) of the RCD, which states that only vulnerable persons in accordance with Article 21 may be considered to have special reception needs. The non-exhaustive list of vulnerable persons in Article 21 of the RCD mentions vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

2.2. Identifying vulnerable persons with special reception needs

It follows from Recital 14 of the Reception Conditions Directive (recast) (RCD) that the reception of persons with special reception needs should be a primary concern for national authorities to ensure that such reception is specifically designed to meet their special reception needs.

Though EU asylum law does not determine exactly how national authorities are to identify asylum seekers with special reception needs, Article 22 of the RCD does explicitly oblige Member States to assess whether an asylum seeker has such special needs and the nature of these. This assessment shall be initiated within a reasonable period of time after an application for international protection is made and Member States are obliged to ensure that special reception needs are addressed in accordance with the RCD, also if they become apparent at a later stage in the asylum procedure.

2.3. Addressing the special reception needs of vulnerable asylum seekers

It follows from Article 17(2) of the RCD that Member States shall ensure that material reception conditions provide an adequate standard of living for all asylum seekers, which guarantees their subsistence and protects their physical and mental health. Furthermore, Article 17(2) states that Member States shall ensure that this standard of living is met in the specific situation of vulnerable persons, implying that what constitutes appropriate accommodation for vulnerable persons must be assessed in the individual case depending on the person's vulnerability.³¹

29 ECRE, September 2017, *The concept of vulnerability in European asylum procedures*.

30 ECRE, September 2017, *The concept of vulnerability in European asylum procedures*, page 15. On page 15, ECRE lists which categories of asylum seekers are considered vulnerable in national law in a number of European countries to illustrate how the lack of a clear definition of vulnerability in EU law has led to disparities in national law within the EU Member States.

31 This is similar to the argument made by the ECtHR in *O.M. v. Hungary*, application 9912/15, paragraph 53, concerning the detention of LGBTI asylum seekers, where the Court found that in order to avoid situations which may reproduce the plight that forced vulnerable persons to flee in the first place, the authorities should exercise particular care in the course of placement of asylum seekers who claim to be a part of a vulnerable group in the country which they had to leave.

Furthermore, Article 18(3) of the RCD requires Member States to take into consideration gender and age-specific concerns and the situation of vulnerable persons in accommodation centres. Article 19(2) entails a further obligation for Member States to provide necessary medical or other assistance to applicants who have special reception needs, including appropriate mental health care where needed, and Article 25(1) requires Member States to ensure that victims of torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care.

Concerning the reduction or withdrawal of material reception conditions in accordance with Article 20(5) of the RCD, Member States are required to base such decisions on the particular situation of the person concerned and to take into account the principle of proportionality, especially with regard to persons considered vulnerable under Article 21. Furthermore, it follows from Article 20(5) of the RCD that Member States under all circumstances shall ensure access to health care where needed for persons with special reception needs.

2.4. Obligations towards vulnerable asylum seekers under the Dublin III Regulation

Article 31 of the Dublin III Regulation obliges the transferring Member State, in so far as such information is available to the competent authority in accordance with national law, to transmit to the responsible Member State any information that is essential in order to safeguard the rights and immediate special needs of the person to be transferred, in order to ensure that the special needs of the Dublin returnee are adequately addressed, including any immediate health care that may be required.

More explicitly, it follows from Article 32(1) of the Dublin III Regulation that for the sole purpose of the provision of medical care or treatment, in particular concerning disabled persons, elderly people, pregnant women, minors and persons who have been subject to torture, rape or other serious forms of psychological, physical and sexual violence, the transferring Member State shall inform the responsible Member State of any special needs as long as the asylum seeker has given an informed consent to the transfer of this information. Furthermore, the responsible Member State is under the obligation to adequately address these needs.

For this purpose, the transferring Member State is obliged to use the standard form set out in Annex VI of the Commission Implementing Regulation (CIR) when informing the responsible Member State of the needs of the person to be transferred.³² It follows from the CIR that the Member States shall endeavor to agree prior to the transmission of the health certificate on the language to be used in order to complete that certificate, taking into account the circumstances of the case, in particular the need for any urgent action upon arrival.³³

³² Commission Implementing Regulation 2014/118/EU of 30 January 2014, Article 1(3).

³³ Commission Implementing Regulation 2014/118/EU of 30 January 2014, Article 1(9).

3. The Italian Reception System

This chapter is based on the formal rules regulating the Italian reception system before the Salvini Decree entered into force on 5 October 2018. The DRC and OSAR have observed that the Italian reception system did not function as illustrated below in practice. However, the following presents how the Italian reception system officially functioned at the time of the Dublin transfers described in Chapter 4.

Officially, the Italian reception system used to consist of three types of centres, namely First Aid and Assistance Centres (CPSA), First-Line Reception Centres (CARA³⁴ and CDA), and Second-Line Reception Centres (SPRAR). Next to that, there were Emergency Reception Centres (CAS) that accommodate asylum seekers if the capacity of the other centres is insufficient. Most new arrivals will arrive at a Hotspot, however, as the focus of this report is on asylum seekers transferred to Italy under the Dublin III Regulation, a more detailed description of the pre-identification and registration carried out in the Italian hotspots is outside the scope of this report.³⁵

Before the Salvini Decree, the functions of these three types of centres were as follows:

- (1) First Aid and Assistance centres (CPSA) were set up in the principle hubs of disembarkation, where asylum seekers were identified and subsequently transferred to First Line Reception Centres.³⁶
- (2) First-Line Reception Centres are collective state centres which, according to the website of the Ministry of Interior, host either asylum seekers (CARA) or foreigners whose residency status needs to be clarified (CDA).³⁷ If the capacity of these centres is insufficient, asylum seekers are accommodated in big Emergency Reception Centres (CAS), accommodation centres run by private parties contracted by the state.³⁸ Despite being intended for emergencies, 80% of the asylum seekers in Italy are accommodated in a CAS centre.³⁹

34 With Decree 142/2015 the name CARA was changed to CPA. However, as these centres are still most commonly referred to as CARA, CARA is used throughout this report, including in the case studies in Chapter 4.

35 For further information on the Italian hotspots, and the fundamental rights challenges voiced by the Danish Refugee Council, see The Danish Refugee Council, October 2017, *Fundamental Rights and the EU Hotspot Approach*.

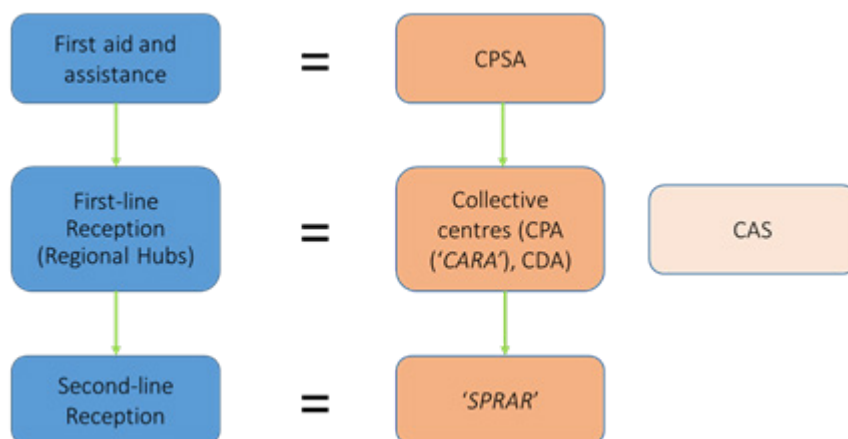
36 According to the website of the Italian Ministry of Interior, see www.interno.gov.it/it/temi/immigrazione-e-asilo/sistema-accoglienza-sul-territorio/centri-limmigrazione. If a person e.g. refuses to undergo identification and digital fingerprinting, or if the asylum application is considered to have been made for the sole purpose of delaying or preventing a removal order, the person can also be detained in a closed removal centre (CPR), see Council of Europe, 10 April 2018, *Report on the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 7 to 13 June 2017*, page 21.

37 See the website of the Italian Ministry of Interior, see www.interno.gov.it/it/temi/immigrazione-e-asilo/sistema-accoglienza-sul-territorio/centri-limmigrazione (website last visited on 12. december 2018).

38 For further information on conditions at CAS centres, see the report of Medici per i Diritti Umani (MEDU), April 2016, *Asilo Precario I Centri di Accoglienza Straordinaria e l'esperienza di Ragusa*, www.mediciperidirittiumani.org/pdf/MEDU_Rapporto_CAS_26_aprile_FINALE.pdf (last visited on 30 November 2018).

39 AIDA, March 2018, *Country Report: Italy*, page 14.

- (3) Second-Line Reception is provided through The Protection System for Asylum Seekers and Refugees (SPRAR). The law does not specify how long asylum seekers should stay in First-Line Reception centres before being transferred to Second-Line Reception, except that asylum seekers should only stay in First-Line Reception for the “time strictly necessary” to be transferred to a SPRAR centre.⁴⁰ However, as documented by the case studies in this report, asylum seekers often remain in First-Line Reception or in CAS centres also after being granted international protection. SPRAR centres offer integration services and are also meant to provide special reception services to vulnerable asylum seekers.⁴¹ The SPRAR centres are sometimes run by local private actors in cooperation with local NGOs or by NGO’s in collaboration with municipalities, and they provide food and housing, and, prior to the Salvini Decree, they also offered legal and social counselling.⁴²



(Figure 1: The Italian reception system before the Salvini Decree.)

3.1. Identification of vulnerable asylum seekers

According to the 2017 AIDA⁴³ country report on Italy, there is no specific identification mechanism in place in Italy to systematically identify vulnerable asylum seekers, including unaccompanied minors.⁴⁴ This implies that persons with visible vulnerabilities such as pregnant women or single-parent households, unaccompanied minors or people with disabilities are usually identified much sooner than those with non-visible vulnerabilities such as victims of human trafficking or torture.⁴⁵

40 AIDA, March 2018, *Country Report: Italy*, page 70.

41 The SPRAR website explains that SPRAR provides special reception services to vulnerable asylum seekers such as unaccompanied minors, (temporarily) handicapped persons, persons that require health care, specialist care and long-term care, elderly persons and victims of torture and other forms of violence, see, SPRAR, *SPRAR & Servizio Centrale*, www.sprar.it/la-storia (last visited on 30 November 2018).

42 See SPRAR, *English*, www.sprar.it/english (last visited on 30 November 2018).

43 The Asylum Information Database (AIDA) is a database managed by the European Council on Refugees and Exiles (ECRE), containing information on asylum procedures, reception conditions, detention and content of international protection across 23 countries.

44 AIDA, March 2018, *Country Report Italy - 2017 Update*, page 51.

45 ECRE, September 2017, *The concept of vulnerability in European asylum procedures*, page 31.

3.2. Withdrawal of reception conditions

In regard to asylum seekers' risk of losing their right to accommodation, the AIDA country report mentions that under Article 23(1) of Legislative Decree 142/2015 the Prefettura of the Province, where the asylum seeker is accommodated, may decide on an individual basis and with a motivated decision, to revoke material reception conditions. Material reception conditions can be revoked, without any assessment of the asylum seeker's risk of destitution, on grounds that are exhaustively listed in the Decree, including if the asylum seeker has left the centre without notifying the competent Prefettura or has previously lodged an asylum application in Italy.⁴⁶

Although an assessment of the vulnerability of the asylum seeker is required by law – both in case of a revocation of material reception conditions and in case of readmission to an accommodation centre – an asylum seeker's risk of losing the right to accommodation seems to vary depending on which province he or she is assigned to. For instance, the Prefettura of Verona⁴⁷ issued a note on 22 September 2017 providing for the automatic withdrawal of reception conditions, without any evaluation of individual circumstances, in case of unauthorized absence of just one night from the accommodation centre if this absence is not adequately justified, or if the asylum seeker has been absent from more than one Italian language course.⁴⁸

An asylum seeker can appeal if he or she loses the right to accommodation and should be entitled to free legal aid,⁴⁹ even though access to legal aid in practice is difficult. Nonetheless, using data from only 35 out of 100 Prefettura, at least 22,000 asylum seekers were found to have lost the right to accommodation between 2016 and 2017.⁵⁰

3.3. The changes introduced by the Salvini Decree

Since Decree No. 113/2018 on Security and Migration (also called the 'Salvini Decree') entered into force on 5 October 2018⁵¹ asylum seekers, except for unaccompanied minors, no longer have access to SPRAR centres.⁵² As a result, the name SPRAR was changed to System of Protection for Holders of International Protection and Unaccompanied Minors.⁵³

46 AIDA, March 2018, *Country Report Italy - 2017 Update*, page 76.

47 Similarly, the Prefettura of Naples adopted a regulation providing the withdrawal of reception measures for asylum seekers accommodated at a CAS centre in case of unauthorized departure from the centre, understood as the mere return after 22:00 in the spring or 21:00 in the summer. This regulation has since been challenged by ASGI. See AIDA, March 2018, *Country Report Italy - 2017 Update*, page 77.

48 AIDA, March 2018, *Country Report Italy - 2017 Update*, page 77.

49 AIDA, March 2018, *Country Report Italy - 2017 Update*, pages 77.

50 Altreconomia, 1 March 2018, *Richiedenti asilo: I numeri record delle revoche dell'accoglienza*, bit.ly/2FVb7Eg (last visited on 30 November 2018).

51 The Decree was approved by the Senate on 7 November 2018 and became law after being approved by the Parliament on 28 November 2018.

52 Article 12 of the Salvini Decree.

53 As DRMP monitored the situation of asylum seekers returned to Italy before the Salvini Decree entered into force, the name SPRAR is used throughout the report.

Asylum seekers are now to be accommodated in the collective centres (CARA, CDA or CAS) until a final decision on their asylum application has been made. Except for unaccompanied minors, only those granted international protection⁵⁴ (and their family members) can be accommodated in SPRAR centres.⁵⁵ In its press release, the UNHCR voiced concerns about the negative impact of the measures introduced by the Decree on the Italian reception and asylum system.⁵⁶

On 25 October 2018 the Italian Ministry of Interior confirmed the practical consequences of the Salvini Decree in a letter addressed to all SPRAR centres.⁵⁷ The letter specifies that asylum seekers already offered accommodation in a SPRAR centre before 5 October 2018 remain entitled to accommodation in a SPRAR centre, but henceforth no asylum seekers, except for unaccompanied minors, are allowed to enter and stay in a SPRAR centre. The letter from the Ministry of Interior explicitly mentions that also vulnerable asylum seekers are henceforth excluded from SPRAR centres.

Access to the Italian health care system, except for emergency treatment, is conditional on a person first obtaining a residence card in order to be issued a European Health Insurance Card, which will be valid for the same period as the residence card.⁵⁸ Asylum seekers are only entitled to emergency treatment until their asylum application has been officially registered by the Questura.⁵⁹ As the Salvini Decree determines that asylum seekers will no longer be issued with a residence card,⁶⁰ asylum seekers will henceforth only have access to the health care services provided at their accommodation centre. The First-Line collective centres, where all newly registered asylum seeker will be accommodated, offer only limited access to emergency health care,⁶¹ whereby the Salvini Decree further restricts asylum seekers' access to specialized health care.

Other changes introduced by the Salvini Decree include the abolition of the 'humanitarian residence permit', the form of protection that was previously the most used in Italy.⁶² To replace the humanitarian residence permit, the Salvini Decree introduced new residence permits for 'exceptional cases'.⁶³

54 However, according to information received from ASGI on 24 November 2018 by e-mail, those granted a residence permit for "special cases" or "special protection" will be excluded from SPRAR.

55 Article 12 of the Salvini Decree.

56 UNHCR, 5 November 2018, *UNHCR richiama l'attenzione sull'impatto di alcuni provvedimenti sulla protezione internazionale oggi in discussion al Senato*. Also the Commissioner for Human Rights at the Council of Europe has voiced her concerns about the Decree's negative impact on the human rights of migrants and asylum seekers, see ANSA, 15 November 2018, *Govt's security decree step back – CoE*.

57 Letter from the Italian Ministry of Interior to the operators of SPRAR projects, dated 25 October 2018, www.asgi.it/wp-content/uploads/2018/10/9343_-Operatività-SPRAR-DL-113-2018.pdf, (last visited on 30 November 2018).

58 AIDA, March 2018, *Country Report Italy - 2017 Update*, page 93.

59 AIDA, March 2018, *Country Report Italy - 2017 Update*, page 93, also OSAR, August 2016, *Reception conditions in Italy - Report on the current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, www.refugeecouncil.ch/assets/news/2016/161031-final-englisch-sfh-bericht-italien-aufnahmebedingungen.pdf (last visited on 30 November 2018).

60 Article 13 of the Salvini Decree.

61 AIDA, March 2018, *Country Report Italy - 2017 Update*, page 75.

62 According to data published by the Italian Ministry of Interior, the number of humanitarian residence permits issued during the first 10 months of 2018 was 19,485, see Ministero Dell'Interno, 9 November 2018, *Dati e statistiche della Commissione Nazionale per il Diritto di Asilo*, www.libertacivilimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/i-numeri-dellasil (last visited on 30 November 2018).

63 Article 1(2) of the Salvini Decree.

4. Case studies

The following 13 case studies document the situation of vulnerable individuals or families transferred to Italy under the Dublin III Regulation. For further information on how the 13 cases have been identified and how their situation has been monitored, see chapter 6.

Case 1: A single woman with mental disorders transferred to Rome

The case concerns a 23-year-old woman suffering from PTSD, depression and gynecological problems. She applied for asylum in the Netherlands in November 2016, where she received intensive treatment for her mental and physical health problems. Prior to the Dublin transfer to Italy, a psychologist found she had a high risk of suicide.

On 22 June 2017 she was transferred from the Netherlands to Italy under Article 13(1) of the Dublin III Regulation, as she had been registered as having irregularly crossed the Italian border from a third country. She was transferred to Fiumicino Airport in Rome.

Reception in Italy

Upon arrival the woman spent about 10 hours at the airport, where she was only in contact with the Italian police.

She did not receive her luggage when she was transferred from the airport to a tent camp, so the DRMP's interviewer attempted to intervene. Unfortunately, the interviewer was unsuccessful and she never received her belongings after the Dublin transfer.⁶⁴

Accommodation

After asking for asylum at the airport, the woman was taken to a tent camp near Rome, which hosted approximately 600 asylum seekers, including men, women and children. She was informed that there were not enough places at the SPRAR centres, but that she was on a waiting list to enter a SPRAR centre.

At the tent camp she initially had to share a tent with five to eight other women (the number fluctuated constantly). She described the conditions at the tent camp as harsh. Approximately 50 women shared a portable toilet and she says that the camp was in an appalling sanitary condition.

After about three months at the tent camp she was transferred to a CARA centre, where she had to share a room with three adults and two children. The conditions at the CARA centre were also poor, with toilets and showers being very dirty and with mice and bugs inside the building.

It was only in October 2018, 16 months after the transfer, that she could move from the CARA centre to a SPRAR centre. She signed a contract with the SPRAR centre in which the services of the SPRAR centre included legal advice, pocket money and health care, but at the time of the final DRMP interview on 19 November 2018 she had not been able to access any of these. The SPRAR centre is an old building that she states was only cleaned and painted prior to a visit by UNHCR. She is afraid to ask about her rights, as she has experienced that this can lead to fights with the administration, which she fears could negatively affect her situation.

⁶⁴ Luggage that gets lost is a problem that often occurs, see OSAR, August 2016, *Reception conditions in Italy - Report on the current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, page 24. www.refugeecouncil.ch/assets/news/2016/161031-final-englisch-sfh-bericht-italien-aufnahmebedingungen.pdf (last visited on 30 November 2018).

Upon entering the SPRAR centre she was informed that she could stay for six months, after which she is expected to take care of herself. During the final DRMP interview, she said that she is uncertain about how she will be able to take care of herself, as she only has language courses once a week and has not received any assistance in finding a job.

Health care

Despite receiving psychological treatment in the Netherlands, the staff at the tent camp informed her not to expect access to health care, as only emergency treatment was available, and her situation was not considered sufficiently urgent.

The DRMP's interviewer intervened and talked to a psychologist working at the tent camp and towards the end of her 3-months stay at the tent camp, she got an appointment with a psychologist. The treatment was ended after three sessions.

At the CARA centre she was unable to access specialized health care. As she needed to meet with a gynecologist, but could not access one, the DRMP's interviewer once again had to intervene and introduced her to an NGO providing the necessary examinations for free.

After receiving her residence permit in January 2018, she did not receive her Health Care Card. She only received this card in June 2018 after the DRMP's interviewer had intervened.

Access to the asylum procedure

She applied for asylum at the airport upon arrival and after about two months the DRMP's interviewer intervened to put her in contact with an NGO providing legal assistance to asylum seekers.

She was granted international protection in January 2018.

Case 2: A female victim of physical and psychological violence transferred to Rome

The case concerns a 33-year-old woman who arrived in Europe in December 2016 with an Italian visa together with her husband, who had often beaten and threatened her. In Europe she suffered a miscarriage and to escape the risk of honor killing at the hands of her husband or her own family, she fled from her husband.

She travelled to Denmark and applied for asylum on 29 May 2017. On 13 June 2017 the Danish Immigration Service decided to send a take charge request to the Italian authorities under Article 12(4) of the Dublin III Regulation, as she had an expired Italian visa. The Italian authorities accepted by default, as they did not respond to the take charge request within the time limit in Article 22. The Dublin decision became final on 3 November 2017 and she was transferred to Fiumicino Airport in Rome on 13 December 2017.

Reception in Italy

Upon arrival she had to spend two nights at the airport where she was provided with food. She was not allowed to leave the airport during this time and slept on the seats in a waiting room. After approximately 24 hours she had an interview with the Italian police and was able to ask for asylum with the help of an interpreter.

Upon leaving the airport she was referred to a CAS centre, but as she did not know how to reach the CAS centre when she arrived in Rome at 1 a.m. she had to sleep on the streets outside Termini train station. Before the transfer, the Danish police had informed her that she might have to sleep on the streets in Italy, so she had brought a blanket with her from Denmark, which she used to stay warm.

Accommodation

In the morning she managed to find her women-only CAS. Her room was very small, and she had no privacy as the room was shared between six women. This led to much frustration among the women, resulting in an aggressive atmosphere and numerous fights.⁶⁵ The staff informed her not to leave her personal belongings unattended in her room as they might get stolen.

Some of the women used their room to sell narcotics and for prostitution. They often suggested that she could also work as a prostitute, which she refused. The situation at the CAS centre became so unbearable, that she found it impossible to remain in the centre.

After three months at the CAS centre, an Italian NGO put her in contact with an Italian woman (private person) whom she could stay with for two weeks. To pay the woman she worked for three weeks at a restaurant in Rome, where the owners refused to pay her, wherefore so she only received tips from customers. When she had to leave the woman, the same Italian NGO put her in contact with an Italian family whom she stayed with for one month. Thereafter the NGO found a family whom she stayed with for approximately two months in exchange for domestic work 30 hours a week. In the end she felt abused and found the situation in the house so unpleasant that she returned to the CAS centre after she had been granted international protection in June 2018. While living with private families she had returned to the CAS centre every day to register, so she would not lose her right to accommodation.

Upon returning to the CAS centre she had to stay in the same room in the same situation as before. One night the Italian police who were searching for hidden narcotics raided the room, which made her feel very scared.

In August 2018 she was sent to a SPRAR centre where she feels safer. She does not know for how long she can stay at the SPRAR centre. In November 2018 she said that she had recently been given access to an Italian language course.

Health care

Approximately one month after the transfer to Italy she was referred to a doctor. The CAS centre also organized an appointment for her at an Anti-Violence Centre where she met with a psychologist. However, after only a few therapy sessions she was informed that she could not continue with the therapy.



The Danish police had warned the woman described in case 2 that she might have to sleep on the streets in Italy after the Dublin transfer. She had therefore brought a blanket with her from Denmark, which she used to stay warm when she had to sleep outside Termini train station in Rome. The picture was taken by the woman and sent to the DRC.

⁶⁵ During the final interview on 13 November 2018, she played several audio recordings to proof to the DRC and OSAR that some of the other women fought and argued very loudly at night.

Access to the asylum procedure

At the CAS centre she met a legal advisor who helped with her asylum case and after an interview with the Italian authorities on 30 May 2018 she was informed in June 2018 that she had been granted refugee status.

Case 3: A male victim of physical violence transferred to Rome

The case concerns a 34-year-old man who was shot by the authorities of his country of origin when fleeing the country. His wife fled their country of origin a few weeks later, and they lived together for approximately two years in a neighboring country. As the situation in that country also became unsafe, they decided that the husband should try to receive international protection in Europe, so the wife could avoid exposing herself to further danger and enter Europe legally after being granted family reunification. The man traveled through Libya, where he was detained for five months, before entering Europe through Italy in October 2016. He applied for asylum in Germany on 17 November 2016.

As her situation became increasingly dangerous, his wife had to escape to Europe as well and she managed to enter Europe through Italy while her husband was still in Germany. Upon arrival she was accepted for relocation from Italy to Germany.

However, on 20 July 2017 the man was transferred from Germany to Fiumicino Airport in Rome under Article 13(1) of the Dublin III Regulation, as he had irregularly crossed the Italian border from a third country.

Reception in Italy

Upon arrival he spent two nights at the airport without receiving any assistance before he was transferred to a tent camp in Rome.

He wanted to go to his wife, who was accommodated in the south of Italy while waiting to be relocated to Germany. However, the staff at her centre had informed her that she would not be relocated to Germany if her husband came to her. The couple thought that their best chance of being together was if she was relocated to Germany, after which he could apply for family reunification, and he therefore stayed in his tent camp in Rome and did not go to his wife in the south of Italy. The couple received no legal assistance.

Accommodation

He spent approximately two months at a tent camp under conditions he describes as very bad. After two months he was allowed into a CARA centre, where he shared a room with five other men. He describes the room as a dirty storage room but with windows and access to toilets and showers. Although better than the tent camp, the CARA centre was extremely crowded and dirty, and he felt unsafe.

In April 2018, almost five months after he was granted refugee status in Italy, he was informed that he could move to a SPRAR centre, where he was provided with a single room. He did not receive pocket money despite asking for it on several occasions, and he says that sometimes he had to go to bed hungry. After having had discussions with the administration of the SPRAR centre, he was told to leave the centre. The police returned him to the centre after arresting him for sleeping on the streets. At the beginning of November 2018 he was asked to leave the SPRAR centre, as he was no longer entitled to accommodation. He has since then lived on the streets.

Health care

Despite having problems with the gunshot wound, which is not healing properly, he was unable to access health care at the tent camp, where his physical health deteriorated.

At the CARA centre he went to the doctor as he started to feel ill. However, he was informed that the doctor inside the centre only deals with emergencies and therefore could not help him. In February 2018, after several failed attempts to see a doctor, he was finally allowed an appointment with a doctor after he had started coughing up blood. His test results showed that he had become sick with tuberculosis, most likely while at the CARA centre, which he believes is due to the unsanitary conditions at the centre. After he was

diagnosed, he was hospitalized and started receiving medical treatment. Nonetheless, he was sent away from the SPRAR centre in November 2018 despite being ill and receiving treated for tuberculosis. At the time of the final interview on 19 November 2018 he was living on the streets.

Access to the asylum procedure

He was able to register his asylum application upon arrival in Italy and had an interview with the Italian authorities on 3 November 2017 after which he was granted refugee status. However, he never spoke with a legal advisor and was never informed of his rights as an asylum seeker in Italy, including information on how best to be reunited with his wife. At the time of the final DRMP interview on 19 November 2018 the couple remained separated.

Case 4: A single mother with four minor children transferred to Varese

The case concerns a single mother with four minor children aged 3, 5, 10 and 12 and an older daughter aged 18. The mother suffers from a nervous disorder and applied for asylum on behalf of her children and herself in Rome on 17 May 2017. On 21 May 2017 the family applied for asylum in Denmark.

The Danish Immigration Service sent take back requests to the Italian Immigration Authorities on 8 June 2017 and 13 June 2017 under Article 18(1)(b) of the Dublin III Regulation, as the family had been registered as asylum seekers in Italy, and the Italian authorities became responsible by default. The Dublin decisions became final on 2 August 2017. On 30 January 2018 the mother and her children were transferred to Milan Malpensa airport in Varese.

Reception in Italy

Upon arrival the Italian police brought the family to a room in the airport where they were held for approximately seven hours. A police officer informed the mother that she had applied for asylum in Taranto and had to return thereto. The mother informed the police that it was a mistake as she had not applied for asylum in Taranto in southern Italy but in Rome.

At the airport she asked for an interpreter, but her request was denied. She also asked that her children could leave the room to find some food, but also this request was denied and instead the police offered the children some biscuits. The 12-year-old daughter was not allowed to use the toilet and urinated on the floor in the room where the family was held.

After approximately seven hours the mother was informed that she would be issued a fine if she did not return to Taranto. She was also informed that she and her children would not be released until she signed a document accepting to go to Taranto. After signing the document, the family received their luggage and was taken to a train station.

As she was certain that a mistake had been made, the mother took her children to the airport in Rome where they had previously applied for asylum. At the airport she explained her family's situation but was again instructed to go to Taranto. The family slept on the floor at the airport for three nights while hoping the Italian authorities would realize that they had made a mistake. At the airport persons passing by provided them with some food and water. At the airport she received a fine because of where she had placed the family's luggage.

After three days at the airport she agreed to go to Taranto. They arrived late in the evening and sat on the street while waiting for the local Questura to open. A passer-by helped the family find a humanitarian organization where they received a place to sleep.

The staff at the Questura in Taranto informed her that a mistake had been made, and that she and her children had to go to the Questura in Rome to register their asylum applications. On 3 February 2018 she was given an appointment at the Questura in Rome on 7 February 2018.

Accommodation

In Taranto the family was accommodated by a local NGO for a few days before returning to Rome. The family slept in a dirty room in the basement without a toilet. Instead of a shower there was a bucket with water. After washing the children with the water, the children got red marks on their bodies and the mother thinks that the water was infected with bacteria or small insects.⁶⁶

There was no interpreter present, but at the Questura in Rome the mother understood that she and her children had lost the right to accommodation as they had previously left Italy after applying for asylum.

Health care

Because they had lost their right to accommodation they would only be able to access emergency health care, even though the children had red marks on their bodies, presumably after being washed with dirty water.

Access to the asylum procedure

Upon arrival at the Questura in Rome there was a very long queue and the mother and children had to wait all day. When it was their turn, the mother was told she had made a mistake going to Taranto. Without an interpreter, she was informed that she and her children had lost their right to accommodation and would need to get an Italian address before she could be issued a residence permit in case she was found eligible for international protection.

Because she would have to be on the streets with her children if she applied for asylum, the mother gave up on her asylum application in order to get back her passport, which had been in the Italian authorities' possession since she first applied for asylum. She was afraid of returning to her country of origin but felt she had no choice, as she could not live on the streets in Italy with her children. During the final DRMP interview on 17 August 2018, which took place on the phone, she said that she and her children now live in hiding in their country of origin for reasons related to the original asylum motive.

Case 5: A single woman with a mental disorder transferred to Varese

The case concerns a 41-year-old woman diagnosed with PTSD with a high risk of suicide. She entered Italy on 1 April 2017 with an Italian visa and applied for asylum in Switzerland on 20 April 2017. On 21 March 2018 she was transferred from Switzerland to Milan Malpensa airport in Varese under Article 12(4) of the Dublin III Regulation, because of her expired Italian visa.

Reception in Italy

Upon arrival the woman was asked by the Italian authorities to wait at the airport, but during the day no one offered her any assistance or information on her situation as a Dublin returnee. Some of her friends knew people in Italy who helped her contact the Italian authorities at the airport, but the Italian authorities asked her to return the following day for further information. She was not provided with any accommodation but was able to spend the night at her acquaintances' place. The following day she was once again asked by the Italian authorities to wait 24 hours for further information on her situation. She ended up staying with her acquaintances for a week, after which she paid for a cheap hotel room in order to avoid sleeping on the streets. She finally received accommodation on 4 April 2018.

⁶⁶ The mother sent pictures of her children's red marks to the DRC to show how poorly she and her children were accommodated.

Accommodation

From 4 April 2018 day until 9 May 2018 she was accommodated at a CAS centre, which was an old hotel accommodating about 40 asylum seekers. She was the only woman at the hotel except for one other woman, who was there with her husband, and who left two weeks later. Upon arrival, she discovered that she was not expected before the following day, but the staff found her a single room, which was so dirty that she had to buy cleaning materials in order to clean the room herself. Apart from the first two weeks, during which there was one other asylum seeker who spoke her language, no one at the CAS centre spoke her language and she therefore felt extremely isolated.

Being the only single woman at a practically all-male CAS centre at an isolated location she felt very uncomfortable, especially as she had to share toilets and showers as well as a kitchen with the male asylum seekers. The staff was not always present and during the weekends the asylum seekers were left alone, with no staff present, which made her feel very unsafe.

The interviewer from the DRMP was informed by staff at the CAS centre that she should expect to stay at the centre for a long time and therefore intervened in her case. The interviewer, who is an Italian lawyer, contacted the Questura and on 9 May 2018 she was transferred to an all-female CAS centre. This CAS centre accommodates only 9 asylum seekers in total and she shares a room with a single mother and her baby. All the women cook their own meals and take turns cleaning the house, but she feels very unwelcome as the staff will only speak to her in Italian and seem unwilling to help her access the necessary health care.

Health care

The woman suffers from depression and PTSD and was treated by a psychologist in Switzerland after a suicide attempt prior to the Dublin transfer. On 12 April 2018 she was issued an Italian Health Card, and during her last week at the all-male CAS centre (approximately 1,5 months after the Dublin transfer) she managed to see a psychologist.

To make the therapy session possible, one of her acquaintances, who had accommodated her after she came to Italy, had to function as an interpreter, which had a negative impact on her ability to speak freely about her traumas. Just before she was transferred to the all-female CAS centre, she became sick with a bladder infection. The emergency doctor gave her antibiotics and said she needed to be checked again after finishing the tablets.

Upon arrival at the all-female CAS centre her mental health had deteriorated due to the conditions at the all-male CAS centre. However, due to the fact that she was transferred to a different centre, she had to wait two months before she could get a new appointment with a psychologist, which only happened after the DRMP's interviewer intervened in the case. In order to continue her treatment, she had to pay to have her medical files from Switzerland translated to Italian, and she still had to ask an acquaintance to provide translation for the sessions with the psychologist.



The picture shows the woman described in case 5, who was diagnosed with PTSD and with a high risk of suicide prior to being transferred from Switzerland to Italy. She was not accommodated until 14 days after the Dublin transfer, after which she was accommodated as the only single woman at a CAS centre with about 40 men.

After entering the all-female CAS centre, she also had to wait two or three weeks to see a doctor, despite informing the staff that she had run out of antibiotics for her bladder infection. Due to the language barrier she was unable to continue her treatment, as the doctor would not find an interpreter. In the end she had to wait four weeks to get her medicine after being moved to the all-female CAS.

Although she should have been transferred to a SPRAR centre after being granted international protection, the staff at the CAS centre has not made the necessary arrangements. During the final DRMP interview on 15 November 2018, she was afraid that the CAS centre wants to keep her and thereby continue to earn money from accommodating her at the centre.

Access to the asylum procedure

On 9 April 2018 she went to the Questura where she was given an appointment for the formalization of her asylum application on 15 September 2018. No interpreter was present, and she was not informed about the asylum procedure except that she had to fill out the C/3 form⁶⁷ herself.

As the Italian authorities had not identified her as vulnerable, the DRMP's interviewer intervened in her case and contacted the Questura. The interviewer was informed that to be recognized as vulnerable, the woman needed to be diagnosed by an Italian psychologist, after which the interviewer's colleague helped the woman find a psychologist who would meet with her if she had the Swiss medical files translated to Italian.

In July 2018 she was asked to appear before the Questura for an interview, where she was also allowed to formalize her asylum application. However, she was not informed of the reasons for the interview. As the staff at the Questura cannot make decisions on asylum applications, the DRMP's interviewer unsuccessfully tried to find out why they had conducted an interview. Neither at the first or second CAS centre was she offered legal assistance.

After the diagnoses of the Swiss psychologist had been confirmed by the Italian psychologist, the colleague of the DRMP interviewer handed the psychologist's report to the Territorial Commission. As a result, she was recognized as vulnerable and her asylum application prioritized. She was recognized as a refugee in October 2018.

Case 6: A mother with two babies transferred to Varese

The case concerns a woman who had entered Italy illegally on 27 June 2017 and applied for asylum the following day together with her husband and their two children aged 4 and 6. The family was accommodated in a single room at a CARA centre in conditions they describe as very poor as there were mice and insects in their room.

The family left Italy and went to Germany, where the woman, who was pregnant, was separated from her husband and their two children, as they had been forced to drive in separate cars. She continued with a group of refugees towards Sweden, where she gave birth to twin boys on 15 March 2018. To avoid being returned from Sweden to Italy, she traveled onwards to Norway, where she applied for asylum on 12 July 2018. The Norwegian authorities decided to transfer her and the babies to Italy under Article 18(1)(b) of the Dublin III Regulation, because she was registered as having applied for asylum in Italy. The decision became final on 31 July 2018 as the Italian authorities had become responsible by default and she was transferred to Milan Malpensa airport in Varese on 28 August 2018.

⁶⁷ C/3 is the form with which the registration is formally registered; see OSAR, August 2016, *Reception conditions in Italy - Report on the current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy*, page 18. www.refugeecouncil.ch/assets/news/2016/161031-final-englisch-sfh-bericht-italien-aufnahmebedingungen.pdf (last visited on 30 November 2018).

Prior to the transfer, the woman received medical and psychological treatment in Norway.

As the Italian authorities became responsible by default, the woman and her babies were returned under the Dublin III Regulation although she had been granted international protection during her first stay in Italy.

Reception in Italy

Upon arrival she had to wait for four hours at the airport with nothing to eat or drink. Without an interpreter present, she was told to sign some documents after which she was asked to leave the airport. As she did not know where to go, she refused to leave. Only then did the police arrange for her to be transferred to a CAS centre in Varese.

Accommodation

She stayed in the CAS centre for five days, during which she received no legal assistance and no health care for her or the babies.

After five days in the CAS centre, she was told to travel to a SPRAR centre in the southern part of Italy, as the Italian authorities had discovered that she had already been granted refugee status before being returned to Italy under the Dublin III Regulation.

Upon arrival at the SPRAR centre there were no cradles for the babies, so she had to sleep with the babies in one bed. During the first three days the cooking stoves did not work, and she did not have enough food for herself or the babies.

While in the SPRAR centre, the woman managed to reestablish contact with her husband, who had been returned from Germany to Italy with the couple's older children. The husband and children had been accommodated at the CAS centre where the family had first been accommodated under very poor conditions.

To reunite the family, the father and two older children, aged 4 and 6, went to the woman's SPRAR centre where the managers of the centre informed her that she was not allowed to have visitors and therefore would lose her right to accommodation if the husband and older children did not leave. The husband and two older children therefore left the SPRAR centre and lived on the streets for five days outside the building. The DRMP's interviewer intervened and talked to the managers of the centre and while looking for a solution, the father was temporarily hosted in a CAS centre in a village nearby, and the two children were accommodated in a centre for unaccompanied minors. The woman was informed that the two older children would remain at this centre, which made her very sad and frustrated. She was allowed to visit the older children during visiting hours but struggled to manage the two newborns and visiting to her other children.

After being separated for three weeks and after the DRMP's interviewer intervened in the case, the staff at the SPRAR centre managed to find a place where the family could be accommodated together.

The family signed a contract with the SPRAR centre stating that they can stay for six months, and that they will be provided with language courses, health care, legal aid and pocket money. However, the pocket money is never paid in full, and language courses have not been available. At the moment of the final DRMP interview on 15 November 2018, the two older children are not yet enrolled at school, even though the CAS centre where they were previously accommodated has sent all their necessary documents to the SPRAR centre. The children have no additional clothes even though the weather has turned cold, and the heating in the SPRAR centre will not be turned on until the end of December, despite the condition of the children.

Health care

The mother and her two babies have not yet received documents that will allow them to access health care.

Because of this, the mother and babies only have access to emergency care. The mother is a victim of FGM and has repeatedly asked to see a doctor or a gynecologist, but it has so far not been possible. The mother says that the twins have trouble breathing and brought with them health certificates from Sweden. However, the oxygen device that the SPRAR centre brought to the apartment during the second week of their stay was taken away the week after, reportedly as other children at the centre need it.

Access to the asylum procedure

Despite the family being transferred to Italy under the Dublin III Regulation, the mother already had refugee status on her return to Italy. However, as she has not had access to legal assistance, she does not know how to get her newborn babies included in her status.

Case 7: A family with four small children transferred to Catania

The case concerns a family including a mother, a father and four children aged 4, 5, 9 and 10. The family arrived in Italy on 18 November 2017 with a valid Italian visa and later applied for asylum in Germany on 1 December 2017. The German authorities sent a take charge request in accordance with Article 12(2) of the Dublin III Regulation on 28 December 2017, because their Italian visa had still been valid when they had applied for asylum in Germany. The Italian authorities accepted by default. The Dublin decision became final on 11 April 2018 and on 28 August 2018 the family was transferred to Catania airport.

Reception in Italy

Upon arrival the family spent two hours at the airport where the Italian police received them. The family did not receive any food or water but after two hours they were transferred to a large CARA centre.

Accommodation

The family was accommodated for four weeks at a CARA centre, which they found to not be a suitable place for children. There were approximately 3500 persons accommodated in the CARA centre, and the family described the facilities as very dirty. They were accommodated in two rooms, which they could not lock, just as the door to the toilet also could not be locked. Instead of pocket money the staff at the CARA centre gave the family telephone cards and cigarettes, which the family tried to trade in order to have some money to spend.

The CARA centre was very loud at night and the children had problems sleeping. As the children were very unhappy at the camp, the parents were desperate to move to a different centre. Food was provided by the staff at the CARA centre as there was no kitchen available, meaning that the family e.g. could not cook or heat a bottle for the children themselves.

After four weeks in the CARA centre the family was transferred to a small SPRAR centre, where they were accommodated in a clean apartment in a small village. The family says that the staff of the SPRAR centre is very kind and arrange for transportation for the children to and from school, as the school is rather far away. The children report that the language is a problem, but that they feel happy at school. The father has started with a language course, but as one of the children is still small and does not attend school yet, the mother is not able to attend a language course.

Health care

In the CARA centre, a humanitarian organization provided medical care but no specialist care was available. When the children had a fever they were given a paracetamol and told to come back in two days.

After being transferred to the SPRAR centre, the employees of this centre took the whole family to a doctor and made an appointment with a pediatrician for the children. However, the family does not yet have a health care card.

Access to the asylum procedure

At the airport of Catania, the family was asked to fill out the C/3 form without any legal assistance. In the CARA centre, there was no legal assistance either, and the family did not know what to expect from the procedure. The only information they received prior to entering the SPRAR centre, where they are offered only basic legal advice, was from the DRMP's interviewer.

Two days before their scheduled interview at the Territorial Commission, the family was transferred from Catania to a SPRAR centre on the mainland of Italy. Their documents are still in Catania and a new interview still needs to be scheduled. At the time of the final DRMP interview on 18 November 2018, it was not yet

clear if the Territorial Commission was informed of the reason why the family did not appear on the date of the scheduled interview.

Case 8: A woman with mental disorders transferred to Rome

The case concerns a 41-year-old woman with mental disorders. She entered Denmark with an Italian visa on 16 December 2017 and on 16 January 2018 the Danish Immigration Service sent a take charge request to the Italian authorities who became responsible by default. On 20 April 2018 the decision to transfer her to Italy under Article 12(4) of the Dublin III Regulation because of her expired visa became final and on 18 July 2018 she was transferred to Fiumicino airport in Rome.

Prior to the transfer, a Danish psychologist stated on 10 July 2018 that she suffers from a complex trauma, which affects her ability to function normally and her ability to adapt to new situations. He recommended she continued with trauma reducing psychotherapeutically treatment in combination with medical treatment.

Reception in Italy

Upon arrival she had to wait at the airport for almost 24 hours without receiving any assistance except food and water.

The police then provided her with an asylum request form, a temporary permit to stay in Italy, a notification of the day of her appointment with the Questura and a notification of the day of her asylum interview. She was then provided with train tickets so she could reach a CAS centre where she would be accommodated. She provided the Italian police with a copy of her medical records from Denmark.

Accommodation

Initially she was accommodated at a CAS centre with approximately 200 persons where she had a private room. She says she had no access to the Internet or to a TV to distract her, and she stayed in her room throughout most of the day with nothing to do. Although the CAS centre was relatively clean, she found that her mental health deteriorated. As the CAS centre provided almost the same food every day she frequently suffered from stomachaches and often could not eat.

She repeatedly asked to be transferred to a SPRAR centre but her requests were denied. Instead she was moved to a women-only CAS centre on 31 August 2018 where about 15 women are accommodated.

She found the second CAS centre to be very dirty and more isolated than the first centre. Upon arrival she had an allergic reaction, apparently because of the unhygienic conditions, as she shares a bathroom with 15 people, which is constantly dirty. Shortly after arrival she suffered a mental break down as she could not cope with the new surroundings. As a result, she was offered a key to a private bathroom, which she could use until the bath stopped working in November 2018. Following her break down, she was also offered a



The picture shows the woman described in case 8, who suffers from complex trauma and whose mental health deteriorated following the Dublin transfer, after which she was accommodated at a large CAS centre.

private room where she now spends most of her time. Her room is very small and she finds the food to be worse than at the first CAS. Thus, she often does not eat and says that she does not care about anything anymore due to her mental illness. The DRMP's interviewer confirmed that conditions at the second CAS centre appeared very bad although the interviewer was not allowed to enter. However, the DRMP's interviewer saw abandoned mattresses, broken doors and big plastic bags filled with rubbish lying in the backyard. She never received any pocket money but only a telephone. Since the Dublin transfer she has therefore been unable to buy even the most essential things for herself and has been relying on friends in Denmark to send her e.g. warm clothes for the winter.

Health care

At the first CAS centre she met a psychologist and after two therapy sessions she was referred to a mental health centre in a nearby city.

At the second CAS centre she was referred to a different mental health centre and in October 2018 she was diagnosed with PTSD. The psychologist informed her that due to the negative impact of the conditions at the CAS centre, the effect of the psychological treatment is very limited. She has also been able to receive the necessary medicine.

While she was still in the first CAS centre, on 8 August 2018 she met a doctor who found that her blood pressure was too high and asked the staff of the CAS centre to check her blood pressure twice a day. At the second CAS centre the staff has not agreed to check her blood pressure, so she once went to a public hospital to have her blood pressure checked. However, despite having a public health card, she was informed that she needed a passport to receive treatment at the hospital.

Access to the asylum procedure

No one except for the DRMP's interviewer informed her of the Italian asylum system or about her rights.

It appears that she was recognized as vulnerable at the airport and therefore offered a fast procedure, probably because she brought with her a medical certificate and her medicine. On 30 October 2018 she had her asylum interview and she has been informed that she will get the result on her asylum application on 12 December 2018.

Case 9: A family with two children transferred to Bari

The case concerns a family including a mother, a father, and their two children aged 15 and 16. The family arrived in Italy with a valid visa in September 2017 and travelled onwards to Germany where they applied for asylum. On 22 May 2018 the family was transferred to Bari airport under Article 12(2) of the Dublin III Regulation because their Italian visa had still been valid when they had applied for asylum in Germany.

While in Germany, the mother started seeing a psychologist and was diagnosed with PTSD.

Reception in Italy

Upon arrival they were told to sign some documents in Italian before they could leave the airport. However, there was no interpreter present and they are not sure what they signed.

Accommodation

After 9 hours at the airport they were told to go to an all-male CAS centre, where they had to spend one night although in a private room. The next day they were brought to a CARA centre, where they lived in conditions the parents describe as very poor. At the CARA centre they had access to legal advice, but not to language courses or to health care.

After 43 days in the CARA centre, they were accommodated in a SPRAR centre. Unfortunately, as there were

no interpreters at the SPRAR centre and the staff would only speak Italian, the family was unable to communicate with the staff. Following a lot of misunderstandings between staff and the family, after slightly more than three weeks the family was informed they had to leave the SPRAR centre. They never received an official decision and were only informed orally that they had to leave the centre.

As they had no place to go, they went to Bari where the municipality in Bari helped them find a CARA centre where the family was accommodated for five nights. The family was then accommodated in a second SPRAR centre, where they find the reception conditions to be good. The family remains accommodated at the second SPRAR centre, where they receive language courses and health care.

Health care

The mother needs to see a psychologist, but most likely due to language barriers she was unable to access specialized treatment at the first SPRAR centre. However, in the second SPRAR centre the family had access to the necessary health care, including a psychologist and a translator to help with the sessions at the psychologist.

Access to the asylum procedure

At the time of the final interview on 15 November 2018 the family was still waiting for their interview with the Territorial Commission.

They were offered free legal assistance from a lawyer working for their second SPRAR centre.

Case 10: A male victim of human trafficking transferred to Venice

The case concerns a young male victim of human trafficking who entered Italy illegally on 23 July 2016 and applied for asylum in Austria on 5 August 2016.

In Austria he claimed to be 17 years old but after an age assessment test he was found to have turned 18 on the day he applied for asylum in Austria. On 14 November 2016 the Italian authorities accepted the request to take charge in accordance with Article 13(1) of the Dublin III Regulation, because he had been registered as having irregularly crossed the Italian border from a third country. The Italian authorities had originally rejected the request in accordance with Article 8(4) as he had been registered as an unaccompanied minor by the Italian authorities. On 23 February 2017 he was transferred to Venice airport.

Before he left Italy to go to Austria, he had become a victim of human trafficking in Italy as the traffickers who had brought him to Italy detained him against his will. When his family was unable to pay a ransom, the traffickers threatened to remove his organs, but he managed to escape. In Austria he was assisted by an organization that assists victims of human trafficking and he was accommodated at a centre for unaccompanied minors.

Reception in Italy

Upon returning to Italy on 23 February 2017 he was asked to appear at the Questura on 27 February 2017 and therefore spent four nights at the airport, as he did not know where else to go.

On 27 February 2017 the Questura issued him a temporary permit allowing him to stay in Italy until his appointment with the Questura on 10 May 2017, where he would be able to register his asylum application. He was informed that he would not receive accommodation or pocket money before 10 May 2017.

Accommodation

After the first meeting with the Questura he slept on the streets near a train station. During the first meeting with the DRMP's interviewer on 28 February 2017, the interviewer gave him a sleeping bag and some dry clothes, as his clothes were wet and all of his belongings stolen. The interviewer also put him in contact with

a charitable organization providing accommodation for vulnerable persons, which accepted to accommodate him between 29 February 2017 and 3 March 2017.

The DRMP's interviewer then contacted an organization providing shelter to mainly homeless drug addicts, where he was accommodated from 3 March until 16 June 2017. Both the DRMP's interviewer and his former Austrian lawyer unsuccessfully attempted to persuade the Italian authorities to provide him with accommodation.

After his meeting at the Questura, which was postponed from 10 May 2017 to 16 June 2017, he was accommodated in a SPRAR centre, where he shared a room with five others and also started receiving pocket money. In August 2017 he changed to a smaller room shared with two others.

After entering the SPRAR centre he was visited by someone who had helped him with his asylum case in Austria. Unfortunately, he was then asked to leave the SPRAR centre as he had broken the rules by having a visitor in his room, although the rules had only been explained to him when he first entered the centre and in Italian. In the end the Austrian visitor managed to persuade the staff not to exclude him from the centre.

After being granted international protection in November 2017 he was transferred to a different SPRAR centre run by a different organization and started taking classes at a public school in the same province. He stayed at this centre until October 2018 after which he was accommodated at a different SPRAR centre, where he can stay for a few months.

Health care

He had received psychological assistance in Austria but upon returning to Italy he did not receive a Health Card permitting him to access the health care system. He did not receive this card until his meeting with the Questura on 16 June 2017. In the meantime, the DRMP's interviewer intervened and brought him to an emergency hospital to see a doctor.

Access to the asylum procedure

Although transferred to Italy on 23 February 2017, the Questura did not register his asylum application until 16 June 2017. On 20 October 2017 he had an asylum interview and in November 2017 he was granted international protection.

He only received legal assistance from the DRMP's interviewer as the SPRAR centre only offered basic information on the asylum procedure.



The picture shows the man described in case 10. After applying for asylum in Austria he was found to be 18-years-old and transferred to Italy, where he had been a victim of human trafficking while he was still a minor. After the Dublin transfer he was not provided with accommodation for almost four months during which he was able to stay at a shelter for homeless drug addicts only because the DRMP's interviewer intervened in his case.

Case 11: A family with two minor children transferred to Catania

The case concerns a family including a mother, a father and their four children of whom the two youngest are 12 and 17-years-old. The family entered Italy illegally in May 2017 and was brought by the Italian police to a nearby camp. After being in the camp for three days without receiving any health care, they moved on to Switzerland and then to Germany, where they arrived on 9 October 2017. On 23 October 2017 the German authorities sent a request to the Italian authorities under the Dublin III Regulation, after which the Italian authorities became responsible by default.

On 15 March 2018 the German decision to return the family to Italy under Article 18(1)(b) of the Dublin III Regulation became final. The parents and the two minor children were transferred to Catania airport on 27 August 2018 followed by the two oldest children two days later.

Reception in Italy

The Italian authorities did not seem to be expecting the family upon arrival. There was no translator at the airport and the family could not communicate with the police. The parents and the minor children were transferred from the airport to a CARA centre and were followed by the older children after they arrived.

Accommodation

The CARA centre accommodates approximately 3500 persons and pocket money was given to the family in the form of cigarettes and coffee, which the family could trade for money with other asylum seekers. The family says that the whole camp was very dirty and loud.

In the CARA centre, the family was accommodated in a single room with one toilet that had no door. During their second week at the CARA centre, the person in the room next door left the centre, and the family occupied his room so they had two rooms for the whole family.

After staying in the CARA centre for three weeks they were transferred to a small SPRAR centre.

The SPRAR centre was a former hotel which the family shared with three other families. They have been given three bedrooms and share what used to be the lobby, and is now a kitchen, with the other families. They may stay in this SPRAR centre until the decision on their application has been taken. If the decision is positive, they have been informed that they can stay for another six months.

Health care

After being returned to Italy they only had access to emergency care at the CARA centre where they spent three weeks, despite the oldest son being diagnosed with Hepatitis B. However, two weeks after the family had been transferred to a SPRAR centre, the administration of the centre had scheduled visits to doctors for the entire family, despite the family not having health care cards yet.

The mother also started to receive psychological care in the SPRAR centre. She was diagnosed with a severe depression in Germany where she received medical treatment, but her condition worsened due to the conditions at the CARA centre.

Access to the asylum procedure

Upon arrival at the CARA centre, the family was told to fill out the C/3 form. A translator on the telephone helped them to read the form, but no legal assistance was provided to them at that time.

On 19 September 2018 they had their first interview with the Territorial Commission and a translator was provided by telephone. Just before their interview, a lawyer provided by the CAS centre also informed them about the procedure. At the time of the final DRMP interview on 17 November 2018, the family was waiting for an answer on their asylum case.

Case 12: A male victim of human trafficking transferred to Varese

The case concerns a 30-year-old male victim of human trafficking who suffers from a depression. He entered Italy illegally on 23 October 2016 and was in Germany before he applied for asylum in Denmark on 8 November 2017. On 29 November 2017 the Danish Immigration Service sent a take charge request to the Italian authorities who became responsible by default. On 23 February 2018 the Dublin decision became final and on 10 April 2018 he was transferred to Malpensa airport in Varese under Article 13(1) of the Dublin III Regulation, as he had been registered as having irregularly crossed the Italian border from a third country.

Prior to entering Italy, he had been sold twice in Libya. In Italy, he was detained in an apartment building together with other men and women. He was detained by the trafficker who had brought him from Libya. The traffickers said the trafficked persons owed them money and had to repay by working as prostitutes or by selling narcotics. After two weeks he managed to escape and reached Germany. In Germany he met persons from the same trafficking network. They beat him and gave his phone number to the trafficker in Italy, who then threatened him on the phone. Feeling unsafe in Germany, he traveled to Denmark, from where he was returned to Italy. To help him be recognized as vulnerable by the Italian authorities upon arrival, the Centre Against Human Trafficking in Denmark had issued him a note stating that he is identified as a victim of human trafficking.



The picture shows the male victim of human trafficking described in case 12. Despite being a victim of human trafficking, he has lost the right to accommodation twice since the Dublin transfer, and now lives on the streets in Italy.

Reception in Italy

Upon arrival at the airport on 10 April 2018 the Italian police provided the man with a train ticket and told him to go to the Questura in Varese. The Questura was closed by the time he arrived, and he had to sleep on the streets. The following day the Questura told him to return on 13 April 2018 after which he was finally transferred to a CAS.

Accommodation

The man described the conditions in the CAS centre as very poor with six persons in a shared and dirty room. After much complaining he was moved to a room shared with just one other asylum seeker. The showers were shared between many asylum seekers and there was no privacy in the rooms as all locks had been removed from the doors. This had a negative impact on his mental state and his depression worsened. Fearful that the traffickers would discover that he had returned to Italy, he stayed in his room throughout most of the day.

Asylum seekers were not allowed to eat in their rooms, so about two weeks after the Dublin transfer he received a letter of reprimand because he had been discovered eating a bag of crisps in his room. This letter was also sent to the Prefettura and when he went to the Questura in May 2018 he was given a formal letter of reprimand due to eating the bag of crisps.

Following the formal reprimand, and after an argument with the staff at the CAS centre, who said he had now breached the rules of the reception centre twice, he received a decision from the Prefettura on 8 June 2018 stating that he had lost the right to accommodation. He therefore had to live on the streets, until an

NGO successfully found a SPRAR centre specialized in victims of human trafficking willing to accommodate him. He had been put in contact with this NGO by the DRMP's interviewer.

The man was satisfied with the reception conditions at the SPRAR centre as it was a small house shared with just two other asylum seekers. However, accommodation at the SPRAR centre is conditioned on the victims of human trafficking cooperating with the Italian police to prosecute the traffickers. On 10 October 2018 he was informed that he has lost his right to accommodation at the SPRAR centre as he is not considered to be cooperating with the police. He was issued a notice stating that he had informed the police of neither the trafficker's surname or contact information nor of the address of the apartment building where he was kept against his will. He explained to the DRMP that he wanted to cooperate but did not know this information.

Since 10 October 2018 he has lived on the streets, preferably in smaller cities, as he avoids larger cities where he fears that the traffickers might find him.

Health care

In Denmark he received medical treatment for his depression, but he was unable to access health care in Italy through official channels, as he was informed that he could only access emergency care and that his condition was not serious enough for this. He had brought medicine from Denmark, but after it ran out he was unable to get medicine, despite asking for help from the staff at the CAS. In Denmark he had also received psychological treatment, which he was denied in Italy.

In May 2018 the DRMP's interviewer successfully intervened and by putting him in contact with an Italian NGO, he managed to get him medical and psychological treatment at a hospital in Milan. However, as the CAS centre, which is not located in Milan, refused to pay for train tickets, it was difficult for him to reach the hospital, as his pocket money did not cover the travel costs.

After being accommodated at the SPRAR centre he was able to get the necessary medical and psychological treatment as the staff put him in contact with a doctor. However, since 10 October 2018 he has been unable to access any health care.

Access to the asylum procedure

His asylum case seems to not have been processed in a fast procedure and upon arrival at the CAS centre, staff members informed him that he would remain there for two years while waiting for his asylum interview. In April 2018 he got an appointment at the Questura to register his asylum application and fill out the C/3 form on 5 September 2018.

In May 2018 he once met a legal advisor working at the CAS. Apart from this, he was only offered legal advice from the DRMP's interviewer before entering the SPRAR centre. Upon entering the SPRAR centre he received legal assistance.

Case 13: A man suffering from HIV and a mental disorder transferred to Varese

The case concerns a 29-year-old man who applied for asylum in Switzerland on 6 February 2012, after which the Swiss authorities decided to transfer him to Italy under the Dublin Regulation on 9 July 2012. He disappeared before the transfer was carried out. On 29 June 2015 he applied for asylum in Switzerland again, but before a decision could be taken he disappeared.

On 11 May 2017 he applied for asylum in Switzerland for a third time, arguing that he had been unable to access specialized health care in Italy. While he was receiving treatment, the Swiss authorities notified him of their decision to transfer him to Italy on 14 September 2017 under Article 12(4) of the Dublin III Regulation due to an expired Italian residence permit. On 26 September 2017 the decision became final and he was transferred to Milan Malpensa airport in Varese on 10 January 2018.

While in Switzerland he was diagnosed with HIV, and he also received psychological treatment for his mental disorder. A Swiss doctor contacted a hospital in Milan to ensure that he would have access to the necessary health care after being transferred to Italy.

As he was unable to legalize his stay in Italy or access the necessary health care, he returned to Switzerland. While in Switzerland he was treated for HIV and a severe depression with a high risk of suicide. However, the Swiss authorities made a second decision to return him to Italy under the Dublin III Regulation on 24 April 2018, which became final on 15 May 2018. On 22 August 2018 he was again transferred to Milan Malpensa airport.

Reception in Italy

Following the Dublin transfer on 10 January 2018, he arrived at the airport in the afternoon and was asked to stay at the airport. After a few hours his fingerprints were taken, and he was informed that a prior application for the renewal of his residence permit had been refused as he did not have a job or a registered address in Italy. The Italian police told him that he could either apply for asylum or appeal against the decision to not renew his residence permit within 30 days. After that he was told that he could leave the airport.

Accommodation

Following the Dublin transfer in January 2018 he reached Milan Central Station late in the evening and did not know where to go. He therefore slept on the streets the first night after being transferred to Italy.

The following nights he was accommodated by an NGO that provide shelter for homeless persons. He was able to stay at the shelter for three nights. After being sent some money by his relatives he was able to stay at a hostel, where he stayed until he ran out of money.

After being transferred to Italy again on 22 August 2018, he was informed by the Italian authorities that he would not have access to accommodation even if he applied for asylum.

Access to healthcare

Despite the fact that his doctor in Switzerland had made it clear to the colleague she contacted in Italy that the patient needed immediate medical attention, following the Dublin transfer on 10 January 2018, he was not able to get an appointment with the doctor until 19 January 2018. When he finally met the doctor, he was told that he must bring a valid health card to receive treatment.

On 22 January 2018 he went to the Italian authorities in the city where he had previously been registered as a resident to ask for a health card, but was informed that he had to wait until he could prove that his expired residence permit had been renewed or until he had lodged an appeal against the decision to not renew his residence permit. On 24 January 2018 he met with a private lawyer he knew, who told him that such an appeal would not stand a chance. The following day he was told the same by a lawyer working for a humanitarian organization.

As he was running out of his medication and could not legalize his stay in Italy or access the necessary medical care in Italy, he decided to return to Switzerland.

Following the second Dublin transfer on 22 August 2018, his situation had not changed, and he was still not issued a health card and could therefore not access the necessary specialized medical care.

Access to the asylum procedure

On 11 January 2018, the day after the first Dublin transfer, he went to a lawyer with whom he had been in contact before. The lawyer told him to either pay € 400 to lodge an appeal against the decision to not renew his residence permit and € 800 in honorarium, or otherwise get a medical report from an Italian doctor to apply for a humanitarian residence permit.

Following the second Dublin transfer, he decided to return to Switzerland once again, as he had no access to accommodation or to the necessary specialized medical care. He felt that the lack of accommodation and health care made it impossible for him to access the Italian asylum procedure.

The last DRMP interview with him was on 6 November 2018.

5. Conclusion

5.1. Experiences of monitored Dublin returnees

Similar to the six cases monitored in the first monitoring, none of the 13 vulnerable individuals or families monitored for this second DRMP report had access to adequate reception conditions upon arrival in Italy. However, the single mother with two babies, who had previously been granted international protection in Italy, had access to a SPRAR centre, once the Italian authorities realized that she was no longer an asylum seeker, which they learned after she had spent five days at a CARA centre. At the SPRAR centre, reception conditions were nonetheless inadequate as neither the necessary facilities nor health care was provided for her babies.

Thus, it remains arbitrary how vulnerable Dublin returnees are received by the Italian authorities. Most of the monitored vulnerable Dublin returnees had to sleep on the streets upon arrival in Italy and gained access to reception centres or other shelters only as a result of their participation in the DRMP, as the DRMP's interviewers often intervened on their behalf. Upon gaining access to reception conditions, these were often far from adequate to meet their special reception needs, in some cases due to the lack of access to specialized health care.

As documented by cases 4, 10, and 13, there is a real risk of vulnerable asylum seekers being denied access to reception conditions after arriving in Italy as Dublin returnees. Case 4 described a single mother and her children being informed by the Italian authorities that they had lost the right to accommodation because they had previously left Italy after applying for asylum, whereas case 10 described an 18-year-old victim of human trafficking who had to wait nearly four months before he could access the reception system. Case 13 described a man suffering from HIV and a mental disorder who has been transferred to Italy twice, both times unable to find accommodation and without access to the necessary specialized health care.

The case studies also show that even if Dublin returnees are accommodated after arriving in Italy, they risk losing their right to accommodation later on. Although for different reasons, cases 3, 6, 9, 10 and 12 either lost their right to accommodation, or were able to remain in the reception system only because the DRMP's interviewers intervened, or as in case 10, because a legal practitioner from the transferring Member State had continued to follow the case and successfully argued against the withdrawal of the applicant's reception conditions.

5.2. Legal analysis

That poor or inadequate reception conditions for asylum seekers can constitute inhuman or degrading treatment in violation of Article 3 ECHR has been stated by the ECtHR in its *M.S.S.* judgment⁶⁸ and its *Tarakhel* judgment⁶⁹, where the Court made it clear that the assessment of ill-treatment must take into account all circumstances of a case, such as the duration of the treatment, its physical or mental effects and, in some instances, a person's sex, age and state of health.

To ensure that asylum seekers, in particular those considered vulnerable and with special reception needs, are provided access to adequate reception conditions and health care, the access to and quality of reception conditions are regulated at the European level by the Reception Conditions Directive (recast) in particular. The Italian SPRAR system, prior to the Salvini Decree, was meant to provide adequate reception conditions to asylum seekers considered vulnerable, and following the *Tarakhel* judgment the Italian authorities have guaranteed that families with minor children will be accommodated in a SPRAR centre after being transferred to Italy under the Dublin III Regulation.

68 ECtHR, *M.S.S. v. Belgium and Greece*, application No. 30696/09.

69 ECtHR, *Tarakhel v. Switzerland*, application no. 29217/12.

However, by monitoring 13 vulnerable individuals or families transferred to Italy under the Dublin III Regulation, the DRC and OSAR have reaffirmed the findings of the first DRMP report from February 2017 which documented six families, none of which were provided with adequate accommodation, assistance and care upon arrival to Italy.

Thus, contrary to relevant international, European or national law, none of the 13 vulnerable individuals or families whose experiences have been described in this report had access to adequate accommodation upon arrival to Italy, which was also the case for the six families mentioned in the first DRMP report. It appears to be a matter of chance whether a vulnerable Dublin returnee even has access to reception conditions upon arrival, as the Italian authorities neither meet the reception needs of asylum seekers in general nor the special reception needs of vulnerable asylum seekers despite their legal obligation to do so.

In *H. and Others v. Switzerland*⁷⁰, the ECtHR noted that although the six documented cases in the first DRMP report were not insignificant, the number of documented cases was not so high as to suggest that the assurances of the Italian authorities following the Tarakhel judgment are *per se* unreliable. However, having documented an additional 13 cases of vulnerable Dublin returnees transferred to Italy, the DRC and OSAR find that it is clear, that there is a real risk of vulnerable Dublin returnees not being provided with adequate reception conditions upon arrival in Italy, exposing them to a risk of ill-treatment contrary to Article 3 of the ECHR and Article 4 of the EU Charter of fundamental rights.

Furthermore, as illustrated by the case studies and contrary to Italian law, vulnerable asylum seekers risk being denied or losing access to the Italian reception system without due consideration of their vulnerable situation or the principle of proportionality, which can significantly hinder their effective access to the asylum procedure.

Considering the inadequate reception conditions at present provided at Italian First-Line reception centres, where all asylum seekers, except for unaccompanied minors, are accommodated as of 5 October 2018, the DRC and OSAR are concerned that the conditions in the Italian reception system are likely to deteriorate. This implies among other things that asylum seekers, including Dublin returnees, will only have access to emergency health care.

Regarding the obligations of Member States under Articles 31 and 32 of the Dublin III Regulation, which obliges the transferring Member State to transmit to the receiving Member State information on any special needs of the person to be transferred, the experiences of the Dublin returnees documented in this report demonstrate that those responsible for meeting the special reception needs of vulnerable Dublin returnees often are unaware of these. It has been outside the scope of this project to examine precisely what information is transferred to the Italian authorities prior to the Dublin transfer or how this information is disseminated by the Italian authorities to the relevant Italian actors. The Commission Implementing Regulation already contains a standard form that Member States are obliged to use to inform about special needs of Dublin returnees, and also regulates how Member States shall transmit health data prior to a Dublin transfer. However, it is clear that the Member States' fulfillment of their obligations towards vulnerable asylum seekers under the Dublin III Regulation must be improved to protect their rights.

With the experiences of the monitored Dublin returnees in mind, the DRC and OSAR call for a strengthened cooperation between Member States to protect the fundamental rights of persons transferred under the Dublin III Regulation. To this end, the DRC and OSAR find that clearer guidelines must be made concerning the obligations of the transferring Member State prior to a Dublin transfer, in order to ensure that the special needs of vulnerable asylum seekers are adequately addressed following the transfer.

⁷⁰ ECtHR, *H and others*, application no. 67981/16, paragraph 21, emphasis in original.

6. About the DRMP

The aim of the DRMP is to monitor how Dublin returnees are received by the Italian authorities after being transferred to Italy under the Dublin III Regulation.

To identify cases matching the expanded scope of the DRMP, the DRC and OSAR informed partner organizations across Europe about the DRMP through partner organizations and established contacts. Most cases were identified before the transfer to Italy, while a few were identified after the persons had been transferred to Italy.

After a case had been identified, the DRC and OSAR asked the applicants if they wanted to participate in the DRMP. Before accepting to participate in the project, the DRC and OSAR informed the Dublin returnees about the purpose, possibilities and constraints of the project in order to avoid false expectations in relation to the scope and type of assistance the DRC and OSAR can provide through the project. Since January 2018, identified potential returnees also received a written description of the DRMP in Tigrinya, Arabic, English, French, Italian or German.⁷¹ (see Annex I to find the English version).

In terms of methodology and case selection for the second DRMP report, the DRC and OSAR initially had not decided on the focus of the report and therefore informed partner organizations that all persons transferred to Italy could be included on the condition that basic information about their cases could be obtained to verify their story, including when and under which article of the Dublin III Regulation they were transferred to Italy. Only later was it decided to focus on vulnerable asylum seekers with special reception needs. As a result of the DRC and OSAR's decision to include all vulnerable persons transferred under the Dublin III Regulation, we included the case of a single woman with two children, who had already been granted international protection by the Italian authorities, as she was nonetheless transferred from Norway to Italy under the Dublin III Regulation.

In total, the DRC and OSAR identified 25 individuals and families transferred to Italy under the Dublin III Regulation who wanted to participate in the project and who were transferred to Italy. Of these 25 cases, some are not vulnerable, and their experiences are therefore not documented in this report, some left the project after being transferred to Italy, and with some Dublin returnees the DRC and OSAR were unable to establish contact after the Dublin transfer.

To document the situation of the Dublin returnees upon arrival, the DRC and OSAR established a network of interviewers in Italy, who have monitored the identified cases on behalf of the DRC and OSAR. The interviewers have documented the experiences of the Dublin returnees by filling out a questionnaire regarding the Dublin returnees' reception conditions, access to the asylum procedure and access to health care.⁷²

To confirm the information gathered in the questionnaires, the DRC and OSAR conducted a fact-finding mission to Italy from 13 to 20 November 2018 and conducted interviews with the 13 vulnerable Dublin returnees whose experiences are documented in this report. The DRC and OSAR were unable to visit the Dublin returnees included in the report who have left Italy (cases 4 and 13) and in these cases the report is based on information obtained from the returnees through interviews conducted by telephone.

71 All documents can be found on the website of OSAR here: www.osar.ch/pays-dorigine/les-etats-de-dublin/italie/dublin-returnee-monitoring-project-drmp.html.

72 The questionnaire is included as an Annex to the first DRMP report. See the Danish Refugee Council & Swiss Refugee Council, February 2017, *Is Mutual Trust Enough? The situation of persons with special reception needs upon return to Italy*, Annex II.

Dublin Returnee Monitoring Project DRMP

Information for participants

Background

The Dublin Returnee Monitoring Project is a project of Swiss Refugee Council, OSAR and the Danish Refugee Council, DRC. Our aim is to document how persons sent to Italy under the Dublin Regulation get access to the Italian asylum procedure and to accommodation.

Who is allowed to participate?

Persons who are transferred from a European State to Italy under the Dublin Regulation. The participation is only confirmed if both you and either OSAR or DRC sign a power of attorney.

Process

If you want to participate, please inform your lawyer/legal advisor to contact us and provide us with some basic information about your case. If you don't have access to a lawyer/legal advisor, you can contact us directly via the number or e-mail-address below.

After arriving in Italy, you should contact us as soon as possible so we can arrange a meeting with persons collaborating with our organizations in Italy. In this meeting, the person will conduct an interview with you regarding your situation in Italy.

What is possible?

OSAR and DRC will document your situation and the different steps within the asylum procedure that you are going through. Our aim is to gain a better understanding of how asylum seekers are received in Italy, which may be able to help us assist other asylum seekers in the future.

What is not possible?

Neither OSAR nor DRC will be able to intervene or contact the Italian authorities on your behalf. We are only able to provide you with contacts to Italian NGO's and to monitor as well as to document your situation after you arrive in Italy. We cannot achieve that you can return to the country that transferred you to Italy, and we also cannot achieve that you get asylum in Italy.

Contact

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&

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Phone

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Adriana DRMP

Information about the organisations

Danish Refugee Council

The Danish Refugee Council (DRC) is a humanitarian, non-governmental, non-profit organization working in more than 30 countries throughout the world.

The Asylum Department in Denmark provides legal assistance to asylum seekers in all phases of the Danish asylum procedure, including in the Dublin-procedure. Since January 2014 – and with the implementation of the Dublin III Regulation – the DRC represents most asylum seekers in the Danish Dublin procedure.

Swiss Refugee Council

The Swiss Refugee Council (OSAR) is a politically and religiously independent nonprofit organisation and the umbrella association of the Swiss refugee relief organisations Caritas Switzerland, the Swiss Interchurch Aid (HEKS), the Swiss Labour Assistance (SAH), the social arm of the Swiss Federation of Jewish Communities (VSJF), the Salvation Army Foundation Switzerland and the Swiss section of Amnesty International. Since being founded in 1936, OSAR has represented the interests of asylum seekers and refugees vis-à-vis the authorities, policy makers and civil society.

Both DRC and OSAR are members of the European Council on Refugees and Exiles (ECRE).

