

borderline-europe, Sicily

SCIROCCO

News from Italy



Scirocco [ʃiˈrɔkko-Schirokko] is a hot, strong south-easterly wind that carries dust and sand across the Mediterranean to Sicily and northern Italy, often for just a few hours. This briefing note has been published in monthly rhythm since March 2021.

Political Situation

EU-commission offers new rules for repatriation

On March 11, the EU Commission proposed a plan to the European Parliament aimed at [further tightening repatriation policies for migrants](#). Specifically, the changes relate to the possibility of return agreements with third countries, the extension of detention pending deportation, voluntary departures and re-entry bans for people without regular residence status. Deportations, or euphemistically referred to as 'returns', affect migrants who are staying in an EU country without regular residence status. The new regulation is intended to be directly applicable and legally binding, meaning that national implementation would not be necessary.

The reform [provides three possible options for returns](#). As before, returns to the countries of origin of the people concerned would be possible, provided that there is an agreement with these countries. In addition, however, returns would now also be allowed to transit countries or to any third country, as long as an agreement exists with an EU member state. Although agreements with the countries are still required for deportation, the key difference is that migrants can now be deported to a country chosen by the government without the migrants' consent - even to countries they have never been to.

Member states would also be given the option of setting up [prison-like return centers](#) outside the EU through deportation deals with third countries. In contrast to the Italy-Albania deal, only people who are to be deported would be detained there. At the same time, the Commission plans to extend the grounds for detention pending deportation and to double the regular detention period from six to twelve months. From a legal point of view, detention should only be used as a last resort ("ultima ratio"), as it represents a severe encroachment on the fundamental right to freedom of every human being. With the planned change to the grounds for detention, the detention of people seeking

protection could now become the norm, which clearly contradicts fundamental rights under constitutional law.

Among other things, the Commission plans to introduce [a comprehensive catalogue of obligations for people seeking protection](#), which will result in severe sanctions if they are not complied with. In addition, the current [deadlines for voluntary departure of people obliged to leave the country are to be abolished](#). Until now, migrants had to be given a reasonable period of seven to 30 days in which to leave the country voluntarily. The amendment will remove this period. Migrants could therefore be taken directly into custody pending deportation. The possibility of voluntary returns is practically ruled out with this regulation; only forced returns can be considered. In addition, the duration of the re-entry ban is to be drastically increased - from a maximum of five to up to ten years, with the possibility of an extension of a further five years for "appropriate" reasons.



Foto by [Christian Lue](#) on [Unsplash](#)

Although the [EU Commission has stated](#) that EU countries negotiating external "return centers" must ensure respect for fundamental rights, many critics are aware of the potential consequences. According to [Wiebke Judith](#) from the German NGO Pro-Asyl, "such deals have massive financial, political and, above all, human costs". [Marta Welander](#), EU Advocacy Director at the International Rescue Committee (IRC), is also critical of the EU Commission's plan: "Although it remains unclear what form the return centers proposed by the EU will ultimately take, we know that the EU's existing migration agreements with non-EU countries have resulted in thousands of refugees and other

migrants being exposed to violence, abuse, exploitation and death”.

The new regulation by the Commission is thus an expression of a shift to the right in Europe, which discriminates against politically unwanted minorities and can only be understood as another step towards isolation and inhumane policies.

Has this saved the Italy-Albania deal?

What do these developments mean for the Italian government's Albania deal? As a reminder, the Italian government has already tried three times to accommodate non-vulnerable asylum seekers from safe third countries rescued in the Mediterranean in border centers in Albania to send them directly back to their country of origin within one month in accelerated asylum procedures. However, all attempts have failed so far. One of the reasons for this is a ruling by the European Court of Justice (ECJ), which states that a country can only be considered safe if it is safe for all groups of people in all parts of its territory. A pending ruling by the ECJ should also shed light on whether EU law or national law takes precedence (more detailed information on this in [our last issue](#) and in our article on the [implementation of the EU Pact on Migration in Italy](#)). The future of the Albania centers therefore remains unclear.

The [Commission's plan does not change](#) anything about the Albania centers. While asylum seekers who have been rescued in the Mediterranean (and have not yet set foot on EU soil) and come from so-called “safe countries of origin” are subject to a fast-track procedure in the Albania centers, the EU Commission wants to create a legal basis for people who are already on European soil and whose asylum application has been rejected.

For the Italian government, the Commission's plan is nevertheless a success, as it would theoretically be possible to convert the existing border centers into detention centers (CPRs¹). However, the implementation of this [plan](#) to convert the centers in Albania into so-called “return hubs” will take some time, as in addition to [the agreement of the Albanian government](#) also the European Parliament

and the Council of the European Union must agree to the amendment of the Italy-Albania Protocol. At the same time, the Italian government is keeping open the possibility of implementing the current Albania plan in the event of a favorable [ruling by the ECJ](#), which is expected in the summer.

Italy's Court of Cassation rules in the Diciotti case: government must compensate migrants

On March 6, the Italian Court of Cassation handed down an important ruling. It ruled that the government must compensate migrants who were detained for ten days on the coast guard ship [Diciotti](#) in 2018. An Eritrean migrant had filed a lawsuit against the deprivation of liberty and won his case before Italy's highest court.

According to the ruling, the blockade violated international human rights agreements, which take precedence over national laws. The court emphasized that political decisions do not take precedence over fundamental rights and that state measures must always remain subject to legal review.

The case will now be heard again by the Court of Appeal in Rome, which will have to decide on the amount of compensation.

Judicial reform: The separation of careers in the judiciary jeopardizes judicial independence

[Italian judges are demonstrating](#) in 29 cities [across the country](#) against a planned reform of the judiciary. The constitutional reform provides [fundamental changes to the organization of the judiciary](#) and is largely supported by the Meloni government. The most important changes are the separation of the judiciary and the public prosecutor's office. Our article [“The power play: How the Italian government is using migration and judicial reforms to weaken democratic checks and balances and international law”](#) looks in detail at the increasing concentration of power in the hands of the Italian government.

The article suggests that these measures reflect broader trends in the government's behavior that raise serious concerns for democracy, human rights

¹ CPR: Centro di Permanenza per il Rimpatrio (Deportation Detention Centre)

and international law and threaten the fundamental principles of checks and balances



Photo: Palazzo dei marescialli, CSM Hauptsitz CC BY-SA, Markus Spiske

between the judiciary, legislature and executive at both the national and international level.

The Italian Association of Judges is very critical of the measures taken considering [current political developments](#). In recent years, the Italian government has often exerted pressure on the judiciary when it disagreed with decisions, such as for example in relation to the opening of border centers in Albania. According to [Mario Bandoni](#), President of the ANM² (National Association of Magistrates) in Piedmont, the reforms should not be understood in isolation, but rather as part “a context of constant attacks not only against the judiciary as a whole, but also against individual colleagues [...] who have merely made decisions that displeased the political majority at the time.” He concludes: “It is a climate of intolerance towards the judiciary’s exercise of its control function, a climate that unfortunately is not only felt in Italy.”

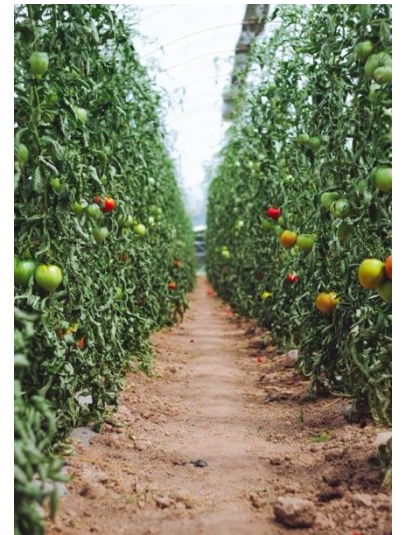
Situation for refugees

Why legalizing migration for economic purposes alone is not enough

To address labour shortages in agriculture, Agriculture Minister Francesco Lollobrigida has emphasized the need to [promote regular migration](#). If you really want to help migrants, you must create more regular immigration opportunities. At the same time, he says that decisive action must be taken against irregular migration.

Although the plan is fundamentally positive - especially as the creation of safe migration routes could be an important step towards freedom of movement - it is crucial not to demonize irregular migration. In fact, irregular migrants are an essential - and wanted(!) - part of the people employed in Italian agriculture.

Completely on their own and without any legal protection, many of these people end up in [exploitative conditions](#). In Sicily, migrants make up a third of the agricultural workforce. They work 10 to 12 hours a day, often seven days a week - usually without any



contractual security. They also must pay back a large part of their already minimal wages to their employers. Due to their precarious legal situation and lack of language and administrative skills, many migrants remain trapped in these exploitative structures. So instead of focusing exclusively on legal migration, the Italian government could make a big difference by facilitating access to regular migration routes. Otherwise, the rhetoric of “regular = good, irregular = bad” could continue to be used

Photo by Markus Spiske on Unsplash

² ANM associazione nazionale magistrati

to justify racist and anti-human policies that further marginalize migrants.

[Spain](#) is a positive example of economic development through migration. After experiencing economic difficulties over the last decade, the country is now well on its way to becoming one of the best performing economies in the EU. A key factor in this success has been the effective integration of migrants, especially from Latin America, into Spain's labor market. Instead of demonizing migration, it was used in a targeted way to counteract demographic decline and boost economic growth.

“Residence permit now” - protests across Italy

Meanwhile, protests are taking place in several regions of Italy. Dozens of migrants are protesting in [Foggia](#), [Perugia](#) and [Milan](#) against the “discriminatory laws and practices” that affect millions of foreign workers. The protesters are primarily concerned with the bureaucratic delays in issuing residence permits - some have been waiting for years. Their call “residence permit now” stands for the fight for a safe and orderly life in Italy. Without valid documents, they can neither work legally nor rent apartments. One [demonstrator](#) describes it like this: “Come back in ten days, they tell them, but these ten days have not passed for eight years.”

Monitoring project with the Arci Porco Rosso: State of emergency in the Trapani/Milo deportation prison: surviving in conditions of violence and fear

The situation in the deportation detention center (CPR) in Trapani/Milo has been escalating for several weeks: Detainees report brutal violence, lack of protection and inhumane conditions. The authorities are abandoning them and failing to intervene - fear and hopelessness prevail. A climate that threatens human lives and does not dignify them. Read the [latest article](#) from Arci Porco Rosso



to find out why closing these centers is the only solution.

NEW- NEW – NEW – NEW – NEW – NEW – NEW – NEW

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Further information on the situation in Italy can be found under "Projects" on our [homepage](#), in previous issues of [Scirocco](#) and in our [spotlight "Cosmos Palermo"](#).



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