

Title

## **Exploring the Link between Asylum and Irregular Migration: The Case of Italy**

Abstract (150 words)

This paper aims to investigate the link between asylum and irregular migration.

Many asylum seekers crossed European borders in an irregular manner during the last two years and completed their asylum procedure with a negative decision. Based on the limited number of effective *orders to leave*, it may be argued that a majority of rejected asylum seekers are *de-facto* staying in the European Union.

The analysis focuses on the case of Italy. A residual method is applied subtracting the amount of asylum seekers, who have the right of residence in Italy, from the number of immigrants who entered Italian borders in an irregular manner from 2015 to 2017: the remainder amount provides the number of irregular immigrants generated by the failure of asylum procedure. Three short-term migration scenarios are settled for measuring the stock of rejected asylum seekers who are likely to remain in Italy at the beginning of 2019.

### **Background**

Irregular migrants are identified by reference to the rules of the national law establishing restrictions on entering and residing in the country. However, irregular migration has a time dimension and irregularity may represent a temporal experience during the migration cycle (Tapinos, 1999).

By definition, irregular migration is not covered by official data. Estimations are given crossing statistical figures (validated data) and observations (operation data) from different actors involved in the management of undocumented migrants. In 2016, Frontex (the European Border and Coast Agency) reported around 511.000 detections of illegal border-crossing the European Union, and more than 491.800 detections of illegal stay in the European Member States (EU-MS) (Frontex, 2017). During the same year, Eurostat (the European Institute of Statistics) counted more than 1.200.000 applications for international protection lodged in the EU-MS (Eurostat, 2017); the majority of these applications are claimed by immigrants who have crossed European borders illegally.

The paper focuses on the case of Italy to investigate how the influx of immigrants, entering the Italian borders without the required legal documentation, can shape the stock of irregular migrants, which includes both the net cumulative flows of people who have entered without authorisation and those who have lost the right of residence in Italy at a later stage.

Italy is one of the main entry-points to European Union, which reported in 2016 the highest number of arrivals ever reported from the start of the Arab Spring in 2011, when the Mediterranean Sea became an escape route for displaced persons and Italian islands, like Lampedusa, the landing spots for several asylum seekers. Nevertheless, against the total of 181 000 immigrants rescued by the Italian Coast Guard in 2016, the amount of asylum applicants in Italy was not more than 115.700: by difference, around 65 300 immigrants are

not authorised to remain in the European Union<sup>1</sup>. In addition, during the same year, the proportion of asylum applicants at the first instance who did not fulfilled the requirements to obtain international protection was 57% out of 87.500 decisions issued by the Italian asylum authorities.

Using official statistics provided by the Italian Ministry of Interior, the analysis investigates migration events occurred from January 2015 until the latest data available in August 2018, for measuring combined effects produced by illegal sea arrivals and rejected asylum applicants on the stock of persons living in Italy without legal authorisation. Three short-time (from August to December 2018) migration scenarios are formulated to adequately reflect the impacts on the estimation of irregular migration according to the European directives and Italian legislation.

### **The Italian asylum system**

Italy, like some other EU-MS, has a regionalised asylum system. Different phases of the asylum procedure are managed at different territorial levels: asylum applications are lodged by the provincial Questure (the decentralised bodies of the Department of Public Security), the first instance decisions are issued by the Territorial Commissions and the second instance decisions are made by the local Courts. This administrative structure, while offering potential efficiency gains due the organisation of the state apparatus, by its nature, may raise harmonisation challenges. Even slight differences in the application of national law, rules or procedures in local practice may lead to significantly different levels or types of service being provided by different actors involved in the asylum process. For instance, in decision-making at both the first or second instance, two very similar cases might receive different decisions depending on which Territorial Commission or Court deals with them<sup>2</sup>.

### **Data**

The case study is based on: operational data collected by the Italian Ministry of Interior, Department of Public Security; lodged applications collected by the Questure, as decentralised bodies of the Department of Public Security, and data on asylum procedure managed by the Territorial Commissions, as first instance asylum procedure determining authorities.

Having a regional structure, also data quality depends on accurate and timely data provided by regional offices: emergency situations, when large numbers of arriving irregular migrants are concentrated in few geographical areas of Italy, may overcrowd the system, creating unbalanced workloads and lack of capacity in specific regional contexts.

### **Method**

A residual method is presented for assessing the flows of:

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<sup>1</sup> The European Dublin Regulation (2013) asserts that the EU-MS responsible for the examination of the international protection request is the EU-MS through which asylum seeker first entered the European Union. In other words, asylum seekers cannot choose the EU-MS where to submit their international protection requests.

<sup>2</sup> In a national system, decisions should be reached by each Territorial Commission or local Court, ensuring that very similar cases could receive the same treatment at each instance of the asylum process.

1. Immigrants, who entered Italian borders without a legal authorisation and have not applied for international protection in Italy;

1. *Irregular Immigrants*  $t$  =

$$(Arrivals_t - Asylum Applicants_t)$$

From the total of immigrants crossed Italian coasts during the  $t$  reference year, the theoretical amount of missed asylum seekers is estimated subtracting the number of asylum applicants recorded during the same  $t$  period.

2. Rejected asylum seekers, who ordered to leave Italy and have decided to stay as irregular migrants.

*Rejected Asylum Applicants*  $t$

$$= First\ instance\ negative\ decisions_t - Appeals_t$$

$$+ Second\ instance\ negative\ decisions_t$$

2. *Irregular Rejected Asylum Applicants*  $t$  =

$$(Rejected\ Asylum\ Applicants_t - Returned\ rejected\ asylum\ applicants_t)$$

The estimation is based on the results of the asylum procedure: the final rejected asylum applicants during the time  $t$  are counted adding the rejected asylum applicants at second instance during the time  $t$  to the number of rejected asylum applicants who have not submitted an appeal against the first instance decision during the same period  $t$ . By difference, the number of irregular rejected asylum applicants during the period  $t$  is derived from the number of final rejected asylum applicants *minus* the number of rejected asylum applicants who effectively returned to their country of origin during the same period  $t$ .

Therefore, the increase of irregular migrant stocks residing in Italy at the end of year  $t$  is estimated as the combined effects of the two subcategories of flows, the irregular entries and irregular failed asylum seekers during the same period of time.

$$\Delta Irregular\ stock_t = 1. Irregular\ Immigrants_t + 2. Irregular\ Rejected\ Asylum\ Applicants_t$$

Migration hypotheses are formulated to define three short-tree migration scenarios.

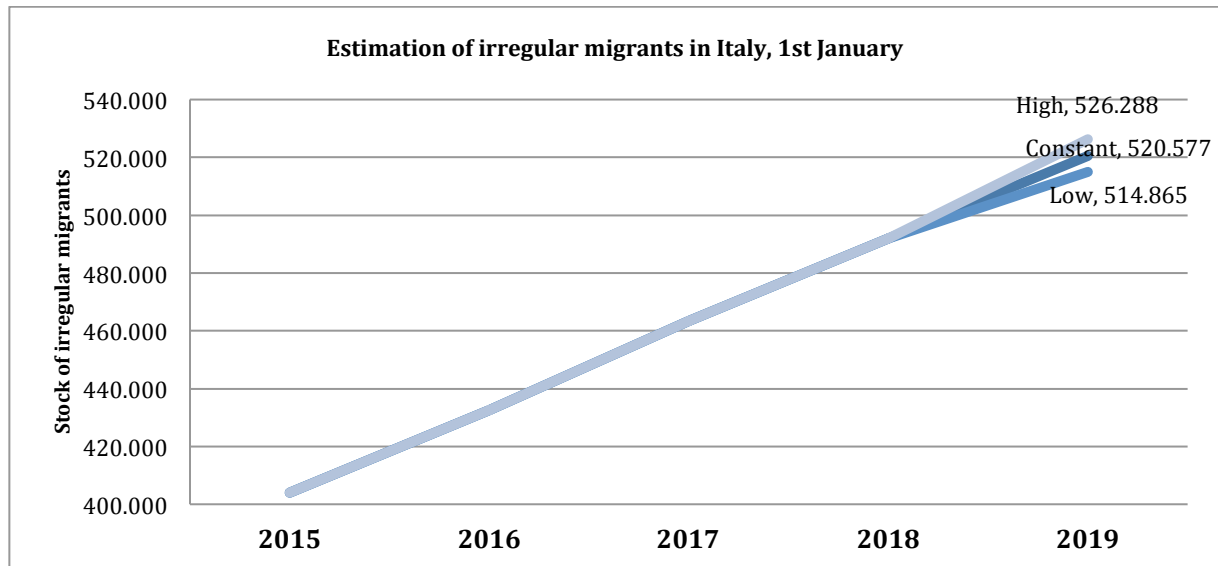
Scenario		Hypothesis on annual sea arrivals
1	<i>Constant level of immigration</i>	- is stabilized at around 125.000 new arrivals
2	<i>High level</i>	- 20% increase of new arrivals in comparison with the amount registered in the previous year
3	<i>Low level</i>	- 20% decrease of the new arrivals in comparison the amount registered in the previous year

## Results

The increase of irregular immigrants in Italy at the beginning of 2019 is shown by Figure 1. The graph substantiates the hypothesis that immigrants, who missed to lodge their application for international protection, left the country, and displays the increase of the stock from the base year 2015 according to the different scenarios adopted to define trends in

2018. At the beginning of 2015, the stock was assumed to be composed of 404.000 immigrants; at the beginning of 2019, it is estimated to fluctuate from 514.800 to 526.300 immigrants who are staying in Italy without a legal residence permit. Comparing with the base year, the increase is likely to differ from 27%, conforming to the Low migration scenario, to 30%, in line with the High migration scenario.

**Figure 1 Estimated stocks of irregular migrants residing in Italy, 1<sup>st</sup> January 2015-1<sup>st</sup> January 2019**



Computing the annual flows of immigrants who enter Italian borders illegally from the beginning of 2015 to the end of 2018, the increase of the stock of irregular immigrants should be kept at 20%; the Constant migration scenario assessment foresees a flow of 583.000 immigrants enter illegally, an increase of 116.000 irregular immigrants living in Italy (as order of size, the same population residing in a city, such as Bergamo, Trento or Vicenza).

## Discussion

These results draw out several points for considerations.

Firstly, immigrants usually acquire significant information in their regions of origin that influences their expectations and destination choices: specifically for those who want to reach Europe, Sweden and Germany (not the European entry points) remain their primary intended destinations. This has also highlighted the geographical position of Italy as a transit European region more than a destination choice, despite the Dublin regulation claims that the EU-MS where asylum seekers first entered the European Union should be responsible for examining their applications.

Secondly, irregular immigrants result from legal national procedures: the procedure for the recognition of international protection is not a European procedure (to be legally effective; each European Asylum Directives should be transposed into national law).

Thirdly, after the asylum procedure, refused asylum seekers can struggle to obtain the documents required to leave the EU-MS because their claimed embassy may refuse to support them if they cannot prove their nationality.

Finally, the formulation of policies to deal with irregular immigration should firstly combat who facilitates the illegal entry (smuggling organisations) and makes profit from the fact that the irregular immigrant is obliged to live without a legal identity.