

TARGETED STAKEHOLDER CONSULTATION 2021 RULE OF LAW REPORT

UN HUMAN RIGHTS REGIONAL OFFICE FOR EUROPE (OHCHR)

This document presents the UN Human Rights Office's contribution to the targeted stakeholder consultation held by the European Commission in 2021 in the context of the second annual rule of law report.

It is a compilation of information related to Italy, included in reports and documents of United Nations Treaty Bodies, Special Procedures and the Universal Periodic Review of the UN Human Rights Council, presented in a summarized manner. It also refers to statements and reports of the UN High Commissioner for Human Rights and her Office. The cited material covers the period 2018-2020.

It mentions both positive developments and challenges to the rule of law in Italy, as well as recommendations issued by the UN Mechanisms on how these challenges can be addressed and how the rule of law can be further strengthened.

In light of the methodology proposed by the European Commission the submission is divided in four pillars: national justice systems, anti-corruption frameworks, media pluralism and freedom and other institutional issues related to the checks and balances essential to an effective system of democratic governance.

ITALY REVIEW

Justice System

➤ *Independence*

In 2019, several UN Special Procedures mandate-holders, including the Special Rapporteur on the independence of judges and lawyers, entered in dialogue with Italy about reported personal attacks by the then-Minister of the Interior against the judge who released the captain of the humanitarian rescue vessel Sea-Watch 3. The mandate-holders expressed concerns that this would constitute a serious breach of respect for the principle of judicial independence, with effects that could go beyond the particular case at stake. It could deter other judges from adjudicating on similar matters impartially, on the basis of facts and in accordance with the law, and might have the effect of undermining the outcome of criminal proceedings in politically-sensitive cases that may be brought before judicial authorities in the future ([AL ITA 6/2019](#), available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24702>, see also at:

www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24833&LangID=Ein).

➤ **Quality of justice**

In its 2019 report on the mission of a team to Italy, OHCHR noted that access to lawyers was sometimes impeded and that lawyers faced obstacles in their efforts to provide legal assistance to migrants; that access to interpreters was not always available, which impeded reporting of racist hate crimes. Victims also informed that team about challenges in accessing justice as police had sometimes refused to record and investigate their complaints of racist hate crimes, unless they were of very grave nature (available at www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf, para 48, 82).

In the 2019 report on her mission to Italy, the UN Special Rapporteur on contemporary forms of slavery noted that migrant workers are exposed to severe forms of blackmail, based on corruption and on a parallel, criminal system that systematically exploits the vulnerability of migrants and their inability to seek justice by filing complaints against the perpetrators. She noted multiple barriers to the effective investigation and prosecution of slavery in the agrifood sector, such as impediments to gaining access to victims in the field and to their testimonies, in particular among irregular migrant workers; she further noted prosecuting the *caporali* alone was not enough if structural gaps were not adequately addressed. She recommended that the Government: (a) create stronger incentives for reporting labour exploitation by ensuring that victims are not prosecuted and that they receive adequate protection, assistance and a residence permit for social protection, regardless of their cooperation with the investigating authorities; (b) ensure the effectiveness of complaint mechanisms and access to them, by providing information in languages accessible to migrants and legal assistance to facilitate access to justice and remedies for human rights violations; and (c) prosecute perpetrators involved in the criminal infiltration of supply chains ([A/HRC/42/44/Add.1](http://www.ohchr.org/Documents/HRBodies/HRC/2019/A/HRC/42/44/Add.1), para 61, 100, 114).

In its 2019 concluding observations, the UN Committee on the Rights of the Child urged Italy to provide regular substantive training for judges, lawyers, prosecutors, the police and other relevant professional groups on standardized, gender- and child-sensitive procedures for dealing with victims and on how gender stereotyping by the judiciary negatively affects law enforcement ([CRC/C/ITA/CO/5-6](http://www.ohchr.org/Documents/HRBodies/CRC/2019/CRC/C/ITA/CO/5-6), para 22).

In its 2019 report on the mission of a team to Italy, OHCHR noted that with respect to lesbian, gay, bisexual, transgender and intersex (LGBTI) migrants, lawyers reported a lack of specialized training for those conducting asylum interviews, resulting sometimes in inappropriate questioning (available at www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf, para 79).

➤ **Efficiency of the justice system**

In a decision released in January 2021, the UN Human Rights Committee found that Italy had failed to show that it had met its duty to conduct a prompt investigation into allegations relating to the violation of the right to life of more than 200 migrants who were on board a vessel that sank in the Mediterranean Sea in 2013, and had thus violated its obligations the International Covenant on Civil and Political Rights ([CCPR/C/130/DR/3042/2017](http://www.ohchr.org/Documents/HRBodies/HRC/2021/CCPR/C/130/DR/3042/2017), available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CC

[PR/C/10/DR/3042/2017&Lang=en](#); see also at [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26691&LangID=E](#)).

➤ **Other**

In its concluding observations in 2019, the UN Committee on Enforced Disappearances recommended that Italy review its domestic legislation to effectively incorporate the full scope of the definition of victims and to ensure the implementation of the right to receive reparation and the right to know the truth, in line with article 24 of the Convention on Enforced Disappearances ([CED/C/ITA/CO/1](#), para 33).

In its concluding observations in 2019, the UN Committee on Enforced Disappearances recommended that Italy take the measures necessary to prevent the disappearance of migrants, in particular children, and to find the whereabouts of those already missing. It further recommended that Italy take the legislative and administrative measures necessary to establish investigation practices in domestic law, in accordance with articles 10, 11 and 12 of the Convention ([CED/C/ITA/CO/1](#), para 22).

In its 2019 concluding observations, the UN Committee on the Rights of the Child urged Italy to ensure that allegations of crimes relating to gender-based violence, including the trafficking of foreign children, in particular girls, are independently and thoroughly investigated and that perpetrators are brought to justice ([CRC/C/ITA/CO/5-6](#), para 22).

In its 2019 report on the mission of a team to Italy, OHCHR noted that law enforcement officers do not wear visible identification badges or warrant numbers, which makes it difficult for individuals to effectively report misconduct and file complaints, as they are unable to identify the officer(s) involved (available at [www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf](#), para 47).

In its 2019 concluding observations, the UN Committee on the Rights of the Child expressed concern about the numerous cases of children who had been sexually abused by religious personnel of the Catholic church and the low number of investigations and criminal prosecutions. It recommended that Italy establish an independent and impartial commission of inquiry to examine all cases of sexual abuse of children by religious personnel of the Catholic church; and ensure the transparent and effective investigation of all cases of sexual abuse allegedly committed by religious personnel of the Catholic church, the criminal prosecution of alleged perpetrators, the adequate criminal punishment of those found guilty and the compensation and rehabilitation of child victims, including those who have become adults ([CRC/C/ITA/CO/5-6](#), para 21).

Anti-corruption framework

➤ ***The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)***

In its 2019 concluding observations, the UN Committee on the Rights of the Child recommended that Italy strengthen institutional capacities to effectively detect, investigate

and prosecute corruption, and ensure, including through the eradication of corruption in public procurement processes and the overpricing of contracts for the provision of public goods and services, that funds allocated to all programmes supporting the realization of children's rights at the national, regional and local levels are fully and efficiently spent ([CRC/C/ITA/CO/5-6](#), para 8(g)).

➤ **Prevention**

In the 2019 report on her mission to Italy, the UN Special Rapporteur on contemporary forms of slavery noted that migrant workers are exposed to severe forms of blackmail, based on corruption. She recommended that the country ensure that labour inspections are free from corruption and guarantee the safety and security of inspectors and of workers. She further recommended that the Government more effectively address corruption in the administration at various levels to avoid fraudulent practices and ineffective labour inspections ([A/HRC/42/44/Add. 1, para 61, 111, 115](#)).

➤ **Repressive measures**

In its 2019 concluding observations, the UN Committee on Enforced Disappearances recommended that Italy guarantee that law enforcement or security officials who are suspected of having committed the offence of enforced disappearance are suspended and do not take part in the related investigations ([CED/C/ITA/CO/1](#), para 21).

Media pluralism

➤ **Other**

In a 2018 communication, several UN Special Procedures mandate-holders noted information received that journalists had reported increasing difficulties accessing immigration centres and interviewing public officials about migration, that authorities had engaged in practices aimed at discouraging the investigative work of journalists, and that the writer Mr. Roberto Saviano had received verbal threats from the Minister of the Interior about the possible loss of his police protection after he voiced criticism of the Government's anti-immigration policy. The mandate-holders expressed concern at reports alleging multiple attacks, including judicial proceedings and defamation campaigns, implemented by the authorities against migrant rights defenders, including journalists. They also expressed concern that these measures allegedly intended to circumscribe the activities and dissuade civil society, journalists and individual human rights defenders from carrying out their legitimate and necessary activities to provide humanitarian aid to migrants. ([ITA 2/2018](#), available at <https://spcommreports.ohchr.org/TmSearch/Results>).

Other institutional issues related to checks and balances

➤ **The process for preparing and enacting laws**

In 2020, several UN Special Procedures mandate-holders initiated a dialogue with Italy through written communication expressing concern about information received concerning the decision reportedly adopted by the Government to close the country's ports as a measure to fight against the spread of COVID-19 insofar as such a decision may result in preventing people from seeking safety and asylum ([AL IT 3/2020](#) available at <https://spcommreports.ohchr.org/TmSearch/Results>).

➤ ***Independent authorities***

In its 2019 concluding observations, the UN Committee on Enforced Disappearances recommended that Italy expedite the adoption of the law establishing a national human rights institution in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) ([CED/C/ITA/CO/1](#), para 11).

Italy supported the 2019 UPR recommendations on this issue ([A/HRC/43/4/Add.1](#), para 4).

In its 2019 report on the mission of a team to Italy, OHCHR noted that many stakeholders highlighted that the absence of an NHRI is a serious challenge to independent monitoring and civil society engagement. OHCHR also noted that the lack of independence of Italy's National Office Against Racial Discrimination (UNAR) impedes its functioning, and may contribute to underreporting of human rights violations, discourage engagement with victims and civil society, and endanger trust and cooperation available at:

www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf, para 22-23)

➤ ***The enabling framework for civil society***

In 2019-2020 several UN Special Procedures mandate-holders initiated a dialogue in their communications with Italy concerning the criminalisation of human rights defenders carrying out search and rescue operations and incidents of obstruction of search and rescue capacity by the Italian authorities ([ITA 4/2019](#); [ITA 6/2019](#); [ITA 5/2020](#); and [ITA 7/2020](#), all available at <https://spcommreports.ohchr.org/TmSearch/Results>

Italy supported UPR recommendations in 2019 on the issue of de-criminalisation of migrants' rights defenders ([A/HRC/43/4/Add.1](#), para 4).

In her February 2021 global update to the Human Rights Council, the UN High Commissioner for Human Rights expressed concern about measures restricting the work of organizations that protect migrants' rights and deliver life-saving assistance. She noted that criminal or administrative proceedings had been initiated in Italy against humanitarian actors involved in search and rescue in the Mediterranean

(www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26806&LangID=E).