

**Question for written answer E-003012/2023  
to the Commission**  
Rule 138  
**Laura Ferrara (NI)**

**Subject:** Incompatibility of EU law with national rules on international protection and unaccompanied foreign minors

The Meloni government has vehemently criticised the rulings<sup>1</sup> of Italian judges that override the new national rules on the detention of asylum seekers. These rules allow asylum seekers from safe third countries to be transferred and detained in dedicated closed centres if they cannot provide a financial guarantee of EUR 4 938,00<sup>2</sup>. The judges, citing incompatibility with EU law (Directives 2013/32/EU and 2013/33/EU), the Italian Constitution and the CJEU, refused to validate the detention order and ruled that the migrants be released.

Concerns have been raised as to the compliance of Decree Law No 133/2023 with the principle of the presumption of minority and the risk of violations of rights<sup>3</sup>. The decrees provides that, in the event of substantial influxes of migrants, public safety authorities can organise anthropometric surveys or other health checks to identify a migrant's age. It also introduces differentiated treatment of minors, making it possible for unaccompanied foreign minors from the age of 16 to be housed in sections of centres intended for adults.

Given the above, can the Commission say whether the above-mentioned rules introduced by the Italian Government in the field of immigration and asylum, and in particular those on detention in closed centres and unaccompanied foreign minors, are compatible with EU law, and whether it intends to take action to ensure its proper application?

Submitted: 11.10.2023

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<sup>1</sup> <https://www.asgi.it/asilo-e-protezione-internazionale/pozzallo-le-nuove-norme-sulla-detenzione-per-i-richiedenti-asilo-contrarie-alle-norme-ue-e-alla-costituzione-italiana/>

<sup>2</sup> (Ministerial Decree 14 September 2023), <https://www.gazzettaufficiale.it/eli/id/2023/09/21/23A05308/sg>

<sup>3</sup> <https://www.famigliacristiana.it/articolo/la-denuncia-di-sos-villaggi-dei-bambini-e-gravemente-discriminatorio-accogliere-minori-in-centri-per-adulti.aspx>