

**QUESTIONNAIRE FOR THE NATIONAL REPORT ON THE IMPLEMENTATION
OF THE DIRECTIVE :**

TEMPORARY PROTECTION OF 20 JULY 2001

**IN
ITALY**

By
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FIRST PART

1. NORMS OF TRANSPOSITION AND JURISPRUDENCE

Q.1.A. Identify the central norm(s) of transposition and indicate its legal nature

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)
- About legal nature in the table below: *legislative* refers to a norm adopted in principle by the Parliament; *regulation* refers to a norm complementing the law and adopted in principle by the executive power; *circular or instructions* refer to practical rules about implementation of laws and regulations and adopted in principle by the administrative authorities

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Decreto legislativo (Legislative decree) Attuazione della direttiva 2001/55/CE relativa alla concessione della protezione temporanea in caso di afflusso massiccio di sfollati ed alla cooperazione in ambito comunitario
DATE: 7 April 2003

NUMBER: 85
DATE OF ENTRY INTO FORCE: 22 April 2003
PROVISIONS CONCERNED : Just Directive 2001/55/EC (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: in G.U. n. 93 del 22 April 2003
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.1.B.

Please list the others norms of transposition according to their hierarchical position in your legal system (first laws, to be followed by regulations; and circulars or instructions):

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is termed a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)

When answering this question, please use one or more of the tables below (one norm per table). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

TITLE: Decreto legislativo (Legislative decree) Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero (artt. 29-20)
DATE: 25 July 1998
NUMBER: 286
DATE OF ENTRY INTO FORCE: 3 September 1998
PROVISIONS CONCERNED : Legal status of foreigners in Italy: Measures in case of extraordinary arrivals (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: G.U. n. 191 del 18.08.1998 - Suppl. Ord. no. 139
LEGAL NATURE (indicate by ticking the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.2.

This question needs to be answered only for FEDERAL OR SIMILAR MEMBER STATES LIKE AUSTRIA, BELGIUM, GERMANY, ITALY, SPAIN

Q.2.A. Explain which level of government is competent to adopt the norms of transposition.

Please include your answer in the tables below

LEGISLATIVE RULES
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL: The central Government has the competence to adopt legal norms on foreigners status according to Art. 117, 2nd par. lett. a) of the Italian Constitution, that confers to the central authorities the exclusive competence to adopt laws on asylum and the legal status of third country nationals.
COMPETENCES OF THE COMPONENTS: Regional authorities have no competence on foreigners status, in particular have no competence on expulsion or recognition of refugees or qualification of refugee.
EXPLANATIONS IF NECESSARY: Migration and asylum is an exclusive competence of the central government. Regions can only adopt norms on receptions and social services and the services related to migration such as mediation, housing, integration. At the moment this regards mainly the public services organisation although there is a wide difference among regions in the standard of social services. The Constitution states that the Government shall fix the “essential levels of social protection” that will establish the minimum standard to be granted in the whole country. After a lot of debates the negotiations between central Government and Regions on this crucial point is at a standstill.

REGULATIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL: Only the central Government can adopt regulations on migration and asylum. There may be many categories of regulations, e.g. issued by a single Minister or by the whole Government, but the competence is always upon the central government when they impinge on an exclusive competence, such as migration law. According to Art. 10, 2nd par. of Italian Constitution, the foreigners status must be regulated by a law, passed by Parliament. This means that the main rules must be stated in a law, leaving to regulations or administrative acts the rules required to guarantee the execution.
COMPETENCES OF THE COMPONENTS: Regions have no competence to adopt circulars in this subject.
EXPLANATIONS IF NECESSARY: According to Art. 10, 2nd par. of Italian Constitution, the foreigners status must be regulated by a law, passed by Parliament. This means that the main rules must be stated in a law, leaving to regulations or administrative acts only the rules required to guarantee the execution.

CIRCULAR OR INSTRUCTIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL: Circulars are always issued by single Ministers or General Directors, who forward them to the local offices, e.g. police offices. The competence is always upon the central government.
COMPETENCES OF THE COMPONENTS: Regions have no competence to adopt circulars in this subject.
EXPLANATIONS IF NECESSARY: The competence to adopt circulars is strictly connected to the competence to adopt Regulations. It is the typical act adopted to give instructions to the local offices to apply the legal norms or regulations.

Q.2.B. Where appropriate, please explain if the federal structure and the distribution of competences between the different levels creates any problem or difficulty regarding the transposition and/or the implementation of the directive.

Since the foreigners status is an exclusive competence of the central Government, the transposition of this EU Directive does not create particular problems. Some problems could arise in case of implementation as regards reception for example that could be materially provided by regional or municipal authorities. Anyway the legal framework should be only national.

Q.3. Explain which authorities are competent for the practical implementation of the norm of transposition by taking the decisions in individual cases.

When answering this question, please use one or more of the tables below (one table per competence concerned). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

COMPETENCE CONCERNED:	General measures of temporary protection: procedures, competent authorities, last, beneficiaries, reception measures, repatriation measures, asylum applications
CENTRAL MINISTRY OF:	Prime Minister
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	Presidency of the Government
OTHER LEVEL OF ADMINISTRATION:	
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	

Table 2

COMPETENCE CONCERNED:	Definition of the sort of Receptions measures
CENTRAL MINISTRY OF:	Prime minister
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	Presidency of Government
OTHER LEVEL OF ADMINISTRATION:	Conferenza Unificata according to legislative decree 1997 no. 281: the conference made up by central Government and Presidents of the Regional authorities. This conference must be involved in the definition of the measures
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	

Table 3

COMPETENCE CONCERNED:	Issue of the single permit of stay
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CENTRAL MINISTRY OF:	Home office
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	Department of civil liberties and migration
OTHER LEVEL OF ADMINISTRATION:	Local police offices, a territorial articulation depending directly to the Home Office and on which regional governments have no power. There is no regional police.
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	

Q.4.A. Has the central regulation foreseen by the central norm of transposition already been adopted?

YES

NO

Q.4.B. If the central norm(s) of transposition foresee(s) the adoption of one or several regulations, indicate if they have all been adopted:

YES

NO

If NO, please indicate the missing text(s) in the table below. Where necessary, please add further explanations (specify in particular if the missing texts are at least under preparation or foreseen in the very near future):

When answering this question, please use one or more of the tables below (one table per missing text). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

MISSING TEXTS
<i>INDICATE HERE THE MISSING TEXTS</i>

SECOND PART

Duration and implementation of temporary protection

Q.5. According to article 5(1) in the Directive the existence of a mass influx of displaced persons shall be established by a Council Decision adopted by a qualified majority on a proposal from the Commission, which shall also examine any request by a Member State that it submit a proposal to the Council. According to article 5(3) the Council Decision shall have the effect of introducing temporary protection for the displaced persons to which it refers, in all the Member States, in accordance with the provisions in the Directive.

Do the national norms of transposition in your Member State mandate the Council to decide about the existence of a mass influx of displaced person, with the effect of introducing temporary protection for the displaced persons to which it refers in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation (if the answer is “no”, how is a Council decision transposed ad hoc into national law?)

According to Art. 3, the Prime Minister issues a decree implementing the Council decision adopted as provided for by Art. 5, Directive 2001/55/EC.

Q.6. According to article 6 in the Directive, temporary protection shall come to an end when the maximum duration has been reached or at any time by Council Decision on a proposal from the Commission. *See article 6 (1-2).*

Do the national norms of transposition mandate the Council to decide when temporary protection in your Member State shall come to an end?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is ‘no’, how is a Council decision transposed ad hoc into national law?)

According to Art. 3, 2nd par., the temporary protection ends after the date fixed by the Council or in any other moment as decided by the Council.

Q.7. According to article 7, a Member States may extend temporary protection, as provided for in the Directive, to additional categories of displaced persons over and above those to whom a Council decision applies, where they are displaced

for the same reasons and from the same country or region of origin. *See optional provision in article 7 (1-2).*

Do the national norms of transposition allow your Member State to extend temporary protection to additional categories of displaced persons?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is "yes", if any, what are the criteria for extending protection to additional categories of displaced persons)?

Obligations of the Member States towards persons enjoying temporary protection

Q.8. Questions regarding obligations of the Member States towards persons enjoying temporary protection. *See article 8(1-3):*

Q.8.A. Does your Member State provide persons enjoying temporary protection with a residence permit? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

According to Art. 4, the national decree implementing the Council decision on temporary protection, shall contain rules on the procedure to be followed to issue of the residence permits (art. 4.par. 1, lett. e).

Q.8.B. Answer this question if the answer on Q.8.A is 'yes': **Is the residence permit valid for the entire period of temporary protection?** *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

Q.8.C. Will documents or other equivalent evidence for the residence permit be issued? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Art. 4, par. 1, lett. e), the national decree implementing the Council decision, will provide for procedure to obtain the residence permit and to record the personal data of the persons enjoying temporary protection. No other document is considered perhaps because in the context of national law it is not necessary.

Q.8.D. Will your Member State provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection, and which are relevant to them, is clearly set out? See mandatory provision in article 9.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Art. 8, Lgs. Decree 2003/85, information are given through the delivery of a document written in a language likely to be understood by the persons or in English, French, Spanish or Arab, explaining the rights and duties connected to their status of temporary protected persons.

Q.8.E. Will the personal data of the persons enjoying temporary protection (name, nationality, date and place of birth, marital status, and family relationship) be registered? See mandatory provision in article 10.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Personal data will be registered according to the national decree implementing the Council decision. Art. 4, par. 1, lett. e), Lgs. Decree 2003 no. 85 refers to personal data in general without specifying which data shall be recorded. It is important to note, however, that article 4, para. 3, only indicates the elements that shall be indicated and therefore specified in the Decree to be adopted by the Council of Ministers upon occurrence. Such Decree should therefore clearly mention the type of data to be recorded.

Q.8.F. Will your Member State provide facilities for obtaining the necessary visas, including transit visas, to persons which will be admitted to the territory for the purposes of temporary protection? See mandatory provision in article 8(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Art. 4, par. 1, lett. d), the national decree implementing the Council decision establishing temporary protection, shall establish procedures with the necessary facilities in order to obtaining visa to entry in the national territory. There is no specific provision for transit visas.

Q.8.G. According to the national law of your Member State: Will the visas referred to in Q.8.F, be free of charge? *See mandatory provision in article 8(3).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (if the answer is “no”, please indicate the amount charged and indicate amounts charged for other types of visas)

There is no indication about visas fees. These aspects should be stated by the national decree.

Q.9. According to national law of transposition, is your Member State responsible to take back a person enjoying temporary protection on its territory if that person seeks to enter onto or remains on the territory of another Member State without authorisation during the period of temporary protection? *See mandatory provision in article 11.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There is no provision about taking back on persons enjoying temporary protection. Only it is provided that the national contact point shall have the task to cooperate with other national administrations and that the national decree shall provide for any rules necessary to implement the Council decision.

Q.10. Has your Member State concluded bilateral agreements with other Member States regulating the responsibility for persons enjoying temporary protection under the Directive? *See optional provision in article 11, final sentence.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is “yes”, please specify with which country)

Q.11. Questions regarding work and other activities during temporary protection: *See mandatory provision in article 12.*

Q.11.A. Are the persons enjoying temporary protection allowed to engage in:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- | | | |
|--|--|------------------------------------|
| Employed activities? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Self-employed activities? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Educational opportunities for adults? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Vocational training? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Practical workplace experience? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Explanation:

According to Art. 4, par. 1, lett. e, Lgs. Decree 85/2003, the permit of stay released to persons enjoying temporary protection allows them to study and work, without specifying which kind of work.

Q.11.B. According to optional provision in article 12, Member States may, for reasons of labour market policies, give priority to EU citizens and citizens of States bound by the Agreement on the European Economic Area and also to legally resident third-country nationals who receive unemployment benefit.

Do the national norms of transposition in your Member State give priority, or allow giving priority, to:

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- | | | |
|---|-------------------------------------|---|
| EU citizens? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Citizens of the European Economic Area? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Legally resident third-country nationals who receives unemployment benefits? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Explanation:

There is no provision about priority of national, EU or already illegally resident third country nationals. Moreover the general procedure for the entry of foreigners for labour purpose, where there is such a priority, can not apply in this case (the system provide for a call from an employer established in Italy of a foreigner still abroad).

Question to be answered only if persons enjoying temporary protection are allowed to work:

Q.11.C. According to article 12, final sentence, the general law in force in the Member States applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall apply if persons enjoying temporary protection are allowed to work.

If persons enjoying temporary protection are allowed to work: Will your country's general laws be applicable regarding:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Remuneration? **Yes** **No**

Access to social security systems relating to employed or self-employed activities and other conditions of employment? **Yes** **No**

Explanation:

There is no particular provision but in Italy there is the same treatment of workers as far as remuneration and access to social security. Differences are on social assistance and sometimes could not be easy to coordinate the social systems among non-Eu member States.

Q.12. Questions regarding the Member States obligation towards the temporary protected regarding accommodation, subsidies, medical care etc. *See article 13(1-4).*

Q.12.A. Is your Member State obliged under national law to provide the persons enjoying temporary protection with suitable accommodation or means in order to obtain housing? *See mandatory provision in article 13(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation :

According to Art. 4, par. 1, lett. g, Lgs. decree 2003/85, the national decree shall provide for the measures of assistance also involving NGOs. In particular those measures shall provide for housing, food, medical care, social assistance and access to vocational training or stage.

Q.12.B. Will your Member State, according to national law, be obliged to provide the persons enjoying temporary protection with economic assistance such as social welfare and means of subsistence? *See mandatory provision in article 13(2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

According to Art. 4, par. 1, lett. g, Lgs. Decree 2003/85, the national decree shall provide for the measures of assistance also involving NGOs. In particular those measures shall provide for housing, food, medical care, social assistance and access to vocational training or stage

Q.12.C. Do the persons enjoying temporary protection have access to emergency medical care and essential treatment of illness? *See mandatory provision in article 13 (2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is “yes”, please provide details whether persons enjoying temporary protection have access to *general medical care* or if it is restricted to *emergency care and essential treatment of illness*?)

According to Art. 4, par. 1, lett. g, Lgs. decree 2003/85, the national decree shall provide for the measures of assistance also involving NGOs. In particular those measures shall provide also for medical care, either general or emergency and essential treatment (according to national law on foreigners, emergency medicale care is guaranted to everyone within our territory).

Q.12.D. Will your Member State, according to national law, be obligated to provide for necessary medical or other assistance to persons enjoying temporary protection who have special needs such as unaccompanied minors, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence? See mandatory provision in article 13(4).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is “yes”, please provide details about the assistance given to different groups of persons with special needs, for example psychological help for persons who have undergone torture).

According to Art. 4, par. 1, lett. g, Lgs. decree, special assistance shall be provided for unaccompanied minors, victims of torture, rapes or other serious forms of psychological, physical or sexual violence

Q.13. Questions regarding access to education. *See article 14 (1-2):*

Q.13.A. Do persons who are under 18 years of age and enjoying temporary protection have access to the education system under the same conditions as nationals of your Member State? See mandatory provision in article 14(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is clearly stated in Art. 4, par. 1, lett. g, Lgs. decree 2003/85, among the measures of social assistance to be guaranteed by the national decree implementing the Council decision.

Q.13.B. If the answer on Q.13.A is ‘yes’: Is access to education confined to the state education system or does it cover all kinds of educational institutions?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

There is no specification so it must be interpreted as allowing access to all kinds of educational institutions.

Q.13.C. Do adults enjoying temporary protection have access to the general education system? See optional provision in article 14(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

The permit of stay allows to study and there is no limitation nor there are limitation according to national law, except for the limited number of foreigners each faculty can enroll.

Q.14. Questions regarding right to family reunification. *See article 15:*

Q.14.A. Do the national norms of transposition in your Member State allow separated family members, which enjoy temporary protection in different Member States, to reunite? See mandatory provision in article 15(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Art. 6, par. 4, provides for the consent to the transferral among member States; Art. 8, par. 2, provides for the laissez passer to be issued to foreigners in case of transferral to another member State realised by the administrative cooperation.

Q.14.B. Do the national norms of transposition in your Member State allow family members who are not yet in a Member State to reunite with a person enjoying temporary protection in your Member State? See mandatory provision in article 15(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Art. 6 is devoted to family reunification with family members who are within or outside the European union.

Q.14.C. For the application of the rules regarding family reunification: Whom does your Member State consider a “family member”? *See article 15(1)(a)(b).*

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- The spouse of the person enjoying temporary protection.**
- The unmarried partner in a stable relationship to the person enjoying temporary protection.**
- The minor unmarried children of the person enjoying temporary protection or of his/her spouse, without distinction as to whether they were born in or out of wedlock or adopted.**
- Other close relatives who lived as part of the family unit with the person enjoying temporary protection at the time of the events leading to the mass influx, and who were wholly or mainly dependent on him/her at the time.**

Explanation:

According to Art. 6, par. 1, lett. c, other close relatives are parents or adult children. Regarding parents, family reunification can be realised only with foreigners who are still outside the European Union.

Q.14.D. What means of proof is needed in your Member State to verify family membership, is for example documentary evidence needed?

There is no specific provision. According to general law on foreigners, family status can be proved with every means when it is not possible to proof with documentary evidence.

Q.14.E. Explain which measures have been taken in your Member State to ensure that ‘the best interest of the child’ is accounted for when applying the provisions on family reunification in the national norms of transposition? *See mandatory provision in article 15(4).*

There is no specific provision in the norm of transposition but the best interest of the child is considered as a supreme principle under Italian law also through reference to international norms. It must be underlined that a specific provision on this issue is contained in the single text on immigration in relation to family reunification and that should be considered as applicable also with reference to temporary protection.

Pursuant to article 28, para. 3, of the Single Text on Immigration, in all the administrative and judicial proceedings aimed at ensuring the right to family unit and concerning minors, the best interest of the child must be ensured as a priority, in compliance with the provisions set under article 3, para. 1, of the Treaty on the rights of the child of 20 November 1989. This provision is more than a general statement since it would entitled the start of a legal action against an administrative or judicial proceedings in breach of these principles..

Q.14.F. According to article 15(5), Member States shall decide in which Member State the reunification shall take place. Please indicate which authority possesses the competency to take such decisions?

Name and function of the Authority: There is no specific provision about this decision. General law on foreigners provides that the Local head of the police decides on family reunification. National contact point will have the task to cooperate with other national administration also to arrange the transferrals.

Q.14.G. If there is a formal procedure foreseen for such decisions, please describe it briefly: There is no formal procedure.

Q.14.H. Are reunited family members in your Member State granted residence permits under temporary protection?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Family members will have a permit of stay lasting like the permit of the family member who has asked for the reunification.

Q.14.I. Are documents or other equivalent evidence issued for persons who comes to your Member State and receives temporary protection under the provisions regarding family reunification?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

A permit of stay will be released but no other evidence.

Q.14.J. Does the national norms of transposition in your Member State comply with the provision in article 15(8) stating that a Member State shall at the request of another Member State, provide information on a person receiving temporary protection which is needed to process a matter of family reunification? See mandatory provision in article 15(8).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Lgs. decree provides for information related to duties and rights without specifying them but they can include for sure also those related to family reunification.

Q.15. Questions regarding unaccompanied minors: *See article 16:*

Q.15.A. Explain how the representation of unaccompanied minors enjoying temporary protection in your Member State is arranged according to national law. See mandatory provision in article 16(1).

According to Art. 4, par. 1, lett. g, Lgs. Decree 2003/85, national decree shall provide for the necessary measures related to the reception of particular categories included unaccompanied minors. In addition for acts related to unaccompanied minors the general procedure provided for in Art. 33, general law on foreigners, applies.

Q.15.B. Does your Member State provide for unaccompanied minors to be placed with: See mandatory provision in article 16(2).

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- Adult relatives ?
- A foster-family ?
- In reception centres with special provisions for minors, or in other accommodation suitable for minors ?
- With the person who looked after the child when fleeing ?

Explanation:

The reception accommodation is decided by the judge according to Art. 33 general law on foreigners.

Q.15.C. Do the national norms of transposition in your Member State meet the requirement that the views of the child shall be taken into account when arranging placement for the minor? See mandatory provision in article 16(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- Yes No

Explanation:

This is a principle always contemplated by national laws and taken in account by national judges

Access to the asylum procedure in the context of temporary protection

Q.16. Questions regarding access to the asylum procedure. *See article 3 and 17-19:*

According to mandatory provision in article 3(1) temporary protection shall not prejudice recognition of refugee status under the Geneva Convention.

Q.16.A. Does temporary protection in any way prejudice recognition of refugee status under the Geneva Convention in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

A specific provision, Art. 7, concerns the Asylum application of the persons enjoying temporary protection.

Q.16.B. Does your Member State allow persons enjoying temporary protection to apply for asylum at any time during the period of temporary protection? See mandatory provision in article 17(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

There is no specific provision about the moment when asylum application must be enrolled, but generally foreigners can apply at any time of their stay in Italy.

Q.16.C. Does your Member State allow persons enjoying temporary protection to stay in the Member State during the examination of their asylum claim, even though the period of temporary protection has ended? See mandatory provision in article 17(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

Art. 7, par. 3, states that the national decree shall establish the arrangements for the stay of persons whose asylum applications are not examined before the end of the temporary protection.

Q.16.D. What criteria are provided by the norms of transposition in your Member State to determine the responsibility amongst Member States for examining an asylum application submitted by a person enjoying temporary protection in another Member State? See mandatory provision in article 18.

There is no specific provision about it.

Q.16.E. Has your Member State decided that temporary protection may not be enjoyed concurrently with the status of asylum seeker while applications are under consideration? See optional provision in article 19.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation: If the answer is “yes”, please provide details concerning differences between the reception conditions for asylum seekers and persons

enjoying temporary protection in your Member State which might lead to withdrawal or reduction of rights for a temporary protected who lodges an application for asylum.

According Art. 7, par. 2, Lgs. decree 2003/85, the national decree can postpone the exam of the asylum application: in this case persons can first enjoy temporary protection and then stay in Italy pending the decision on the asylum application; if national decree does not postpone the asylum application's exam, persons can enjoy the temporary protection only if they dismiss their asylum application.

Such provision may actually discourage persons from continuing to apply as asylum seekers, since the status of temporary protection may under certain aspects appear more favourable. More in details two issues could be more advantageous under the temporary protection status: issuance of a permit of stay for work/study reasons and family reunification. Asylum seekers are not entitled to family reunification. As far as the issuance of permit of stay is concerned, the issue should be precisely regulated by the Decree to be issued by the President of the Council upon occurrence of a temporary protection situation. However if the persons benefiting from temporary protection would be entitled to work immediately after the acknowledgement of the status they would have a more favourable status than asylum seekers since these latter must wait at least six months.

Q.16.F. If refugee status or, where applicable, other kind of protection is not granted to a person who is eligible for or already enjoys temporary protection is that person allowed to enjoy or continue to enjoy temporary protection in your Member State? See mandatory provision in article 19(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

According to Art. 7, par. 3, temporary protection can be enjoyed also in case of denial of the refugee status.

Return and measures after temporary protection has ended

Q.17. Questions regarding the voluntary return of persons enjoying temporary protection:

Q.17.A. According to mandatory provision in article 21(1) the Member States shall ensure that the provisions governing voluntary return of persons enjoying temporary protection facilitate their return with respect for human dignity. How is that reflected in the national norms of transposition in your Member State?

The national decree will provide for the necessary rules on repatriation. Art. 11, Lgs. decree 2003 no. 85, requires the involvement of NGOs or other national or international organisations and states that the repatriation shall be executed respecting human dignity.

Q.17.B. Please explain how your Member State ensures that a decision of persons enjoying temporary protection, or whose temporary protection has ended, to return voluntarily is taken in full knowledge of the facts. See mandatory provision in article 21(1).

These aspects should be stated by the national decree. Art. 11, par. 1, lett. c and d, mandates to take into account personal conditions of the persons whose temporary protection is ended.

Q.17.C. Is it possible for the temporary protected in your Member State to make exploratory visits to the home country? See optional provision in article 21(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There is no specific provision about this possibility.

Q.17.D. Please explain if and how your Member State has transposed article 21(2) stating that Member States shall, for such time as the temporary protection has not ended and on the basis of the circumstances prevailing in the country of origin, give favourable consideration to requests for return to the host Member State from persons who have enjoyed temporary protection and exercised their right to a voluntary return?

Taking account that the return is not formally limited when the temporary protection has ended, it can take place also before.

Q.17.E. Is it possible, under the national norms of transposition in your Member State, for persons enjoying temporary protection to continue receive their benefits as temporary protected after the period of temporary protection has ended, if they benefit from a voluntary return programme? See optional provision in article 21.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is “yes”, for how long is that possible).

According to Art. 11, par. 1, lett. c, national decree implementing Council decision shall provide for the rules related to the stay after the temporary protection has ended.

Q.18. Questions concerning enforced return of persons who have enjoyed temporary protection. *See articles 22:*

Q.18.A. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(1), obliging Member States to ensure that the enforced return of persons whose temporary protection has ended and who are not eligible for admission shall be conducted with due respect for human dignity.

According to Art. 11, par. 1, lett. b, repatriation shall respect human dignity. This principle is a limit to the use of coercive means and could ground a legal action in case of return carried out in breach of this principle. It would

nevertheless be appropriate to establish specific means to ensure that enforced returns are conducted with due respect for human dignity.

Q.18.B. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(2) obliging Member States to consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases.

According to Art. 11, par. 1, lett. c, persons who, for humanitarian reasons or for serious health reasons, can not be repatriated shall benefit of temporary protection also after the expiry date.

Q.18.C. In the national law of your Member State, are there any other grounds (except for the one referred to in Q.18.B) for allowing persons who have enjoyed temporary protection to stay in your Member State?

According to Art. 19 General law on foreigners, nobody can be expelled in the following cases: if there is a risk of persecution, children under the age of 18, foreigners who live with parents within the fourth degree or with the spouse of Italian nationality, pregnant women or for six months after the birth of the baby.

Q.19. Questions concerning forcible return of persons who have enjoyed temporary protection. See article 23:

Q.19.A. Does the national law and practice of your Member State comply with the mandatory provision in article 23, providing that persons who have enjoyed temporary protection and who cannot, in view of their state of health reasonably be expected to travel, are not expelled as long as that situation continues? The provision exemplifies with persons who would suffer serious negative effects if their treatment was interrupted.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Art. 11, par. 1, lett. c, refers only to serious grounds of health or urgent humanitarian reasons.

Q.19.B. Does your Member State allow families whose children attend school in a Member State, to benefit from residence conditions allowing the children concerned to complete the current school period before return? See optional provision in article 23.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to Art. 11, par. 1, lett. d, national decree shall provide for the stay of the family where there are minors attending the school until the end of the School year.

Solidarity

Q.20. Please describe how your Member State ensures that persons eligible for temporary protection defined in a Council Decision under article 5 and who have not arrived in the Community have expressed their will to be received on their territory? *See mandatory provision in article 25(2).*

There is no specific norms regarding this issue.

Q.21. Questions concerning the transferral between Member States of persons enjoying temporary protection. *See article 26:*

Q.21.A. According to mandatory provision in article 26(1) the Member States shall cooperate with each other with regard to transferral of the residence of persons enjoying temporary protection from one Member State to another, subject to the *consent* of the persons concerned to such transferral.

Does the national law of your Member State comply with article 26(1) regarding the *consent* of the person who are about to be transferred?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

This is clearly stated by Art. 6, par. 4, Lgs. Decree 2003 no. 85.

Q.21.B. Do the national norms of transposition in your Member State comply with article 26(2) stating that a Member State shall communicate requests for transfers to the other Member States and notify the Commission and UNHCR?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There is no specific rule about that.

Q.21.C. According to the national norms of transposition, is your Member State obliged to, at the request of another Member State, provide information as set out in Annex II of the Directive, on a person enjoying temporary protection, which is needed to process a matter of transferral? *(See mandatory provision in article 26(3)).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

According do Art. 4, par. 1, lett. f, Lgs. decree 2003/85, national contact point shall cooperate with other national administration also in order to exchange data. The type of data that shall be exchanged has not been indicated since Annex II has not been transposed. However, the transposition law has been conceived as a general law that needs to be specified by the Decree to be adopted by the President of the Council of Ministers upon occurrence of a temporary protection situazione. Relevant data to be exchanged could, therefore, be identified by this latter.

Q.21.D. According to the national law in your Member State, will the residence permit of a person who is transferred, from your Member State to another Member State, expire? See mandatory provision in article 26(4)

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

There is no specific provision about it. This detail could be provided for by the national decree adopted after the Council decision.

Q.21.E. When a person, who has been enjoying temporary protection in your Member State is transferred to another Member State, will the obligations relating to temporary protection in your Member State come to an end upon the transferral? See mandatory provision in article 26(4)

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

There is no specific provision about it. This detail could be provided for by the national decree adopted after the Council decision. Moreover it could be considered implicit in the measure of transferral.

Q.21.F. If a person, who previously has enjoyed temporary protection in another Member State, is transferred to your Member State, will your Member State grant temporary protection to that person? See mandatory provision in article 26(4), last sentence.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

There is no specific provision about that. National decree implementing Council decision could provide for this issue that it is for sure to be considered under the coordination among member States.

Q.21.G. Will the ‘model pass’ set out in annex I of the Directive be used in a foreseen transferral procedure?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

According to Art. 8, par. 2, Lgs. Decree the model pass shall be used and model is reproduced in the annex I.

Q.22. What authority in your Member State is appointed as national contact point according to the mandatory provision in article 27?

The name and function of the authority is: According to Art. 4, lett. 1, par. f, the national contact point will be decided with the national decree implementing Council decision.

Q.23. Questions regarding exclusion from temporary protection:

Q.23.A. Are there any criteria for exclusion from temporary protection in your Member State? *See optional provision in article 28.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If yes, specify the criteria).

Art. 5, Lgs. decree 2003 no. 85, concerns specifically the "criteria of exclusion"

Q.23.B. If the answer to A. is “yes”, please indicate whether they in any way exceed the exhaustive list of criteria in article 28(1)(a) and (b).

Yes **No**

Explanation:

According to Art. 5, par. 2, also people who have committed some crimes such as those provided for in Art. 380, Procedural criminal code, and crimes connected with immigration or trafficking, are excluded by temporary protection.

Q.23.C. Do the national norms of transposition in your Member State meet the terms in article 28(2) stating that the grounds for exclusion shall be based solely on the personal conduct of the person concerned?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is clearly stated in Art. 5, par. 3, Lgs. decree 2003/85.

Q.23.D. Do the national norms of transposition in your Member State meet the terms of article 28(2) stating that exclusion decisions or measures shall be based on the principle of proportionality?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is clearly stated in Art. 5, par. 3, Lgs. decree 2003/85.

Q.24. Questions concerning the right to legal challenge:

Q.24.A. Do the laws of your Member State allow a person to mount a legal challenge if he/she has been: *See mandatory provision in article 29.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

excluded from the benefit of temporary protection **Yes** **No**

denied family reunification **Yes** **No**

Explanation:

This is clearly stated in Art. 9, Lgs. Decree 2003, no. 85, allowing the appeal against denial of temporary protection and all other measures adopted under that law.

Q.24.B. If the answer on any of the questions in Q.24.A is “yes”, please describe the applicable legal procedures for challenging the decision, in your Member State.

The procedure is that provided for in Art. 6, par. 10, general law on foreigners, allowing the appeal to the Regional Administrative Tribunal where the authority issuing the measure is located. As far as family reunification's measures the means of appeal are those provided for by Art. 30, General law on foreigners, allowing the appeal to the local Tribunal where the foreigner is established.

Q.25. Questions regarding penalties applicable to infringements of the national provisions.

Q.25.A. Are there penalties applicable to infringements of the national provisions in your Member State? *See mandatory provision in article 30.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If yes, specify the penalties).

Q.25.B. Explain if the penalties, according to your opinion, comply with the Directive concerning them being effective, proportionate and dissuasive?
See mandatory provision in article 30.

Final questions

Q.26. Can you refer us to any study, report or research by any source on the practice of granting temporary protection in the event of a mass influx in your Member State?

N. ARENAS, Il sistema di protezione temporanea in caso di afflusso massiccio di sfollati. La direttiva 2001/55/CE, in Rivista italiana di diritto pubblico comunitario, 2005, pp. 1275-1306.

Q.27. Has there been a political or public debate on the implementation of the Directive? If so, please summarize the main issues of the debate

There has not been any public debate nor any specific question was raised in the political arena during the implementation process.

Q.28. Are there any problems of legislation or practice in your Member State which relate to temporary protection and have not been covered in preceding questions?NO.

THIRD PART

IMPACT OF THE DIRECTIVE ON NATIONAL LAW

Q.29 Question regarding the evolution of national law: **Did the transposition of the Directive make the rules related to the protection of third country nationals in cases of a mass influx become, from the point of view of the third-country national concerned, more favourable or less favourable. Please make also a comparison with the standard of the directive in the last column of the table below**

OBJECTIVE <i>To enhance the protection of displaced persons in cases of a mass influx</i>		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
<p>Explain the situation <u>before</u> transposition</p> <p>Before the transposition, only Art. 20, general law on foreigners, provided for temporary protection. It states that the Prime Minister could adopt a decree to receipt those in need of temporary protection for umanitarian reasons, in case of conflicts, natural disasters and other serious events taking place outside the European Union.</p>	<p>Explain the situation <u>after</u> transposition</p> <p>The directive has provided for detailed duties and rights that before where not clearly stated.</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input checked="" type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q. 30. **From your point of view, did the transposition of the directive imply other interesting changes for the third country national concerned regarding other elements than the ones mentioned in the previous question? Please make also a comparison with the standard of the directive in the last column of the table below**

When answering this question, please use one or more of the tables below. If the 3 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE (to be indicated by the national rapporteur) Clear definition of duties and rights of protected person		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
<p>Explain the situation before transposition</p> <p>There were no indication about rights and duties of temporary protected persons. The status had to be defined by a decree to be adopted by the Prime Minister.</p>	<p>Explain the situation after transposition</p> <p>The directive provide for detailed rules and states clear which rights States must guarantee</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input checked="" type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Table 2

OBJECTIVE (to be indicated by the national rapporteur) Reception conditions		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
<p>Explain the situation before transposition</p> <p>There were no specific provision concerning reception of temporary protected persons</p>	<p>Explain the situation after transposition</p> <p>Directive and the Lgs. decree implementing it state clearly which kind of assistance must be provided for by States</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input checked="" type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Table 3

OBJECTIVE (to be indicated by the national rapporteur)		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
Legal remedies			
<p>Explain the situation before transposition</p> <p>There were no specific provisions about legal remedies, although it could be inferred by general rules.</p>	<p>Explain the situation after transposition</p> <p>Directive and national decree of transposition clearly state which legal remedies are available against national measures adopted in case of temporary protection.</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input checked="" type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q.31. A. Question regarding the method of transposition: **Did your Member State copy the provisions of the directive into national legislation without any redrafting or adaptation to national circumstances.**

YES NO

Q.31.B. **If yes, did this method of transposition create any problems (for example difficulties of implementation, risk that a provision remain unapplied).**

YES NO

Q.31.C. **If yes, give some of examples:**

Q.31.D. **If only some provisions of the directive have been copied and if this may create any problem, please quote them and explain the problem.**

Q.32. **Quote interesting decisions of jurisprudence related to the directive, its transposition or implementation (this question concerns in principle decisions after the national norms of transposition entered into force, but decisions prior to that may be quoted if relevant). Quote in particular decisions of supreme Courts; limit yourself to the appeal Courts and ignore the first resort if there are too many decisions at this level, unless there is a certain jurisprudence made of a group of decisions.**

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

DECISION OF SUPREME COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
DECISION OF APPEAL COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
DECISION(S) IN FIRST RESORT	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>

ANY SUPPLEMENTARY COMMENT ABOUT THE TREND OF THE JURISPRUDENCE:

Q.33. Are there any **problems with the translation of the text of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated.**

There are no problems with the translation of the directive.

There are some problems with the translation of the directive.

Explanation: (If there are such problems, please specify the most problematic provisions in the Directive when it comes to translation).

Explain the difficulties that this could create:

ANY OTHER INTERESTING ELEMENT

Q.34. **Following your personal point of view, mention from the point of view of third country nationals and/or from the Member State any interesting or innovative practice in your Member State**

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE OF THE PRACTICE	EXPLANATION

Q.35. Please add here any other interesting element in your Member State which you did not have the opportunity to mention in your previous answers.

It is important to point out that the Directive has been implemented through a Legislative Decree that provides the framework for the system of temporary protection, actually leaving the identification of the relevant issues to the a Decree to be adopted by the President of the Council of Ministers upon occurrence of a temporary protection situation. As a consequence it is difficult to assess compliance of the norms of transposition with the provisions contained in the Directive: that should be clear when the relevant Decree will be firstly adopted.