

# The Italian migratory laboratory: Promises, failures and lessons for Europe<sup>1</sup>

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## 1. Why Italy?

It is appropriate to start any discussion of immigration policies in Europe with a focus on the three main labour importers in the EU, namely Spain, Italy and the UK. The ranking in the table below, made by collecting Eurostat (and, for Italy in 2006, ISTAT) estimates for net migration, although inevitably imperfect, is indicative.

**Top five EU countries of legal immigration (net migration, 000s), 2000-2006**

2000	2001	2002	2003	2004	2005	2006
Spain: 378.5	Spain: 427.8	Spain: 649.9	Spain: 738.5	Spain: 610.1	Spain: 652.3	Spain: 636
UK: 168.5	Germany: 274.8	Italy: 349.3	Italy: 600.6	Italy: 558.2	Italy: 338.1	Italy: 222.4
Germany: 167.8	UK: 184.3	Germany: 218.8	UK: 260.5	UK: 203.6	UK: 196.3	UK: 159.5
Netherlands: 57.0	Portugal: 64.9	UK: 126.4	Germany: 142.2	France: 105	France: 102.9	France: 160.5
Italy: 55.2	France: 60.4	Portugal: 70.1	Portugal: 63.5	Germany: 81.8	Germany: 98.5	Ireland: 80

Source: CeSPI based on Eurostat (2005, 2006, 2007) and ISTAT (2007).

The picture comes out quite different if we consider inflows, and here too the ranking varies substantially depending on the *type* of inflows we count as relevant: either all “new entries” as registered by national figures; or only longterm immigration as defined by the OECD in its “harmonised statistics”. This latter approach is not uncontroversial either (according to some accounts, for instance, the non-inclusion of Spain was due not only to technical obstacles but also political divergences), but usefully complements the picture based on net migration.

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**Top five EU countries of legal immigration (inflows, 000s), 2004 (last year available)**

National statistics	Harmonised statistics*
Spain: 645.8	UK: 266.5
Germany: 602.2	Germany: 202.3
UK: 494.1	France: 175.2
Italy: 319.3	Italy: 156.4
France: 140.1	Austria: 59.6

Source: CeSPI based on OECD.

\* Spain not included.

Whatever the ranking, for the purposes of this workshop the key question is: how were these flows produced? Were they the result of spontaneous market dynamics or of other constraints (for instance legal regulations, eg on asylum)? To what extent were they influenced by policy choices? Were these flows *choisis* or *subis*?

Such questions are clearly very complex to answer and each national case would require in-depth research. However, it is quite obvious that understanding the interplay between actual flows and policies over the last years is absolutely essential in order to take sound decisions for the future, both at national and at EU level. Unfortunately, this does not seem to happen often. Even in the most advanced countries, migration policy decisions are seldom evidence-based. Furthermore, most migration policy analyses are based on policy intentions rather than on policy outcomes (it must be said that this is often also due to the difficulty of getting detailed data on policy implementation).

These few pages are an attempt at summarising existing knowledge on some key aspects and some of the main outcomes of Italian migration policies over the last decade. The main objective will be to draw from the already quite rich Italian policy experience some lessons for other European states which have engaged (or re-engaged) only more recently in an active legal immigration policy on a significant scale.

**2. The Italian laboratory**

Italy was one of the first EU countries (if not the first) to adopt an active admission policy for non-seasonal foreign workers since the closure of EU labour markets in the early 1970s. Even before any serious planning and admission infrastructure was in place, the policy was de facto initiated through ex post amnesties (*sanatorie*, less selective schemes) and regularisations (*regolarizzazioni*, more selective, on the basis of family or – more often – labour grounds).

**Outcomes of the main Italian regularisation schemes**

Programme	End date	No reg foreigners (percentage of successful applicants)		Categories (percentages)		Index of irregularity <sup>3</sup>
L. 913/86	30/9/1988	105,000	NA	Employment job search	35% 65%	NA
Martelli Law	30/6/1990	218,000	NA	Employment autonomous job search	10% 4% 86%	120.9

<sup>3</sup> The index of irregularity used by the Italian Statistical Bureau (ISTAT) shows the percentage of regularised migrants out of the total number of regular migrants from countries with strong migration patterns to Italy.

Dini Decree	31/3/1996	244,000	93%	Employment job search family	73% 21% 6%	45.9
Prodi Decree	31/12/1998	217,000	63%	Employment autonomous job search family	78% 14% 5% 3%	24.9
Bossi Fini	11/11/2002	647,000	93%	Domestic/care taker employment	49% 51%	47.8

Source: Rijpma (2008), based on different sources.

It was only with the 1990 Martelli Law that a mechanism for assessing needs and regulating admission was formally put in place. However, the mechanism remained on paper until the mid-1990s. In particular, it was with the first Prodi government (1996-2001) that the planning mechanism gained ground, with slowly increasing numbers of entries being planned and authorised.

It should be specified here that the expression “quota system” often used to describe the Italian situation is not strictly correct: the term “quota” hints at minimum numbers of guaranteed entries. This is not the case: the decrees (*decreti-flussi*, ie decrees on flows) issued every year by the president of the council of ministers rather set “ceilings”, ie maximum numbers of entries for working purposes.<sup>4</sup> The term “quota” is, on the contrary, appropriate for another tool which has also characterised the Italian admission policy for a decade, ie the admission quotas reserved to nationals of specific countries which are thereby politically rewarded (with no corresponding international law entitlement, however) for effective cooperation in the field of migration controls and readmission.

#### The Italian “quota” system (000s of new entrants), 1998-2007

	'96	'97	'98	'99	'00	'01	'02	'03	'04	'05	'06	'07
Ceiling of planned entries	23	20	58	58	63	83	79.5	79.5	79.5	159 (50% EU-8)	690 (of which 170 EU-8)	250
...of which non-EU seasonal workers	/	/	/	/	/	39.4	56	68.5	50	25	50	80
Privileged quotas ( <b>No privileged countries</b> )	/	/	6 (3)	6 (3)	18 (3)	16.5 (4)	14 (8)	3.8 (9)	20.4 (12)	21 (14)	38.5 (15)	47.1 (17)

Source: Ministry of the Interior.

When first adopted, both the planning mechanism and even more so the “privileged quotas” stood out as original tools in the European migration policy landscape. These experiments, once properly understood, aroused considerable interest in some other European capitals. Some experts have even argued in favour of the existence of a policy transfer effect, at the end of the 1990s-beginning 2000s, particularly towards Spain.

<sup>4</sup> It should be added that we are talking about “flexible ceilings”, because the government maintains the full power to issue supplementary decrees over the course of the year, should the need arise. This has in fact happened a few times in the past. A consultation procedure with economic actors and local governments should orient the definition of the ceiling. In fact, the cap has historically more often been the result of purely political assessments, aimed at containing the legal inflow under the level suggested by market indicators.

## How the laboratory collapsed

In an early phase, the model seemed to produce interesting results. In particular, the bilaterally negotiated approach to migration management (legal entries in exchange for certain agreed controls) seemed to obtain positive effects in terms of reducing irregular flows, especially along some Mediterranean routes (from Albania, across the Otranto Channel; and from Tunisia to Western Sicily).

Since the beginning of the 2000s, however, serious shortcomings started to emerge:

a) In the first place, the applicable procedures for the international matching of labour supply and demand and for the recruitment of new foreign workers showed intrinsic inadequacies. In an economic context like the Italian one, where foreigners are predominantly employed in SMEs and by families, the main procedure, based on nominal recruitment from abroad of specific and predetermined individuals, has traditionally met implementation problems. These were mainly due to the obvious fact that small-scale employers don't have resources to organise recruitment abroad, but have in the meantime an obvious preference for workers that they already know in person. This is in fact a crucial factor explaining the widespread phenomenon of the irregular employment of foreigners.

In order to solve this problem, the 1998 Turco-Napolitano law introduced the possibility to grant job-search visas backed by ad hoc guarantee mechanisms (private and public sponsorships). After a too brief experimentation in implementing such an innovative tool, the 2002 Bossi-Fini law adopted by the newly formed second Berlusconi government abolished the job-search visas and linked admission with a pre-existing labour contract (*contratto di soggiorno*) even more strictly than before. Unfortunately, no serious impact assessment of the implementation of the job-search visas was ever carried out. However, most experts share the view that the suppression of this tool, by again stiffening admission mechanisms, did indirectly boost irregular recruitment.

b) Meanwhile, during most of the second half of the 2000s, admission planning was inspired by very cautious criteria, with ceilings systematically kept much lower than what market indicators suggested. This was another factor which certainly contributed to feed the pool of undocumented foreign labour which was then partly brought to the surface by the massive 2002 regularisation.

It is only since 2005 that – partly as an effect of Italy's political decision to take advantage of the transition period for EU-8 workers but simultaneously recognise a special favourable treatment to them – ceilings have been significantly raised. In the meantime, however, applications for recruitment from abroad under the *decreto-flussi* system also boomed. This was not (just) an effect of growing labour market needs, but also of the increasing ability and effectiveness of migratory chains to exploit the admissions mechanism, even in fraudulent ways (Einaudi 2008). This implies that the number of applications is not necessarily a reliable indicator of the actual level of domestic demand for foreign labour, nor does it necessarily reflect the size of an existing network of irregular labour practices which take advantage of the *decreto-flussi* to simulate recruitment from abroad.

**No of applications under *decreto-flussi* for recruitment of foreign workers from abroad**

	<b>2005</b>	<b>2006</b>	<b>2007</b>
Ceiling	159,000	690,000	250,000
Applications (rounded off totals)	210,000	480,000	700,000
Ratio applications/ceiling	1,3	0,7	2,8

Source: L Einaudi (2008).

c) Finally, during the first half of the 2000s, the whole system of bilateral relations supporting the Italian migration strategy entered an increasingly problematic phase. The number of “privileged countries” grew constantly, while the size of the privileged quotas available for most of them was lower compared to the previous phase. Such evolution has obviously diminished the attractiveness of the incentive for partner countries to cooperate. Frustration among partner countries was increased by the fact that the rigidity of the procedures for recruiting from abroad often made it eventually impossible to admit all the envisaged new entrants of a given nationality. The worsening of bilateral relations with some key sending countries is one possible explanation for the paradoxical outcome by which the number of actual expulsions (ie not including non-enforced orders to leave the country) dropped by half in the last four years (2003-6) of the second Berlusconi government, with an even more remarkable fall in the expulsion effectiveness rate (ie the ratio between orders to leave and actual removals). According to qualified observers, the worsening of bilateral cooperation relations and a consequent strong reduction in the number of readmissions was among the main causes of such a somehow surprising outcome (Ministero dell’Interno 2007a: 352).

The centre-left majority, which came back into power temporarily from May 2006 until May 2008, tried to correct some of the shortcomings which had emerged in the previous phase by proposing new legislation. The wide-ranging Amato-Ferrero bill proposed in April 2007 contained, amongst other things, a revised admissions mechanism for job searching purposes. The premature fall of the Prodi II cabinet left the country with its admission legislation still unchanged (since 2002). On an administrative level, however, the centre-left cabinet decided to compensate the persisting rigidities in the admission mechanism by issuing an extraordinary second round of *decreto-flussi* for 2006, in October of the same year. The original ceiling of a maximum of 170,000 non-EU immigrants was lifted by a further 350,000, as to include all the recruitment applications already collected at the beginning of the same year. Given the fact that many of the immigrants to be recruited were in fact already irregularly in Italy, the operation was in the end, in practical terms, hard to distinguish from previous regularisations.

### **Which lessons for Europe?**

The history of these last 10 years of Italian economic migration policymaking is one of constant efforts – sometimes creative, most of the time confused - to mediate effectively between a rampant demand for foreign labour issued by the labour market, and an equally strong reluctance, if not hostility, coming from public opinion. Political ideologies have certainly had a role in concretely shaping the forms of such attempted mediation, with a centre-right recipe distinguishing itself from the corresponding centre-left one in three fundamental ways:

- I. More strict linkage between admission for economic purposes and a specific and pre-existing job offer (or even a signed contract);

- II. More difficult access to stable residence status (for instance, drastic reduction of the length of stay working permits allowed, thus multiplying the bureaucratic “filters” that must be passed before access to long-term residence can be gained);
- III. Less investment in integration, both in political and in financial terms; in any case with a stronger emphasis on some degree of cultural assimilation as a pre-condition for the consolidation of citizenship rights.

In the Italian case, the combination of these three strategic guidelines has not produced satisfactory results. On the contrary, as shown above, in recent years we have been witnessing a significant expansion of the irregular population and an overall reduction in the law enforcement capacity.

The political system, however, is proving incapable of learning from past experiences. Currently, a new “law and order” package of unprecedented strictness is being adopted by the government (Berlusconi III) now in power. The configuration of clandestine immigration as a crime punishable with up to four years’ detention and a major increase in the maximum detention period prior to removal are only two of the most spectacular and controversial innovations. It is most doubtful whether such a response will work in trying to reassure an ever more anxious public opinion. What is certain, however, is that structural inherited shortcomings in managing legal immigration will not be overcome without a radical restructuring of admission mechanisms.

A careful critical assessment of the Italian experience could possibly help other European countries which are just now considering the possibility of adopting a large-scale admission policy (including therefore medium, and maybe low, skills) to avoid two fundamental errors: a) lack of flexibility in admission; and b) excessive precariousness of the legal status of legal immigrants. Both these errors increase the administrative workload and reduce the actual control of *real* labour market dynamics, with the risk of boosting irregular immigration in the long term in spite of increased investments on law enforcement.

However convincing these lessons may be, the present European policy landscape does not allow for much optimism. In fact, the two tendencies just singled out as “fundamental errors” are often listed as key guidelines in the contemporary European debate, under headings such as “selectivity”, “community preference” or “circularity”.

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