

# National Report

# Italy

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| Work Package (WP) 1 | <b>Methodological Framework: Data Collection and Needs Assessment</b>              |
| Content of Document | Italy - Final National Report<br>prepared by ARCI in collaboration with DPI Italia |



con la collaborazione di 

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## 1. AIM OF THE DOCUMENT, METHODOLOGY AND RESOURCES

This document aims to give an overall view on both the **condition of migrants and asylum seekers** and **persons with disability** in Italy, trying to highlight, on one hand, the legal guarantees provided by the Constitution and the secondary codes and, on the other, the discrimination and the reduced access to rights they have to face. Where possible, data on the condition of **migrant with disabilities** are provided, using the same logic.

We led our investigation “guarantees/discrimination” focusing on three main areas: education, work and health. Furthermore, concerning migrants and asylum seekers condition, we focused on the hosting conditions as well.

This paper takes into consideration the ordinary reception system mainly, namely the SPRAR Central Service, in order to delimit the field of research.

## 2. ANALYSIS

It is difficult to extrapolate specific data on migrants and asylum seekers with disabilities, because statistics are generally calibrated on one or the other characteristic.

|   |  |
|---|--|
| Overall school population                             | 8.872.584  |
| Foreign students                                      | 814.187 (9,17%)  |
| Students with disabilities                            | 233.486  |
| Students with disabilities of non-Italian citizenship | 28.117 (3,45% of foreign students and 12,04% of students with disabilities) <sup>1</sup> |

Furthermore, it is known that 338 foreign minors (13%), 846 adults (1.7%) and 278 non-self-sufficient elderly people (0.1%) were among the guests of the social-welfare and socio-health residential units

<sup>1</sup> [http://www.istruzione.it/allegati/2016/Rapporto-Miur-Ismu-2014\\_15.pdf](http://www.istruzione.it/allegati/2016/Rapporto-Miur-Ismu-2014_15.pdf)

in 2012 ), while it is estimated that the Inps data on civil invalidity pensions (12.493) and the accompanying allowances (6,764) provided to non-EU citizens is below the real number.<sup>2</sup>

a) *Persons with disabilities: legal guarantees. Education/Health/Work*

b) *Migrants and asylum seekers: legal guarantees Reception/Education/ Health/Work*

#### a) Legal guarantees for persons with disability

Italy has ratified the **UN Convention on the Rights of Persons with Disabilities** with Law 18/2009<sup>3</sup>, which states the commitment by individual States to collect the appropriate information, including statistical data and research results, which allow them to formulate and implement policies that can effectively implement the rights of persons with disabilities. It also recommends that the information collected be disaggregated in an appropriate manner, in order to identify and remove the barriers that persons with disabilities encounter in exercising their rights. Finally, it assigns to the States the responsibility for the dissemination of these statistics, guaranteeing all accessibility to them.<sup>4</sup>

The concluding observations of the **UN Committee on the rights of pwd to the Italy report** (art. 35 Of CRPD) relate to the **art. 11** of the CRPD stress

Situations of risk and humanitarian emergencies (art. 11)

25. The Committee is concerned about the challenges encountered by refugees, migrants and asylum seekers with disabilities arriving in the State party, especially those with

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<sup>2</sup> FISH, UNAR Report di Ricerca “Migranti con disabilità, conoscere i dati per costruire le politiche”, 2013.  
FISH, UNAR Research Report “Migrants with disabilities: Know the data to build policies”, 2013.  
[www.istruzione.it/allegati/2016/Rapporto-Miur-Ismu-2014\\_2015.pdf](http://www.istruzione.it/allegati/2016/Rapporto-Miur-Ismu-2014_2015.pdf)

<sup>3</sup> UNCRPD (2006), United Nations Convention on the Rights of Persons with Disabilities, available at:  
<https://www.un.org/esa/socdev/enable/rights/convtexte.htm>

<sup>4</sup> Ministero del Lavoro e delle Politiche Sociali, *Gazzetta Ufficiale della Repubblica Italiana*, 2012.  
Ministry of Labor and Social Policies, *Official Gazette of the Italian Republic*, 2012.

psychosocial disabilities, in accessing appropriate processing facilities and mental health support, including counselling.

26. The Committee recommends that the State party ensure that all persons with disabilities arriving in the State party are able to access facilities on an equal basis with others and that those with psychosocial disabilities are given appropriate support and rehabilitation through strengthened systems. It also recommends that the State party ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and endorse the 2016 Charter on Inclusion of Persons with Disabilities in Humanitarian Action.

The Italian cooperation has approved the Vademecum on humanitarian aids and disability (2015)<sup>5</sup> as appropriate approach to guarantee the respect of human rights of displaced persons and migrants with disabilities

According to its **Constitution** the Italian Republic:

- guarantees school for all (*Article 34*);
- requires the mandatory duty of solidarity to be fulfilled (*Article 2*);
- assumes the 'duty of the Republic to remove any obstacles constraining the freedom and the equality of citizens in order to ensure the full development of the human person' (*Article 3*);

**Law 104/1992** is the main framework for all disability issues:

- it guarantees specific rights for persons with disabilities and their families,
- provides assistance, stipulates full integration and the adoption of measures for prevention and functional recovery;
- ensures social, economic and legal protection.

**Law 328/2000** states that families, together with municipalities and social services, may agree upon an individualised life project for their children, aimed at full integration 'within the family and social life'.

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<sup>5</sup> Vademecum (2015) Humanitarian Aid and disability report, available at:  
[https://www.esteri.it/mae/resource/doc/2016/07/a\\_01\\_vademecum\\_disabilita\\_emergenza\\_eng.pdf](https://www.esteri.it/mae/resource/doc/2016/07/a_01_vademecum_disabilita_emergenza_eng.pdf)

## EDUCATION

The Italian legislation include all students with disabilities in ordinary schools and classes at all level of education, in the public and private schools (**law 517/77**). For support the education progress a special teacher follow the student. A personalised educational plan is defines for any student with disabilities, providing appropriate educational tools. Municipalities are responsible to provide transport and eventual specialised assistance. If the pupil has a condition of disabilities the number of pupils in the class is reduced to 22, if is one pupil, 20 if are 2 pupils<sup>6</sup>.

**Law 170/2010** recognises dyslexia, dysgraphia, dysorthographia and dyscalculia as specific learning disorders. This Law – which states that pupils with learning disorders do not need special teachers, but rather a new way of teaching, according to their way of learning – promotes a change in perspective. The aim is to shift the focus from a clinical to a pedagogical view, by empowering all subjects involved in the educational process<sup>7</sup>.

The principle of integration and the right of pupils with disabilities to receive specific support are also included in all the subsequent legislation that regulates general aspects of the education system, such as enrolment, class size and pupil assessment, as well as curricular teacher training and support teacher training.

Subsequent regulations have specified the educational and didactic measures to be applied from pre-primary education to support the correct process of teaching and learning.

**Law 170/2010** has been implemented through the Ministerial Decree and Guidelines (12/7/2011); the Agreement, between State and regions, concerning procedures for diagnosis and certification (25/7/2012); and the Inter-Ministerial Ministry of Education, Universities and Research-Ministry of Health Decree (17/4/2013) concerning early detection in schools.

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<sup>6</sup> Eurydice (2018), Special Education Needs Provision within Mainstream Education, Italy, available at: [https://eacea.ec.europa.eu/national-policies/eurydice/content/special-education-needs-provision-within-mainstream-education-33\\_en](https://eacea.ec.europa.eu/national-policies/eurydice/content/special-education-needs-provision-within-mainstream-education-33_en)

<sup>7</sup> Eurydice (2018), Special Education Needs Provision within Mainstream Education, Italy, available at: [https://eacea.ec.europa.eu/national-policies/eurydice/content/special-education-needs-provision-within-mainstream-education-33\\_en](https://eacea.ec.europa.eu/national-policies/eurydice/content/special-education-needs-provision-within-mainstream-education-33_en)

The Ministerial Directive of 27 December 2012, on ‘Measures for pupils with special educational needs and local organisations for school inclusion’, created a macro-category, an ‘umbrella’, to cover all kinds of difficulties – whether permanent or temporary – at school: disabilities, specific learning disorders, specific developmental disorders, socio-economic, cultural or linguistic disadvantages, as well as pupils that may need special care. This ensures more inclusive practices in classrooms through individualised and personalised education plans.

The Council of Ministers approved **new legislative decrees on 7 April 2017**. The decrees put learners at the centre of an educational project that starts from birth through the 0–6-year integrated system, to provide everyone with equal access to quality education and to foster their learning achievements.

#### Other special educational needs

Socio-economic, cultural or linguistic disadvantages are identified at local and school level. In these cases, if needed, teachers can draw up personalised education plans.

#### **MIGRANT PUPILS**

Additional measures may include forms of support (e.g. exemption from some fees). In the case of foreign pupils, schools can set up language laboratories, either individually or in groups, to facilitate language learning.

Foreign minors, including those in a situation of irregular migration, have the same rights to education and health as Italian minors, since **Italy ratified the UN Convention on the right of child**. The State, regions and local authorities guarantee the right to education.

Foreign learners attend common classes, according to their age (language gaps are addressed through special Italian classes). In the specific guidelines concerning the inclusion of migrant pupils, the MIUR has provided a regulatory framework, as well as some suggestions concerning school organisation and teaching. For example, each class can host a maximum of 30% migrant pupils, as a higher proportion may affect effective inclusion.

Migrant pupils are the direct responsibility of curricular teachers. However, local authorities, as well as associations and organisations working at local level, often provide cultural and linguistic mediators to help teachers and school staff communicate with pupils and their families.

## HEALTH

**Law of 5 February 1992, n. 104** is a "*Framework law for assistance, social integration and the rights of handicapped people.*" (Published in G. U. 17 February 1992, No. 39, S.O.)

*Please note: what follows is the current text after the latest changes introduced by the Law of 8 March 2000, n. 53 by the legislative decree 26 March 2001, n. 151, by the Law of 4 November 2010, n. 183 (Article 24) and the Decree-Law of 24 June 2014, n. 90, converted into law with amendments by the law 11 August 2014, n. 114 and finally by the Legislative Decree 13 April 2017, n. 66.*

**1.** *The Republic:* **a)** guarantees full respect for human dignity and the rights of freedom and autonomy of the handicapped person and promotes full integration into the family, school, work and society; **b)** prevents and removes the disabling conditions that impede the development of the human person, the achievement of the maximum possible autonomy and the participation of the handicapped person in the life of the community, as well as the realization of civil, political and property rights; **c)** pursues the functional and social recovery of the person affected by physical, mental and sensory impairments and ensures services and benefits for the prevention, treatment and rehabilitation of minorities, as well as the legal and economic protection of the handicapped person; **d)** prepares interventions aimed at overcoming states of marginalization and social exclusion of the handicapped person.

**2.** *General principles.* - 1. This law dictates the principles of the legal system regarding rights, social integration and assistance of the handicapped person. It also constitutes economic and social reform of the Republic, pursuant to Article 4 of the Special Statute for Trentino-Alto Adige, approved by constitutional law February 26, 1948, n. 5.

**3. Entitled persons.** - 1. It is a handicapped person who has a physical, psychological or sensorial, stabilized or progressive disability, which causes difficulties in learning, relationships or work integration, and which leads to a process of social disadvantage or marginalization. 2. The disabled person has the right to benefits established in his favor in relation to the nature and consistency of the minority, to the total individual residual capacity and to the effectiveness of rehabilitation therapies. 3. If the single or multiple impairment has reduced personal autonomy, related to age, so as to make a permanent, continuative and global assistance intervention necessary in the individual sphere or in the relationship sphere, the situation assumes a connotation of gravity .

The recognized situations of severity determine priorities in programs and interventions of public services. 4. This law also applies to foreigners and stateless persons, residing, domiciled or having permanent residence in the national territory. The related services are provided within the limits and under the conditions established by current legislation or by international agreements.

**4. Establishment of the handicap.** - 1. The assessments relating to the minority, the difficulties, the necessity of the permanent assistance intervention and the total residual individual capacity, referred to in Article 3, shall be carried out by the local health units through the medical commissions referred to in Article 1 of the Law of 15 October 1990, n. 295, which are supplemented by a social worker and an expert in the cases to be examined, in service with the local health units.

**5. General principles for the rights of the handicapped person.** - The removal of invalidating causes, the promotion of autonomy and the realization of social integration are pursued through the following objectives: to develop scientific, genetic, biomedical, psycho-pedagogical, social and technological research, considering the handicapped person and his family, if involved, involved and aware of the research subjects; ensuring prevention and the timely intervention of therapeutic and rehabilitative services, ensuring, in the selection and implementation of social and health interventions, the collaboration of the family, the community (...).

**6. Prevention and early diagnosis.** - 1. The interventions for the prevention and pre-natal and early diagnosis of the disabilities are carried out within the framework of the health planning referred to in articles 53 and 55 of the Law of 23 December 1978, n. 833, and subsequent

modifications. The regions, in accordance with the powers and responsibilities set out in the law of 8 June 1990, n. 142, and to the law of December 23, 1978, n. 833, and subsequent amendments, govern within six months from the date of entry into force of this law.

**7. Care and rehabilitation.** - 1. The care and rehabilitation of the handicapped is carried out with programs that provide integrated health and social services, which enhance the abilities of each handicapped person and act on the overall situation of disability, involving the family and the community. To this end, the National Health Service, through its own or contracted structures, ensures:

a) interventions for the treatment and early rehabilitation of the handicapped person, as well as specific rehabilitative and outpatient interventions, at home or at the day-care or residential social-rehabilitative and educational centers referred to in Article 8, paragraph 1, letter the); b) the supply and repair of equipment, equipment, prostheses and technical aids necessary for the treatment of impairments. The regions ensure complete and correct information on the services and aids present on the territory, in Italy and abroad.<sup>8</sup>

## **WORK**

Persons who have been recognized as having a percentage of civil invalidity of more than 45%, possessing the working capacity ascertained by the ASL medical commissions, can register for the employment centers at the appropriate desk dedicated to persons with disabilities.

The worker with a disability with serious connotation (paragraph 3, article 3, **law 104/1992**) can alternatively take advantage of the paid daily rest of two hours or three monthly days.

Furthermore, you have the right to choose, where possible, the place of work closest to your home and not to be transferred without your consent.

Article. 21 of Law 104 of 92 states that the person with a degree of disability of more than two thirds, taken as the winner of a competition or other title, has the right of choice among the available seats.

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<sup>8</sup> <http://www.handylex.org/stato/1050292.shtml>

Article. 22 establishes that the certification of healthy and robust physical constitution is not required for the purpose of hiring public and private work.

### **GETS FOR CURE**

Workers with a disability of more than 50% can benefit every thirty days of leave, granted by the employer following a request by the interested party accompanied by a request from a public or contracted medical institution indicating the need for treatment in connection with to the disabling invalidity. the economic treatment is that of the illness (article 7, **legislative decree 119 of 2011**).

### **EARLY RETIREMENT**

The financial law for 2001, **law n. 388, 23 December 2000**, art. 80, paragraph 3, allows deaf-mute and invalid workers for any reason (to which an invalidity of over 74% or similar) has been recognized, to request, with effect from 1 January 2002, for each year of work actually performed, the benefit two-month figurative contribution up to a maximum of five years. Therefore, benefiting from this opportunity, the employee, even a cooperative, with 30 years of service will have recognized 60 months of figurative contributions and can retire five years in advance.

### **INABILITY PENSION**

An additional tool that can be used to anticipate access to retirement, but only in the presence of certain health requisites, is the disability pension.

Those who in the course of their working life are in fact in the position of being unable to carry out any more work, can apply to their social security institution.

You are entitled to this pension when the following conditions are met:

- a physical or mental illness has been ascertained, such as to provoke an absolute and permanent impossibility to carry out any work;
- an insurance and contribution seniority of 260 weekly contributions has matured, equivalent to five years of insurance, of which at least 156, ie three years, paid in the five years preceding the pension application.

The pension is calculated on the basis of the accrued seniority, increased by a further period between the age at termination and the retirement age.

### **Reduced access to services for persons with disabilities**

Insufficient and inadequate assistance, episodes of discrimination that remain increasingly unpunished, work denied and inclusion in school still "obstacles". It is the daily life of approximately 4 million citizens with disabilities- according to the complaint launched today by the ANMIC, the Mutilated and Invalids Civil Association,- which at a press conference in the Chamber stressed the absence of citizens with disabilities from the agenda's priorities of the Government and in the new financial planning, but also from the public debate on emergencies.

ISTAT calculates that in 2013, 13,177,000 persons aged 15 and over have functional limitations, invalidity or serious chronicity (25.5% in all of the resident population). For these people the interaction between health conditions and environmental factors can result in social inclusion restrictions.

The level of seriousness of health problems has a strong impact on employment. Among persons with serious functional limitations, people in employment are only 19.7%, compared with 46.9% among those with mild limitations, invalidity or chronic illnesses.

With reference to accessibility, the number of school buildings with architectural barriers are still many, with a situation of greater disadvantage in the Southern Regions. In fact, the latter is the geographic subdivision that presents the lowest percentage of schools with stairs compliant with legal standards (77.2% of the primary schools and 86.6% of the secondary schools) and toilet facilities compliant with legal standards (72.4% of the primary schools and 77.3% of the middle schools)

### **b) Legal guarantees for migrants and asylum seekers**

It is possible to reconstruct the framework of fundamental rights of migrants, present in Italy, in the light of the following "multilevel" construction of rights:

1) the right to life (**Article 1 ECHR**).

- 2) the right to personal freedom and security, except in case of legitimate arrest or detention (**Article 5 of the ECHR, Article 9 of the International Pact**), with guarantees and limits similar to those provided for by art. 13 Cost.
  
- 4) the right not to be subjected to cruel, inhuman or degrading punishments, treatments or punishments** (Article 3 of the ECHR, Article 7 of the International Covenant, see articles 13, paragraphs 3 and 27, paragraph 3 of the Constitution and the New Convention)
  
- 5) the right to respect for their private and family life, their home and correspondence, without any interference that is not provided for by law (**Article 8 of the ECHR, Article 17 International Covenant, see Articles 14 and 15 of the Constitution**).
  
- 6) the right to freely express one's thoughts, including the freedom of opinion and the freedom to receive or communicate information or ideas without interference, except for the limits set by law which constitute a measure necessary for national security, for integrity territorial, (**Article 10 of the ECHR, Article 19 International Covenant, Article 21 of the Constitution**);
  
- 7) the right to freedom of thought, conscience and religion, including the freedom to change religion or thought and the freedom to express one's religion or thought individually or collectively, in public or in private, through worship, of teaching, of practices and fulfillment of rituals (**Article 9 of the ECHR, Article 18 of the International Covenant, Article 19 of the Constitution**, which does not allow rituals contrary to morality, and articles 20 and 21 of the Constitution);
  
- 8) the right to the recognition of the personality or legal capacity (**Article 16 of the International Pact**) or of citizenship, without any deprivation for political reasons (**Article 22 of the Constitution**);
  
- 9) the right to respect the principle of legality in criminal matters, that is, prohibition to be condemned for an action or omission which, at the time it was committed, did not constitute a crime according to the law (**Article 7 of the ECHR, Article 15 of the Covenant International, Article 25 of the Constitution**);

- 10) the right to freedom of peaceful assembly and freedom of association, including the right to establish with other trade unions and to join trade unions for the defense of their own interests (**articles 17, 18, 39 of the Constitution, article 11 of the ECHR**) , Articles 8 and 21 International Covenant, ILO Convention No. 87 of 9 July 1948 concerning the freedom of trade unions and the protection of trade union rights, ratified and enforced by law March 23, 1958, No. 367);
- 11) the right to marry and to form a family, in which spouses must enjoy equal rights and responsibilities between themselves and their children in all phases of marriage (**Article 29 of the Constitution, Article 12 of the ECHR, art. 5 Protocol No. 7, Article 23 International Agreement**);
- 12) the right to education, including the right of parents to ensure education and teaching according to their religious and philosophical convictions (**Article 2 Protocol to the ECHR No. 1, Article 18 paragraph 4 International Covenant**), with ways and limits similar to those set out in articles 30 c. 1, 33 and 34 Cost.;
- 13) the right to act in court to protect their rights in civil, criminal and administrative matters before an independent judge established by law, who must examine the case impartially, publicly and within a reasonable time, with the presumption of innocence of the defendant until his guilt has been legally established by a definitive sentence (**Articles 24 (1), 101 (2), 11 (c) and Article 27 (2) of the Constitution, Article 6 (c) 1 and 2, and 13 ECHR, Article 14 International Covenant on Civil and Political Rights**);
- 14) the right to defense, including the right to be assisted free by a lawyer, if he does not have the means to pay one of his trust, and an interpreter, as well as the right to obtain compensation for improperly held detention (**arts. 24, paragraphs 2, 3 and 4, and 111 of the Constitution, Article 6, paragraphs 3 and 5 of the ECHR, Article 3 Protocol No. 7, Article 14, paragraph 3, International Covenant.**<sup>9</sup>)

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<sup>9</sup> Migrants' Integration Portal (nd) available at: <http://www.integrazionemigranti.gov.it/normativa/documenti-ue/Pagine/Italia.aspx>

## RECEPTION

The data on the SPRAR reception system in 2016 reveal a total of 45 projects aimed at disabled users or those with mental illness, compared to a total of 652 national projects.

In 2016, the beneficiaries received in the SPRAR network belonging to the category of mental disability and disability were 442, of which the vast majority are men (76.7%) and partly women (23.3%) and minor (9.5%).

However, we can not speak of a mere numerical relationship: the constant increase in cases of mental distress actually reflects a change in the profile of the vulnerabilities of the applicants and holders of international protection. If vulnerabilities pertaining to the psychic sphere could still be traced back to torture and traumas during the migratory path until the three years 2011-2013, from 2014 to today we are more and more confronted with more structured situations in which psychological suffering seems to have preceded to the migratory trauma and to this it overlaps.

This has determined the need to respond to these needs with a reception network capable of guaranteeing the acceptance of the various vulnerabilities on the territory in an effective and widespread manner, through a homogeneous increase in reception standards, which is one of the primary objectives of the SPRAR network for the three-year period 2014/2016.

DGLS 140/2005, Art. 8. *Reception of persons with special needs*

1. Reception is carried out taking into account the needs of asylum seekers and their family members, in particular vulnerable persons such as children, the disabled, the elderly, pregnant women, single parents with minor children, persons for whom It has been ascertained that they have suffered torture, rape or other serious forms of psychological, physical or sexual violence.
2. In the identification centers, special reception services are provided for persons with special needs, established by the director of the center, where possible, in collaboration with the local health authority, which guarantee special assistance measures and adequate psychological support, aimed at needs of the person, without prejudice to the provisions of article 8, paragraph 1, of the regulation.

3. Within the system of protection of asylum seekers and refugees, referred to in Article 1-sexies of the Decree-law, special reception services are activated for asylum seekers with special needs, taking into account the welfare measures to be guaranteed to the person in relation to his specific needs.
4. The reception of unaccompanied minors is carried out, according to the provision of the Juvenile Court, by the local authority. Within the services of the protection system for asylum seekers and refugees, referred to in Article 1-sexies of the Decree-Law, the local authorities concerned may provide specific reception programs reserved for unaccompanied minors, asylum seekers and refugees, participating in the allocation of the National Fund for Asylum Policies and Services.
5. The Ministry of the Interior stipulates agreements, based on the available resources of the National Fund for the policies and services of asylum, having heard the Committee for minors, with the International Organization of Migration (IOM) or with the Italian Red Cross , for the implementation of programs aimed at tracing the family members of unaccompanied minors. The implementation of the programs is carried out in the best interests of minors and with the obligation of absolute confidentiality, in order to protect the safety of the asylum seeker.<sup>10</sup>

| <b>MAIN VULNERABILITIES PRESENT BETWEEN THE BENEFICIARIES ACCEPTED IN THE SPRAR (PERCENTAGE VALUES)</b> |            |
|---|------------|
| <b>Beneficiaries victims of torture and / or violence</b>   | <b>7,4</b> |
| <b>Beneficiaries with problems of mental distress</b>   | <b>3,6</b> |
| <b>Beneficiaries with the need for home care, specialized and prolonged healthcare</b>                  | <b>3,4</b> |
| <b>Beneficiaries in single-parent families</b>  | <b>3,1</b> |
| <b>Beneficiaries victims of trafficking</b>   | <b>2,3</b> |
| <b>Disabled beneficiaries also temporary</b>  | <b>1,3</b> |
| <b>Beneficiaries who are pregnant</b>   | <b>0,7</b> |
| <b>elderly beneficiaries</b>  | <b>0,2</b> |

<sup>10</sup>Atlante Sprar (2016), Rapporto Annuale, Sistema di Protezione per Richiedenti Asilo e Rifugiati, available at: <http://www.sprar.it/wp-content/uploads/2017/06/Atlante-Sprar-2016-2017-RAPPORTO-leggero.pdf>

## EDUCATION

The right-duty to the education and training of minors of non-Italian citizenship is regulated in part by the legislation on education and training and partly by the immigration legislation (in particular the **Legislative Decree 25 July 1998** n. 286 and the relative Regulation of implementation of Presidential Decree 394/19992). However, the legislation does not always cover all the cases that can be presented in a comprehensive manner. Furthermore, some provisions can be interpreted in several ways. As consistently reiterated by the constitutional jurisprudence, among several possible interpretations of any normative provision, it is always necessary to privilege only that conforming to the Constitution and to the international and community obligations of the Republic. The Italian Constitution, the community law and the international Conventions ratified by Italy guarantee the right to education and training for all minors, *without discrimination based on citizenship, on the regularity of the stay, or on any other circumstance.*

**Article. 34** of the Italian Constitution establishes that "The school is open to all". The New York Convention on the Rights of the Child, ratified and enforced in Italy with Law n.176 / 91, the main international reference in the field of children's rights, establishes two fundamental general principles: - the principle of "non-discrimination" (art 2): "States Parties undertake to respect the rights set forth in this Convention and to guarantee them to any child who depends on their jurisdiction, regardless of any kind and regardless of any consideration of race, color, sex, language, religion, political or other opinion of the child or his parents or legal representatives, their national, ethnic or social origin, their financial situation, their incapacity, their birth or any other circumstances ", means, as the UN Committee on the Rights of the Child has made clear, even independently of their citizenship or regularity of stay<sup>3</sup>; - the principle of "the best interests of the child" (Article 3): "In all decisions concerning children, within the competence of public or private institutions of social assistance, courts, administrative authorities or legislative bodies, the higher interests of the child must be a primary consideration "<sup>4</sup>. In Article. 28, the Convention on the Rights of the Child then states that: "States Parties recognize the right of the child to education, and in particular, to ensure the exercise of this right gradually and on the basis of the equality of possibilities: a ) make primary education mandatory and free for everyone; b) encourage the

organization of various forms of both general and professional secondary education, which will be open and accessible to every child and take appropriate measures such as free teaching and the provision of a financial grant in case of need ". Other important normative references at international and EU level, legally binding for Italy, are art. 2 of the I Additional Protocol to the European Convention on Human Rights ("The right to education can not be refused to anyone") and art. 14 of the Charter of Fundamental Rights of the European Union ("Everyone has the right to education"). In all cases where different interpretations of a normative provision are possible, it will therefore be necessary to adopt the one that is more compliant with the aforementioned constitutional, community and international principles which guarantee to all minors the right to education and training, without any discrimination based on citizenship, on the regularity of stay or on any other circumstances, in compliance with the principle of nondiscrimination and the "best interests of the child".

The ratification of the UNCRPD by the Italian Parliament (Law 18/09) has reinforced the protection of the rights of minors.

#### *The irrelevance of the regularity of the stay*

**Legislative Decree 286/98 and the D.P.R. 394/99** establish that foreign minors present in the territory, regardless of the regularity of the position regarding their stay, are subject to compulsory schooling and have the right to education, in the forms and ways envisaged for Italian citizens, in schools of every order and degree: - D.Lgs. 286/98, art. 38, co. 1: "Foreign minors present in the territory are subject to compulsory education; all the provisions in force regarding the right to education, access to educational services and participation in the life of the school community are applied to them. "- D.P.R. 394/99, art. 45, co. 1: "Foreign minors present on the national territory have the right to education regardless of the regularity of the position regarding their stay, in the forms and ways envisaged for Italian citizens. They are subject to compulsory education according to the provisions in force on the subject. The enrollment of foreign minors in the Italian shakes of every order and degree takes place in the ways and conditions foreseen for Italian minors. " 6, co. 2 of Legislative Decree 286/98, then explicitly excludes from the burden of showing the residence permit the inscriptions and other provisions concerning "compulsory school services". With

reference to the interpretation of this rule, the Ministry of the Interior has confirmed that there is no obligation to exhibit a residence permit for the registration of foreign minors in schools of all levels and at the nursery school.

Finally, it should be emphasized that the constitutional, community and international principles that guarantee to all children the right to education apply fully also to kindergartens and nursery schools. In conclusion, therefore, it is not possible to request a residence permit from either the minor or the parent, for the purpose of enrollment, as well as primary school and secondary school, not even: - day nursery school and primary school; - secondary school and vocational training, even after 10 years of schooling and 16 years of age, until obtaining a secondary school diploma or a professional qualification lasting at least three years. Any different interpretation of the current legislation, which limits the right to education and training of minors without a residence permit and violates the principle of non-discrimination and the principle of "superior interests of the minor", would be in contrast with the Constitution and with the community and international obligations assumed by the Italian State, and can not therefore be accepted.

*Useful and compulsory documentation to access to the national educational system*

At the time of enrollment of a foreign minor or community, the school is required to request the parent or parental authority <sup>11</sup> the same documentation required for enrollment of Italian students.

In the same note, the Ministry specifies that, in the case of minors who are still subject to compulsory education (therefore all minors under 16), registration is usually made to the class corresponding to the age of the registry, unless otherwise assessed by the college of teachers, pursuant to **art. 45, of the D.P.R. 394/199915**, while in the case of minors who are no longer subject to compulsory education (ie students, at least sixteen, who have followed a regular course of study in the country of origin), the **art. 192 of Legislative Decree no. 297/94**. This article states that "Subject to the age requirement, which can not be lower than that of those who normally followed the studies in the national institutes and schools of the national territory from the age of ten, the class council can

allow the registration of young people coming from abroad, who try, also through the possible experiment in the subjects and tests indicated by the same class council, on the basis of qualifications obtained in foreign schools with legal recognition, to have adequate preparation on the entire prescribed program for the suitability of the class they aspire to. "According to the Ministry, therefore," the set of provisions referred to assign the individual schools and their collegial bodies the task and responsibility to define, during registration, the entry of students with non-Italian citizenship, without a secondary school diploma, ai courses of the second cycle of education "(note n.465 / 2012).

#### *Cases of illegitimate rejection of the registration*

A school can legitimately refuse the registration of a minor of non-Italian citizenship only in the following three cases:

- if the minor does not have the age requirements established by the regulations for enrollment;
- if the Class Council assesses that the minor ultrasedicenne without school documentation that requires enrollment in secondary school does not have adequate preparation for the program of the first class;
- if a minor is enrolled during the year and the school has reached the maximum number of students per class in all sections and therefore has no more places available.<sup>11</sup>

## **HEALTH**

Access to the NHS for regular migrants

For foreigners legally residing, there is an obligation to enroll in the National Health Service (SSN) (Legislative Decree 25 July 1998, No. 286, Article 34). It concerns all subjects who are legally resident or who have requested the renewal of the residence permit for the following reasons or are in one of the following conditions:

- subordinate employment;
- self-employment;

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<sup>11</sup>

[http://www.piemonteimmigrazione.it/mediato/images/inmediares/materiali/manuali/Minori\\_stranieri\\_e\\_diritto\\_allistruzione\\_e\\_alla\\_formazione\\_In\\_Media\\_Res.pdf](http://www.piemonteimmigrazione.it/mediato/images/inmediares/materiali/manuali/Minori_stranieri_e_diritto_allistruzione_e_alla_formazione_In_Media_Res.pdf)

- family reasons;
- political asylum (including refugees);
- humanitarian asylum - temporary protection;
- social protection;
- foreign minors;
- pregnant and puerperium women up to a maximum of six months after the birth of the child.

For permission cases, which allow the performance of work activities, there is the right to selfcertify their status as unemployed registered in the lists of employment centers. The obligation to register with the SSN is also extended to those who are in one of the following conditions:

- minors awaiting adoption by guests in Reception Centers;
- custody (including unaccompanied minors);
- request for citizenship (concerns all those who have applied for Italian citizenship, having fulfilled the conditions and requirements and who are awaiting the definition of the recognition procedure);
- inmates and inmates, subject to semi-liberty or subject to alternative measures to the sentence (Legislative Decree 230/99, article 1, paragraph 5);
- renewal for study reasons for those already in possession of a permit for the above-mentioned reasons;
- pending appeal against the expulsion order or against the provision for non-renewal, revocation or cancellation of the residence permit (in this case, the subject must show appropriate documentation certifying the pending appeal).

In all the cases mentioned above, the enrollment is also extended to the family members to be regularly resident. If the family member is a minor student, at the age of eighteen, he / she will be able to obtain a residence permit for study reasons and will not have to pay the enrollment fee to the SSN provided for voluntary registration.<sup>12</sup>

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<sup>12</sup> Ministry of Health (2015), "L'accesso alle cure della persona straniera: indicazioni operative" available at: [http://www.salute.gov.it/imgs/C\\_17\\_opuscoliPoster\\_297\\_allegato.pdf](http://www.salute.gov.it/imgs/C_17_opuscoliPoster_297_allegato.pdf), Rome: Italy

Access to the NHS for irregular migrants

**Art. 32 of the Italian Constitution** says the Republic protects health as a fundamental right of the individual and the interest of the community . **DLvo 286/98, art. 35**, paragraph 3 states that foreign citizens present on the national territory, not in compliance with the rules on entry and stay, are insured, in public and accredited hospitals, urgent or essential, but still ongoing, outpatient and hospital treatment, with particular concerning prophylaxis, diagnosis and treatment of infectious diseases. Court of Cassation, Sec. I Civil, Sent. n. 20561/2006 Civil Court of Cassation, Sec. I, 24th January 2008, n. 1531 Cons. of State, Sent. n. 5286/2011 Cons. of State, Sent. n. 4863/2010, Court of Cassation, Sec. Unite Civil, Sent. n. 14500, 10 June 2013. Jurisprudence has repeatedly affirmed that all essential services for the life of a foreign person must be considered guaranteed, considering the universal and constitutional value of health prevailing compared to the State's interest in expelling the foreigner from the national territory without permission of stay. The residence permit The absence of the residence permit limits the rights of the foreign person, given that failure to comply with the regulations governing entry and stay in Italy excludes, in itself, the right to carry out further activities. In particular, the possibility of signing a contract of employment, signing a lease contract, carrying out self-employment activities, enrolling in a course of study, etc., are precluded.

The absence of the residence permit, on the other hand, does not preclude foreign persons from receiving, in the public and accredited premises of each ASL, the following services:

- urgent and essential hospital treatment, even if continuous, including those provided under the day hospital emergency room;
- urgent and essential outpatient treatments, even if they are ongoing due to illness and accident, including preventive medicine and post-accident rehabilitation programs, measures to reduce and prevent damage compared to risky behavior, as well as programs to protect mental health. Urgent care refers to treatments that can not be deferred without danger to life or damage to the person's health. For essential care we mean the health services, diagnostic and therapeutic, related to non-dangerous diseases in the immediate and short term, but that over time could cause greater damage to health or life risks (complications, chronic or aggravations).

The requirement of urgency or essentiality must be attested on the clinical documentation and on any requests for services. 14 On the basis of the principle of continuity of urgent and essential care, the complete therapeutic and rehabilitative cycle must be considered insured as regards the possible resolution of the morbid event (Ministry of Health Circular March 24, 2000, No. 5);

- essential minimum benefits, such as preventive medicine programs to safeguard individual and collective health.

Foreigners who are irregularly present at the time of first assistance, must be assigned an individual regional code of access to the abbreviation STP (Temporarily Present Foreigner), recognized throughout Italy. This code identifies the migrant person also for the reimbursement of the services performed by the accredited public and private structures. The health structure must proceed, in the absence of identity documents, to register the personal details provided by the patient (Ministry of Health Circular March 24, 2000, No. 5). The issuing of the STP code is valid for six months and is renewable if the foreigner stays on the national territory.

**The Italian Ministry of Health has introduced, last March, the National Guidelines** on assistance and rehabilitation interventions and also on the treatment of psychic disturbances of refugees victims of torture, rapes or other serious kind of psychological, physical and sexual violence.

## WORK

To be able to work in Italy non-EU foreign citizens must be in possession of a residence permit that enables them to work, or issued for one of the following reasons: custody, statelessness, asylum, political asylum, minor assistance, sports, residence of a family member of a Union citizen, permanent residence card for family members of European citizens, family reasons, minor family, minor integration, seasonal work, artistic work, self-employment, subordinate work, waiting for employment, seasonal work, even for many years, work special cases, EC residence permit for long-term residents, subsidiary protection, temporary protection, scientific research, study, humanitarian reasons and working holidays.

Can not work in Italy the foreign citizen who has a residence permit for: medical treatment, tourism, religious reasons, minor age; business; justice.

Employers wishing to hire non-EU workers legally residing in Italy and in possession of one of the above residence permits must send to the Employment Center the place where the place of employment is located, within 24 hours of the day before recruitment, the "UNILAV" model of mandatory recruitment communication.

With the sending, to be carried out exclusively by electronic means, of this model all communication obligations are fulfilled at the same time: at the National Institute of Social Security (INPS), at the National Institute for Insurance and Accidents at Work (INAIL), and other alternative or exclusive forms of social security, as well as to the Prefecture.

In fact, the model also contains the commitments (previously provided for in the "Q model"), to which the employer is required under the Consolidated Law on Immigration, or to pay the expenses for the possible return of the foreigner to the foreign country. in the case of a forced repatriation and to the indication of the foreigner's housing.

Even in the case of a domestic work relationship, the communication made to the INPS is now valid for the purpose of fulfilling the obligation to present the old Q model.

For the release / renewal of the residence permit for work, the foreigner must produce a copy of the UNILAV together with the application. During this phase, the foreign citizen, in possession of the postal receipt certifying the renewal request, can continue to work.

All legally resident foreign workers enjoy equal treatment and full equality of rights compared to Italian workers.

Pursuant to Article 5, paragraph 9 bis of the Consolidated Act on Immigration (Legislative Decree 286/98), pending the issue or renewal of the residence permit, the worker may still work, with fullness of social security rights provided that:

- \* have applied for a residence permit at the one-stop shop within 8 days from the entrance, or, in the case of renewal, the request was presented before the expiry of the permit;
- \* has signed the residence contract
- \* is in possession of a receipt confirming the presentation of the request for the issue or renewal of the permit issued by the competent office.

In general, the holder of a residence permit for employment: \*

is compulsorily registered with the SSN;

\* can access the measures of public housing and brokerage services for access to lease and preferential credit in the field of the first house, on equal terms with the Italian citizen if he holds a residence permit with a duration of at least two years and is engaged in regular employment or self-employment (Article 40, paragraph 6 of TU);

\* can access courses of study on a par with the Italian citizen (unless recognition of qualifications for the purpose of continuing studies) and training courses and retraining;

\* may request family reunification and the entry of family members if they have a permit with a duration of more than one year (link to the page on the indoor site about reunions);

\* can carry out subordinate employment activities other than the one originally authorized (Article 6, paragraph 1 of the TU). In this case the parties will have to sign a new work residence contract;

\* may carry out self-employment activities, upon acquisition of the qualification or authorization and fulfillment of the other requisites envisaged with the corresponding conversion of the residence permit to expiry;

\* can access the patronage services (Article 22, paragraph 14, T.U.)

\* in the event of dismissal or resignation (which the employer must report within 5 days at the one-stop shop and the employment center), he has the right to enroll in the mobility lists (with the payment of the relative compensation) or in the lists personal data held by the Employment Centers for the period of residual validity of the residence permit and in any case, except for a residence permit for seasonal work, for a period of not less than one year, or for the entire duration of the provision of income support (unemployment treatment eg mobility allowance) received by the foreign worker, if higher.<sup>13</sup>

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<sup>13</sup> <http://www.integrazionemigranti.gov.it/normativa/procedureitalia/Pagine/Lavoro.aspx#contenuto5>

### 3. NATIONAL PROJECTS

A. *JobDiversity: Career Forum of equal opportunities* promoted by the Sodalitas Foundation, UNAR, Adecco and People Foundation for Equal Opportunities.

JobDiversity is the Career Forum of equal opportunities that, from 2007, simplifies the access to the job market to special-needs, foreigner and transgender people, involving businesses and institutions. “**We look for talents to offer them equal working opportunities**” is the goal that JobDiversity presented itself from the beginning, drawing the interests of thousands of people coming from all parts of Italy and the world, giving them the chance to candidate themselves and get job interviewed, enhancing their skills and peculiarities. Thanks to **JobDiversity** during the year businesses have the chance to meet the candidates selected according to requested profiles.

From 2007 to 2015, there have been 21 editions of the Career Forum, with the participation of more than 80 enterprises and more than 13.000 candidates.

In 2016 **JobDiversity** – after being recognized as the best international practice in the field of Diversity and Inclusion- became a project completely handled and financed by the private and the social private world<sup>14</sup>.

### 4. NATIONAL LEVEL RECOMMENDATION

#### FIRST AID

- It is good practice that the patrol boats involved in rescue operations have on board one or more **doctors** who can provide first aid and assistance.
- The **basic notions** of international, **European and national principles** and laws on the protection of refugees, the treatment of minors, and the procedures to be applied in carrying out the tasks assigned in relation to the management of mixed migratory flows arriving by sea, should be widespread among the naval bodies most involved in sea rescue operations.
- At international or at least Community level to reach an **agreement** on the following points:
  - adoption of **common criteria** suitable to define a situation of difficulty as “**emergency**”; - common

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<sup>14</sup> [www.diversitalavoro.it](http://www.diversitalavoro.it)

definition of the criteria for identifying a given port of landing as "safe" for persons who might be in need of international protection; - definition of a responsibility sharing mechanism to facilitate the disembarkation of people rescued at sea.

- Before reaching the port, the Port Authorities should inform the competent Prefecture of the arrival time in advance so that the latter can arrange the **necessary assistance** for the landing, alerting the Civil Protection, the ASL and the associations and organizations that provide relief and advice to migrants.

-All assistance activities must be carried out with full **respect for the fundamental rights of migrants**.

- It is also essential that, from the moment of disembarkation, all the actors involved participate in the **identification of vulnerable people**.

#### ASSISTANCE

- The **health care** activity must be of absolute **priority** with respect to any intervention carried out against newly disembarked migrants. It is also necessary that the same should take place within a period that is congruent with the needs identified.

-It is good practice to guarantee the presence of **cultural mediators**.

-It is important that during the disembarkation operations the **privacy** of all migrants is ensured -It is advisable to ask the migrants, as soon as they are disembarked, if they are aware of **other vessels** that could still be found in the sea in difficulty.

- During the first landings assistance operations, if circumstances permit, it is good practice to identify households (to avoid their possible separation during subsequent transfers) and potential unaccompanied minors.

#### IDENTIFICATION (personal data and vulnerability)

In the case of migrant women arrivals, it is essential that inspection operations are always carried out by **female** police personnel.

-It is important that the newly disembarked migrants are always transferred to specific centers that perform a function of first reception and identification

-As a general principle, it is necessary to **take into account the conditions of the journey**, as well as the possible state of fatigue and disorientation of the migrants. In the event that the migrants have arrived in critical condition or otherwise are affected by the difficulties of the journey, it is necessary to ensure that the identification operations are carried out only after the castaways have received a first assistance.

-It is important that before the identification procedure the Immigration Police Office, through its own cultural mediator, **provides migrants with general information** about Italian legislation on immigration and asylum with particular regard to the right to request international protection. -It is good practice that the identification operations carried out by the Police **take into account the vulnerability** of the individual subjects and that the obvious children and women with newborn children can be listened to with priority over the other migrants.

-In general it is necessary to pay particular attention to the entire process of identification, even in consideration of the significant repercussions that this has on the subsequent path of foreigners in Italy.

-In the phase immediately after entering the first reception center it would be advisable to make available to all the migrants arrived by sea an information flyer translated into different languages containing the **basic principles relating to the stay in the destination country** and to the instruments of protection and protection provided for by national legislation. Migrants should also be informed about the rules of coexistence and services present within the Center.

-It would be appropriate to develop a **standardized identification procedure**, possibly also with the possible adoption of a short form, in order to facilitate for the competent authorities the identification of possible international protection needs of migrants. Early access to the procedure by asylum seekers should also be guaranteed through the adoption of easily comprehensible and effective operating procedures, in compliance with the principles listed in the Schengen Handbook;

INFORMATION

- The information activity aimed at migrants may provide for the organization of **group information sessions**. These sessions should be organized taking into account the profiles of migrants and needs that have emerged.
- Group information sessions for potential asylum seekers should clarify the **conditions for the request for international protection** and the different stages of the procedure (access procedures, obligations of the applicant during the procedure, hearing, possible outcomes and possible recourse). Equally important is to provide detailed information about the criteria for determining the State responsible for examining the application for international protection, as defined by the Dublin II Regulation 40, or about special circumstances (eg presence of a spouse in another European country).
- Compared to minors, it is advisable that the group counseling sessions are carried out by adopting **preventive measures for the protection of minors**, in particular by ensuring the presence of at least two adult operators with minors.
- In case you suspect you are in front of one or more victims of trafficking it is recommended to carry out an **individual interview** and in conditions of confidentiality
- Information sessions** aimed at migrants regarding information and health prevention should be **held** with the aim of improving the sanitary conditions **in the reception centers** and increasing the capacities and possibilities of access to health facilities and services

## 5. FOCUS GROUPS: AN OVERALL VIEW BY THE STAKEHOLDERS AND THE USERS OF THE RECEPTION CENTERS.

### Focus Groups with Stakeholders:

*From the focus groups led by Arci in collaboration with DPI as part of AMiD project*

- **Amid research: the enthusiasm of the stakeholders**
- **Definition of disability according to the WHO**

- **The condition of migrant with disabilities, a sum of discrimination**
- **Analysis of the shortages and solutions suggested**
  - **Lack of data related to the presence and arrival of migrants with disabilities;**
  - **Lack of data regarding the number and specifications of equipped centers;**
  - **SPRAR intervention as bio-psycho-social: the sprar is not a medical garrison;**
  - **Lack of specific training for reception center staff;**
  - **Lack of information, literacy to rights for users of reception centers;**
  - **Lack of confrontation between the different realities operating in the territory, regarding to migrants with disabilities;**
- **Interviews with migrants with disabilities.**

### **AMiD research: the enthusiasm of the stakeholders**

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Amid research was welcomed with great enthusiasm and participation by the stakeholders involved in the focus groups, in the certainty that a first step towards a systematic research on the issue was made and that this is of fundamental importance. The wide participation points out the need of the experts involved in having access to data on the issue.

The lack of data collections about the condition, the needs of migrants with disabilities in our reception system is probably the main theme on which the experts involved strongly agree. We don't know the percentages, if not those gathered by highly monitored areas, such as school and work, within which, however, the values are not detectable separately. There is no mapping of reception centers equipped to accommodate people with motor disability (equipped, therefore, with spaces without architectural barriers and located in areas suitable to guarantee the autonomy and integration of users), nor those with trained staff to the treatment of people with psychic

vulnerability. Thus, the allocation of housing is a slow process, proceeding in a non-systematic, unstructured way, without cohesion of the forces involved.

Today, data and numbers on this phenomenon and on this existential condition are still almost negligible. In the lack of a structured research, operating and intervening is difficult.

The information gathered is varied and the experts said they were widely available for joint collaborations and researches in the near future, as well as open to discussion in order to exchange good practices and virtuous examples regarding the condition of a migrant person with disability.

### **Definition of disability according to the WHO**

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The ways in which disability is defined and understood has changed in the last decade. Once, disability was taken as a way to characterize a particular set of subjective limitations of the person, deriving from his condition of health. At the beginning of the millennium, the World Health Organization (WHO) has moved towards a new international classification system, the International Classification of Functioning, Disability and Health (ICF 2001). It emphasizes the functional status with respect to the diagnoses. The new system does not only concern people with disabilities traditionally recognized, diagnosed, but all people. The ICF focuses on the analysis of the relationship between capacity, environment and performance, emphasizing the relationship that produces the condition of disability.

In 2006, the UN Convention on the Rights of Persons with Disabilities went beyond this classification by linking the condition of disability to respect for human rights, which does not exist in the ICF. Thus the condition of disability, which is a variable depending on the environmental and social context, which is dynamic as well, and reducible in relation to circumstances, has become a condition of violation of human rights. The definition of disability contained in the CRPD emphasizes that "disability is the result of the interaction between people with impairments and behavioral and environmental barriers, which prevent their full and effective participation in society on the basis of

equality with others". So it is society that disables people by not taking into account their characteristics and because "disability is an evolving concept", the more we perceive the violation of the human rights of these people the more we manage to intervene to reduce or remove the condition of disability.

The aim is to introduce Universal Design in all services, programs and constructions as an international priority to reduce the condition of disability and improve the quality of life, access to rights and the participation of all.

### **The condition of migrant with disabilities, a sum of discrimination**

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The condition of both migrants and disabled persons are vulnerable ones, that one of being both at the same time deserves to be investigated as more critical.

Discriminated as migrants, invisible as disabled people, migrants in Italy often find themselves facing the difficulty of gender differences or the issues related to their sexual orientation as well, adding difficulties to a tangle of suffering.

### **Analysis of the shortages and solutions suggested**

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#### **- Lack of data related to the presence and arrival of migrants with disabilities**

In the experience of each of the associations involved, there was a substantial lack of data regarding the condition of a migrant person with disability. The numbers referring to the presence of people with physical or psychological vulnerabilities within the migrant population who have or have not applied for protection are not known.

In this regard, in 2013 FISH ONLUS (Italian Federation for the Overcoming of the Handicap) and UNAR (National Anti-Discrimination Office) published a research report on the condition and presence of migrants with disabilities in Italy. The report is not conclusive of the absence of data, but constitutes a first approach to the question.

It must be said, however, that the difficulty of obtaining data, so to speak, 'disaggregated' remains. In fact, so far it was provided to areas usually monitored with regard to the subject of disability, i.e. school and work. Therefore, the few data available refer to particular contexts and do not provide an overview of the phenomenon. The data on the school, for example, concern a sample of the population that includes only certain age groups and, therefore, we do not know what the living conditions of vulnerable people are once they leave the school circuit.

#### **Recommendations:**

- There is consensus on the idea of a **systematic data collection** that takes place starting from the first reception. Firstly, this modality would allow to identify the vulnerability by the arrival and to have, as a consequence, an assisted path as regards health, legal, housing, etc. The person is identified upon arrival as the bearer of a specific need and should not be the object of further identification at every stage of his migratory journey in Italy.

Secondly, this would allow to the experts of the field to have reliable and continuously updated data on the number of incoming migrants with disabilities, for example. Without structured data, a structured intervention is not possible.

- It is necessary to identify **sensitive tools** for a functional screening of the condition of vulnerability and needs of the migrant person with disabilities.

- In this sense, the **involvement** of the Ministry of Foreign Affairs, the Interior and the Ministry of Health is suggested, thus making the forces converge during the initial reception phase.

#### **- Lack of data regarding the number and specifications of equipped centers;**

The lack of data referring to the number and the specifications of the reception centers equipped to host migrant people with motor disabilities, for example, is among the causes of a difficult and

slow assignment process. Even where places are available, there is no mapping of equipped centers and often it takes months before a person finds an adequate accommodation. Some regions do not have equipped reception centers.

### **Recommendations:**

- It would be advisable to proceed with a **systematic mapping** or data collection of the availability and characteristics of the reception center, so that it is possible for experts in the sector to direct the migrant person with disability towards centers where architectural barriers are absent and where not, which services and equipment are available, for example.

**- SPRAR intervention as bio-psycho-social one: the SPRAR is not a medical device and requires civil society to work. However, it requires trained medical personnel in the treatment of vulnerability and disability.**

SPRAR is the second reception network for asylum seekers and refugees. Its aim is to welcome, protect and integrate people. There are over 30,000 people in the system, including cases of disability and / or mental distress. The projects are structured as to manage situations, problems, and vulnerabilities of different types through the networks that make up the services of the territory.

Within the SPRAR, however, there are no specific projects except for projects for minors, unaccompanied foreign minors, and projects for people with mental illness or physical disability that are much less than the ordinary projects. There are about 500 seats out of a total of 30,000. Entry into these projects is more complicated: the network of ordinary projects remains, however structured to take charge of applicants and refugees, even with vulnerabilities.

The projects are not healthcare facilities: they are host centers that provides social assistance and support, integration is their goal and they should not be confused. It is an important clarification, because it gives an idea of the work done with people with disabilities. In fact, it is equal to the work carried out within projects, so to speak, not specific. The aim, in short, is to construct a customized plan - therefore functional to an integration - that presents, in any case, a greater connection with the social and health services of the territory, in the case of centers able to accommodate users with disabilities or psychic distress.

In terms of findings, there is a low number of projects for vulnerable people. There is a strong concentration mental and physical disability in the south; the experts of the sector, moreover, tell an increase of the pathologies related to the psychic distress: people arrived in Italy in the last years frequently present psychic pathologies.

#### **Recommendations:**

- Increase the number of SPRAR projects dedicated to migrants with disability, keeping the objectives of the second reception: autonomy and integration for all.
- To distribute the equipped reception centers in a homogeneous way.

#### **- A lack of specific training for reception centers staff which host users with vulnerabilities.**

In Italy there is no specific training for operators and mediators within the reception centers for migrants with disabilities, nor is there such training for psychologists, legal operators and, more generally, the personnel involved.

Often they are users with physical disabilities, but often the question is even more difficult and concerns the lack of preparation on issues that require **ethno-psychological skills**, for example.

The experts of the sector report of serious difficulties of the personnel in facing conscious and adequate cases of psychological vulnerability. Often people in difficulty are not heard or, worse,

taken seriously, because of a prejudice that suggests the invalidity of the dialogue with subjects carrying psychic vulnerability.

Furthermore, a preparation is needed in addressing issues of an ethnic or cultural nature, especially if related to gender issues. Women's rights groups report a serious difficulty for the staff of the centers and the medical staff in dealing with women who have suffered **female genital mutilation**.

### **Recommendations:**

- Activate specific training courses for staff involved in the reception that relate to individuals considered as vulnerable, both physically and psychologically, with a special attention to vulnerabilities related to ethnic-cultural and gender issues (yes see female genital mutilation).

### *An example of good practice:*

- Differenza Donna Association, activated courses on rights for migrants as well as language classes.

**- Lack of information, literacy to rights for users of reception centers, resulting in a lack of autonomy and self-sufficiency.**

Although the reception system in Italy foresees a path of literacy and certification for the Italian language, it does not provide any form of literacy to rights and policies. Users in the reception centers do not have a clear idea of the services and facilities they can access, they don't know that they are entitled to compulsory education for their children and can access to the national health system.

The experts have reported several examples of the case: emblematic that one of a family with a child with particular needs for health interventions, who has not promptly followed his daughter because certain of not being entitled to free medical treatment.

Often migrant people with disabilities have no idea of the potential of the territory, of the associations involved in assistance and not only: there is no idea of the ongoing inclusion projects.

## Recommendations:

- The creation and publication of information material in reception centers, specially in the SPRARs and in first and very first reception facilities, so that the migrant person with disabilities has an idea of what his or her rights are in the host country and in terms of an **empowerment** process.

### *Examples of good practices:*

- JumaMap, a ARCI Toll free Number for Asylum Seekers and Refugees with UNHCR support. It is an online map for migrant services, including employment centers, healthcare facilities, legal advice centers, etc. The service is also useful for operators, for a clear vision of services in the area.
- Turin, Counter for migrant persons with disabilities.
- Differenza Donna Association, consultative desks for women in reception centers.
- The Italian association for people with the Down Syndrome has published a guide to the rights of migrants with disabilities in different languages.

- **Lack of confrontation between the stakeholders operating in the territory, with regard to migrants with disabilities. This comparison would be useful for the implementation of virtuous examples and good practices.**

A lack in data collection flows between the subjects involved in the reception of migrants in general has been found in the area. This lack, in the case of migrants with disabilities, is deeply felt due an overwhelming urgency: in the case of users with disabilities or psychological distress, delay in interventions and lack of coordination produce visible hardships.

Although there is a lot of work to do in terms of research, staff training, literacy to migrants' rights, etc. it is worth pointing out that on the territory several examples that we could define as 'virtuous'

, that is examples of organization or services replicable or that it is desirable to replicate on the national territory.

For this to be made possible, however, we need associations, NGOs and institutional bodies involved in the treatment of vulnerable migrants to be coordinated and compared in a systematic and functional manner. To sum up, it is necessary to confront each other to make known the realities working and producing positive effects on people and territories.

#### **Recommendations:**

- It is necessary to build networks between Universities, SPRAR, ASL, etc., for a continuous mutual exchange, to promote virtuous examples and good practices and for the implementation of a circular training for the interested public entities. In fact, the meetings for the confraternity of the stakeholders not only highlight the examples to be imitated, but also allow operators to be updated on the local services and activities

#### **Interviews with migrants with disabilities**

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N.B. The following interviews were conducted within the SPRAR of Cavallino in the province of Lecce, in the presence of the operators.

We believe it is necessary to underline that differently from the focus group with the stakeholders, the dialogues with the users of the reception centers are often difficult, due to the emotional state of the users, due to linguistic difficulties and, above all, because not all they respond to the surrounding environment in the same way (to the presence of the operators, to questions on institutional bodies, etc.).

#### *Interview with Roustam*

*Note: the communication with Roustam is difficult, the interpreter (a user of the SPRAR where Roustam stays) of the Armenian language translates into French, but at some points the flow of data stops facing linguistic difficulties. Moreover, the man appears indisposed speaking of the journey, of the path that brought him here, accompanied by his brother. He reveals that he does not want to recall the moments of the trip.*

*Roustam has motor disability.*

How old are you?

*I'm 33.*

How many languages do you speak?

*I speak five languages: Yazid, Armenian, Kurdish, Russian and some Italian.*

When did you come to Italy for the first time?

*Five months ago, I had never been there before.*

Did you get a permit to stay here?

*Not yet, I only have a nominative certificate [the operators inform us that Roustam is an asylum seeker.]*

Have you studied in your country?

*I studied and worked before coming here, in my country. Here, however, I play sports.*

Why did you choose Italy?

*For humanitarian reasons.*

Do you plan to stay here?

*Yes, I would like to stay here.*

Who did you join in with Italy?

*I came to Italy with my brother [Roustam reminds us - through the interpreter - who does not want to talk about the trip and the difficulties faced, probably because there are other young people in the room and the operators of the center].*

You are married?

*No, I'm not even engaged and I have no children.*

Do you have other relatives in Italy?

*Here I have only my brother.*

What do you hope for the future?

*I hope to learn Italian well, to obtain the necessary documents and then to go to school, to take courses. I would also like to continue playing sports, I love it. I would like to find a job and doing sports [Roustam is a black belt of karate and plays basketball. He trains at the gym as well].*

Do you feel you are helped by the Italian Government? Do you think social assistance and services are adequate?

*Yes, I have no problems and I'm happy.*

Do the operators provide you with information and details about services and facilities? Do you know any law or regulation regarding your migrant rights in Italy?

*I know some of them, not a lot, but I get information from the operators in the center, yes.*

Have you ever felt discriminated? In sport for example?

*No, I never felt discriminated.*

Do you attend Italian courses?

*Yes, I attend literacy courses. [The operators tell us that he attends the Italian course and that in May he will start the one for the A1 and A2 certifications].*

Do you have the opportunity to promote or raise awareness of your culture here?

*No, I do not have this possibility because there are no centers or associations for this purpose.*

The interview is over. Thank you, Roustam.

*Thank you very much.*

### *Interview with Abdullahi*

*Note: Abdullahi has arrived to the center since two days. Despite this, he asks us on his own initiative to be able to speak.*

*Abdullahi is a visually impaired boy.*

How old are you?

*I am 18 years old.*

How many languages do you speak?

*I speak my mother tongue and some English.*

When did you come to Italy for the first time?

*In January 2018, I had never been there before.*

Did you get a permit to stay here?

*I obtained international protection for six months.*

Have you studied in your country?

*I did elementary school, but then I started having problems with my eyesight and I left.*

Do you plan to stay here?

*Yes, I would like to stay here.*

Who did you join in with Italy? Do you have other relatives in Italy?

*I came to Italy with my brother. Here I have only him.*

Was it difficult to get here?

*Yes, he was. I was accompanied by my brother and another friend, but it was very difficult.*

Do you feel you are helped by the Italian Government on your journey? Do you think social assistance and services are adequate?

*Yes, I have no problems in this regard.*

The information that the operators are adequate? How do you rate them?

*Both the information and the operators are fine.*

Do you know your rights as a migrant in Italy?

*Someone started to explain to me how things are [Abdullahi had arrived at the center two days before the time of the interview].*

What do you want to do in life?

*I am a swimmer and I would like to do that.*

Have you ever felt discriminated? In sport for example?

*No, I never felt discriminated.*

Do you attend Italian courses?

*Yes, I attend Italian courses.*

Do you go out, do you have contact with people, do you talk about your culture here?

*Not yet. I'd like it very much, I need it.*

Thank you, Abdullahi.

*Thank you.*

### *Interview with Abraham*

*Note: Abraham is an adult man, about fifty. He is calm. We talked with him in Arabic.*

Abraham, what languages do you speak?

*I speak Amharic, Tigrinean, Arabic and a little bit of English.*

When did you come to Italy for the first time?

*I came to Italy for the first time in October 2016.*

What kind of permission do you have?

*I have a 5-year permit as a refugee.*

Are you alone here? You are married?

*I am married and I have requested a reunification with my wife.*

Do you study or work in Italy?

*For the moment I follow Italian courses.*

Why did you choose Italy?

*I had the interview in Crotona and there they told me that I would have to stay in Italy. At the time I had a car accident for which I stayed a year and four months in hospital for treatment.*

How are you in Italy?

*I'm fine here, I study and they do right with me. Life is hard, sure, but we must get busy and study because without knowing the language one can not live.*

Do you have any friends in Italy?

*I do not really have friends, I have some knowledge, for example in Rome there are people I know.*

Thank you Abraham.

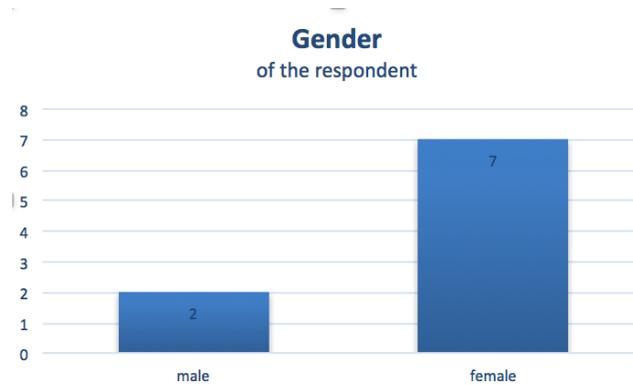
*Thank you*

## **6. ON-LINE SURVEY**

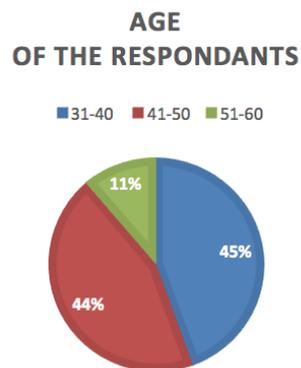
In the context of Amid project, an online questionnaire was conducted, to get more information about the current situation concerning migration and disability. The questionnaire was distributed to the four countries Austria, Finland, Italy and Greece.

In Italy, 9 participants took part in this survey. The following charts give an overview about the responses to each question. The whole questions of this questionnaire can be found in the ANNEX..

Out of the 9 people who completed the survey in Italy, there were 2 male and 7 female experts working in the field of migration and disability.

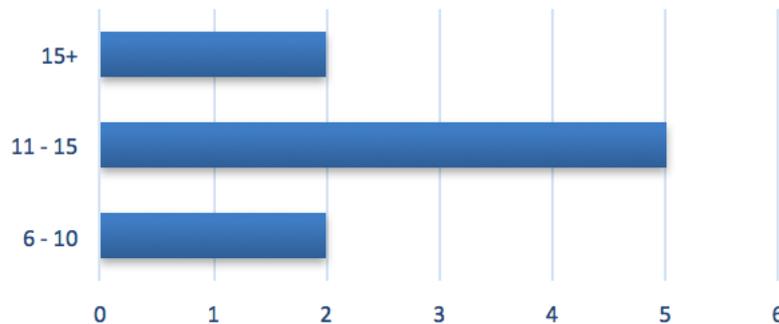


Their age distribution can be seen in the following chart.



The working experience in the field of migration and disability is for all the participants more than 5 years. Some of them had worked for more years in the field, with a few who had more than 15 years of experience.

### Working experience in the migration field



Asked about some already existing initiatives, they mentioned a few like the following:

- FGM policy (not applied effectively)
- Project SPRAR for people with mental disease;
- BEAM project for migrants with children with disabilities;
- SPRAR Castri - Lecce managed by GUS

**All the participants agreed**, that there is need for training adult educators in disability and integration issues.

Training subjects were the following:

- FGM and rights of women with disabilities
- Ethnography and cultural mediation for migrants with disabilities
- Access to social and health services
- Integration paths and empowerment of migrants with disabilities
- Access to labor market and professional empowerment

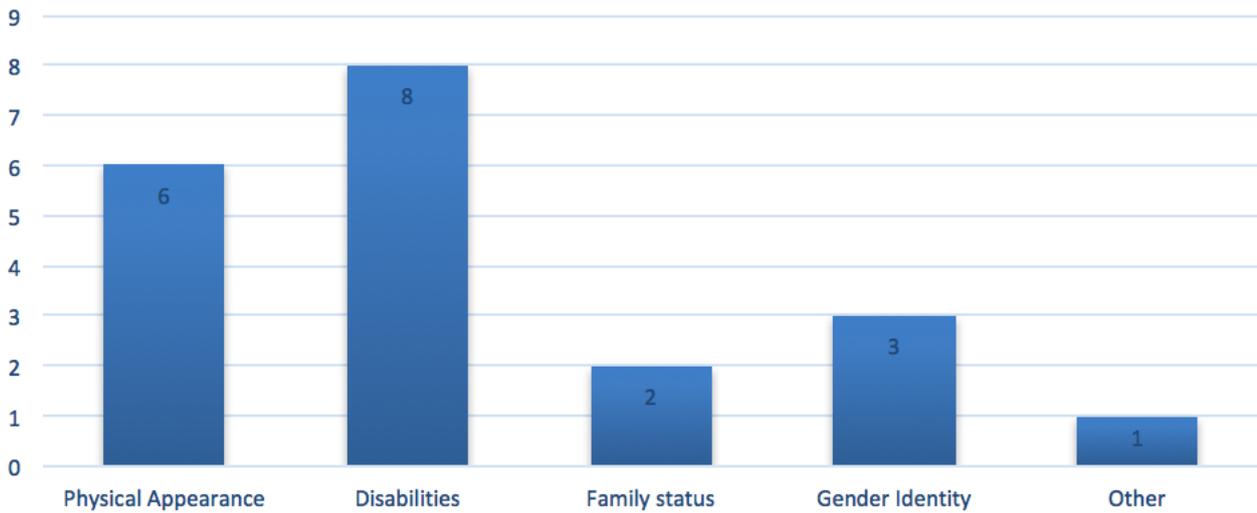
In one question the topic of assessing and supporting migrants with disabilities more efficiently was asked. Mostly all agreed on saying that:

- avoiding physical and psychological barriers;
  - Trainings for doctors, teachers, hotspot, CAS and SPRAR operators, members of Territorial Commissions for international protection;
  - Trainings on gender rights and prevention and protection against gender violence against women with disabilities
- public policies for the integration of migrants with disabilities, including policies for the job integration and the health care

would be helpful for the purpose.

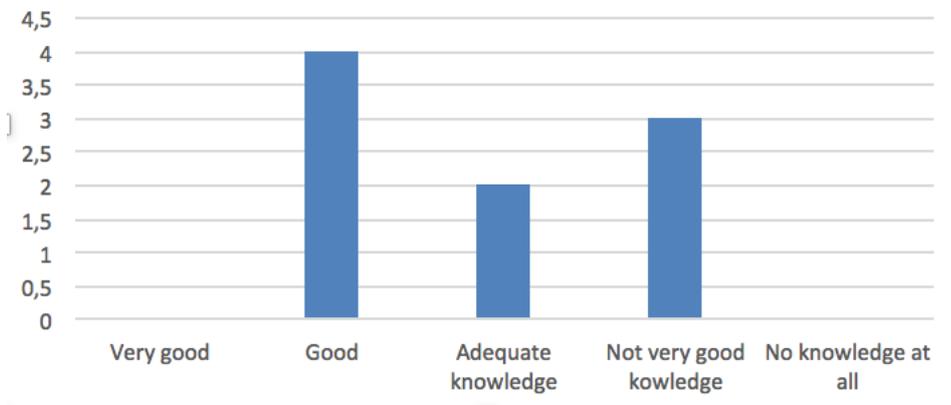
Another question was asked about which possible indicators would be helpful to assess migrants with disabilities (**more options could be ticked**). The following chart shows how they answered.

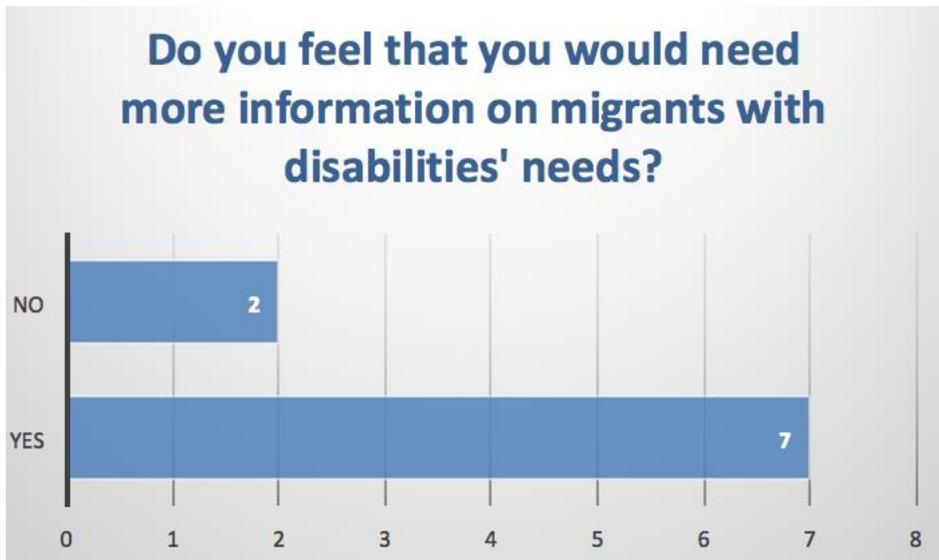
## Useful indicators for the identification and the assessment of migrants with disabilities



Asked about their current knowledge about assessing and identifying migrants with Disabilities, the respondent answered as the following charts show:

To what degree would you rate your current knowledge of identifying and assessing migrants with disabilities?

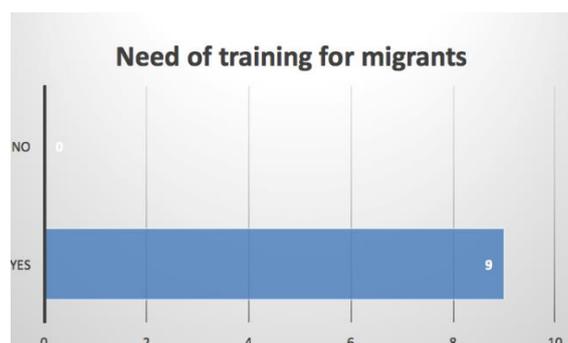




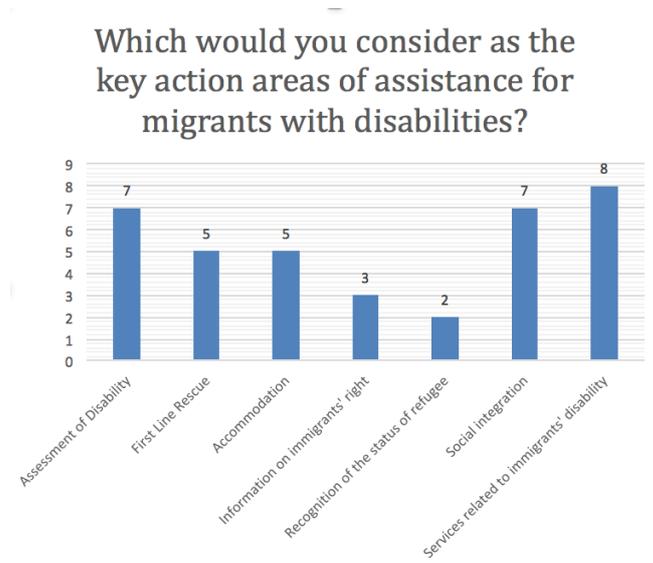
For those who answered with yes, they were asked about the aspects they would need more information. We could sum up the answers given as follows:

- to inform about the welfare system, legal framework and available services for people with disabilities and women's rights as well;
- to empower migrants with disabilities.

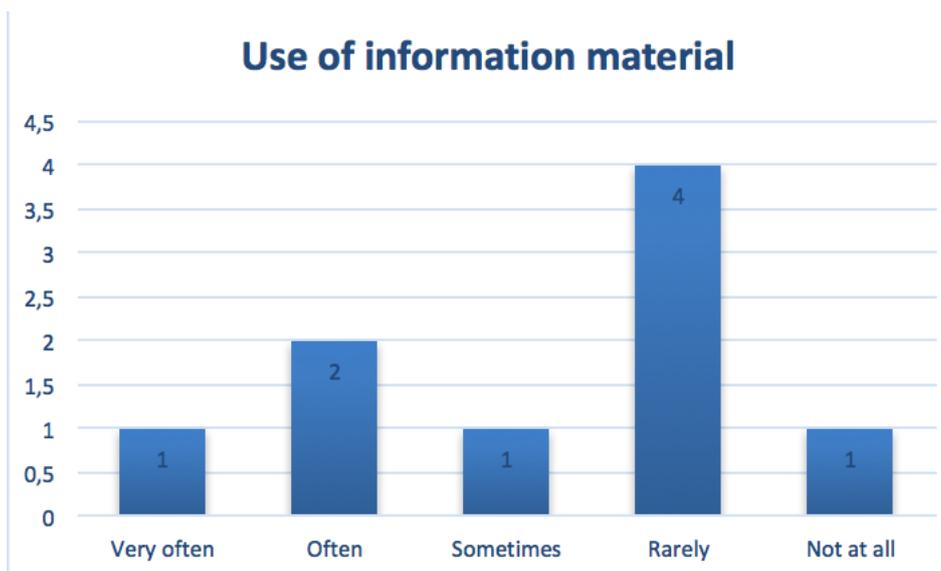
Asked about the need of educating and training migrants at the recipient-countries, 9 out of 9 agreed that it is necessary.



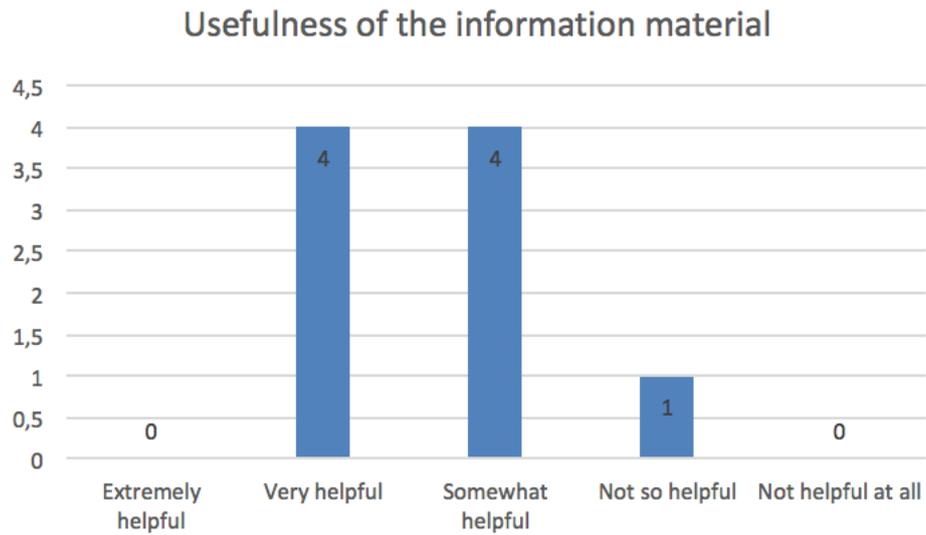
The next topic was about the key action areas of assistance for migrants with disabilities. The most answers were according to social integration and services related to the migrants' disability.



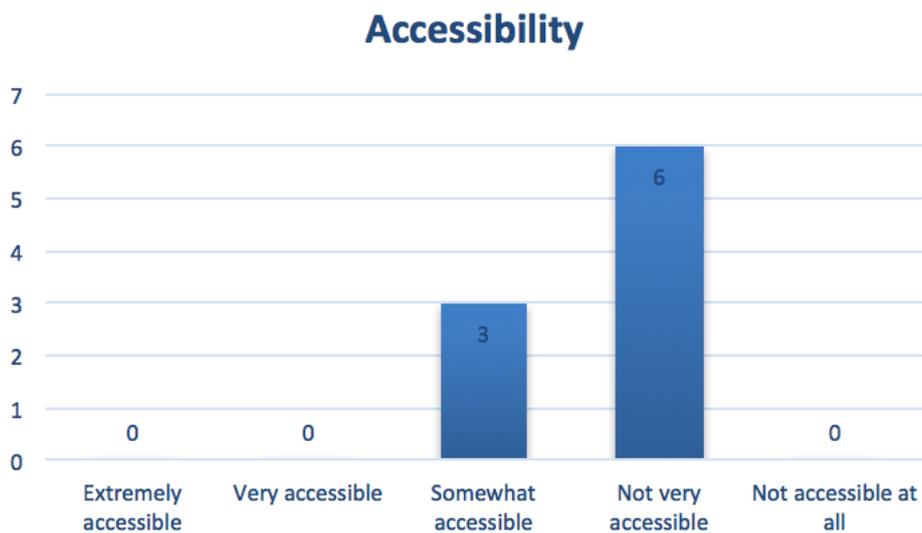
Asked about how often they use any kind of information material for migrants with disabilities regarding their rights or obligations, most of them said that they use rarely.



Moreover, regarding the usefulness of the material mentioned above:



The information material seems to be very little and rarely accessible, as the following chart sum up according to the respondents' answers:



In addition, participants were asked to mention good practices that they consider to be important in the field of migration and disability. Good practices mentioned were the following:

- Women's shelters approach to empower women with disabilities;
- Focus group and dissemination of good results;
- Agreements with local associations dealing with disabilities (FISH);
- Training of people working in health and social services;
- Inclusion in contexts in which there are not only disabled people.

The last question was about the needs assessment tool and what they think has to be included in such a tool. They answered as follows:

- easy reading and translation tools including tools combining language with pictograms, signs, not so specific focus on access to labor market and training;
- disability from birth or not;
- conception of disability in the country of origin;
- presence of friends or relatives in the the recipient-country;
- FGM.

## **7.APPENDICES**

Online-Questionnaire for experts in the field of migration and disability

1. Gender
2. Age
3. Years of Working experience in the migration field
4. Country of Residence
5. Current job position
6. List some initiatives, policies, programmes which exist in your country about the

integration of migrants with disabilities. Please indicate if they have been successful or not by providing examples. (If you are not aware, please provide NA for answer here)

7. Do you think there is a need for training adult educators in disability and integration issues?

8. If yes, please list 3 training subjects (If no, please provide NA for answer here)

9. What kind of tools would you need for assessing and supporting migrants with disabilities better/more efficiently?

10. Based on your current knowledge and experience, which indicators would you think they will help you identify and assess migrants with disabilities? (you can select more than one answer)

11. To what degree would you rate your current knowledge of identifying and assessing migrants with disabilities?

12. Would you feel that you would need more information on migrants with disabilities' needs?

13. If yes, in what aspects?

14. Which would you consider as the key action areas of assistance for migrants with disabilities?

15. Do you think there is a need for educating and training migrants with disabilities when arriving at the recipient-country?

16. If yes, please list up to 3 reasons why is there a need for training (If no, please provide NA for answer here)

17. In your job, how often do you use any kind of informational material for migrants with disabilities (regarding their rights, obligations etc.)?

18. How useful do you find the informational material for addressing migrants' needs?

19. To what extent this material is accessible to the migrants with disabilities (printed and/or online material)?

20. Can you list some good practices that you consider important in the field of migrant with disabilities?

21. What would you suggest that needs to be included in such a needs assessment tool

that will help you identifying and working migrants with disabilities in your practice?

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