

## **A Special Lack of Protection: The Everyday Effects of Law 2023/50.**

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The Italian government's decision to utilize the deaths of more than 100 people in the waters of Cutro exactly one year ago has led to the paradoxical – though perhaps intentional – effect of punishing the very people the law claims to protect. For, despite all the talk of shielding people from the deleterious depredations of people traffickers (frequently and purposefully confused with people smugglers), as well as some tokenistic but unfulfilled promises about methods of legal entry, in the end the most important part of the law has been the restriction of 'special protection', with disastrous effects that can be seen on a daily basis from our vantage point in Sicily.

Special protection is a B-level protection that, much like the humanitarian protection before it (removed in 2018 by Salvini's 'Security Decree'), is the Italian recognition of the EU Charter of Human Rights, specifically article 8 on the right to a private and family life. While it has existed for many years, the parameters of the special protection were expanded in 2021 under the aegis of the centre-left



*Remembrance of Cutro*

Interior Minister Lamorgese. With the election of Meloni's government, however, it was only a matter of time before special protection was limited once more. The result has serious implications for both new arrivals and for people who are well-rooted in Italy.

For new arrivals, the limitation of special protection established by the Cutro Law makes the granting of international protection the only method of regularisation (with the rare exception of decisions in relation to the safeguarding of a child's rights to family life, with correlating legal status for their guardians). While requesting asylum has always been a necessary opening pathway for someone who has arrived in Italy irregularly (i.e. without an entrance visa), special protection allowed people to

present evidence of their integration in Italian society – whether familial, work-related, or scholastic – in order to argue that their Article 8 rights to a family and private life be protected. The very limited way in which a refugee is, in general, recognized by the territorial commissions and courts, and the forms of proof requested, mean that even people arriving from zones infamous for conflict or oppression can find themselves denied international protection (e.g. we have seen rejections in relation to people from Iraq and Egypt). People arriving from areas where there is more low-level conflict, or less well-known discriminatory laws (especially from West Africa) have even less chance of their asylum request being accepted. For now we are seeing most rejections in relation to people from countries that are being fast-tracked through the asylum process, e.g. from Tunisia or Ghana. In these cases, often people do not even have the procedural time to receive a temporary permit to stay in Italy, and therefore cannot make a formal labour contract or take school exams, foreclosing any ability to demonstrate integration in Italian society if they were lucky enough for their cases to be evaluated by a judge concerned with guaranteeing their human rights.



*Court in Palermo*

For people long-established in Italy, the restriction of special protection is again a significant problem. We meet many people who have been in Italy for years, sometimes decades, but for various reasons have not been able to renew initial documents. At times this is because of criminal records, whether for petty crimes often related to poverty (unpaid bills, housing occupations, small-drug dealing, selling counterfeit goods such as pirate CDs or fake brands), or for more serious crimes related to migration itself (the use of false documents, facilitation of irregular entrance). Combined with Italy's very restrictive citizenship laws, that favour people with Italian 'ancestry' over people who are born and/or educated in Italy, often B-level forms of protection such as special protection or humanitarian protection have been the only pathway for people to regularize their legal status by demonstrating integration.

On the one hand, there is still much to be fought for: lawyers and NGOs are battling in the courts to have people's human rights recognized, and there have already been significant sentences (albeit as yet not in Sicily) in which judges have gone against the spirit of law 2023/50, attributing special protection on the basis of family or work. On the other hand, we wonder whether – especially after the circus of the European elections has passed by – the current Italian government will resort to the blunt and chaotic instrument that previous governments have often employed in similar situations: a document amnesty. Either way, until a juridical or political solution is introduced, it is clear that tens of thousands of people who previously would have had a pathway into a regularized, legal life in Italy will instead be pushed into the margins, unable to access welfare support and thus easy prey for exploitative economic interests, licit or otherwise.