



## Input by civil society to the EASO Annual Report 2017

EASO has started the production of the 2017 Annual Report on the Situation of Asylum in the European Union, in line with Article 12 (1) of the EASO Regulation. The report aims to provide a comprehensive overview of important asylum-related developments at EU+ and national level, and the functioning of all key aspects of the Common European Asylum System (CEAS). While the final product comes out of an analytical and synthetic process that takes place in-house, a critical part of information is elicited through valuable contributions by a multiplicity of stakeholders from EU+ countries, civil society organizations, UNHCR, and other actors possessing in-depth knowledge on main developments in asylum policies and practices in EU+ countries. Previous reports are [available for review at EASO's website](#).

We would like to kindly invite you to take part in this process, by sharing your observations **on developments in asylum law, policy or practice in 2017 (and early 2018) in the areas listed on page 2**. The topics listed there reflect the structure of Chapter 4 of the EASO report, which focuses on the 'Functioning of the CEAS'. To this end, your observations may concern national practices of specific EU+ countries or the EU as a whole. Overall, the EASO Annual Report is not meant to describe the national asylum systems in detail, but present key developments in 2017, including **improvements and new/remaining concerns**. In terms of format, your contributions would be preferably offered in the form of bullet points, which would facilitate further processing of your input.

Please, bear in mind that the EASO Annual Report is a public document. Accordingly, it would be desirable that your contributions, whenever possible, be supported by references to relevant sources. Providing links to materials such as analytical studies, articles, reports, websites, press releases, position papers/statements, and press releases, would allow for maintaining transparency. For your reference, you may review the [contributions offered by civil society actors for the 2016 Annual Report](#). If you do not consent on EASO making your submission available, please inform us accordingly.

In our effort to provide an inclusive overview of all relevant developments, we strive to incorporate as many contributions as possible. At the same time, the final content of the EASO Annual Report is subject to its set terms of reference and volume limitations. To this end, your submissions, which are gratefully received and acknowledged, may be edited for length and clarity so that the final product concisely serves the objectives of the Annual Report: to improve the quality, consistency, and effectiveness of CEAS. From our side, we can assure you that the valuable insights you offer feed into EASO's work in multiple ways and inform reports and analyses beyond the production of the Annual Report.

Please, kindly provide your input by filling in this document (with attachments, if needed) and returning it to [ids@easo.europa.eu](mailto:ids@easo.europa.eu) **AND** [consultative-forum@easo.europa.eu](mailto:consultative-forum@easo.europa.eu) **by 16 February 2018**.

Within each area, please highlight the following **type of information**:

- NEW positive developments; improvements and NEW or remaining matters of concern;
- Changes in policies or practices; transposition of legislation; institutional changes; relevant national jurisprudence.

*You are kindly requested to make sure that your input falls within each section's scope. Please, refrain from including information that goes beyond the thematic focus of each section or is not related to recent developments. Feel free to use Section 16 to share information on developments you consider important that may have not been covered in previous sections.*

Name of the contributing stakeholder: Emergency ONG ONLUS

[Contact details]

### 1) Access to territory and access to asylum procedure

In 2017 a new law has been promulgated in Italy- Decree-Law 17 febbraio 2017, n. 13-which aims to accelerate the procedure for the recognition of international protection. An important change regards the video recording of interview before the Territorial Commissions for the Recognition of International Protection -CTRPI- (art. 14 c.1 d. lgs 25/2008 as amended by Decree-Law 17 febbraio 2017, n. 13). This new tool is not yet used.

### 2) Access to information and legal assistance

### 3) Providing interpretation services

### 4) Dublin procedure

### 5) Specific procedures (border, accelerated, admissibility)

### 6) Reception of applicants for international protection

### 7) Detention of applicants for international protection

According the new law, an asylum seeker can be detained in specific centres (ex CIE, now CPR - centri di permanenza per i rimpatri) in case of repeated refusal to submit fingerprints (art 17 c. 3 Decree-Law 17 febbraio 2017, n. 13). This provision widens the notion of the risk of absconding. An aspect of concern is that the detention is decided by police authority (and then validated by the Court): how is it possible to assure that the asylum seeker has been clearly informed about the aim of fingerprinting and his rights (in accordance also with REGULATION (EU) No 603/2013 on Eurodac)? And who establishes that the refusal is repeated?

An other aspect of concern is that the law doesn't foresee the presence of the asylum seeker to the validation hearings (art. 8 Decree-Law 17 febbraio 2017, n. 13): he/she remains in the CPR and participates to the hearing in videoconference (as happens for *mafia* crimes).

These and other important matters of concern are clearly explained in this document:

[https://www.asgi.it/wp-content/uploads/2017/07/Scheda-pratica-legge-Minniti-DEF\\_2.pdf](https://www.asgi.it/wp-content/uploads/2017/07/Scheda-pratica-legge-Minniti-DEF_2.pdf) § 6 *I nuovi centri di permanenza per i rimpatri e la detenzione a fini identificativi*

### 8) Procedures at First instance

The Decree-Law 17 febbraio 2017, n. 13 has introduced specialised sections within the court system (art. 1 c. 1 DL 17 febbraio 2017, n. 13).

In case of appeal against the decision of the CTRPI, the Court will use the video recording of the personal interview of the asylum seeker (art 35 bis c.8 dlgs 25/2008 as amended by DL 17 febbraio 2017, n. 13 ). **Only in some cases, and at his own discretion, the judge can decide to hold a hearing with the applicant** (art 35 bis c.10 dlgs 25/2008 as amended by DL 17 febbraio 2017, n. 13).

### 9) Procedures at Second Instance

The DL 17 febbraio 2017, n. 13 foresees the abolition of the second-instance judicial appeal procedure (the appeal before the Court of Appeal). It is possible to appeal decisions on international protection **only before the Court of Cassation, within 30 days** (art 35 bis c.13 dlgs 25/2008 as

amended by DL 17 febbraio 2017, n. 13).

Important matters of concern are clearly explained in this document:

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#### 10) Availability and use of Country of Origin Information

#### 11) Vulnerable applicants

#### 12) Content of protection – situation of beneficiaries of protection

We are concerned about the phenomenon of illegal hiring, *Caporalato* in Italian. The *Caporalato* is a criminal system of illegality and exploitation that implies on asylum seekers and beneficiaries of international protection a cruel and oppressive regime because of their social and legal vulnerability. Areas where there is a large concentration of refugee camps (Sicily, Calabria, Puglia) have become fertile ground for the recruitment of farm workers. Many asylum seekers and refugees abandon the reception centers to move into informal settlements –*tendopoli*- living in inhuman conditions, ghettoized and often deprived of basic sanitation and hot water. This evidence shows the difficulty of these vulnerable people, especially those who have recently arrived in Italy, to join in the social and labor system.

According to EMERGENCY experience, many of the asylum seekers had acquired scholastic skills or have had work experience in their country, so the recognition of qualifications and professional qualifications, together with the implementation of Italian courses and training internships, could be a step to hinder the *Caporalato* phenomenon.

#### 13) Return of former applicants for international protection

#### 14) Resettlement and humanitarian admission programmes

#### 15) Relocation

#### 16) Other relevant developments

An other important law promulgated in 2017 is the Law n. 47/2017 (Legge “Zampa”) regarding the unaccompanied minors (UMs). Some significant aspects of this law:

- a specific reception system for unaccompanied minors (SPRAR per Minori) and indication of the foster care as the preferable solution (art. 7 c.1);
- regulation of the age assessment process (art. 5);
- creation of the register of the “voluntary guardians” (art. 11);
- considering the superior interest of the child as the inspiring principle of every decision concerning the minor (art. 9);
- right to be registered in the National Health System-NHS (art. 14) before the request of permit of stay and the designation of the guardian. According to this provision, the UMs can enjoy equal medical assistance than Italian children as soon as they are intercepted and identified. In order to reach this aim, it’s urgent the regulation of some points:

1. to indicate **clearly** which documents are required to be registered in the NHS in order to avoid discretion of the health local offices as nowadays happens (i.e. till the designation of the guardian, the local health offices refuse to register UMs so, usually, during this period it’s frequent to see an improper use of the

*STP card*-a special health card for illegal immigrants);

2. to reiterate to the Italian Revenue Agency (Agenzia delle Entrate) to assign fiscal codes to UMs even in case of lack of passport or before the request of permit of stay or the designation of the guardian, using the personal data described on the *verbale di affidamento* emitted by police or social services.

It's important also solving problems with the numerical fiscal code for asylum seekers (Mol Circular of 1 September 2016; Revenue Agency Circular n. 8/2016): some police stations (Uffici Immigrazione delle Questure) are still having problems to emit these codes so asylum seekers cannot register on the NHS.

3. To permit the registration in the NHS even if the minor is still without legal residency or domicile (*dichiarazione di ospitalità*);

4. to establish a specific exemption code for medical expenses 'till UMs reach age 18;

5. To avoid the interruption of the validity of the health card during the transition from the permit of stay for minors (*permesso di soggiorno per minore età*) to other kinds of permit of stay when the minor reaches age 18.

For a deeper analysis cf. doc "Osservazioni e raccomandazioni del Tavolo di lavoro sui minori stranieri non accompagnati sull' attuazione della L. 47/2017 -Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati".