

ECRE Briefing :

Italy: legal developments May 2023

This document is an informal briefing prepared by ECRE on the latest changes in Italian law, following the conversion into law n. 50/2023 of the [Decree Law n. 20/2023](#) (“Decreto Cutro”).

1. Context:

- The new law is the latest attempt by the extreme right parties in Italy to remove protection statuses from national law. In this case, they want to limit the use of the “special protection” status.
- Protection statuses in national law are statuses for people who do not qualify for refugee status or subsidiary protection under EU law but who nonetheless have protection needs or who cannot be returned for human rights reasons.
- Such statuses exist in most national systems.
- The “[Salvini Decree](#)” in 2018 severely restricted humanitarian protection status which was used extensively in Italy.
- As the main result was more irregularity, the last government introduced the “special protection” status with [Decree 130/2020](#) (also named "Lamorgese Decree" after the then Minister of Interior).

The new law introduced by the current government severely restricts the use of the special protection status.

2. The new law:

Special protection status was previously granted to people who could be returned for two main reasons:

1. Where there is a risk that the person will be persecuted or subjected to torture or inhuman or degrading treatment, or if there are systematic and serious violations of human rights in their country of origin.
 2. Where there are good reasons to believe that the removal from the national territory involves a **violation of the right to private and family life.**
- The special protection status granted a permit for two years, which is renewable and can be transformed into a work permit to stay.

The main reform included in the new law is to restrict the use of special protection by removing the second ground for granting special protection status.

Other changes in the new law:

- Residence permits for certain categories of people (fleeing natural disaster, needing medical treatment, and former unaccompanied minors) will be harder to obtain.
- Asylum seekers will again be excluded from the SAI reception system (Sistema Accoglienza Integrazione) and instead hosted in the Extraordinary Reception Centers (CAS), thus lowering their chances of taking part in programmes aimed at fostering social inclusion. This re-introduces a provision from the Salvini Decree.

- There will be wider scope for detention of applicants who are subject to the accelerated asylum procedure at the border.
- There will be limitations to the possibility of submitting subsequent applications.
- A rejection decision on the asylum application, after the time limit to appeal has expired, will be accompanied by a return decision.
- A further reason for withdrawal of protection status has been introduced, namely for the case in which the applicant returns to the country of origin for a short period of time without justified reasons.

3. Probable impact:

The likely impact of the law will include:

1. Increased irregularity – more people without status and forced to resort to irregular work
2. Lack of social inclusion – due to limited access to integration measures
3. Exploitation – a possible increase in people exploited by criminal organisations
4. “Secondary” movement to other EU member states due to lack of prospects for protection and/or absence of inclusion measures in Italy.

This is similar to the impact of the Salvini Decree.

Since its introduction, special protection has been widely used, with reference to both grounds in the law for granting the status. It has helped to ensure that individuals who – while not recognised as in need of international protection – were deemed as non-returnable either due to fundamental rights situation in their country of origin and because of their efforts to reconstruct their lives in Italy (such as family links or “effective integration”) could be given a permit that would allow them to remain in the country. Proof of “effective integration” was generally found to be demonstrated through knowledge of the local language, presenting a regular work contract, or by taking part in social life at the local level, for example by taking part in voluntary activities.