FAMILY MIGRATION POLICIES IN ITALY

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WP5: Gendered patterns of migration: Empirical developments &
WP6: Comparative legal and policy analysis
About the project

Family related migration has been the dominant legal mode of entry in Europe for the past decades, but has become increasingly contested in recent years. Granting migrants the right to family union traditionally has been considered as promoting the integration of migrants into receiving societies, however, in current debates over ethnic closure of migrant communities and over the alleged “failure” of integration, the “migrant family” is increasingly seen as an obstacle to integration - as a site characterised by patriarchal relationships and illiberal practices and traditions such as arranged and forced marriages. As a result, family related modes of entry have been increasingly subject to restrictions, while the existing conditionality has been tightened up.

The research project analysed family migration policies in nine European countries from two angles. First, the project analysed policies and policy-making in regard to family related migration in a “top-down” perspective through the analysis of legislation, public debates, as well as through expert interviews. Secondly, the project analyses family migration policies from a “bottom-up” perspective, by investigating the impact of conditions and restrictions on migrants and their families and the responses and strategies migrants adopt to cope with these and to organise their family lives.

This project was financed under the programme New Orientations for Democracy in Europe (NODE, www.node-research.at) which is committed to exploring the future democratic development of Europe and its effects on citizens as well as politics. Within the perspective of the NODE-Research, the project on Civic Stratification, Gender and Family Migration Policy in Europe aimed at:

- Providing an empirically grounded analysis and evaluation of family migration policies in a broad range of immigration countries in Europe, including Eastern Europe;
- Investigating how family migration policies create civic stratification;
- providing empirical evidence for the consequences of stratified rights for migrants immigrating for family related reasons;
- analysing how migrants challenge and cope with the constraints imposed by family migration policies;
- analysing the relationship between “civic integration” and social and political integration, and conversely, relationship between civic stratification and social and political exclusion;
- applying a gender based analysis both to the analysis of family migration policies and the impact of these policies on migrants; and
- developing basic principles that might help governments to design and implement fairer immigration legislation.
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1. Main sources of data for the country report

The National Institute for Statistics (ISTAT) provides some figures concerning demographic, economic and social features of the immigrant population (see for instance “La popolazione straniera residente in Italia”, or “Rilevazione continua sulla forza lavoro”), as well as data on stay permits
http://www.istat.it/popolazione/stranieri/

The Municipality Offices of Vital Statistics offer resident population figures, including estimates about age and gender composition (see the “Popolazione straniera residente comunale per sesso e anno di nascita”)
http://demo.istat.it/index.html

The National Census (2001) also offers relevant information
http://dawinci.istat.it/MD/

Historical features about the development of migration flows from 1980 on (“Flussi migratori e popolazione straniera”) can be found at
http://www.istat.it/dati/catalogo/20020120_00/

Private foundations, such as Fondazione ISMU or Caritas-Migrants, publish annual reports on migration trends and collect further data related to several areas, e.g. numbers and typology of stay permits (from the Ministry of Interior), refugees (Ministry of Interior), entry visa (Ministry of Interior), citizenship grants (Ministry of Interior), work (INPS and INAIL), school (MIUR), justice (Ministry of Justice) etc.
www.ismu.org
http://www.dossierimmigrazione.it/english/international.htm

CESTIM also collects a number of links to thematic and territorial data bank
http://www.cestim.it/index01dati.htm#ministerodellinterno

The International and European Forum of Migration Research/Forum Internazionale ed Europeo di Ricerche sull’Immigrazione (FIERI) also has an extensive collection of Italian statistics and polls
http://www.fieri.it/pagInterna.cfm?pag=statistiche_ita&id=64

Eurostat offers demographic tables including the number of resident citizens with foreign nationality in all the EU Member States
2. Migration trends in Italy: recent developments and present features

2.1 Brief historical profile

Italy has changed in less than two decades from a country of emigration into one of immigration, experiencing particularly since the late 1980s a steady increase in the number of foreign nationals. Due to the geographical position of the country and to its immigration policies, Zincone (2006) singles out two significant features of migration processes in Italy: rapid flows with substantial volumes and high proportion of undocumented immigrants. This latter feature, in addition to the general difficulty of the qualified offices (Questure) to manage the documentation once the number of foreign residents has passed 500,000 already in early 1990s, makes it hard to compile accurate statistical data about the size and characteristics of the immigrant population in Italy.

Statistical data regarding the immigrant population at the national level is available starting with 1970, when less than 150,000 foreigners were estimated to reside in Italy. However, as shown in table 1 below, already by 1979 their number increased to more than 200,000 and during 1984-1989 it more than doubled, due to the partial diversion of migratory flows towards Southern Europe once the then typical destination countries, particularly Britain, Germany and France, closed their borders to immigration. As this was taking place in the context of severe economic crisis, negative reactions to immigration intensify and remain daunting ever since, as reflected for instance by the restrictive measures and legal instruments to prevent immigration flows adopted in response to what was perceived as an emergency situation.

The second major wave of immigration followed in 1990-1996, with migratory flows originating mainly in Eastern Europe and particularly in the Balkans, following the political torments and the war in Yugoslavia. The number of foreign residents is estimated to have doubled once again during those years, passing the counts of 800,000, in a time of national political crisis and corruption scandals, which also catalyzed the appearance of political parties expressly hostile towards immigration, such as the Northern League (Lega Nord). From this period and further on in the late 1990s dates also the first significant increase in the number of requests for family reunification (Kosic and Triandafyllidou, 2005), indicator of a tendency for settlement among certain categories of immigrants. This prompted a major reform of the immigration policy and the adoption of the first comprehensive law on migration in 1998, where immigrant integration is one of the main pillars. By that time migration had in fact become a mass phenomenon, especially once the mental threshold of 1,000,000 immigrants had been passed in 1997.
Table 1. Foreign residents in Italy from 1970 to 2004

<table>
<thead>
<tr>
<th>Years</th>
<th>Europe</th>
<th>Africa</th>
<th>Asia</th>
<th>America</th>
<th>Oceania</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970</td>
<td>61.3%</td>
<td>3.3%</td>
<td>7.8%</td>
<td>25.7%</td>
<td>1.9%</td>
<td>...</td>
<td>143,838</td>
</tr>
<tr>
<td>1975</td>
<td>60.5%</td>
<td>4.7%</td>
<td>8.1%</td>
<td>24.3%</td>
<td>1.8%</td>
<td>0.6%</td>
<td>186,415</td>
</tr>
<tr>
<td>1980</td>
<td>53.2%</td>
<td>10%</td>
<td>14%</td>
<td>21%</td>
<td>2%</td>
<td>4.5%</td>
<td>205,449</td>
</tr>
<tr>
<td>1985</td>
<td>52.1%</td>
<td>10.5%</td>
<td>15.4%</td>
<td>19.5%</td>
<td>1.4%</td>
<td>1.1%</td>
<td>423,004</td>
</tr>
<tr>
<td>1990</td>
<td>33.5%</td>
<td>30.5%</td>
<td>18.7%</td>
<td>16.4%</td>
<td>0.8%</td>
<td>0.1%</td>
<td>781,138</td>
</tr>
<tr>
<td>1995</td>
<td>40.7%</td>
<td>28.2%</td>
<td>16.4%</td>
<td>14.3%</td>
<td>0.3%</td>
<td>0.1%</td>
<td>729,159</td>
</tr>
<tr>
<td>2000</td>
<td>40.7%</td>
<td>28%</td>
<td>19.2%</td>
<td>11.8%</td>
<td>0.2%</td>
<td>0%</td>
<td>1,379,74</td>
</tr>
<tr>
<td>2004</td>
<td>47.3%</td>
<td>23.7%</td>
<td>17.3%</td>
<td>11.5%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>2,325,00</td>
</tr>
</tbody>
</table>

Source: Caritas, 2005

These major immigration flows are illustrated in table 1, which reveals estimated data for sets of five consecutive years. The alternative way of presenting data in yearly statistics may be to some extent misleading, because of the sudden dramatic increases in the official headcount in specific years, due to the four amnesties which brought to the surface scores of undocumented migrants in 1986, 1990, 1996, 1998 and 2002 (see table 17). For the last regularisation in 2002 there have been more than 700,000 applications received and almost 650,000 accepted (Caritas, 2004). The top five nationalities among applicants accounted for 56.5% of the total number of applications and they were: Romanians (20.4%), Ukrainians (15.2%), Albanians (7.9%), Moroccans (7.8%) and Ecuadorians (5.2%) (Kosic and Triandafyllidou, 2005).

The immigration population increased by around 80,000 a year in the 1990s and in the recent years it has been increasing by around three times as much per year. Following the 2002 “great amnesty”, the total number of foreign residents has approached 2 million, and by 2004 they were close to 2.5 million, which represented at that time 4.3% of the total resident population. The latest available estimates from the Italian National Institute of Statistics (ISTAT) indicate that in 2007 there were close to 3 million resident citizens with foreign nationality in Italy, a 10% increase with respect to last year.

2.2 The current scenario

According to the latest data available from ISTAT, out of the 2,938,922 foreigners residing legally in Italy in 2007, 1,473,073 are males and 1,465,849 are females. This figure shows that with slightly more than 5% of its total population, Italy has now an immigrant population comparable to other EU countries such as France or the UK (both having close to 6%),
though less than in Germany (almost 8%).

In Italy there are no dominant nationalities among the immigrant population and, as reflected in table 2, immigrants from 16 different countries of origin add up to 72% of the total number of foreigners residing there. However, in 2007 the largest groups have been the Albanians (12.8%), the Moroccans (11.7%) and the Romanians (11.6%).

Table 2. Foreign residents in Italy by nationalities and gender at 1 January 2007 (first 16 countries)

<table>
<thead>
<tr>
<th>Countries of origin</th>
<th>Total residing in Italy</th>
<th>of which female (%)</th>
<th>Total as % of all foreign residents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>375,947</td>
<td>44.35</td>
<td>12.8</td>
</tr>
<tr>
<td>Morocco</td>
<td>343,228</td>
<td>40.02</td>
<td>11.7</td>
</tr>
<tr>
<td>Romania</td>
<td>342,200</td>
<td>52.61</td>
<td>11.6</td>
</tr>
<tr>
<td>China</td>
<td>144,885</td>
<td>47.03</td>
<td>4.9</td>
</tr>
<tr>
<td>Ukraine</td>
<td>120,070</td>
<td>80.80</td>
<td>4.1</td>
</tr>
<tr>
<td>The Philippines</td>
<td>101,337</td>
<td>58.96</td>
<td>3.4</td>
</tr>
<tr>
<td>Tunisia</td>
<td>88,932</td>
<td>34.45</td>
<td>3.0</td>
</tr>
<tr>
<td>FYROM</td>
<td>74,162</td>
<td>42.10</td>
<td>2.5</td>
</tr>
<tr>
<td>Poland</td>
<td>72,457</td>
<td>71.69</td>
<td>2.5</td>
</tr>
<tr>
<td>India</td>
<td>69,504</td>
<td>39.18</td>
<td>2.4</td>
</tr>
<tr>
<td>Ecuador</td>
<td>68,880</td>
<td>60.80</td>
<td>2.3</td>
</tr>
<tr>
<td>Peru</td>
<td>66,506</td>
<td>61.08</td>
<td>2.3</td>
</tr>
<tr>
<td>Egypt</td>
<td>65,667</td>
<td>28.75</td>
<td>2.2</td>
</tr>
<tr>
<td>Serbia, Montenegro</td>
<td>64,411</td>
<td>44.69</td>
<td>2.2</td>
</tr>
<tr>
<td>Senegal</td>
<td>59,857</td>
<td>18.16</td>
<td>2.0</td>
</tr>
<tr>
<td>Total 16 countries</td>
<td>2,114,788</td>
<td>48</td>
<td>72.0</td>
</tr>
<tr>
<td>Total all countries</td>
<td>2,938,922</td>
<td>49.8</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: ISTAT, 2007

On the other hand, as shown in table 3, the fastest growing communities during 2003-2006 have been the Ukrainians (+741.50%), the Moldovans (+583%), the Ecuadorians (+305.50%) and only fourthly the Romanians (+213.10%). Other groups with a long-standing immigration history to Italy keep on rising, such as Albanians (from 217,000 to 349,000) and Chinese (from 70,000 to 128,000).
Table 3. Increase in the resident foreign population from 2003 to 2006

<table>
<thead>
<tr>
<th>Countries</th>
<th>01/01/2003</th>
<th>01/01/2006</th>
<th>Var. Diff. 2003/2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ukraine</td>
<td>12,730</td>
<td>107,118</td>
<td>741.50%</td>
</tr>
<tr>
<td>Moldova</td>
<td>6,974</td>
<td>47,632</td>
<td>583%</td>
</tr>
<tr>
<td>Ecuador</td>
<td>15,280</td>
<td>61,953</td>
<td>305.50%</td>
</tr>
<tr>
<td>Romania</td>
<td>95,039</td>
<td>297,570</td>
<td>213.10%</td>
</tr>
<tr>
<td>Poland</td>
<td>29,972</td>
<td>60,823</td>
<td>102.90%</td>
</tr>
<tr>
<td>China</td>
<td>69,620</td>
<td>127,822</td>
<td>83.60%</td>
</tr>
<tr>
<td>Egypt</td>
<td>33,701</td>
<td>58,879</td>
<td>74.70%</td>
</tr>
<tr>
<td>India</td>
<td>35,518</td>
<td>61,847</td>
<td>74.10%</td>
</tr>
<tr>
<td>Peru</td>
<td>34,207</td>
<td>59,269</td>
<td>73.30%</td>
</tr>
</tbody>
</table>

Source: ISTAT, 2006

Table 2 also reveals several gender-polarized flows: while the percentage of women among the Eastern European and Latin American foreign residents is particularly high, immigrants from Maghreb and Southern African countries tend to be mostly men.

Table 4. Distribution of foreigners residing in Italy by age-group (1 January 2007)

<table>
<thead>
<tr>
<th>0-17</th>
<th>18-39</th>
<th>40-64</th>
<th>65+</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>666,293</td>
<td>1,449,770</td>
<td>760,913</td>
<td>61,946</td>
<td>2,938,922</td>
</tr>
</tbody>
</table>

As % of total foreign resident population

| 22.7 | 49.3 | 25.9 | 2.1 | 100 |

Source: ISTAT, 2008

As regards the distribution of foreigners in Italy by age, table 4 shows that the main age group is that of 19-40, which represents the young and economically active population. This is also reflected in the statistics recording the type of residence permits issued with predominance, i.e. for work, and the main motive of migration, namely for economic reasons. However, the available ISTAT data from 1992-2002 indicate a slight upward trend for the 40-64 and 0-17 age groups, which could be correlated with the corresponding increasing numbers of residence permits issued for family reunification.

With regard to marital status, throughout the 1990s the number of married migrants has grown, passing from 40.7% of the total immigrant population in 1991 to 50.2% in 2001.
Regarding the gender patterns, slightly more than half of the women are married, but the majority of them are divorced, separated and widows.

Table 6. Foreign residents: marital status and gender (1 January 2006)

<table>
<thead>
<tr>
<th>Males + Females (% of total immigrants)</th>
<th>Females (% of total immigrants for each category)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unmarried</td>
<td>42.8</td>
</tr>
<tr>
<td>Married</td>
<td>54.9</td>
</tr>
<tr>
<td>Other</td>
<td>3.4</td>
</tr>
<tr>
<td>N/A</td>
<td>0.06</td>
</tr>
</tbody>
</table>

Source: ISTAT, 2007

With regard to immigrant minors, analogous to the increase in the percentages of married adults residing in Italy, the number of minors is also growing, which confirms that migration is becoming a “family affair”, though clearly more so for certain groups than for others. The main countries of origin in terms of minors as percentage of the whole population immigrating to Italy are shown in table 7 and this set of data matches the information provided in table 14, which captures the countries with the highest numbers of females legally residing in Italy, particularly for the purpose of family reunification.
Table 7. Presence of minors per country of origin (1 January 2006)

<table>
<thead>
<tr>
<th>Country</th>
<th>Minors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>15,487</td>
</tr>
<tr>
<td>Morocco</td>
<td>12,636</td>
</tr>
<tr>
<td>Romania</td>
<td>10,964</td>
</tr>
<tr>
<td>China</td>
<td>9,014</td>
</tr>
<tr>
<td>Serbia and Montenegro</td>
<td>3,794</td>
</tr>
<tr>
<td>Ukraine</td>
<td>3,749</td>
</tr>
<tr>
<td>FYROM</td>
<td>3,672</td>
</tr>
<tr>
<td>The Philippines</td>
<td>3,095</td>
</tr>
<tr>
<td>India</td>
<td>2,881</td>
</tr>
<tr>
<td>Ecuador</td>
<td>2,626</td>
</tr>
<tr>
<td>Peru</td>
<td>2,467</td>
</tr>
<tr>
<td>Moldova</td>
<td>2,409</td>
</tr>
<tr>
<td>Pakistan</td>
<td>2,375</td>
</tr>
<tr>
<td>Tunisia</td>
<td>1,920</td>
</tr>
<tr>
<td>Ghana</td>
<td>1,663</td>
</tr>
<tr>
<td>United States</td>
<td>1,644</td>
</tr>
<tr>
<td>Poland</td>
<td>1,437</td>
</tr>
</tbody>
</table>

Source: ISTAT, 2007

2.3 Immigrant sojourners between work and family

2.3.1 Residence permits per reason of stay

As revealed by the ISTAT statistics, the two main types of residence permits issued on 1 January 2007 were those for work and family, which combined cover 90% of the total permit.

Table 8. Residence permits in 2007 per reason of stay

<table>
<thead>
<tr>
<th>Year</th>
<th>Work</th>
<th>Family</th>
<th>Study</th>
<th>Elective</th>
<th>Religion</th>
<th>Asylum and asylum request</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Value</td>
<td>Value</td>
<td>% of total</td>
<td>% of total</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>1,463,058</td>
<td>763,744</td>
<td>61</td>
<td>31.6</td>
<td>51,625</td>
<td>44,847</td>
<td>32,081</td>
<td>16,079</td>
</tr>
</tbody>
</table>

Source: ISTAT, 2007
Though confirming that in Italy most immigrants obtain their residence permits due to employment, this set of data also points to an increasing trend in acquiring the right of stay for the purpose of family reintegration. In fact, as illustrated in table 9, this has been a constant trend since the 1990s.

Table 9. Residence permits per main reasons of stay, historical perspective

<table>
<thead>
<tr>
<th>Year</th>
<th>Work</th>
<th>Family</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Value</td>
<td>% of total</td>
<td>Value</td>
</tr>
<tr>
<td>1992</td>
<td>423,977</td>
<td>65.3</td>
<td>92,073</td>
</tr>
<tr>
<td>1998</td>
<td>660,335</td>
<td>64.5</td>
<td>214,709</td>
</tr>
<tr>
<td>2000</td>
<td>827,618</td>
<td>61.7</td>
<td>334,129</td>
</tr>
<tr>
<td>2002</td>
<td>840,966</td>
<td>58.1</td>
<td>421,761</td>
</tr>
<tr>
<td>2004</td>
<td>1,479,381</td>
<td>66.4</td>
<td>545,300</td>
</tr>
<tr>
<td>2005</td>
<td>1,412,694</td>
<td>62.9</td>
<td>624,404</td>
</tr>
<tr>
<td>2006</td>
<td>1,419,285</td>
<td>62.0</td>
<td>682,365</td>
</tr>
<tr>
<td>2007</td>
<td>1,463,058</td>
<td>60.5</td>
<td>763,744</td>
</tr>
</tbody>
</table>

Source: ISTAT, 2007; ISTAT, 2000; FIERI

In 1992, 423,977 permits were granted for the purpose of work (65.3% of total permits) and 92,073 for family reunification (14.18%), while in 2000 there were 827,618 work permits (61.7%) and 334,129 family ones (24.9%). Then, after a sudden increase in residence permits for the purpose of employment following the “great amnesty” of 2002, the downward trend of work permits relative to other types of permits continued in the following years, as did the upward one regarding family reunification permits. The still relatively lower size of family reunification flows has been previously explained by the harsh working conditions and the difficulty in finding suitable accommodation for a whole family (Caritas, 2004).

2.3.2 Gender distribution of residence permits for work and family reunification

When segregating the data according to gender, it can be observed that there is a clear predominance of males with regard to work permits and of females with regard to family reunification permits, both of which have been a constant feature of the immigration flows into Italy since the 1990s.

---

1 Includes all types of residence permits in addition to the work and family reunification permits which appear in the first columns.

2 For a complete set of data on migration flows and foreign residents in Italy during 1992-1998, including the distribution of residence permits by reason of stay, see http://www.istat.it/dati/catalogo/20020120_00/.
Figures 1 and 2 illustrate this trend in terms of absolute values, but by looking at the same data as percentage of the total permits of the same type, we learn that the relative values have remained almost constant throughout the years. Only a minor upward trend for female work permits and an upward trend for male family permits are noticeable. For instance, in 1992 there had been 305,135 residence permits issued for the purpose of work for males (72.0% of all the work permits) and 16,240 permits for family reunification (17.6% of all the family permits), while in 2007 932,596 male work permits had been issued (63.7% of all the work permits) and 174,839 male family reunification permits (22.9 % of all family permits).
Table 10. Gender distribution of the work permits

<table>
<thead>
<tr>
<th>Year</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Value</td>
<td>% male permits</td>
</tr>
<tr>
<td>1992</td>
<td>305,135</td>
<td>78.3</td>
</tr>
<tr>
<td>1998</td>
<td>453,350</td>
<td>80.3</td>
</tr>
<tr>
<td>2000</td>
<td>575,095</td>
<td>78.5</td>
</tr>
<tr>
<td>2002</td>
<td>585,551</td>
<td>76.5</td>
</tr>
<tr>
<td>2004</td>
<td>933,328</td>
<td>81.1</td>
</tr>
<tr>
<td>2005</td>
<td>899,328</td>
<td>78.8</td>
</tr>
<tr>
<td>2006</td>
<td>903,516</td>
<td>78.9</td>
</tr>
<tr>
<td>2007</td>
<td>932,596</td>
<td>77.8</td>
</tr>
</tbody>
</table>

Source: ISTAT

Table 11. Gender distribution of the family permits

<table>
<thead>
<tr>
<th>Year</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Value</td>
<td>% male permits</td>
</tr>
<tr>
<td>1992</td>
<td>16,240</td>
<td>4.2</td>
</tr>
<tr>
<td>1998</td>
<td>42,232</td>
<td>7.5</td>
</tr>
<tr>
<td>2000</td>
<td>72,153</td>
<td>9.8</td>
</tr>
<tr>
<td>2002</td>
<td>90,942</td>
<td>11.9</td>
</tr>
<tr>
<td>2004</td>
<td>120,603</td>
<td>10.5</td>
</tr>
<tr>
<td>2005</td>
<td>140,913</td>
<td>12.3</td>
</tr>
<tr>
<td>2006</td>
<td>156,031</td>
<td>13.6</td>
</tr>
<tr>
<td>2007</td>
<td>174,839</td>
<td>14.6</td>
</tr>
</tbody>
</table>

Source: ISTAT

Another interesting observation drawn from this data, and illustrated by the graphs in figures 3 and 4 which capture the distribution of work and family reunification permits per gender, is that the difference between the concrete number of work permits and family permits for males is much greater than for women. This indicates that while for males\(^3\) the economic reason has been the main factor in determining their immigration to Italy, females have been equally motivated by employment opportunities and by the prospect of family reunification.

\(^3\) Aggregate values, because as it will be discussed below, there are great differences in the migratory patterns of the immigrants, according to their provenience.
2.3.3 Entry visas for work and family reunification

In addition to the allocation of residence permits, the other useful indicator of the main immigration trends is the types of entry visas issued for Italy. As reflected in statistics collected by (FIERI) and also pointed out in a recent study from the European Parliament, a total of 983,499 visas were granted in 2004, most of which were for family reunification (39.5%), followed closely by employment (33.9%) (European Parliament, 2008). In 2005 the total number of visas had risen to 1,076,080, of which 42.3% were for family reunification and 37.6% were for work. Once again we can notice a tendency towards an increase in the number of visas received for the purpose of family reunification, reinforcing the trend already
noticed in the case of residence permits.

### Table 12. Work and family reunification visas during 1998-2005

<table>
<thead>
<tr>
<th>Year</th>
<th>Total visas (value)</th>
<th>Family reunification (% of total visas)</th>
<th>Work visas (% of total visas)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>714,077</td>
<td>35.6</td>
<td>27.1</td>
</tr>
<tr>
<td>1999</td>
<td>834,680</td>
<td>29.7</td>
<td>28.7</td>
</tr>
<tr>
<td>2000</td>
<td>1,008,971</td>
<td>25.2</td>
<td>40.9</td>
</tr>
<tr>
<td>2001</td>
<td>947,085</td>
<td>30.6</td>
<td>37.8</td>
</tr>
<tr>
<td>2002</td>
<td>853,535</td>
<td>34.8</td>
<td>36.2</td>
</tr>
<tr>
<td>2003</td>
<td>874,874</td>
<td>31.8</td>
<td>42.1</td>
</tr>
<tr>
<td>2004</td>
<td>983,499</td>
<td>39.5</td>
<td>33.9</td>
</tr>
<tr>
<td>2005</td>
<td>1,076,080</td>
<td>42.3</td>
<td>37.6</td>
</tr>
</tbody>
</table>

Source: FIERI

### 2.3.4 Distribution of work and family reunification residence permits per countries of origin and conclusions

As suggested by the data in this section, women are the main beneficiaries of family reunification processes in Italy. However, distribution of residence permits for the purpose of family reunification varies greatly among women of different nationalities. Examples of communities in which they weight significantly are Pakistan (92.9%), Bangladesh (92.4%), Egypt (89.2%), Macedonia (85.3%), Cuba (83.3%), Tunisia (81.1%), Jordan (76.9%) and Algeria (76.4%).

Women from these groups usually do not follow an autonomous settlement process, rather tend to follow other members of their family. The patterns of migration and settlement differ according to the origin of the immigrants and some groups, such as the Albanian, the Moroccan, the Tunisian, the Macedonian, the Indian and the Egyptian indicate a migration chain that starts with an initial strong concentration on the male side, which is followed some years later by female flows.

### Table 13. Work and family stay permits per country or origin

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>Femal</td>
<td>1,841</td>
<td>1,758</td>
<td>13,205</td>
<td>52,263</td>
</tr>
<tr>
<td></td>
<td>Males</td>
<td>16,066</td>
<td>587</td>
<td>79,615</td>
<td>14,691</td>
</tr>
<tr>
<td>Morocco</td>
<td>Femal</td>
<td>2,104</td>
<td>2,576</td>
<td>14,683</td>
<td>42,149</td>
</tr>
</tbody>
</table>

\[4 \] Combined data for employees and the self-employed.

\[5 \] 2003 values
<table>
<thead>
<tr>
<th>Country</th>
<th>Females</th>
<th>Males</th>
<th>Females</th>
<th>Males</th>
<th>Females</th>
<th>Males</th>
<th>Females</th>
<th>Males</th>
</tr>
</thead>
<tbody>
<tr>
<td>Romania</td>
<td>998</td>
<td>1,350</td>
<td>20,721</td>
<td>35,856</td>
<td>12,657</td>
<td>5,456</td>
<td>25,511</td>
<td></td>
</tr>
<tr>
<td>China</td>
<td>1,114</td>
<td>2,049</td>
<td>15,851</td>
<td>25,680</td>
<td>7,390</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Philippines</td>
<td>7,174</td>
<td>4,779</td>
<td>33,284</td>
<td>17,853</td>
<td>4,384</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tunisia</td>
<td>411</td>
<td>6,702</td>
<td>2,147</td>
<td>34,005</td>
<td>10,803</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Serbia</td>
<td>860</td>
<td>1,939</td>
<td>34,005</td>
<td>16,695</td>
<td>2,875</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Macedonia</td>
<td>238</td>
<td>1,173</td>
<td>1,022</td>
<td>14,133</td>
<td>2,459</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ecuador</td>
<td>N/A</td>
<td>N/A</td>
<td>5,346</td>
<td>N/A</td>
<td>2,387</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>India</td>
<td>113</td>
<td>1,451</td>
<td>1,231</td>
<td>15,385</td>
<td>2,785</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Poland</td>
<td>891</td>
<td>534</td>
<td>10,905</td>
<td>6,453</td>
<td>1,147</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Peru</td>
<td>3,066</td>
<td>1,931</td>
<td>14,209</td>
<td>7,263</td>
<td>5,572</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Egypt</td>
<td>64</td>
<td>3,084</td>
<td>495</td>
<td>21,807</td>
<td>1,844</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senegal</td>
<td>90</td>
<td>4,065</td>
<td>1,030</td>
<td>32,303</td>
<td>902</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>1,237</td>
<td>2,923</td>
<td>7,133</td>
<td>16,279</td>
<td>8,431</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


On the other hand, the Filipinos, Ecuadorians and Peruvians residing in Italy are in their majority women who have immigrated for work purposes. Yet a different pattern is observed for the immigrant populations from Romania, China, Poland or Sri Lanka which have been more gender balanced from the beginning and also have similar percentages of women acquiring residence permits for work and family reunion respectively.

A more peculiar case is the one of the Senegalese community, which is still male-dominated and it presents a very low male workers/female family-reunited ratio, even if the immigrant flows date since a longer time. This could be an indication that for this group emigration is still seen as a temporary phenomenon and not one paired with a strong intention or possibility for settlement.
2.4 Female immigrants in Italy

A constant increase in the presence of women immigrants can be noticed in Italy throughout the time. In 1991, there were 361,000 women immigrants (42% of all the regular sojourners), by 2002 their presence had doubled (726,000 and 48.8% of all the sojourners), and in 2007 there were 1,463,583 women (49.8%).

As in other Mediterranean countries, in Italy women workers arrived from the very beginning of the immigration process, mainly as domestic workers. The first female immigrants in the 1960s and 1970s came mainly from former Italian colonies (e.g. Ethiopian or Eritrean women working there for Italian families, who left when the war began) or from countries where the Catholic Church was playing an important role (e.g. Cape Verde or the Philippines). On the whole, a strong connection between the Catholic confession and domestic labour can be observed in Italy, due to the transnational mediation role played by the Church between the countries of origin and the place of settlement, particularly by acting as a recruiting and a network-creating agency.

From the 1990s on, the female presence in Italy starts to gradually increase in the originally male dominated flows. An large number of women start arriving from Northern Africa and Albania, but also from several Eastern European and Latin American countries.

Table 14. Female residence permits: the first countries per each of the three main reasons of stay (1 January 2007)

<table>
<thead>
<tr>
<th>Countries</th>
<th>Female permits for work</th>
<th>Countries</th>
<th>Female permits for family reunification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ukraine</td>
<td>79,510</td>
<td>Albania</td>
<td>80,754</td>
</tr>
<tr>
<td>Romania</td>
<td>78,188</td>
<td>Morocco</td>
<td>60,690</td>
</tr>
<tr>
<td>The Philippines</td>
<td>36,090</td>
<td>Romania</td>
<td>56,592</td>
</tr>
<tr>
<td>Poland</td>
<td>33,995</td>
<td>China</td>
<td>20,459</td>
</tr>
<tr>
<td>China</td>
<td>30,773</td>
<td>Poland</td>
<td>15,711</td>
</tr>
<tr>
<td>Morocco</td>
<td>22,643</td>
<td>Ukraine</td>
<td>14,858</td>
</tr>
<tr>
<td>Moldova</td>
<td>22,301</td>
<td>Tunisia</td>
<td>14,037</td>
</tr>
<tr>
<td>Peru</td>
<td>22,202</td>
<td>Serbia and Montenegro</td>
<td>13,641</td>
</tr>
<tr>
<td>Ecuador</td>
<td>22,105</td>
<td>Brasil</td>
<td>13,555</td>
</tr>
</tbody>
</table>

---

2.5 Immigrant integration in the Italian labour market

The aim of ISTAT’s “Rilevazione continua sulle forze lavoro” is to conduct a survey about the composition of the immigrant labour force in Italy. The sample used for the study is the foreign population registered at the municipalities’ Offices for Vital Statistics, including the active second generation. The last survey covers the second quarter of 2006 and captures 1,507,000 documented foreign workers from an overall population of 2,067,000. 59% of the males and 41% of the women in this sample are active, the total activity rate among immigrants being of 73%, namely 88.4% for men and 58.4% for women (13% and 7% more than, respectively, Italian men and women). The occupation rate is of 84.2% for men and 51.2% for women, but foreign workers are generally at a greater risk of unemployment than the native population. This is especially true for women, given that the unemployment rates for foreign and native female workers are of 13.1% and 8.5%, respectively, while the equivalent data for men are of 7.5% and 5.2%. The data also shows that immigrant workers concentrate in the Centre-North of Italy where 65% of the foreign labour force is found, as compared to only 10% in the South.

The survey also indicated that most immigrants are working in the service sector, particularly the women, which confirms an international trend that involves the native population as well. On the other hand, the male labour force predominates in the industrial and construction sectors. The data also varies by geographical area, as for instance 80% of the industrial workforce concentrates in the North.

Table 15. Foreign workers per economic sector, gender and geographical repartition (thousands)

<table>
<thead>
<tr>
<th></th>
<th>Agriculture</th>
<th>Industry</th>
<th>Constructions</th>
<th>Services</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>M</td>
<td>F</td>
<td>Total</td>
<td>M</td>
<td>F</td>
</tr>
<tr>
<td>North</td>
<td>15</td>
<td>3</td>
<td>18</td>
<td>182</td>
<td>62</td>
</tr>
<tr>
<td>Centre</td>
<td>10</td>
<td>3</td>
<td>13</td>
<td>40</td>
<td>12</td>
</tr>
<tr>
<td>South</td>
<td>11</td>
<td>4</td>
<td>15</td>
<td>7</td>
<td>0</td>
</tr>
<tr>
<td>Italy</td>
<td>36</td>
<td>10</td>
<td>46</td>
<td>229</td>
<td>74</td>
</tr>
</tbody>
</table>

Source: ISTAT, Rilevazione sulle forze lavoro, II trimestre 2006

Full-time workers represent the overall majority (80%), but this is more true for men (94% of whom are working full-time) than for women (only slightly more than the 40%). More men than women are represented in open-ended jobs (44.8% vs. 27.3%), and in self-employment (7.7% vs. 2.4%). According to the ISTAT report, 85% of the migrant workers are employed in

---

7 The next country is Nigeria, with only 8,644 female work permits.
open-ended jobs, which seems to contradict the widespread thesis of who tends to benefit from the highest incidence of flexibility and instability on the migrant labour market. However, it must not be forgotten that a large number of immigrant workers remain outside of this survey, namely those who, whether regularised or not, are employed in partially or fully informal jobs.

The difficulty to provide a correct estimate of informal job rates in Italy is a well known fact, given that often not just the job, but also the workers themselves are “hidden”, especially if they are irregular or clandestine. For instance, the survey conducted by ISMU in Lombardia presents quite a different scenario: just 38.6% are employed in open-ended full time jobs, 7.5% are legally employed part-time, 9.2% have a legal temporary job, and the remaining 14% are working in the shadow economy (ISMU, 2005). At the same time, another recent research study about domestic assistance in Lombardia (Mesini et al., 2006) reveals that 20% of the regularised female migrants are working without a contract.

Occupational segregation is visible on two fronts, both with serious consequences. Firstly it confines immigrant labour force to the lowest qualified, most dangerous and less paid jobs. Less than 2% of immigrants are entrepreneurs; only 2.5% are practicing an intellectual profession, less than 5% a technical profession and less than 4% a clerical job; and 31% of the immigrant labour force is employed in unqualified jobs. Secondly, it leads to the development of ethnic enclaves. For instance, 43% of the domestic workers are from the Philippines, while in the construction sector Moroccans, Albanians and Romanians are the most represented. Indians are mostly employed in farms and a great amount of Tunisians are working as fishermen. However, it is worth noting that, among women, the recently arrived Eastern Europeans have managed to gain a relevant position in the care/domestic sector to the detriment of older groups, such as the Filipinos and the Latin Americans.

Table 16. Domestic and care work, country of origin, gender

<table>
<thead>
<tr>
<th>Countries</th>
<th>% Domestic work</th>
<th>Countries</th>
<th>% Care work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ukraine</td>
<td>26,6</td>
<td>Ukraine</td>
<td>35,7</td>
</tr>
<tr>
<td>Romania</td>
<td>20,2</td>
<td>Romania</td>
<td>19</td>
</tr>
<tr>
<td>Poland</td>
<td>8,3</td>
<td>Poland</td>
<td>9,5</td>
</tr>
<tr>
<td>Ecuador</td>
<td>7,9</td>
<td>Moldova</td>
<td>8,8</td>
</tr>
<tr>
<td>Moldova</td>
<td>6,6</td>
<td>Ecuador</td>
<td>8</td>
</tr>
<tr>
<td>Peru</td>
<td>4,1</td>
<td>Peru</td>
<td>3,7</td>
</tr>
<tr>
<td>Albania</td>
<td>3,5</td>
<td>Albania</td>
<td>2</td>
</tr>
<tr>
<td>The Philippines</td>
<td>3,5</td>
<td>Russia</td>
<td>1,8</td>
</tr>
<tr>
<td>Morocco</td>
<td>2,3</td>
<td>Bulgaria</td>
<td>1,4</td>
</tr>
<tr>
<td>China</td>
<td>2,1</td>
<td>Morocco</td>
<td>1,1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>147.000 females</strong></td>
<td><strong>Total</strong></td>
<td><strong>121.000 females</strong></td>
</tr>
<tr>
<td></td>
<td>42.000 males</td>
<td></td>
<td>19.000 males</td>
</tr>
</tbody>
</table>

Source: Dossier Statistico Caritas-Migrantes 2005

---

8 The “five-P jobs”: pesanti, precari, pericolosi, poco pagati, penalizzati socialmente (heavy, precarious, dangerous, poorly paid, socially penalised) (Kosic and Triandafyllidou, 2005).
3. The legal framework

3.1 Evolution of the immigration laws and family reunification policies in Italy

3.1.1 Pre-1998 legislation

In the 1970’s immigration was not governed through laws, but mainly through memoranda issued by relevant ministries, mainly the Ministry of Interior, the Ministry of Foreign Affairs, and the Ministry of Labour. The earliest policies aimed at regulating the inflows of migrants and their legal treatment in Italy date from the late 1980s, following the arrival of the first substantial waves of immigrants. Not the least because of the economic crisis that was unfolding, the first immigration law (Law 943/1986) represented the government’s response to the perceived emergency situation. Taking the view that immigration was a limited and temporary phenomenon, the government focused on regulating the entry of foreigners seeking employment, but without aiming at encouraging their integration, too. However, an important feature of the 1986 law was that it introduced the first mass regularisation of undocumented immigrants, a measure to be repeated by all the subsequent immigration reforms (see table 17).

With regard to family reunification, this law was also meant to enforce the International Labour Organisation (ILO) International Convention 143/1975 which had been ratified by Italy in 1981, and therefore it incorporated its prescriptions about the right of workers to family reunion. Subordinate workers who were lawfully sojourning were entitled to this right independently of the length of their residence permit, on the condition that they be able to ensure “normal life conditions” to their dependents. The beneficiaries could have been the spouse, any dependent unmarried minor children and dependent parents, but reunited members were not allowed to work for one year.

And yet after just four years the Italian immigration policy had to be re-drawn to respond to the reality of the ever increasing number of foreigners living in Italy, as well as to adapt to the emerging European migration regime (Kosic and Triandafyllidou, 2005). Thus the Martelli Law was born (Law 39/1990), in which immigration is more appropriately approached as a long-term phenomenon. The law not only prescribes annual planning of migratory flows, but it also introduces certain norms regarding the rights and obligations of foreigners in Italy, i.e. related to the conditions for stay, work, family reunification and social integration. The 1990 reform also brought about a new amnesty for undocumented immigrants, which was to be repeated in 1996 following, as described in the first chapter, the second major wave of immigration from Eastern Europe and the Balkans.

The situation in those years was such that even after these provisions, there still remained many gaps in the legislation which forced the administration to rely on rather obscure internal regulations issued by the qualified ministries (Circolari Ministeriali). The juridical discipline of family reunion, being such a sensitive issue and with a high stake in terms of immigration policy, suddenly became a terrain of conflict and strategic negotiation (Pastore, 1996). For instance, in 1992 two circolari, nr. 29030/C issued by the Ministry of Foreign Affairs and nr. 69/92 by the Ministry of Interior, modified the former framework:

- They simplified the bureaucratic procedure and reduced the processing time period of family reunification requests, which until that moment could have extended to up to two years.
They specified what “normal life conditions” would entail: a job contract, a rent contract or, in some cases, the proofs of payment of public utilities such as electricity and gas.

Moreover, in 1995, the Decreto Dini (Decree Law 489/1995) also partially modified the legal provisions for family reunification. Article 11 introduced the condition of having legally sojourned for at least one year and of holding a two-year work permit as a minimum before being able to request reunification with the family. Moreover, the adequacy of housing should now have passed an inspection from the Municipality. On the other hand, this decree settled that the earnings of more than one household member could be considered as valid income.

The hardships encountered in obtaining family reunion through legal ways has led certain immigrants to avail themselves of alternative “de facto” reunifications, namely through clandestine entries or by overstaying tourist visas. Though in 1988 a circolare allowing for the regularisation of the relatives already in Italy (provided that all the income and housing requirements be met) had been issued, this option was soon revoked in 1990 through another circolare. In the meantime, new norms about expulsions decreed that those who had been found to reside irregularly in Italy would be denied entry in the territory for several years, unless the Ministry of Interior granted them a special and completely arbitrary concession.

3.1.2 The Single Text of 1998

Yet it was not long until another amnesty was issued, in 1998, when what is generally considered as the first comprehensive Italian law on migration was passed. The context of this new reform was given by a mix of factors: the political crisis through which Italy was passing at that time, the significant increase in the number of foreigners residing in Italy both legally and illegally during the late 1990s, the tendency towards settlement observed among certain categories of immigrants, and the increase in xenophobic public attitudes. At this point, with more than 1 million foreigners residing in Italy since 1997, immigrant integration became a necessity.

The Turco-Napolitano Law or the Single Text (Texto Unico), as the Law 40/1998 is better known, set a three-pillar basis for the Italian immigration policy, which has survived the subsequent amendments and changes of governments:

- fight illegal migration through strict repressive measures
- regulate legal migration through a quota system and other mechanisms
- integrate resident foreigners.

Bilateral agreements and criminal penalties made up the backbone of the first pillar, while the second one meant that foreigners were allowed to enter Italy if they had a job offer or if they were “-sponsored” by a legal resident, but only within the national quotas (flussi di

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9 The “Clean Hands” (Mani Pulite) operation (Kosic and Triandafyllidou, 2005).
10 See table 17 with data about the number of undocumented migrants regularised during the 1998 amnesty and the previous ones.
11 Anyone legally residing in Italy (whether Italian or immigrant) could have been a sponsor, provided they were able to put an employer in Italy in contact with a prospective foreign worker. In practice this option represented the “institutionalisation” of the mediation role played by migratory chains, but it was repealed in
ingreso) decided within the three-year plans set by the government\textsuperscript{12} (see table 18). Relevant for this paper, family reunification is exempt from the planned quotas. And finally, reflecting the centre-left direction of the government, the third pillar introduced a whole set of measures and consultative bodies aimed at integrating migrants, protecting them from discrimination and ensuring their equal access to goods and services. However, no specific “settlement programme” for new migrants was introduced at any point during the immigration process (Chaloff, 2003).

With regard to family reunification, from 1998 on, all the requirements and procedures became more and more detailed. The family reunification procedure could now be started not just by subordinate workers as stipulated in the 1986 law, but also by the self-employed and the holders of a study, religious or family permit.\textsuperscript{13} The logic behind this shift was that granting family reunion rights should be not just for workers, but for anyone who had been living legally in Italy for an extended period of time.

Moreover, after 1998, the definition of a family has been extended so as to include unmarried adult children in case they are disabled, minor children from former marriages (only with the consent of the spouse), foster children and relatives within the third degree who are disabled. Moreover, the 1998 law ruled that foreigners entering Italy on the grounds of family reunification were allowed to start working upon arrival. This was eventually granted to dependent parents, too, through another circolare from the Ministry of Interior (nr. 66/1998).

\subsection*{3.1.3 Post-1998}

In the meanwhile, at the EU level immigration had been recognised as an issue of common interest with the Maastricht Treaty in 1993, and by 1999 the Amsterdam Treaty introduced the first common measures on immigration policy. On the Italian stage, soon the time arrived for passing a new law and a new amnesty. In 2002, the now centre-right governmental coalition adopted the Bossi-Fini Law (Law 189/2002) and the Decree Law 195/2002, which represent more a reform of the 1998 law, rather than new comprehensive immigration bills.

The changes brought about by the new law went in the direction of a more repressive policy towards undocumented immigrants (e.g. the use of compulsory repatriation), as well as it modified the work and stay permit system in use. First of all, the “sponsorship” programme was abolished. Secondly, a needs-test for the employment of foreigners has now to be passed in order to legally offer employment to non-Italian nationals, who are then admitted into the country only on a temporary basis. However, when the contract expires, the immigrant worker is allowed to stay in Italy an additional period of six months to look for a job. Third country nationals can enter Italy with a “residence contract” (contratto di soggiorno), which is a contract for subordinate work signed by themselves and an employer, 2002.

\textsuperscript{12} These annual quotas are determined by the president of the Council of Ministers and the Parliament according to the needs of the labour market (Article 3). More concretely, they are divided according to four parameters (Chaloff, 2003): regional quotas (the overall national quota is divided into sub-quotas for 20 regions and then further apportioned to 104 provinces); type of labour (mainly seasonal, dependent work and self-employment); job category; and nationality (with some preferential quotas reserved for citizens from specific countries that have concluded bilateral agreements with Italy).

\textsuperscript{13} Originally the family permit was not mentioned, but a Court sentence from 2001 made it possible.
be it a firm or a family.

As for the family reunification policy, in the context of the general backlash against immigration, this right was also restricted. The reunited family was once again shrunk, as parents could be brought only if:

- they were less than 65 years old and they did not have any other children in the country of origin;
- they were more than 65 years old, but their offspring could not take care of them due to serious and documented health problems (in practice this meant having to demonstrate that they were unable to work).

As the largest percentage of Italian immigrants originate from countries where the life expectancy hardly reaches 65 years and fertility rates are such that it is difficult for their parents not to have other offspring, these conditions have been introduced in order to reduce the number of family reunification requests with senior people, in response to the concerns about the weight of inactive old third country foreigners on an already overburdened welfare system in Italy. Ironically, these provisions fail to recognise the parallel responsibilities that female migrants working as carers for Italian families have towards their own families, especially of caring for their elders. The same is true in the case of disabled children, because after 2002, adult children can be reunited with their parents living in Italy only if they are totally disabled, which implies a more severe condition than a mild, functional disability.

Moreover, the bureaucratic procedure was once again changed, in the sense that it became more complicated and demanding. As a consequence, documents testifying family relationships had to incur the risk of losing their validity due to the longer periods of time they needed to be processed.

### 3.1.3 Recent developments

In early 2007, the Directive 2003/109/EC on long-term residence and the Directive 2003/86/EC on family reunification were transposed into Italian law. The Decree Law nr. 5 from 08.01.2007 transposing the EU directive on family reunification came into force on the 15.02.2007 and brought significant changes to the legislation, in the sense of a general relaxation of the boundaries and limitations introduced by the former law, a legacy of the centre-left government led by Romano Prodi in power since 2006. In fact, the definition of whom may benefit from family reunification was expanded and, for a short while, broader than that stipulated in the Directive 2003/86/EC.

First of all, a significant safeguard of the family unit in cases of expulsions and renewal of the resident permit was introduced. The decree law stated that before refusing, renewing and releasing a stay permit, the administration should take into serious consideration the nature and validity of the family relationships existing both in the country of origin and in Italy. In practice this would mean that if migrants could demonstrate having relatives who legally reside in Italy, then it would be more difficult for the administration to

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14 As described below, the legislation changed once again in 2008, returning to the restrictive measures of the Bossi-Fini law from 2002.
decide to expel them or to refuse them a stay permit. In addition, minor children can now be reunited with parents residing in Italy without having to prove that they are dependents, a condition which lay embedded in the legislation from before the Single Text. Similarly, according to the 2007 legislation, parents qualified for family reunification just by showing that they were in need and that they lacked sufficient resources in the country of origin.\(^{15}\)

Also the housing requirements were less strict in the new decree law, with immigrants needing only a qualification from the local sanitary authorities instead of a declaration from the Municipality. Moreover, in case of bringing minors less than 14 years old to live with them, parents now just need a declaration of acceptance from the house owner.

The bureaucratic path has also been simplified with the elimination of one step: documentation related to the family relationships should now be presented only to the Italian Consulate in the country of residence and not also to the Provincial Police Headquarters (\textit{Questura}). This also shortens the processing period, limited now to 90 days, after which the family member should receive an entry visa and continue the application for the residence permit from within the country.

However, the most recent relevant developments date from July 2008, when the Italian Parliament passed a new public security law (\textit{Law 125/2008}) that includes several more strict measures concerning immigration and asylum policies:

- The trials concerning illegal entries in Italy become a priority and illegal entry to national territory will be sanctioned with detention (6 months - 4 years) and expulsion.
- The maximum period of stay in a detention centre\(^{16}\) will be 18 months.
- The failure to leave the country following an expulsion order will lead to imprisonment from one to four years.
- Renting a house to an irregular immigrant will lead to confiscation of the apartment and imprisonment of up to three years.
- For immigrants found guilty of criminal offences, the penalties will be increased by a third.

Moreover, the law also introduces a new and general aggravating circumstance consisting of "illegal stay in the national territory", as well as it limits once again the categories of family members entitled to family reunification. Specifically, in order to qualify for family reunification, the spouse has to be older than 18 and not legally separated. The condition that adult children must be totally disabled in order to be reunited with their parents is once again reinforced. Also in the case of the parents the rules of not having other offspring in their country of origin or, if they are older than 65, that the other children be in the impossibility to support them due to serious health reasons are reinstated. In other words, after just one year, there is a return to the provisions in the Bossi-Fini law of 2002. This is explained in the context of the return of the centre-right government led by Silvio Berlusconi in 2008, following the fall of the centre-left coalition led by Romano Prodi.

\(^{15}\) As described below, this provision was also restricted in 2008.
\(^{16}\) Centres for temporary detention and assistance of illegal migrants to be expelled.
3.2 Amnesty as a fundamental strategy to manage migration flows

The increasingly restrictive immigration policy in Italy is a direct response to the widespread irregularity and an ongoing attempt to reduce the presence of undocumented foreigners. However, large numbers of irregular migrants have been a constant feature of the immigration process in Italy, partly because of its initially non-existent immigration policy and later highly restrictive, which in practice lead to a gap between the planned legal quotas, the demand for foreign labour and the immigration pressure particularly from Eastern European and non-EU countries (Kosic and Triandafyllidou, 2005). As a consequence, Italy’s vast informal labour market were employment is readily available has become the fertile ground for covering this gap (Reyneri, 2003), accounting for the high percentages of undocumented migrants throughout the last two decades.

In this context, mass regularisation processes have been one of the main means to manage and control migration in Italy and each change in legislation since 1986 has been accompanied by an amnesty. According to Caritas (2004), nearly two thirds of the immigrants currently sojourning in Italy have been previously living undocumented and were regularised in at least one of these programmes. However, the amnesties have not all been the same, rather they differed in terms of procedures and requirements for regularisation. For instance, only the 1995 and 1998 amnesties allowed for the regularisation of family members. Table 17 shows a set of characteristics of the Italian amnesties, including the number of immigrants applying for regularisation and those eventually obtaining it.

Table 17. The Italian regularisation processes

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</thead>
<tbody>
<tr>
<td>Requirements</td>
<td>Being in Italy when the law came into force</td>
<td>Being in Italy when the law came into force</td>
<td>Being in Italy when the law came into force; passport or another identification</td>
<td>Proof of the presence in the territory 7 months before the law came into force, identificat</td>
<td>Being employed at least three months (before the law came into force)</td>
<td>Being employed since at least three months (before the law came into force) as subordinate worker in a</td>
</tr>
</tbody>
</table>

17 However, in Italy amnesties are rather common mechanisms for regularisation in other areas, too. Chaloff (2003) points out that there have been numerous tax amnesties, employment “emersion” regularisations of undeclared workers and even amnesties for illegally constructed buildings.

18 Reyneri (1998) suggests that some of the workers who had obtained legal status during one regularisation programme, sometimes fell back into illegality because they were unable to renew their permits and applied again at the next amnesty.

19 Due to the pressure of the industrial sector, the regularisation was extended to all the dependent workers.
However, to gain a better understanding of the scale of these regularisation programmes, this data should be read in parallel with the quotas set by the government since 1998 (table 18).

Table 18. Characteristics of the Italian quota system

<table>
<thead>
<tr>
<th></th>
<th>1998</th>
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<th>2001</th>
<th>2002</th>
<th>2003</th>
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<tbody>
<tr>
<td>Total available permits</td>
<td>58,000</td>
<td>58,000</td>
<td>83,000</td>
<td>89,000</td>
<td>79,500</td>
<td>79,500</td>
<td>79,500</td>
</tr>
<tr>
<td>% Privileged countries</td>
<td>10.3</td>
<td>10.3</td>
<td>21.6</td>
<td>18.4</td>
<td>12.5</td>
<td>4.5</td>
<td>25.6</td>
</tr>
</tbody>
</table>

20 Preference is given to countries that have concluded bilateral agreements with Italy on migration cooperation (e.g. Albania, Algeria, Bangladesh, Egypt, the Philippines, Ghana, Morocco, Moldova, Nigeria, Pakistan, Senegal, Somalia, Sri Lanka and Tunisia), which entail the management of illegal flows and the identification and repatriation of their expelled clandestine citizens. Other quotas are reserved to Italian
These two tables offer a clear indication of the gap between governmental prescriptions regarding the annual flows of immigrants and the real demand for foreign labour in Italy. In this context, the decision of the centre-right government led by Berlusconi to reduce the quotas in 2002 appears clearly unrealistic. More recently, despite the fact that the last quota decree in 2007 set the cap to 170,000 non-EU workers (which has been further increased by 30,000 seasonal workers), there have been more than 500,000 applications received, once again much more than the places available.

### 3.3 The current scenario

As mentioned above, the Turco-Napolitano law from 1998 is still, along with its amendments, the main piece of legislation concerning the status of immigrants in Italy. This law introduced several modifications in the typology of residence permits and their regulations. Most importantly, residence permits are always linked to the reason of entry and, consequently, there are several types of permits which differ in terms of their duration and of the rights and obligations for those holding them. According to their status, the immigrant population in Italy can be divided into:

- undocumented immigrants
- holders of a residence permit (for subordinate work, self-employment, asylum, study, family or religious reasons)
- holders of a EC long-term residence permit or of an Italian long-term residence card (carta di soggiorno)
- citizens

#### 3.3.1 Typology of residence permits

According to their duration, the main types of residence permits can be divided into the following categories:

- Less than 3 months: business and tourism;
- Less than 9 months: seasonal work (within quotas);
- Less than 1 year: study and temporary job (both within quotas);
- Less than 2 years: open-ended jobs and self-employment (both within quotas); family reunification (outside quotas).

Moreover, some residence permits can be converted into another kind of permit within quotas or outside them, depending on the type of permit sought after. Within quotas:

- Study permits can be converted into work permits (temporary, open-ended

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21 return migrant relatives mainly from Latin American countries such as Venezuela or Argentina. See the website of the Ministry of Interior, [http://www.interno.it/mininterno/export/sites/default/it/sezioni/sala_stampa/speciali/Flussi_2007-2008/](http://www.interno.it/mininterno/export/sites/default/it/sezioni/sala_stampa/speciali/Flussi_2007-2008/).
or for self-employment).

- Subordinate work permits can be converted into self-employment permits.
- Seasonal work permits can be converted into other kind of work permits, namely temporary, open-ended or for self-employment.

Outside the quotas, any kind of permit can be converted into a family permit by the marriage of a documented third country national residing in Italy for at least one year with an EU/Italian citizen or another documented third country national. Alternatively, family permits can be converted into work permits (subordinate or self-employment) and study permits (in the case of minors from broken families). On the other hand, some permits cannot be converted under any circumstance. Such is for instance the case of the residence permits given for health reasons to pregnant women and the fathers, or the “minor care” permit given to the undocumented parent of an undocumented minor in Italy.

### 3.3.2 Carta di soggiorno

The residence card is a long-term residence permit introduced in 1998. Its validity is ‘indeterminate’, i.e. permanent. At the same time, the card does not endow the immigrants holding it with the same rights as the Italian citizens. For instance, they cannot access liberal professions on the labour market and they are not allowed to vote and stand for elections.

The residence card can be released to:

- A third country immigrant legally sojourning in Italy for at least 6 years, disposing of sufficient income and holding a permit that allows for undetermined renewal. The same card can be released to the spouse and any minor children, but not to the parents.
- A third country immigrant who is the spouse, minor child or parent of an Italian or EU citizen, if they are cohabiting. In this case, only the income requirements are necessary.
- A third country national who enters Italy through family reunion with an Italian or EU citizen or with a third country immigrant already holding the card.

### 3.3.3 Citizenship

Mixed marriages represent the single most important means to acquire Italian citizenship, which is otherwise a very difficult task because of the legislation in place. In 2000, 84.1% of the 9,545 foreigners who have obtained the Italian citizenship acquired it through a mixed marriage, and the equivalent data for 2001 is 86.8% out of 10,381.

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22 Who has to fulfil the housing and income requirements described in chapter 4.
23 Until 2002 only 5 years were needed.
24 For themselves and their dependants in Italy.
25 So, for instance, not an option for study permits and temporary job permits.
26 In the case of a request that involves relatives, the applicant needs to meet the housing requirements needed for the TCNs’ family reunification policies.
In order to obtain the Italian citizenship through marriage, a migrant must have been married to an Italian national for at least 6 months, to have been living together in Italy for at least six months and not to have committed any serious offence. The request for Italian citizenship must be addressed, in 5 copies, to the Prefect (Prefetto) of the province of residence and to the Ministry of the Interior.

### 3.3.4 Legal status and the rights most relevant to family life

Each of the four categories of immigrants according to their legal status implies a set of specific rights or, on the contrary, the denial of some rights. For instance, undocumented immigrants can marry and form a family, they can register births and deaths, their children can attend schools, they can be represented in court by a lawyer provided by the State, and they can have access to emergency medical treatment. On the other hand, only holders of a permit of minimum two years can apply for social housing.

Following the adoption of the Law 388/2000 (Finanziaria), holders of the residence card have access to fundamental social right provisions, such as:

- Social benefits: a small amount of money that can substitute a pension in the case of needy people;
- Invalidity pension: money given to injured workers and disabled people;
- Maternity benefits: money given to mothers who are unable to receive work pensions, because either they could not work or they had not worked enough, and to mothers employed in atypical and less protected jobs.

Another relevant observation is that, in the current legislative framework, a residence permit for family reasons entitles the holder to take subordinate work or self-employment, to be granted access to education and to health care provided by the National Health Service.

### 3.3.2 Other characteristics of the current family reunification regime

Polygamous unions are not considered valid since they violate the constitutional principle of equality between spouses and, in this sense, they represent an issue of public order. However, children from a polygamist union can be reunited with the natural father, and, even if the natural mother cannot be reunited as wife, she can be reunited as natural mother by her children already living in Italy.

Simple cohabitation is not recognized as a valid type of relationship, and it entitles neither third country nationals, nor EU citizens to family reunification. Relatives within the fourth degree of an Italian citizen and his/her spouse cannot be expelled and are to be regularised. This, however, is not also applicable to other kind of unions.
4. Family reunification in practice

4.1 Family reunification as a universal right – a civic stratification approach

The right to family reunification is a relatively “new right” that has been consolidated throughout the past two decades as a corollary of other internationally recognised fundamental rights, such as the right to family life or the right of children to live with their families (Sirianni, 2006). The point of departure can be traced in the ILO Convention nr. 97/1949, ratified by Italy in 1952, that urged receiving countries to extend the protection accorded to migrants to their families. Yet it is in the European legal framework that family reunification is explicitly considered a fundamental right, albeit initially reserved only for EU citizens. The Rome Treaty established the right of stay, which also implied the right to family reunification, and this connection was then reflected in the Italian legislation on the circulation and residence of communitarian citizens in Italy.

However, being such a sensitive issue of migration policy, family reunification is often conditioned by a series of requisites that change according to the status and citizenship of the applicant, to the extent that for certain categories of immigrants the right to a “normal” life is sometimes under threat. These conditions are essentially of an economic and political nature, in the context of the administration attempting to avoid the weight of inactive population, as well as trying to keep under control the demographic aspects of the society they govern. Yet sometimes such conditions tend to contribute to the formation of a stratified right to family life in terms of race and class, with third country nationals having a “poor version” of the right as compared to the one guaranteed to Italian or EU citizens (Sirianni, 2006).

Therefore, we cannot really talk about a universal right to family reunification, because it is dependent on the existence of special circumstances, when other rights are present and recognized, namely the right to work and the right to adequate housing (Nascimbene, 2004). In fact, the right to work is not recognized at all for third country nationals, since their presence in the Italian territory is tolerated just as far as they can contribute to the labour market, which is well exemplified by the stipulation that they are allowed to be “legally” unemployed for just six months, a period after which they are forced to leave the country. Thus, the right to family unity cannot be fully exercised until the full right to stay is recognised, since the insecurity and instability affecting the migrants are automatically reflected on their family members, too.

With respect to the right to adequate housing, we have to keep in mind that, in Italy, social housing is recognized only for the third country nationals who hold, as a minimum, a two-year work permit, i.e. to the ones employed in open-ended jobs.

The following sections will describe in detail the system of requirements for family reunification in Italy, with a focus on the implementation phase and on some of the problems encountered. Taking into account reports and complaints made by various associations that defend the rights of the migrants such as ASGI, trade unions and churches, we will try to show how the social-economic reality in which migrants are inserted (e.g. the characteristics of the labour market or housing rent discriminations) can jeopardize the outcome of an apparently supportive regulation.

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27 See reg. n. 1612/68, dir. 73/148, reg. 1251/70, dir. 75/34, dir. 90/364, dir. 90/365.
In addition to the socio-economic conditions that make the outcomes of the regulations quite different across the national territory, we also have to mention the differences that persist in local administrative practices. Outlooks and orientations still differ from one Questura to another and, as mentioned in the ASGI report (2001), uncertainties about the right to family reunification persist not just because of the gaps in the regulations or their occasional overlapping, but also because the vagueness of the phrasing in the legislation leaves room for the administration to apply its own interpretation in controversial cases. Therefore, given the complexity of the matter, it is difficult to achieve a uniform and coherent application of the regulations regarding family reunification in Italy.

4.3 Family reunification for third country nationals: requirements and procedures

There are mainly three kinds of family reunifications in the case of third country nationals:

- Family reunification with a relative residing in Italy
- Family members entering the territory at the same time as the main holder of the legal right to reside in Italy
- Reversed family reunification.

4.3.1 Family reunification with a relative residing in Italy

As mentioned in the previous chapter, the main requirements are in terms of income, housing and status, and in addition there are also some limitations regarding the family members that can be reunited.

a) Required status

The applicant should hold a residence permit with a validity of at least one year, in order to guarantee his right to family reunification will be fulfilled in conditions of sufficient stability. This condition excludes seasonal workers, whose work permits have a maximum validity of 9 months, and, unsurprisingly, undocumented migrants. Thus it can be concluded that family reunification is not a right just for workers, since, on the one hand, it excludes short-term workers and, on the other hand, it is guaranteed to a broader category of immigrants: people migrating for study, asylum, religious and family reasons.

Problems can arise not just from the fact that, as mentioned before, migrants sojourning in Italy generally have passed through a period of irregularity that can last for years, but also from the fact that the diffusion of jobs characterised by high rates of informality (such as domestic work or construction work), as well as the growth in temporary and flexible jobs, can make the meeting of this requirement more difficult for migrants. In addition, immigration lawyers have denounced in the past that some Questure tend to release one-year permits even in the case of open-ended jobs, while others tend to interpret

29 The residence permit can be for subordinate work, self-employment, asylum, study, family or religious reasons.
30 Though there are some safeguards for undocumented migrants in the legislation.
the length of the permit in terms of residual duration. This means that a holder of a one year permit that goes to the immigration office for instance three months after the permit has been issued, is told that the permit is just 9 months long.\footnote{\textit{See www.meltingpot.org.}}

In general, it can be assumed that the strict interconnection generated by the 2002 law between the length of the residence permit and length of the job contract constitutes a risk for the stability of the family itself, because of the threat if poses on the continuity of their presence in the territory.

\textit{b) Housing requirements}

Housing and income are economic based requirements that contribute to a further class stratification of the right to family reunification. The logic behind this lays in a “constitutional balancing” of two different principles, the right to family union and the right to conduct a dignified family life (art. 36). Thus, the government does not deny its obligation to safeguard the family life of migrants, rather it places the burden of proving that the second principle is met on the migrants themselves, in an attempt to ensure that migrant families do not become a burden for the country’s finances.

The “suitable housing” declaration (\textit{idoneità alloggiativa}) originally made by the Municipality and, since 2007, by the local sanitary authority has been for many years considered the most troublesome part of the whole process and a hindrance to it. The former regulations held the definition of “adequate housing” in the regional parameters of social housing, which differed from region to region and, sometimes even from city to city. These standards were hardly met by the migrants, since social housing parameters are quite profuse, given that they were elaborated in order to guarantee better living conditions for those in need. For instance, in the Veneto region the standard is of 46 m$^2$ for one person, but only 35 m$^2$ in Trentino and 28 m$^2$ in Emilia Romagna.

Even if the law has changed, migrants still need a rent contract and the degree of discrimination they suffer in respect of housing is a well documented fact,\footnote{\textit{See, for instance, the Annual Reports of the European Union Agency for Fundamental Rights, www.fra.europa.eu.}} not the least because of the fears Italian land lords have about their living conditions, attitudes and possible overcrowding. Moreover, also when a flat has been rented, it may not be on the name of the immigrant himself – given the exorbitant rates charged to migrants especially in the big cities, it is quite common for migrants to sell and buy each other rent contracts or to sub-rent each other flats (Alietti and Strozza, 2005). Furthermore, there is also a sizeable number of workers who can meet the housing requirements with difficulty particularly in the first years in Italy, namely the domestic workers who often live with their employers. Given that they are mostly women, this situation leads to a deep gender-based discrimination.

\textit{c) Income requirements}

The applicant can ask to be reunited with his or her family members only if he/she is able to show an annual income not lower than the social allowance and proportional with the number of persons reunited, i.e. the value of one social allowance for one person, the
double for two persons, the triple for three etc. The social allowance is the minimum income provided by the State to Italian/EU citizens or to persons holding the *Carta di Soggiorno* who are in extreme need. Its value changes every year, according to the changes in the cost of life. For instance, in 1998 it was 6,593,000 Italian lire, the following year it was raised to 8,005,400 lire and in 2007 it was of 5,061 EUR, which would translate into 9,798,096 lire. This criterion is quite flawed, since it presumes that each person has the same economic need, which risks posing families in difficult choices, such as choosing between children.

The ASGI report (2001) found that the *Questure* tended to interpret this requirement in three different ways: some ask the migrants to show that they have earned that amount of income in the last year, others ask to show that they possess that amount without reference to a time span, while others ask the migrants to prove that they are employed in a job that makes them earn, in one year, that income. The most widespread interpretation is the first one, by asking the migrants for their last individual income tax return, which once again poses a problem for the migrants working, even partially, in the underground economy. In practice, this requirement is going to affect more women than men, for two reasons. Firstly, because men work more frequently than women and they also earn more than them, thus being more able to show a suitable income. Secondly, because women are mainly employed in domestic work, a sector that is highly segregated and characterized by high level of informal work.

d) Which family?

It is a well known fact that among the EU member states legislation differs greatly with respect to the definition of the reunited family: some countries recognise informal and homosexual unions, others do not; some countries allow parents or siblings to be reunited, others do not etc. In general, we can assume a model whose antipodes are an “assimilationist” view of a country that applies the same family definition both for migrants and for its own citizens, and a “multiculturalist view” of a country that tries to accommodate as much as possible the family law regulations from the country of origin. As Sirianni (2006) points out, there is also a third way, to refuse to recognise the regulations from the countries of origin and to abide to a rigid interpretation of national laws. In this case, the outcome would be a “restricted family” that does not reflect the concrete reality of affective and meaningful relationships and mutual obligations experienced by the migrants, is inferior to the definition of a family employed in both the sending and the receiving countries with respect to their own citizens, and, finally, is also inferior to the definition of a reunited family that is applied in case of EU citizens and third country nationals who are relatives of Italian citizens.

As mentioned in the previous chapter, following the transposition of the Directive 2003/86/EC and the adoption of the Law 125/2008, the following family members can currently be reunited with a third country national:

- Spouse, but not an informal partner, older than 18 and not legally separated;

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33 Not to mention the sex workers, who, besides being informal workers, are also often exploited by traffickers and prosecuted by the police.
• Children under 18, even if they are the spouse’s children or they born out of wedlock, unmarried or separated parents’ children, provided that the other parent, if existing, gives his/her consent;

• Dependent children over 18, in case they cannot provide for their keep due to serious health conditions resulting in permanent inability to earn their living;

• Dependent parents who have not adequate family support in the country of origin or provenance (i.e. parents who do not have other children in their country of origin or, if they are older than 65, that the other children cannot support due to serious health reasons).

The declaration of consensus from the other parent in order to allow minor children leave the country can be a double-edged issue: on the one hand, it represents a relevant guarantee against child abduction, but on the other hand it could become a reason for blackmail by the parent remaining in the country of origin. Once again, this risk is more likely to affect women than men, because, as revealed by the data in the first chapter, women are more frequently migrating after divorce or broken relationships and it is also women who tend to have their children rejoining them alone.

e) Application process

The necessary documentation concerning adequate accommodation and required minimum income, as well as a photocopy of the passport and residence permit of the person already residing in Italy have to be sent to the competent Front Desk for Immigration (Sportello Unico). In parallel, the family members awaiting reunification must submit to the Italian Consulates in their country of residence supporting documents regarding family relationship, age and health conditions. If all requirements are satisfied, the Sportello Unico issues an entry clearance within 90 days from when the application was made or rejects the application and informs the Italian Consular Authority.

If no answer is received within 90 days of application, the family member shall submit to the Italian Diplomatic Authority abroad a copy of the receipt of the application and relevant documentation which was submitted to the Sportello Unico by his/her relative, and will obtain an entry visa. Then, within 8 days of arrival in Italy, the family member is required to go to the Sportello Unico where the entry clearance was issued, where a form will be provided to be filled out and also an application form for residence permit. Failing to comply, the foreign national will be considered to stay illegally in the Italian territory.

4.3.2 Family members entering with their relatives

A third country national holding an entry visa for subordinate work (with at least one-year contract), continuous self-employment, study or religious reasons can enter Italy with the same family members allowed for family reunion and after complying with the same procedures and submitting the same documents as in the case of a standard family reunification application. This measure is intended to foster family cohesion and unity, though so far it has been marginally used, for the reasons explained in the previous sections.
4.3.3 Reversal family reunification

This is the situation in which the “active” subject is in the country of origin, while the “passive” is already in Italy – this is the case, for instance, of minor children already residing in Italy who reunite with their parents. Under these circumstances, housing and income requirements should be demonstrated one year after the entry in Italy. It must be however mentioned that the way the parent abroad should obtain the entry visa is not well regulated, nor is it specified what should happen to them if one year later they were not able to meet the requirements.

There are also other cases when it is possible to start the family reunification process when the relatives are all already in Italy. For instance, when a family member of a legally residing foreigner holds a short term permit (e.g. tourist permit or seasonal work permit) or a permit that has expired for less than one year, that person can convert the respective permit into a family permit after fulfilling all the family reunification requirements.

4.3.4 Rights and duties of the reunited family members

If the case of family reunion with a third country national holding a residence permit, the relative receives a family permit of the same length. If they are reunited to an Italian, an EU citizen, or a third country national holding a Carta di Soggiorno, they also receive a Carta di Soggiorno (long-term residence card).

The residence permit for family reasons entitles the holder to take subordinate work or self-employment, to be granted access to education and to health care provided by the National Health Service. In case of separation or death of the family member, the family permit can be converted into another kind of permit.

4.4 A complex stratification of statuses: family reunification for the refugees and for Italian or EU citizens

4.4.1 Refugees

The right to family reunification for the refugees has its roots in the Geneva Convention, where it is stated that the families of refugees deserve particular protection. This approach would entitle refugee families, defined in the same way as for third country nationals, to be regularised and to receive a family permit, even if they are in Italy undocumented. For those members of the family residing abroad, specific reunification programs managed by the UNHCR and the Italian Refugee Council should be implemented, which should cover, in certain cases, the travel expenses.

In Italy, refugee family reunification has been introduced by the 2007 law decree which transposed the 2003 EC Directive. According to this document, refugees are explicitly exempted from any housing and income requirement.

4.4.2 Family reunification with Italian and EU citizens

Third country nationals and EU citizens who are relatives of an Italian or an EU citizen receive a different kind of treatment and are subject to different norms regarding both the
admission procedure and the definition of the family. The regulations governing their status are the DPR nr. 1656/1965, modified by the DPR nr. 54 from 2002, and some articles of the Single Text from 1998.

For EU citizens, their freedom of movement within the European territory has been extended to the members of their families, regardless of their nationalities, but, in certain cases, some income requirements still persist, for instance for those who study or do not work in Italy.

The definition of a family is different from the one recognised to third country nationals, as it includes the spouse, children under 21, the ascendants and descendants (even if born from a former union) to both the applicant and the spouse, and any other relative, if dependent. This last provision is an innovation brought by the 2002 law, which means that even brothers and sisters can be reunited. Until 2002, a provision of the Single Text was applied, which allowed to rejoin disabled relatives within the third degree, but this has been abolished by the Bossi-Fini law in 2002.

If a foreign woman married abroad an Italian or an EU citizen lawfully residing in Italy and plans to settle in Italy, she must provide the marriage certificate and register the marriage at the Registry Office (Ufficio Anagrafe) of the Municipality where she plans to live. In the case of marriage migration, it is also possible for Italian and EU citizens to bring with them prospect spouses, just by showing the Municipality documentation that testifies that the marriage has been already fixed.

Generally, reuniting with EU or Italian citizens is quite simple for their relatives, since they only need a family visa that can be released by the Italian Consulate in their country of residence, which can be obtained simply by submitting the proper documentation attesting appropriate family relationships. Relatives reunited with Italian or EU citizens are released a Carta di Soggiorno and they do not need any authorisation from the Questura, nor do they need to meet any requirements in terms of housing and income. With the exception of the cases mentioned above, they just need to sign a formal request and to show relevant certification of the family relationship.

4.5 Other relevant forms of migration

4.5.1 Immigration through marriage

A third country national planning to marry an Italian/EU citizen in Italy does not need a special visa. Generally a tourist or other type of visa such as an “impending marriage” visa is enough to legally enter the country, although this is not compulsory. As hinted before, even a clandestine can marry and, once having married an EU or Italian citizen, he or she can regularise quite easily his/her situation after the wedding.

The respective migrant must present identity documents, birth certificate and a certificate of non-objection to marriage (nullaosta di matrimonio) stating that there are no obstacles to the marriage (i.e. the migrant must be single or hold a court-decreed divorce). Such a document may be obtained in two ways:

- through the migrant's national consulate or embassy in Italy
- through the migrant's marriage registry.
In both cases, the non-objection certificate should be presented at the local State Police Office (Questura) for further authentication. With these documents, the future couple must apply to the municipal office to have the marriage certificate issued. The office must issue them whether or not the migrant has a temporary residence permit. After the wedding, the foreign citizen must go to the Questura to ask for the long-term residence permit (Carta di soggiorno).

In the case of marriage to an Italian citizen, after six months of marriage and cohabitation, the third country national can apply for Italian citizenship.

In the case of a third country national planning to marry another third country national legally residing in Italy, one option is to marry in the country of origin and then start a family reunification process. Alternatively, the non-resident can enter Italy, marry, and then apply for family cohesion, thus converting the permit he/she has (e.g. a tourist visa or a visit permit) into a family one, provided the standard income and housing requirements are met (Article 30 of the Single Text).

4.5.2 Family formation

If a third country national legally residing in Italy marries an Italian or an EU citizen in Italy, he/she has the right to receive the Carta di Soggiorno. If an undocumented third country national marries an Italian citizen in Italy, he/she receives a family permit as a cohabiting relative within the fourth degree of an Italian citizen (Article 19 of the Single Text). After six months of marriage and cohabitation, both types of third country nationals can apply for Italian citizenship.

If a third country national legally residing in Italy marries another third country national legally residing in Italy, he/she has the right to change his/her permit into a family one (Article 30 of the Single Text). If an undocumented third country national marries a third country national legally residing in Italy, they can apply for family reunification.

4.5.3 Forbidden expulsions and regularisations via family relationships

Pregnant women and their spouses cannot be expelled for a period of six months after the birth of their child. In the meanwhile, they are given a permit for health reasons that does not allow them to work, and, being an extraordinary kind of permit, it cannot be converted in any other permit after its expiration date. However, a sentence of the Bologna Court in February 2003 brought a significant innovation. The mother of two children asked to be regularised under family cohesion, by having her health permit converted into a family one, on the grounds that her husband had all the requirements for family reunification. Though the Questura had initially refused to release the permit, the Court passed a judgement in favour of the woman, which creates a precedent for another way of regularising immigrant families in loco.

Also relatives within the fourth degree of Italian citizens cannot be expelled (Article 19 of the Single Text) and, if they show to be cohabiting with the Italian citizen, they can obtain a family permit.

In the case of children entrusted to social services, a distinction must be made
between unaccompanied minors and minors whose families are in Italy but they are not able
to take care of them. If the family is in Italy, they receive a social protection permit until they
reach 18 years (when they can convert it in a study or work permit), and they stay under the
care of the social institutions completing an educational program. In the case of
unaccompanied minors, the situation is slightly different, since, in the name of the right of the
child to live with his/her natural family, recent legislative developments go in the direction of
facilitating assisted forms of repatriation, which is different from the administrative expulsion,
since it does not prohibit a subsequent entry over the next years. This approach has been
given preference particularly after the 2002 reform, and it clearly represents a change from
the 1998 law, which tended to stress integration measures of unaccompanied minors in the
Italian society.

Another way of regularising immigrants through family relationships is given by Article
31 in the Single Text: if a minor is irregularly present in Italy, one of his/her parents can be
given an extraordinary permit for “minor assistance” that allows them to work, but that cannot
be converted. This is a recent innovation, i.e. after the transposition of the EU Directive, as
before the permit was given for “health reasons” and did not allow the parents to work.

4.5.4 Regulation against sham marriages

In 2002, a new paragraph is added to Article 30 of the 1998 law, which decrees that the
family permit given to a foreign national who married an Italian, an EU citizen or a legally
residing third country national can be revoked if he/she stops the cohabitation after the
marriage. The exception to this rule is if the two had children after the marriage, but this is
not extended to case their children were born before the marriage, which does not make
much sense.

Aimed at controlling the so called “sham marriages”, this law is quite problematic for
several reasons. Firstly, because it represents a deep intrusion by the State in the private
family sphere and a potential hindrance to the right to a normal family life (in violation of
Articles 8 and 12 of the European Convention on Human Rights). Secondly, because it is not
coordinated with paragraph 5 of the same Article 30, which states that in case of separation
or death of the relative, the family permit can be converted into another one. Thirdly, because
there are not further specifications about the length of time one is forced to cohabitation, i.e.
when the couple can stop living together without the foreign national having to lose the
permit. And fourthly, because it entails the risk of having women deterred from denouncing
eventual family violence and, in this sense, it can be considered a gender-based
discriminatory norm.

Generally speaking, it is rather meaningless to have such measures imposed on the
marriages contracted only in Italy, without having any similar control-measures on the
marriages contracted elsewhere, which can still lead to family reunions. Moreover, it is worth
noting that, the foreign nationals marrying EU or Italian citizens can more easily have access
to an independent status (because they automatically receive the Carta di Soggiorno or, in
the case of marrying Italians, the Italian citizenship) than foreign nationals that marry another
legally residing third country national, unless of course the latter is holding a Carta di
Soggiorno.
4.6 Family reunification in the public debate

The Catholic Church, trade unions and left-wing organisations have tried in different ways to persuade the Italian government to soften the rules for family reunification, especially in the sense of softening the provisions of the Bossi-Fini law. Influential personalities such as the Bishop Tettamanzi of Milan, the Cardinal Ruini and even the Pope Ratzinger himself publicly expressed their concerns about the hardships immigrant families meet with regard to their forced long lasting separations and the lengthy, demanding and sometimes troublesome processes of reunification they have to face, and pleaded the Government to find appropriate solutions to these problems. In addition, trade unions such as the CGIL expressed similar positions supporting, in this sense, the reception of the EU Directive that had brought a slight relaxation of the conditions imposed for family reunification.

However, generally speaking, the topics of family migration and reunification, though important policy issues, they have not been integrated so far in the mainstream public debate in Italy. The attention of the public opinion has in fact been mostly captured by other aspects of migration, such as questions about polygamy, infibulations, the Muslim veil, immigrant family violence or the involvement of foreigners in criminal or illegal activities, and focused less on themes such as forced or sham marriages.

On the other hand, there are various non-governmental organisations that provide support to immigrants living in Italy, usually in the form of legal orientation, counselling and in some cases legal support for appealing arbitrary measures or decisions. However, such activities are usually confined to a limited environment comprised mostly by those directly concerned by these issues, such as social workers and volunteer organisations on the one hand and migrants on the other hand. Such organisations defending the rights of the migrants are active especially on the internet, through a work of counter-information, counselling and denounce of administration abuses, legal incoherencies. Moreover, they try to cover the information gaps arising from a tangled legislation, for instance by publishing legislative updates, especially less known regulations such as the ministerial circolari or Court sentences on the matter.

5 References


Pastore M. (1996), Immigrazione, affettività e diritto: il caso dei ricongiungimenti e delle


