
LEGAL AND JUDICIAL RESPONSES TO DISPLACEMENT RELATED TO DISASTERS, CLIMATE CHANGE AND ENVIRONMENTAL DEGRADATION: **THE CASE OF ITALY.**

Chiara Scissa

PhD candidate - Sant'Anna School of Advanced
Studies

EMN Swedish Presidency Conference

11-12 May 2023



Sant'Anna
Scuola Universitaria Superiore Pisa



SPECIAL PROTECTION AND TEMPORARY PROTECTION.

Art. 19, para. 1.1, CAI on Special Protection.

Ban to removal where there are substantial grounds for believing that they would be at risk of being subjected to torture or inhuman or degrading treatment. In assessing these grounds, the existence of **systematic and gross violations of human rights** in that State shall also be taken into account.

- **Special protection has been provided to Turkish citizens due to the devastating earthquakes of February 2023 that do not allow a safe return.**

Art. 20 CAI on Temporary Protection.

Collective and temporary protection measures for extraordinary humanitarian needs, including **natural disasters**, which occurred in non-EU countries (in force since 1998).

- Extensively applied in the '90s (Balkan wars) and 2011 Arab Spring.
- Although never applied in the context of natural disasters, the 2011 episode gives us a hint of how it would be managed.



HUMANITARIAN PROTECTION

Article 5, para. 6, CAI.

- Granted to persons whose removal would have exposed them to effective deprivation of human rights.
 - The key elements were **vulnerability and dignity**.
 - Covered **famine, floods, earthquakes, land grabbing, oil violence, general environmental and climate conditions** if able to jeopardize core human rights.
 - Repealed in 2018, still produces effects on pending cases.
-

PROTECTION AGAINST CONTINGENT AND EXCEPTIONAL CALAMITIES

2018

DECREE LAW N° 113 (Article 20bis CAI)

- «When the country of origin of the foreigner is in a situation of **contingent and exceptional calamity** that does not allow for a safe return and stay, the Questura provides for a residence permit due to calamities».
 - 6 months (renewable for 6 months)
 - Access to the labour market but **not** convertible in a work residence permit
-

PROTECTION AGAINST SERIOUS CALAMITIES

2018

DECREE – LAW N° 130 (Article 20bis CAI)

- When the country of origin of the foreigner is in a situation of **contingent and exceptional calamity** that does not allow for a safe return and stay, the Questura provides for a residence permit due to calamities.
- 6 months (renewable for 6 months)
- Access to the labour market but **not** convertible in a work residence permit

2020

DECREE – LAW N° 130 (Article 20bis CAI)

- «When the country of origin of the foreigner is in a situation of **serious calamity** that does not allow for a safe return and stay, the Questura provides for a residence permit due to calamities».
 - 6 months (renewable as long as the claimant's country of origin remains environmentally unsafe?)
 - Access to the labour market and convertible in a work residence permit
-

PROTECTION AGAINST CONTINGENT AND EXCEPTIONAL CALAMITIES

2023

DECREE – LAW N° 20 (Article 20bis CAI)

- «When the country of origin of the foreigner is in a situation of **contingent and exceptional calamity** that does not allow for a safe return and stay, the Questura provides for a residence permit due to calamities».
- 6 months (renewable for 6 months)
- Access to the labour market but **not** convertible in a work residence permit

2020

DECREE – LAW N° 130 (Article 20bis CAI)

- «When the country of origin of the foreigner is in a situation of **serious calamity** that does not allow for a safe return and stay, the Questura provides for a residence permit due to calamities».
- 6 months (renewable as long as the claimant's country of origin remains environmentally unsafe?)
- Access to the labour market and convertible in a work residence permit

FIRST-TIME ANALYSIS OF RESIDENCE PERMITS UNDER ART. 20-BIS CAI

From October 2018 to March 2023

153 residence permits on calamity have been issued by **44** Italian *Questure*.

The highest rates have been reached by:

Bari **(36)**, Genoa **(9)**, Gorizia and Lecce **(8)**, Foggia **(7)**, Messina and Naples **(6)**, Vercelli **(5)**, Ancona and Reggio Emilia **(4)**

This means that most residence permits have been granted by Questure in front-line Southern regions, although Questure in Central and Northern regions have played a significant role.

Beneficiaries of protection against calamities come from **Africa, Asia, Europe, Latin America.**

Main nationalities:

Pakistan **(57)**, Albania **(15)**, Bangladesh **(14)**, Nigeria **(13)**, China **(12)**, Brazil **(6)**, Colombia **(5)**, India **(4)**

Interesting exceptions: Serbia (2), the Russian Federation (2), Ukraine (1), and Belarus (1).



COURT'S EFFECTIVE APPROACH.

Subsidiary protection.

Article 15(b) Qualification Directive.

- Granted to international-protection seekers from the **Niger Delta (Nigeria)** because of **irreparable environmental harm, extreme pollution due to massive oil spills, targeted killings, and land eviction**, which would expose claimants to a **direct and serious risk of torture, inhuman and degrading treatment** (*Tribunal of Genoa, decree of 19 July 2022; Court of Cassation, n. 41997/2021; Court of Appeal of Naples, n. 2798/2019; Tribunal of Rome, n. 424/2011*).

Article 15(c) Qualification Directive.

- The climate of “**generalized**” violence in the Niger Delta was interpreted as reaching the level of indiscriminate violence and justified the **serious and individual threat to a person's life or integrity** (*Tribunal of Trento, n. 18/2018; Tribunal of Trento, n. 13/2018; Tribunal of Rome, judgement of 8 May 2012*).



THANK YOU
VERY MUCH!

Chiara Scissa

chiara.scissa@santannapisa.it