

# Fortunes and miseries of Italian labour migration policy

*Giuseppe Sciortino (Università di Trento)*

Ricerca condotta nell'ambito del progetto:

**POLITICHE MIGRATORIE E MODELLI DI SOCIETÀ**

Realizzato con il sostegno di

**COMPAGNIA**  
di San Paolo

**January 2009**

## CONTENTS

|  |           |
|--|-----------|
| <b>1. HOW MANY? PLANNING THE ENTRY OF FOREIGN WORKERS .....</b>                    | <b>4</b>  |
| <b>2. THE STRUCTURAL DIFFICULTIES OF AN ACTIVE LABOUR IMMIGRATION POLICY .....</b> | <b>10</b> |
| <b>3. CONCLUSION: RELUCTANT PLANNERS .....</b>                                     | <b>14</b> |
| <b>REFERENCES.....</b>   | <b>16</b> |

Since the beginning of its history as a country of immigration, Italian policies have acknowledged the existence of a sizeable structural economic demand for foreign labour. Contrary to most other European governments, the Italian ones have consistently stressed the need for a reasonable management of labour inflows (Bonifazi, 2007). For decades, opinion polls have consistently documented that Italians are less worried than other Europeans about job competition and more willing to recognize that foreign workers play a complementary role in the Italian economy (Colombo, 2007). The foreign population in Italy has a remarkable high activity rate. Given the design of the Italian welfare system, such population is contributing to the system more than it receives (Sciortino, 2004).

At the same time, Italy hosts a large irregular foreign population working in the shadow economy (Reyneri, 1998). For a long time, Italy has been unable to establish effective programs for the legal entry of foreign workers: the management of foreign labour has consequently been mostly done through remedial actions, the succession of mass amnesties from 1986 to 2002 being the most visible and known example. On the whole, a large majority of current foreign residents has acquired such legal status only through *ex-post* regularization programs (Istituto Nazionale di Statistica, 2005). As a consequence, the majority of the legal foreign population has known in their migratory trajectory at least a spell of irregular residence and irregular work.

To analyze the evolution and recent trends of Italian immigration policy requires dealing with a paradox: the same political system that has always stressed the importance of an active management of (*defined-as-needed*) labour flows – and that has delivered more than 700,000 legal entries for purpose of work in the last three years – has never paid a consistent effort to the design and implementation of programs targeted to reach such a goal. Although Italian immigration has triggered more than a fair share of conflicts and controversies, the attention of policy-makers and the heat of public discussion have never been focused on the issue of managing the inflows of foreign workers, which has consequently been both consensually accepted and practically neglected (Colombo and Sciortino, 2004).

The dynamics of Italian labour migration policy are quite instructive of the state of Italian immigration policy. But they are also quite instructive of the kinds of structural difficulties encountered by any attempt to develop an active labour migration policy in contemporary Western Europe. This paper will review the evolution of Italian labour immigration policy, from its origins until today (par. 1). It will subsequently highlight the main structural difficulties that the attempt to regulate the inflows of foreign workers has encountered along the years (par. 2). In the conclusion, the argument will be further generalized to explain why the planning of further inflows, although accepted as a necessary task, turns out to be a politically challenging task.

## 1. HOW MANY? PLANNING THE ENTRY OF FOREIGN WORKERS

The idea of a national planning program to regulate the entry of foreign workers was born at the end of the '80s, and introduced in the Italian legislation in 1990, in the so-called *Martelli law* (act. 39/90). For a long time, however, this section of the legislation was applied in a merely ritualistic fashion, with the emanation each year of a decree – often published in the very last days of the year it was supposed to regulate in advance – allowing the entry of a very limited number of foreign workers<sup>1</sup>. Unsurprisingly, the real kernel of immigration policy for most of the '90s was the tolerance of entries through the back door, thus constantly producing a sizeable segment of irregular workers that, at nearly regular intervals, was absorbed into the official labour market through an amnesty (Barbagli, Colombo *et al.*, 2004).

The current procedure for labour immigration was established in 1998, with the adoption of law 40/1998. According to this scheme, the government emanates every three years a planning paper that establishes the general criteria for the admission of non-EU foreign workers for the period. Following these criteria, the government emanates every year one (or more) decrees setting the overall contingent of workers to be admitted as well as the eventual sub-contingents. Both documents are drafted after consultations sharing both a neo-corporative and ersatz-federalist nature, and they are later discussed by the Houses. Such a procedure is designed to guarantee the admission of a number of workers compatible with what is often called in the Italian debate, the *hospitality capacity* or the *carrying capacity*, a notion that may be roughly interpreted as meaning a volume of new entries compatible with the availability of jobs, housing and services (Einaudi, 2007).

Once the contingent is set, the employers may fill an application declaring their intention to hire a specific worker living abroad. To do so, employers have to satisfy a set of pre-requisites covering both their honorability and their credibility as prospective employers. Employers have also to commit themselves to hire the requested worker according to the national pay scale and have to certify the availability of an adequate lodging. If the application falls within the amount set by the contingent, embassies are instructed to grant a long-term visa to the prospective workers that may enter the Italian territory. Upon arrival, and following the signature of the employment contract, the worker receives a residence permit (*permesso di soggiorno*) for purposes of work. In the Italian legislation, such permit is not tied to a specific employment relationship with the employer who has requested the immigrant's entry, but it may be maintained even if the employer changes or if the worker encounters a limited spell of unemployment. After five years of unlimited residence, the foreign worker that fulfills certain conditions (absence of a criminal record and an adequate income) may apply for a long-term permit (also informally known as *carta di soggiorno*) that gives him/her a light form of denizenship in the Italian Republic. The whole procedure is consequently based on the assumption that the encounter between labour demand and supply may happen before the entry of the foreign worker on the Italian territory, through the availability of a number of entry slots adequate to the structural needs of the economic system. How to guarantee such entries, however, is the main problem of Italian immigration policies from its onset up to today.

The size and composition of the yearly contingent has known some significant discontinuities along the years. It is possible to distinguish some phases, with some overlapping in between.

From 1990 to 1998, the official contingent was set at levels remarkably lower than the estimated demand for foreign labour. Such decision was not necessarily an act born out of ignorance. It was meant to facilitate the absorption into the legal economy of the already settled immigrants (who had acquired their legal status with the amnesties of 1990 and 1995) as well as taking into account the inflows of refugees (mostly from the Balkans) that received very little welfare aid but were allowed to work and to convert fairly easily, once employed, the humanitarian protection permit into a regular residence permit. The medium term implication of such choice, however, was the reproduction of a sizeable segment of irregular migrants after each amnesty. A second, related, implication was the structuring of a generalized expectation, shared by employers and immigrants alike, that the proper way to act was to ignore the official entry channels in favor of the hiring of irregular migrants already present on the territory that could be subsequently regularized

---

<sup>1</sup>. Once the contingent was even set to zero.

through an amnesty. For all the period, as a matter of fact, to participate in regularization programs was much easier and cheaper than to request a worker from abroad according to the procedure. Unsurprisingly, even the small amount of slots made available each year often went unused.

From 1998 to 2001, the introduction of the new rules with Act 40/98 was quickly reflected into a doubling, even a tripling, of the size of the entry slots set by the contingent. Such amount, planned even in presence of the new 1998 amnesty, was still lower than the estimated demand for foreign labour. But it turned out to be higher than the requests by employers: both in 1998 and 1999, a large number of slots were left unused. It was a matter of overall credibility of the tool as well as the consequence of the learning process matured in the previous decade: employers were not particularly worried of the consequences of hiring undocumented foreigners and sure a new amnesties would have arrived sooner or later; and those who were keen on having workers with proper papers could still hire somebody already present on the territory, choosing either from the newly regularized immigrants or from the refugees under humanitarian protection. The administration provided further incentives with the usual dose of fuzzy implementation rules, tedious paperwork and long delays. The contingent, however, was big enough, however, to start experimenting with different ways of setting priorities within the contingent. In this regard, the favorite selective criterion was country-based. The center-left government acted on the assumption that it would have been possible to persuade sending and transit countries to collaborate in the fight against irregular migration if it was possible to offer, in exchange, a preferential treatment in the allocation of legal entries. Country-based criteria have become a stable feature of Italian *ex-ante* planning with the involvement of an increasing number of countries (from 3 to 16) and a growing significance of the allotted sub-contingents as a percentage of the number of total entries (table 1).

The year 2000 marked under this point of view a watershed in the history of Italian labour migration: not only the contingent was set high (at 63.000)<sup>2</sup>, but the number of requests, received moreover in the very first day of the program, was for the first time higher than the available slots<sup>3</sup>. The same applied to the decree of the following year, when the political climate was heavily polarized between expansionist pressures (from sectors of the employers' associations and pro-immigrants groups) and heavily restrictive ones (from the center-right coalition, highly favourite at the incoming election). To implement an active labour migration policy turned out to be quite difficult: contrary to amnesties – that could always be presented as remedial actions for previous governments' mistakes – to set a contingent implied an invitation to the opposition to accuse the government of actively wanting to increase the foreign population. The fact that the planning processes lasted several months, actually nearly the whole year, made this weapon even more threatening. The way out was found through the introduction of a new way of subdividing the overall contingent: the number of seasonal slots allowed was significantly increased while the amount of long-term permits available was curtailed (table 2).

---

<sup>2</sup>. An additional decree added 20.000 seasonal workers.

<sup>3</sup>. This was a consequence both of the economic cycle and of policy innovation: the decree introduced for the first time a sub-contingent of slots for foreign workers without an already identified employment offer. To access this opportunity the request had to be filled by a resident of Italy willing to 'sponsor' the prospective migrant for the period necessary to find a job. This provision, strongly opposed by the center-right parties and regarded suspiciously by the police forces, was cancelled by the subsequent reform in 2002.

*Table 1 – Country-based estimated preferential allocations within the yearly contingent (1995-2008)*

|   | 1995   | 1996   | 1997   | 1998   | 1999   | 2000   | 2001   | 2002   | 2003   | 2004    | 2005    | 2006    | 2007    | 2008    |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|---------|---------|---------|---------|---------|
| Albania   |        |        |        | 3.000  | 3.000  | 6.000  | 6.000  | 3.000  | 1.000  | 3.000   | 3.000   | 4.500   | 4.500   | 4.500   |
| Algeria   |        |        |        | 1.500  | 1.500  | 3.000  |        |        |        |         |         |         | 1.000   | 1.000   |
| Bangladesh  |        |        |        |        |        |        |        |        | 300    | 1.500   | 1.500   | 3.000   | 3.000   | 3.000   |
| Egypt   |        |        |        |        |        |        |        | 1.000  | 300    | 1.500   | 2.000   | 7.000   | 8.000   | 8.000   |
| Ghana   |        |        |        |        |        |        |        |        |        |         |         | 1.000   | 1.000   | 1.000   |
| Moldova   |        |        |        |        |        |        |        | 500    | 200    | 1.500   | 2.000   | 5.000   | 6.500   | 6.500   |
| Morocco   |        |        |        | 1.500  | 1.500  | 3.000  | 1.500  | 2.000  | 500    | 2.500   | 2.500   | 4.000   | 4.500   | 4.500   |
| New EU Member states  |        |        |        |        |        |        |        |        |        | 36.000  | 79.500  | 170.000 |         |         |
| Nigeria   |        |        |        |        |        |        |        | 500    | 200    | 2.000   | 2.000   | 1.500   | 1.500   | 1.500   |
| Pakistan  |        |        |        |        |        |        |        |        |        | 1.000   | 1.000   | 1.000   | 1.000   | 1.000   |
| Philippines   |        |        |        |        |        |        |        |        |        |         | 1.500   | 3.000   | 5.000   | 5.000   |
| Senegal   |        |        |        |        |        |        |        |        |        |         |         |         | 1.000   | 1.000   |
| Somalia   |        |        |        |        |        |        | 500    |        |        |         | 100     | 100     | 100     | 100     |
| Sri Lanka   |        |        |        |        |        |        |        | 1.000  | 500    | 1.500   | 1.500   | 3.000   | 3.500   | 3.500   |
| Tunisia   |        |        |        |        |        |        | 3.000  | 2.000  | 600    | 3.000   | 3.000   | 3.500   | 4.000   | 4.000   |
| To be allocated along the year<br>co-ethnics from Latin America |        |        |        |        |        | 6.000  | 4.000  |        |        | 2.500   | 700     | 1.400   | 2.500   |         |
|   |        |        |        |        |        |        |        | 4.000  | 200    | 400     | 200     | 500     | 500     |         |
| <b>Total country based allocations</b>                          |        |        |        | 6.000  | 6.000  | 18.000 | 15.000 | 14.000 | 3.800  | 56.400  | 100.500 | 208.500 | 47.600  | 44.600  |
| <b>Total estimated slots</b>                                    | 25.000 | 23.000 | 20.000 | 58.000 | 58.000 | 83.000 | 19.000 | 79.500 | 79.500 | 115.500 | 179.000 | 370.000 | 170.000 | 150.000 |
| <b>% country-based on total slots</b>                           |        | 0,0    | 0,0    | 10,3   | 10,3   | 21,7   | 78,9   | 17,6   | 4,8    | 48,8    | 56,1    | 56,4    | 28,0    | 29,7    |

Note: in 2002, 2004 and 2007, also seasonal permits have been allocated according to country-based criteria.

Source: 1996-2005 -elaboration by Ferruccio Pastore on data from the planning decrees; 2006-2008 elaboration on data from the planning decrees.

**Table 2 – Estimated seasonal and long term slots in the yearly planning (1995-2008)**

|                       | 1995  | 1996   | 1997   | 1998   | 1999   | 2000   | 2001   | 2002   | 2003   | 2004   | 2005    | 2006    | 2007    | 2008    |
|-----------------------|-------|--------|--------|--------|--------|--------|--------|--------|--------|--------|---------|---------|---------|---------|
| Seasonal              |       |        |        |        |        | 20.000 | 39.400 | 60.000 | 68.500 | 50.000 | 45.000  | 80.000  | 80.000  |         |
| Long-Term             |       |        |        |        |        | 63.000 | 50.000 | 19.500 | 11.000 | 29.500 | 54.500  | 120.000 | 170.000 | 150.000 |
| Undifferentiated      |       | 23.000 | 20.000 | 58.000 | 58.000 |        |        |        |        | 3.600  | 57.000  | 170.000 |         |         |
| Total estimated slots | 25000 | 23.000 | 20.000 | 58.000 | 58.000 | 83.000 | 89.400 | 79.500 | 79.500 | 83.100 | 156.500 | 370.000 | 250.000 | 150.000 |
| % seasonal on total   | --    | --     | --     | --     | --     | 24,1   | 44,1   | 75,5   | 86,2   | 60,2   | 28,8    | 21,6    | 32,0    |         |

Note: 1998 and 1999, slots were not distinguished in seasonal and long-term.

Note: in 2001, the center-right government added further 6.400 seasonal workers with a separate decree.

Note: in 2002, seasonal slots were allocated according to a country-based criterion.

Note: in 2004, seasonal slots were reserved to citizens of certain countries and workers having already had a seasonal work permit

Note: in 2006, separate decrees added further 30.000 seasonal entries and brought the number of entries for non-EU workers to 470,000

Note: in 2007, seasonal slots are reserved to citizens of certain countries and workers having already had a seasonal work permit.

**Table 3 – Occupation-based estimated preferential allocations within the yearly contingent (1995-2008)**

|                                    | 1995   | 1996   | 1997   | 1998   | 1999   | 2000   | 2001  | 2002   | 2003   | 2004    | 2005    | 2006    | 2007    | 2008    |       |
|------------------------------------|--------|--------|--------|--------|--------|--------|-------|--------|--------|---------|---------|---------|---------|---------|-------|
| self-employment                    |        |        |        | 3.500  | 3.500  |        | 3.000 | 5.000  | 800    | 2.500   | 2.500   | 3.000   | 3.000   |         |       |
| Nurses                             |        |        |        |        |        |        | 2.000 |        |        |         |         |         |         |         |       |
| High-Skills, IT professional       |        |        |        |        |        |        |       |        | 500    | 500     | 1.000   | 1.000   | 1.000   |         |       |
| Domestic and Care workers          |        |        |        |        |        |        |       |        |        |         | 15.000  | 45.000  | 65.000  | 150.000 |       |
| Construction                       |        |        |        |        |        |        |       |        |        |         |         | 10.000  |         |         |       |
| Fisheries                          |        |        |        |        |        |        |       |        |        |         |         | 2.500   | 200     |         |       |
| Truck-drivers                      |        |        |        |        |        |        |       |        |        |         |         |         |         | 500     |       |
| Total occupation based allocations |        |        |        | 3.500  | 3.500  | 0      | 5.000 | 5.000  | 1.300  | 3.000   | 18.500  | 61.500  | 69.700  | 150.000 |       |
| Total estimated slots              | 25.000 | 23.000 | 20.000 | 58.000 | 58.000 | 83.000 | 5.000 | 79.500 | 79.500 | 115.500 | 179.000 | 370.000 | 170.000 | 150.000 |       |
| % occupation-based on total slots  |        |        | 0,0    | 0,0    | 6,0    | 6,0    | 0,0   | 100,0  | 6,3    | 1,6     | 2,6     | 10,3    | 16,6    | 41,0    | 100,0 |

The timid experiment with an active labour immigration policy was however significantly halted when the political elections delivered in 2001 a center-right majority that included the openly anti-immigration Northern League. Interestingly, such political change did not imply the adoption of an open no-immigration policy: after some radical announcements, most of the procedure for planning the entries of foreign workers was kept operational. The government also accepted the launch of a new mass amnesty as the price to pay for a major restrictive reform of the immigration legislation (Act 189/02). On the whole, however, the first phase of the center-right government was clearly inspired on migration issues by a stop-and-contain attitude verging on highly restrictive. The reform of the immigration legislation increased the range of obligations the prospective employers had to subscribe in order to request the entry of new workers from abroad. Here the main rationale was the assumption that employers willing to hire foreign workers were, if not openly exploitative, either 'free riders' – enjoying the economic benefits of cheap workers leaving the social costs of their choices to the surrounding society – or 'spoiled brats' looking for an easy fix for problems that should be dealt with otherwise (Colombo and Sciortino, 2003). In a first phase, such restrictive attitude was directly translated into the definition of the contingent. The government openly privileged the entry of seasonal workers, the kind of immigrants that were perceived as less likely to settle and less troublesome. Although the overall contingent from 2002 to 2004 was set at 79.500 entries each year, such enlarged contingent was reserved mostly to seasonal workers, while the number of slots for long-term migration reached an all time low. This was justified with the need to take into consideration the large number of foreign workers regularized in 2002, whose amount was higher than those of all previous amnesties combined. But it also clearly expressed a preference for temporary migration, perceived as less troublesome. A final discontinuity concerned the use of the country-based criterion. In 2002-03, the government followed a unilateralist approach to the contrast of irregular migration, thus decreasingly heavily the slots allocated according to country-based criteria.

From 2004 to 2006, however, the center-right government completed what it may considered a complete U-turn concerning labour immigration policy. If in 2003, Italy had been the least generous among the European countries that have programs for labour immigration, in 2006 it was the most generous (Einaudi, 2007). In three years, the number of ex-ante allowed slots increased from little more than 10,000 to more than 300,000 (if the contingent reserved for the citizens of the new member states would have been filled). Such a dramatic change took place quite out of public debate, thanks to a low-visibility strategy, as a way to answering to a combination of internal and external pressures. An important set of factor was geo-political: the Eastern enlargement, the growing opposition to mass regularization programs among European partners and the need to maintain a working collaboration with some sending and transit countries. A second set had to do with the growing reliance on foreign work in the Italian economy and society.

The process of Eastern enlargement implied Italy had to choose about the possibility to delay the freedom of movements for workers of the new member states. The center-right coalition was split among two considerations: on the one hand, these EU citizens could provide a source of legal flexible foreign work that could cut the grass under the feet of irregular immigrants. Plus, it would be a European (as against North African) and Christian (as against Muslim), source of foreign labour. According to this argument, it would have been better to leave the door relatively open for citizens of the new member states while at the same time make more difficult the arrival of non EU workers. To do so, however, would have implied to renounce publicly to the right to postpone the labour mobility from the new member states. Such a move would have committed the government to what was perceived to be a pro-immigration action. The policy result was highly ambiguous: Italy introduced a ban on the freedom of movement for the workers of the new member states while at the same time introduced – through a separate string of decrees – a generous amount of slots for these workers (so generous that a large number of these slots went actually unused). Doing so, however, implied to bring the prospective workers from the new member states out of the previous contingent, thus implicitly making room also for a larger number of slots available for non-EU prospective workers. And such proportion was further enlarged by the reduction of the number of slots reserved for seasonal workers. This was the consequence of a second geo-political pressure: in the previous years, when the country-based sub-contingents had become negligible, there had been major difficulties with several non-EU sending and transit countries. The *de-facto* enlargement of the contingent was crucial to the return to a more externalized border control, as it may be seen already in 2004, when the slot reserved to those countries increased five-fold in comparison to the year before (and a quarter more than in 2001). A third geo-political factor was the

growing opposition of other EU partner states to the launch of mass regularization programs. In some partner states, the Italian regularization in 2002 and, (three years later) the Spanish one, were heavily criticized<sup>4</sup>. During the previous years, following the amnesty of 2002, a new sizeable segment of irregular population had stabilized, in a particularly intense way in domestic services and care-work. The enlargement of the contingent was perceived as a reasonable alternative to the politically unfeasible launch of a new amnesty: requesting their workers *as if* they were still abroad, employers could still regularize both the legal status of the immigrant and of the employment relationship. The climax of this U-turn was touched in the decrees relative to 2006, published when the 2006 general elections were near. All together, they set an ex-ante contingent never seen before: 370.000 available entry slots, only 80.000 of which reserved to seasonal labour.

A distinctive feature of the 2005-6 planning decrees concerned their internal structure. Beside establishing sub-contingents according to country-of-origin and type of employment (seasonal/long-term), the decrees allotted a significant number of slots according to occupation-based criteria. For the first time, the government seemed interested in an active labour immigration policy functional to economic policy considerations. The subsequent developments, however, shows that the use of occupation-based criteria has become a stable feature of the subsequent decrees, without however attaining any kind of consistency across the years (table 3).

The consequences of the 2006 decrees were surprising to many. The arrival of workers from the new EU member states was limited, and many slots set aside for them went unused. On the contrary, more than 520,000 applications were filed for non-EU workers. In 2005, the number of slots covered around a third of the applications filed for this category; in 2006, the remarkably higher amount of slots could satisfy hardly more than a fifth. The quick piling of applications, together with the long queues of foreigners waiting in line in front of post-offices to hand in the applications were interpreted in the public debate as the proof that in Italy had re-created a large undocumented population and that the workers required 'from abroad' were actually already living in the country.

The center-left coalition won the election in 2006 by a very small margin: his majority in the senate was unreliable and based on the goodwill of each single fraction and party. The electoral promise to reform the immigration laws was consequently difficult to maintain. The first challenge about immigration for the Prodi government was the gap between the number of application filed and the number of slots available. Moreover, such gap was not perceived by public opinion as a gap concerning the labour demand, but rather as a gap concerning the number of actual irregular workers and the opportunities for their regularization. The government, under pressure from the leftist parties, decided to make virtue out of necessity: it emanated a second decree enlarging the contingent up to the number of application filed, in the hope to obtain the same effects that could have been obtained in another era through an amnesty. It also increased the number of slots available for seasonal workers and removed the barriers for the freedom of movements of the workers from the new member states. It adopted, in other words, a more open attitude towards new entries combined with a fatalistic acceptance that the key policy mechanism for immigration was still the back door. A direct implication of the choice, however, was the abandonment of any selective goal: both the country-based and the occupation criteria turned out to be irrelevant for attaining an entry visa, and policy action was again defined as merely remedial.

The decrees for the year 2007 were the first (and last) in which the Prodi government could try to make good of its reformist intentions. In March, the government set the entry of seasonal workers to 80,000, in line with the previous year. Such seasonal slots, however, were made available only to citizens of certain countries or to workers who had already been legal seasonal immigrants in the previous years. The decree for the long-term entries did not see the light until the end of November of the very year it was supposed to regulate. The

---

<sup>4</sup>. The directive about the residence status of long-term residents was discussed more or less in the same period in which the Italian government carried out the regularization of 2002. The (unsuccessfully) attempt by some member states to block the access of regularized immigrants to the long-term resident status signaled that the era of repeated amnesties was nearly over. In 2005, the decision by European member states to create a mutual information system on migration policy issues, including among its topics regularizations, turned the proposed system into a virtual (and soft) watchdog. Such steps were not completely useless, however. In the 2008 *European Pact on Immigration and Asylum*, all EU partners have agreed "to use only case-by-case regularization, rather than generalized regularization, under national law, for humanitarian or economic reasons" (section II).

number of entry slots, for non-EU foreign workers, was set at 170,000, and – for the first time – occupation-based criteria were more important than the country-based ones. The preference for occupation-based criteria, however, did not reflect any sophisticated economic policy design; it was more a consequence of the choice to give a preferential treatment to domestic and care workers, a segment of the foreign population that is perceived as extremely useful and less troublesome than others. The decrees also tried to acknowledge the existence of certain efforts to move towards a planned migration, setting aside slots for immigrants who had attended Italian training courses in their country of origins (3,500), who had studied in Italy (5,500) or had been seasonal workers in Italy (1,500). As with the decrees of the previous years, the reaction was extraordinary: In just three hours, the number of applications filed was equal to the contingent. In the very first day, it had reached 350,000. After a week, the number of recorded applications was 664,000. At the end of the application period, 701,000 applications had been filed altogether. The fact that employers had kept filing applications even if it was well known that the contingent had already been filled was linked to the generalized expectation that, as in the previous year, the government would have modified the contingent to satisfy the requests. And this was precisely the reaction of the leftist parties that quickly asked for the approval of a new decree<sup>5</sup>. As the Prodi government had already collapsed and a new political election was near, the political climate frustrated this request. The new center-right government ruled out the possibility of accepting all the applications filed, claiming that it would have amounted to a new amnesty. This would have been incompatible with the priorities of the new government that placed, on the contrary, an emphasis on the strengthening of the repressive apparatus and the introduction of heavier sanctions as the only effective ways to contrast irregular migration. To completely ignore the applications filed, however, turned out quite difficult. After a long period of silence, the government emanated the planning decree for 2008 (only in December, again at the end of the same year it was supposed to regulate), which was characterized by two strategic decisions: a) the whole amount of new slots was reserved to domestic and care workers; b) the whole amount of slots had to be allocated to applications already filed the year before. The last decree, in other words, implies a selective absorption of applications already filed, again on the assumption that they are referred to foreigners already living in Italy.

## 2. THE STRUCTURAL DIFFICULTIES OF AN ACTIVE LABOUR IMMIGRATION POLICY

As in other Mediterranean “new immigration countries”, the roots of the current migration flows are not to be found in the conscious, large-scale, recruitment of foreign workers on the international labour market. The initial segment of the immigrant pioneers settled in Italy through a variety of channels and trajectories, reacting to a web of molecular contacts and opportunities. Most of them lived for years without papers or in a legally shaky position. As they were not framed as a problem, their lack of legal status encountered in most cases what may be defined as a benign neglect. When, in the second half of the 1980s, immigration started to be defined as a social phenomenon deserving policy attention, decision-makers quickly discovered that they had to deal with two problems: the presence of a sizeable number of undocumented foreigners already settled in the country and the need to introduce rules for managing the new arrivals. The two problems are clearly inter-connected: the regularization of the settled migrants implies only a temporary benefit if the ongoing inflows keep reproducing an irregular foreign population. On the other side, to establish a consistent active entry policy has as a pre-requisite the capacity of making the legal status of the worker significant (and binding) for employers and migrants alike. As any kind of planned entry programme requires some degree of control and restraint over a variety of actors, natives and foreigners, to establish such a program is factually incompatible with the existence of a large undocumented population and with the working of sizeable irregular systems able to provide contingents of new inflows outside of the state sanctioned channels.

---

<sup>5</sup>. “Permessi a 500.000 immigrati”, *Corriere della sera*, 28th February 2008.

The initial attitude of Italian decision-makers was consequently to introduce policy reforms aimed at providing a legal status for the already settled irregular population while at the same time introducing procedures both to make the legal entries of workers possible and to sanction future irregular immigration. The development of such an integrated programme looks reasonable on paper and it has been able to collect an extensive consensus in many policy forums. It may even be said that the triplet *absorbing the irregular population/making possible new legal entries/repressing new irregular entries* is the defining orthodoxy of Italian immigration debate. It is in reference to these normative standards that the various governments promise to act. And it is in reference to such standards that oppositions criticize them for failing to do so. In practice, as it has been seen, both to take this standard seriously and to try to implement it is significantly difficult.

From 1986 to 2004, attempts at immigration reforms have obtained a mixed bag of results. They were highly successful at absorbing the irregular populations, as it is shown by the fact that very few regularized immigrants have relapsed to an irregular status. They were partly successful in fighting clandestine entries, particularly along the sea borders, and in raising the cost of irregular entry: the current undocumented population is made mostly of visa over-stayers (Monzini, Pastore *et al.*, 2006). They have utterly failed to provide a realistic management of new legal entries both in terms of quantity and quality.

As it has been seen, the main novelty of the last years has been the attempt to really provide an active immigration policy, both as a way to deal with the growing demand for immigrant labour and to avoid the recourse to amnesties, increasingly criticized by the Italian public opinion and EU partners.

The results of these attempts are far from satisfactory. For a long time, observers have explained the large size of the irregular population in Italy with the lack of an active labour immigration policy. Reasonable as it may seem, such explanation runs into difficulties when the very large number of entry slots made available in the last three years is taken into account. For sure, such contingents have no equivalent in Europe, the only possible term of comparison, although in a rather different normative and political context, being Spain. The impact on the labour market, moreover, has been further increased by the fact that such contingents are incremented by the incoming flows of family members that are also at an all-time height.

The point is, however, that the enactment of such large contingents of new entries has been unable to provide an alternative entry channel capable to slow down, if not prevent completely, the constant reproduction of a large segment of irregular foreign workers. In other words, it has been able to partly absorb the irregular workers already active on the Italian labour market, but it has failed in modifying the traditional pattern of the Italian migratory system prescribing a spell of irregular residence followed by some kind of *ex-post* regularization. The enlarged contingent notwithstanding, the best strategy for a prospective immigrant to Italy is still perceived to be to enter the territory through whatever mean available and to find an informal occupation while ‘waiting for the papers’.

To document this analysis, the best data source is available for the Lombardy region, one of Italy’s main economic engines and home to a large immigrant population. In Lombardy, a group of researchers has been carrying out since 2001 a large (N=8,000) annual survey of the foreign population specially designed to cover both its regular and irregular segments (Blangiardo, 2008). The data produced are quite instructive on the general tendencies of the irregular population. It shows how the last amnesty, held in 2002, has been quite effective in sharply curtailing the percentage of foreigners with an irregular status. Such segment of the foreign population has however quickly started to reproduce itself in the following years. The data also show that the ersatz-amnesty launched by the Prodi government through its second decree has been able to reduce the percentage of irregulars without however succeeding in decisively curtailing it. The same consideration applies to the consequence of the Eastern Enlargement: if it has worked as a regularization for a set of nationalities that had previously been strongly represented in the irregular foreign population, the removal of new Member States nationals from the overall contingent of the irregular foreigners has not decisively abated such contingent, thanks to a higher irregularity rate in the migratory systems rooted outside of the current borders of the EU.

**Table 4 – Percentage of irregulars in the foreign population (2001-2008)**

|      | <b>Legal status</b> | <b>Irregulars (clandestine + overstayers)</b> |
|------|---------------------|---|
| 2001 | 79                  | 21  |
| 2002 | 69                  | 31  |
| 2003 | 89                  | 11  |
| 2004 | 86                  | 14  |
| 2005 | 85                  | 15  |
| 2006 | 82                  | 18  |
| 2007 | 86                  | 14  |
| 2008 | 86                  | 14  |

Source: Immigration Observatory, Lombardy Region (Survey 2008).

The data collected in Lombardy document also that irregularity is still a common initial phase of the migratory process of foreigners in Italy. Among those entered in the last three years, the undocumented status is shared by a little less than a third of arrivals. The high number of entry slots granted in the last years are consequently not avoiding the reproduction of a large segment of undocumented population. Eventually, the surveys show that irregular migrants have no difficulties to find a job in the Italian economy (albeit for a lower salary in comparison to legal immigrants): nearly nine out of ten irregular migrants interviewed have a job, most often in the household services and in the construction sectors. Half of them define their job as stable –with no severance in the foreseeable future – and that is indeed the kind of job that could have been filled with legal arrivals.

Against such background, a few fundamental questions arise: Why does the availability of an active immigration policy not appear to have a significant impact on the management of population flows? Why has the planning of new inflows been constantly postponed in favor of action geared to the settled undocumented population? Why has the availability of a large contingent of new entries not curtailed the strength of the irregular migratory systems? As we will see in the following pages, there are some structural factors that have to be taken into account to develop a realistic approach to scope and feasibility of a planned migration policy.

A first consideration in this perspective is that undocumented migrants who are already settled, powerless as they may seem, are able to exert more political pressures than any incoming or prospective migrant. Although legally non-existent, they fill up a series of structural positions in the receiving economy and society and thereby acquire *de facto* some kind of voice. Employers do not want to renounce to already known workers, philanthropic organizations and NGOs are regularly exposed to their plight, various kinds of social connections have developed, lawyers have them as clients and so on. Once a policy initiative is started, the regularization of settled undocumented migrants is very likely to become the main focus of the debate<sup>6</sup>. Such consideration explains why for decades the focus of Italian political conflict on immigration has been on the already settled immigrant population; and it explains why – once the prospect for amnesties has become more remote – the main pro-immigrant activism has switched to the use of entry policy as tool to attain the very same end. Once the planning of new entries is used both for reducing the size of the settled irregular population and for new arrivals, the first goal tends to cut the grass under the feet of the second. Besides diminishing the overall availability of entries, the irregulars already settled find themselves in a much better position to obtain timely information, to secure a prospective employer, to rely on appropriate documentation and to complete the procedure more quickly. For those still abroad, the best strategy is still to enter the territory and to reside there irregularly, waiting for the next turn<sup>7</sup>.

<sup>6</sup>. It must also be considered that, in an overly contribution-based kind of welfare state (such as the Italian one), the regularization of already settled undocumented migrants appears to be largely neutral or even positive for the state coffers.

<sup>7</sup>. The main disadvantage for the settled irregular migrants who wants to regularize their status in this way is the need to return home to collect the visa at the Italian embassy. During the trip back, as a matter of fact, there is a certain risk of

A second consideration has to do with the structure of the labour supply that the policy means to regulate. In the current context, planning new entries is very difficult for any policy-maker. As a matter of fact, the conceptual framework for the active labour market policy is still rooted in the guest-worker era (that Italy experience as a sending country): treaties between states, a restricted number of employers able to plan their labour demand in the medium-term, committees assessing the expected tendencies of the labour market, social actors able to monitor each other and to policy their own constituencies. Contemporary immigration to Italy, however, is embedded in a striking different reality. Although foreign workers have been able to join the industrial working class, it has happened primarily in small and medium sized enterprises, particularly in the myriad of small firms active in the “industrial districts” of the Italian North-East. And even there, foreign workers who have made their way into this sectors are rarely at their first job in Italy. Most of the current demand for lowly skilled foreign labour originates in labour-intensive agriculture, in small enterprises active in the service sector and in households. Here the employers are rarely able to plan their labour demand in advance, and very often – this is especially true with households – they act under the pressure of sudden opportunities and constraints. Most employers of foreign workers operate in a turbulent environment.

This has two implications. The first is that to estimate the demand for foreign labour is difficult and there is no method for exactly determining the optimal level of new entries. This explains the failure of the triennial planning document that has never been able to provide a sound framework for political decisions<sup>8</sup>. The second implication is that, while the aggregate level of the labour demand may roughly be estimated, it is difficult to identify in advance the specific prospective employers. A related consideration refers to the assumption that employers have to request individually the worker they are interested to hire while he/she still resides in the sending or transit country. Such assumption is highly unrealistic, as the kind of employers active in this specific labour market has no reasonable way to identify and select a prospective employer under this condition. Some attempts have been made to establish training programmes in the sending countries with the hope that they would have acted as broker between prospective immigrants and prospective employers. Their dismal failure has however further stressed that the prevalent types of employers give no particular significance to abstract credentials or to certifications by public bodies. The presence of such certification is often seen suspiciously, thus placing the workers that participate in these programs even at a paradoxical disadvantage. Employers tend instead to privilege workers who already present on the territory and who can be tested directly and employed on the spot. In the best of cases, they are willing to listen to the opinion of trusted workers, that may suggest relatives or friends for which they are willing to guarantee. The mismatch between a neo-corporatist planning framework – that assumes that workers must be recruited *before* their entry can be authorized – and the daily strategies of employers – interested in hiring workers *after* they have settled in the territory – is the key, and still unresolved, stumbling block for the development of an Italian immigration policy.

A third consideration has to do with the practical difficulties of managing an active labour immigration policy. If the procedure wants to maintain a reasonable degree of control over the composition of new arrival, it has to be quite intrusive and demanding in terms of administrative paperwork. Documents have to be requested and checked, various administrative agencies have to collaborate and a sizeable effort in terms of priorities and personnel has to be implemented. Under the current state of the Italian public administration – and in a period of budgetary restraints – such conditions turn out to be very prohibitive.

The result is that the higher the contingent planned, the longest lasts the procedure. To give an example, under the current administrative conditions, the period from the moment an employer identifies a prospective worker to the moment the same worker may enter legally the country can last up to two years. Both in 2006 and 2007, a year after the closure of the application period, nearly half of all permits still had to be released. A further point is that the very complexity of the decree – with slots subdivided by nationality, economic sector, region of the employer and sometimes additional criteria – imposed often several adjustments during the implementation: *ex-ante*, each Italian Region receives a certain number of slots in each category; *ex-post*, if some slots turn out to be unused (a not unlikely occurrence), the welfare and labour ministry may re-

---

being detected by the border police and expelled. This risk varies with the means of transportation used and with the country one has to return to. Such risk may explain why there is a certain number of visa granted that are actually never collected, and why such phenomenon appears more widespread across the African nationalities (Ministero dell'interno, 2007).

<sup>8</sup>. As a matter of fact, most of the immigration policy-making here described has taken place in absence of such document that has not been approved in the last years.

distribute them according to a variety of Byzantine considerations. As such adjustments take place after all the process has been implemented, a significant number of slots is allocated with further delay<sup>9</sup>. To tolerate such a lengthy period implies the acknowledgement that the request made by employers is not the consequence of a pressing exigency but rather a way to regularize an already active worker.

### 3. CONCLUSION: RELUCTANT PLANNERS

The previous paragraph has outlined the main structural reasons that make it difficult to see in the Italian labour immigration policy an effective way to manage the inflow of new workers. The focus has been on the difficulties of managing these programs effectively and in the mismatch between the empirical functioning of immigration systems and the apprehension of such functioning by the immigration legislation. Before concluding, it is worth stressing that these programs encounter also two other important obstacles, of a more political nature.

The first has to do with the hidden side of planning new arrivals: the contrast to irregular migration and, particularly, to irregular employment. As a matter of fact, any management of immigration flows – as any kind of labour policy – requires some forms of political control on the labour market. In short, the dangers associated to stay outside of the legal recruitment channels must be higher than the benefits that may be acquired through law-avoidance. If labour immigration policy has to have any real selective impact on incoming flows, it cannot work in presence of a widespread tolerance towards the irregular employment of those who have entered the country outside the rules. This is, however, precisely the Italian situation. Most employers, and large sectors of public opinion, do not regard the hiring of an undocumented migrant as a criminal action and – if abuses and overexploitation are avoided – they often consider it as a gracious, sometimes even charitable, action. Households have even developed a vision of care-workers as a largely unconditional welfare right, making considerations on the legal status of the worker negligible. Expulsions and deportations are widely perceived as necessary to deal with criminals, misfits and troublemakers, but they are nearly always considered as too harsh a measure for ‘simple’ irregular workers. Although employer sanctions schemes have appeared often in the political debate, they have never been systematically implemented, both for the lack of an adequate administrative infrastructure and, above all, for the fear of the political backlash they would trigger. Labour inspections in Italy are scarce in number and geared only toward the most exploitative situations. The police forces do not pay particular attention to labour irregularities, staying focused nearly only on irregular residence status. And even trade-unions have often to mediate between the rights of irregular care-workers and the expectations of their retired, card-carrying, members. Given the situation, the favourite political approach to the contrast of irregular migration has been the strengthening of border controls, trying to prevent the entry of foreign workers rather than detecting and deport them afterwards. Such approach, highly consistent with the Schengen process, has attained a certain degree of effectiveness in reducing to minimal terms the clandestine entries along the Italian borders. The result, among others, has been a diminishing relevance of cross-Mediterranean irregular systems that, in spite of their heavy and spectacularizing media coverage, have grown much slower and feeble than others (Cvajner and Sciortino, 2008). At the same time, such approach has turned out to be nearly useless to prevent the massive development of irregular migration systems rooted in Eastern Europe and Latin America. These systems, starting at the end of the 1990s, are largely based on the use of tourist visas, thereby side-stepping any effort at stricter border control. As a result, the development of the Italian immigrant labour policy here reviewed has taken place parallel to massive irregular inflows, thus weakening any incentive for employers to invest on the legal entry channel. It is doubtful that the Italian labour immigration policy will be ever able

---

<sup>9</sup>. To give an example, at the end of December 2008, the Ministry of labour has re-allocated 8,436 slots of the decree emanated the year before. The unused slots, the 5% of the whole contingent, were distributed to domestic and care workers.

to work effectively without a much stronger and realistic emphasis on employer sanctions. The political conditions for such a development are however highly unlikely to be met in any near future.

A second obstacle consists in the idea that an active immigration policy may contribute to a medium-term management of the migratory situation of the country, making it to 'choose' rather than 'accept' its demographic change. Such idea seems straightforward: to enact any kind of active immigration policy requires planning in advance the quantity and quality of new inflows, thus steering the composition of the population. This, however, is a fairly difficult task, as the functioning of post-fordist economies does not fit well with neo-corporatist planning. This is even truer in a country where little less than a quarter of GDP is produced by the informal economy. The result, as the Italian case shows, is that any contingent may be – and actually is – challenged both by actors willing to define it as too high, and by actors willing to define it as too low. Even if it were possible to determine convincingly the 'right' size of the contingent, this technical operation carries inevitably a political message: by proposing and approving the decree, the government actually defines the future migratory flows as a consequence of a political decision. Contrary to amnesties, that governments may define as a choice 'forced' by past mistakes, the working of an active immigration policy implies a choice and a consequent engagement. The government is then called to assume as its own responsibility both the uncertainties linked to the process of estimate of the contingent and the uncertainties about the future impact of the flows that such contingent allows. In other words, governments undertaking an active economic immigration policy are called to define as certain what is perceived to be not, knowing perfectly well that this will imply both a restriction of the future room for maneuvers and the assumption of a responsibility towards its outcomes. Unsurprisingly, this is not a particularly attractive operation. In the Italian case, this may be seen particularly in the triennial planning paper that was originally conceived as a tool to provide a medium-term anchorage for the yearly decision. As a planning document, it is expected to provide an evidence-based argument able to explain the rationale for future decisions. Its elaboration is presented by the government as a matter of detecting the correct trends and to make the best of possible options. Being immigration issues both controversial and politicized, however, the elaboration of the triennial planning document is expected to be read by a variety of actors as the government *liking* – if not even *making* possible- certain outcomes, while alternatives and constraints are placed out of the picture. In other words, to plan a labour immigration policy inevitably opens a window of opportunity for all actors interested in attributing to the government the responsibility of migration trends, both in restrictive and expansionist directions. In both cases, the notion of responsibility carries with it the possibility – for political opponents, the certainty – of guilt. It is consequently not a surprise that the triennial planning documents have been rarely enacted, with governments of both coalition being more than happy to proceed through the less visible and more urgent task of approving only yearly decrees under provisional conditions. If this removes part of the political heat from the working of the policy, it also implies a renunciation to any integration with economic policy. Not to mention a systematic design of the migratory future of the country.

## REFERENCES

- Barbagli, M.; A. Colombo, and G. Sciortino (Eds.). 2004. *I sommersi e i sanati. Le regolarizzazioni degli immigrati*. Bologna: Il Mulino.
- Blangiardo, Gian Carlo (Ed.). 2008. *L'immigrazione straniera in Lombardia. La settima indagine regionale*. Milano: Osservatorio Regionale per l'integrazione e la multiethnicità.
- Bonifazi, Corrado. 2007. *L'immigrazione straniera in Italia*. Bologna: Il Mulino.
- Colombo, Asher. 2007. *Gli stranieri e noi. Immigrazione e opinione pubblica in Emilia-Romagna*. Bologna: Il Mulino.
- Colombo, Asher, and G. Sciortino. 2003. "The Bossi-Fini Law: Explicit Fanaticism, Implicit Moderation and Poisoned Fruits." Pp. 162-180 in *Italian Politics 2003*, edited by J. Blondel and P. Segatti. Oxford: Berg.
- Colombo, Asher, and Giuseppe Sciortino. 2004. *Gli immigrati in Italia*. Bologna: Il Mulino.
- Cvajner, Martina, and Giuseppe Sciortino. 2008. "Dal Mediterraneo al Baltico? I cambiamenti nei sistemi migratori italiani." in *La fatica di cambiare. Rapporto Cattaneo sulla società italiana*, edited by Raimondo Catanzaro and Giuseppe Sciortino. Bologna: Il Mulino.
- Einaudi, Luca. 2007. *Le politiche dell'immigrazione in Italia dall'unità a oggi*. Bari: Laterza.
- Istituto nazionale di statistica. 2005. *Gli stranieri in Italia: gli effetti dell'ultima regolarizzazione*. Roma: Istat.
- Ministero dell'Interno. 2007. "Primo rapporto sugli immigrati in Italia." Roma: Ministero dell'Interno.
- Monzini, P., F. Pastore, and G. Sciortino. 2006. "Schengen's Soft Underbelly? Irregular Migration and Human Smuggling Across Land and Sea Borders to Italy." *International Migration* 44:1-25.
- Reyneri, E. 1998. "The role of the Underground Economy in Irregular Migration to Italy: Cause or Effect?" *Journal of Ethnic and Migration Studies* 24:313-331.
- Sciortino, Giuseppe. 2004. "Immigration in a Mediterranean Welfare State: the Italian Experience in a Comparative Perspective." *Journal of Comparative Policy Analysis* 6:111-128.