

UNLAWFUL ASPECTS OF THE REJECTIONS OF MIGRANTS AT THE CHIASSO BORDER (AUGUST 2016)

EXECUTIVE SUMMARY

Between July and August 2016, many migrants who were trying to enter Switzerland to claim asylum or to reach other European States have been stopped at the Chiasso border and rejected to Italy. The number of **rejections at the border amounts to almost 7.000 units, of which at least 600 involved unaccompanied minors.**

While waiting to re-try and cross the border, almost 500 migrants camped in the vicinity of Como Railway Station, where they live in absolutely **inadequate conditions**. Again, amongst them are many unaccompanied minors. Some of the people who have been rejected at the border have been **transferred** from Chiasso to the Taranto hotspot.

Most of these migrants come from Eritrea or from other States such as Somalia and Sudan which, in principle, should allow them to be granted **international protection**, or at least humanitarian protection.

According to the information collected, it also seems that many of the rejected people would be entitled, once the asylum claim presented, to either **rejoin their families in Switzerland or in other European States, on the basis of the Dublin III Regulation, or to be relocated**. Very few of them have, though, presented their asylum application in Italy, partially for lack of appropriate information and partially for lack of trust in the authorities, given the fact that the transfers performed up until now through relocation mechanisms and Dublin III family reunions have been very limited and extremely slow.

The Swiss authorities state that, on the basis of the 1998 Italian-Swiss Bilateral Agreement on the Readmission of people in irregular position, only those who don't want to claim asylum in Switzerland are rejected to Italy. On the contrary, many rejected migrants stated that they **tried to present their claim for international protection** in Switzerland, both orally and submitting written declarations, but that they were not allowed to formalize their application.

Both at the Italian and at the Swiss borders a severe **lack of services of legal guidance and information** is detected, as well as of **interpreters** of the most common languages amongst these migrants.

On the basis of the available testimonies, both the **right to information and the right to access the procedure for an international protection** claim, granted in the international, European and national (Italian and Swiss) normative framework, seem to be violated.

Furthermore people who would, according to the Dublin III Regulations, have the right to be reunited with their families in Switzerland or in other European States, and yet do not have the possibility to present their claim to international protection see their right to the protection of family

life, granted by the European Convention of Human Rights, violated as well.

Aside from the lack of access to the asylum procedure, there have been many other violations of legislative provisions. It seems, for instance, that at least in some moments the Swiss authorities have carried out systematic controls of black-coloured people, or of people with non-European somatic traits, along the border: this is against the stipulations that **forbid systematic controls** within the Schengen Area, and against **anti-discriminatory** norms.

Secondly, rejections at the border of groups of migrants, amongst whom also unaccompanied minors and disabled persons, without any individual evaluation of their claims, can be considered as **collective expulsions**, which are forbidden by the European and international provisions.

Thirdly, rejected people did not receive any written statement, therefore they did not have the possibility to present their appeal against the decision – in violation of the **right to an effective remedy** which is provided for by the European Convention of Human Rights, and by the European and national legislations.

Furthermore, the violations of the rights of **unaccompanied minors** – enshrined in the UN Convention on the Rights of the Child and in the European and national legislative frameworks seem to be particularly severe. No legal **guardian** seems to have been appointed for the rejected minors, either by the Swiss or (with little more than ten exceptions) by the Italian authorities. Moreover, further to the readmission to Italy, unaccompanied minors did not receive adequate **assistance**. Most of them have been placed in a centre that is not authorized for the reception of children. In some cases, they have not been placed in any centre, but rather simply invited to autonomously present themselves to the Social Services. It is overall clear that such rejections have been executed in **violation of the best interest of the child**.

Finally the absolutely inadequate conditions in which the rejected migrants find themselves in the vicinity of the Como railway station, particularly when it comes down to unaccompanied minors, families with young children, or disabled people, can be considered as “**inhuman and degrading treatments**”, forbidden by the European Convention of Human Rights.

In the first part of the Report, information collected with regards to the living conditions of the migrants in Como and to the measures adopted by the Italian and Swiss authorities are presented, whilst the second part will be dedicated to the main violations detected to the international, European, and national (Swiss and Italian) normative provisions