



Comitato per la promozione e protezione dei diritti umani

Member of the FRA Fundamental Rights Platform

Member EU Civil Society Platform Against Trafficking in Human Beings

Accredited Observer to WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)

STATEMENT

IN CONNECTION WITH THE CONSIDERATION OF
ITALY

Universal Periodic Review 34th Session

Geneve, 11th October 2019

delivered by

**Comitato per la promozione e protezione dei
diritti umani (CPPDU)**

Rome, 27th September 2019

A.GE., AGEDO, AGENZIA DELLA PACE, AGESCI, ANANKE, ANFAA, ANOLF, ANTIGONE, ARCHIVIO DISARMO, ARCHIVIO IMMIGRAZIONE, ARCI, ARCIGAY, ARTE PER I DIRITTI UMANI, ARTICOLO 21, ASGI-ASSOCIAZIONE STUDI GIURIDICI SULL'IMMIGRAZIONE, ASSOCIAZIONE CAMPANARI D'ARRONE, ASSOCIAZIONE ELEONORA PIMENTEL, ASSOCIAZIONE ASTRO NASCENTE, ASSOPACE, ASSOCIAZIONE SENZA CONFINI, ATD-QUARTO MONDO, AUCI, AUSER, BANCA ETICA, BE FREE COOPERATIVA SOCIALE, CASA DEI DIRITTI SOCIALI, CGIL, CHIAMALAFRICA, CIAI, CIPAX, CIPSI - COORDINAMENTO DI INIZIATIVE POPOLARI DI SOLIDARIETÀ INTERNAZIONALE, CIR-CONSIGLIO ITALIANO RIFUGIATI, CISL DIPARTIMENTO POLITICHE MIGRATORIE, CISMAI, CISP-COMITATO INTERNAZIONALE SVILUPPO DEI POPOLI, CITTADINANZATTIVA, COMITATO PER I DIRITTI UMANI, COMITATO SINGH MOHINDER, COMITATO UNRWA ITALIA, DISABLED PEOPLES' INTERNATIONAL (DPI) ITALIA, DONNE IN NERO, EMA, FEDERAZIONE CHIESE EVANGELICHE, FEDERAZIONE ITALIANA PER IL SUPERAMENTO DELL'HANDICAP (FISH), FONDAZIONE CENTRO ASTALLI, FONDAZIONE INTERNAZIONALE DON LUIGI DI LIEGRO, FONDAZIONE BASSO-SEZIONE INTERNAZIONALE, FONDAZIONE LABOS, FVGS, GIOVANI PER UN MONDO UNITO, GRUPPO MARTIN BUBER, GUARDAVANTI, ICS-CONSORZIO ITALIANO DI SOLIDARIETÀ, IISMAS-ISTITUTO INTERNAZIONALE SCIENZE MEDICHE ANTROPOLOGICHE E SOCIALI, IMS -INTERNATIONAL MEDICINE SOCIETY, INTERSOS, INTERVITA, IRMA, ISTITUTO COOPERAZIONE ECONOMICA INTERNAZIONALE, ISTITUTO DI MEDICINA DEL SOCCORSO, LABORATORIO DIRITTI UMANI, LA GABBIANELLA, LAW-LEGAL AID WORLDWIDE, LEGAMBIENTE, LEGA INTERNAZIONALE PER I DIRITTI E LA LIBERAZIONE DEI POPOLI, LIBERA, MED.EA, MEDICI CONTRO LA TORTURA, MEDICI PER I DIRITTI UMANI, MOVIMONDO, OLTRE BABEL, OSSIGENO PER L'INFORMAZIONE, PAXCHRISTI, PONTE DELLA MEMORIA, PRO.DO.C.S., PROGETTO CONTINENTI, RETE EDUCARE AI DIRITTI UMANI, SAVE THE CHILDREN ITALIA, TERRE DES HOMMES, UBI MINOR, UDI-UNIONE DONNE IN ITALIA, UIL, UNICEF ITALIA, UNIONE FORENSE PER LA TUTELA DEI DIRITTI UMANI, UNITS, VIDES INTERNAZIONALE, VIS-VOLONTARIATO INTERNAZIONALE PER LO SVILUPPO, WILPF ITALIA-WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM,

WITH THE COLLABORATION OF AMNESTY INTERNATIONAL, FOCSIV, MANI TESE, MEDICI SENZA FRONTIERE,

AND THE CONTRIBUTION OF AIDOS, ASSOCIAZIONE 21 LUGLIO, CASA INTERNAZIONALE DELLE DONNE, CESPI, CINI, CISS, DEFENCE FOR CHILDREN INTERNATIONAL ITALIA, DIFFERENZA DONNA, D.I.R.E., FILOMENA, FONDAZIONE PANGEA, GRUPPO DI LAVORO PER LA CONVENZIONE SUI DIRITTI DELL'INFANZIA E DELL'ADOLESCENZA, IN DIFESA DI, LUCIA Y SIESTA, PARSEC, RETE REAMA, RICERCA E INTERVENTI SOCIALI, SYNERGASIA, TRIBUNALE PERMANENTE DEI POPOLI

The CPPDU is an umbrella organization established in 2002, of Italian NGOs and association active in HR promotion and protection, participating in the two previous UPRs besides contributing regularly with Joint Submissions of Information to the various Treaty Bodies considering Italy. In line with SDGS 10, 16 and 17, our statement will focus on:

- National Human Rights Institutions,
- Freedom of Expression
- Protection of Journalists & Human Rights Defenders

NHRI

Both previous UPRs contained specific recommendations¹. 2 Voluntary Pledges to the HRC. Process started in 2005 and continuously brought ahead with no result, from 2006 up to 2018. Pattern always the same: law proposals approved only in one of the two Chambers, ending up with no NHRI. A new government took office in late August 2019, with two parties that had previously presented two different law proposal.

Considering the present situation of the country, a NHRI is fundamental for providing the appropriate support to the State and dialogue with the civil society in jointly operating in favour of human rights promotion and protection of all.

RECOMMENDATIONS

- 1) *Finally, effectively establish as soon as possible a NHRI in Italy, to be accredited with A Status*
- 2) *Request technical advice to the NHRI Unit of the OHCHR in complying with requirements contained in UN Resolution 48/134.*

Freedom of expression

Both previous UPRs contained specific recommendations not accepted².

Italy is not satisfying UN international standards on information regarding:

- media independence, conflict of interest³ between politics and editorial,
- governance⁴ of the public radio-television service,
- intimidating use of libel laws and protection of journalists from threats on behalf of organized crime⁵.

¹ UPR 1 rec. UPR 2 rec. 145.26/48

² UPR 1 rec. UPR 2 rec. 145.133-135

³ Regarding **conflict of interest** Bressa draft law in 2016 tried to regulate in a more incisive way the conflict of interests and the incompatibility between the elective and governmental offices, approved in one Chamber, never ratified in the other Chamber.

⁴ Regarding **governance of the public broadcasting information service**, the legislation was amended by Parliament with Law No. 220/2015 but not in the sense indicated in the recommendation. In fact, two of the seven members of the Board of Directors are appointed by the Government, two by the Chamber, two by the Senate, one by company employees. Furthermore, the managing director, endowed with extensive powers, is appointed by the Board of Directors, on the advice of the Minister of the Economy. Hence, Italy has not accepted the observations/recommendations of international bodies, by the UN Special Rapporteur on the promotion and protection of the right to freedom, nor those of the OSCE High Representative for the Media and of the Council of Europe's Venice Commission. See <https://www.gazzettaufficiale.it/eli/id/2016/01/15/16G00007/sg>

⁵ Regarding **impunity of the perpetrators of violence and intimidation against journalists**, Ossigeno per l'Informazione, has been monitoring systematically violations, between 2006 and 2018, disclosed in detail over 3700 grave violations, in 2017 published unpublished data about impunity for the perpetrators of violations was very high, equal to 98.3 per cent. In 2018, in a report delivered to UNESCO the NGO has reported a slight but significant improvement in this impunity rate (0.4 per cent) linked to greater awareness due to constant monitoring of the phenomenon, increased determination of the judiciary and investigative apparatus, but however under an unchanged

Legislative and procedural reforms, as per recommendations, still not implemented, are necessary to reduce impunity and curb the continuous flow of violence and abuse⁶.

Some data provided in 2016 by the Ministry of Justice: ⁷

- during 2011-2014, first instance courts sentenced for the crime of libel 155 prison sentences (mostly journalists) per year with an average prison sentence of 8 months (almost always suspended);

- 90 % of the accused (5904 each year) were acquitted, after a 2-4-year trial.

These proceedings are increasing 8% per year, many of which could be avoided if journalists were recognized as exercising the right to information as per art. 10 of the European Convention on Human Rights.

RECOMMENDATIONS

- 1) *Ensure to journalist an adequate legal status protecting them from unfounded proceedings for libel and lawsuits for damages and introduce aggravated sanctions for whoever promotes vexatious defamation proceedings against journalists.*

Protection of Journalists and Human Rights Defenders

Previous UPR exercises did not have direct recommendations on HRDs but Italy last formal pledge to the HRC expressed its commitment. Nevertheless, UPR 2⁸ contains elements tightly linked to this issue, with reference to migrants, refugees and asylum seekers.

Since 2017, the situation in Italy shows the need for a clear policy ensuring protection of HRDs including journalists and media operators.

Regarding **journalists**, security forces protect 585 high-risk personalities with armoured cars and armed escort, only 21 are journalists. Another 170 journalists are protected by agents monitoring their homes/jobs while thousands of journalists have no protection.

Regarding **HRDs**, the situation has been denounced also in the Report on defenders of the rights of the “people on the move” by the Special Rapporteur to the UN on “Human Rights Defenders” Michael Forst.⁹

Over the last few years, restrictions and intimidation against those acting in solidarity and in defence of migrants' rights, including NGOs and associations have increased in Italy.

False claims against NGOs, accused of collusion with traffickers, of being a "pull factor" of migrations, spread through press campaigns, statements by political leaders members of preceding governments and magistrates, leading to the imposition of an NGO code of conduct by the Ministers of Interior in 2017 and 2019, in a climate of increasing demonization of migrants, to the

legislation. See <https://www.ossigeno.info/983-e-il-tasso-di-impunita-in-italia-misurato-da-ossigeno/> - see also <https://www.ossigeno.info/unesco-nel-mondo-uccisi-1010-giornalisti-impunita-90/>

⁶ As documented through the monitoring carried out by Ossigeno per l'Informazione, and highlighting the need for a change in the highly punitive laws against journalists and the full legal recognition of the prerogatives that must also be recognized at judicial level to those who provide journalistic information in the public interest by exercising rights within the limits set by Article 10 of the European Convention Human rights. In this direction, the Costa bill has been discussed from 2013 to 2017, without approval. See http://leg17.senato.it/japp/bgt/showdoc/17/DDLPRES/0/928764/index.html?part=ddlpres_ddlpres1-articolato_articolato1

⁷ see <http://www.fnsi.it/upload/70/70efdf2ec9b086079795c442636b55fb/5080171d308ac9a4c6efaf35a2eba73c.pdf>

⁸ rec. 145.54, 61, 91-93, 126-128, 174-176, 179-180

⁹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/008/51/PDF/G1800851.pdf?OpenElement>

extent of considering "criminal", "illegal" and contrary to the "national interest" those who save lives or protect human rights of migrants.

The present government has announced the intention to make significant changes in dealing with migration and committing itself to "revise" the two Security Decrees issued by the former Minister of Interior apparently with regard to amounts of fines for NGOs but not allowing them to disembark rescued migrants unless prior resettlement agreements with EU member states are concluded. Hindrances to the exercise of the duty to rescue migrants at sea are going to remain, as witnessed in the recent cases of the Alan Kurdi and the Ocean Viking vessels.

In this framework, ports closure policy, Directives and Decree on Security and Immigration n. 53/2019 (Decreto Sicurezza bis) – an attack on constitutional freedom and ICCPR, criminalization of NGOs, of reception and intimidation of the judiciary, are among the serious issues at stake, analysed with data in detail in the *Fourth Monitoring Report "Italy Eight Years Recommendations of the Human Rights Council"*, of the Comitato per la promozione e protezione dei diritti umani.

RECOMMENDATIONS

- 1) *Ensure protection to all journalists at risk.*
- 2) *Ensure HRDs can operate freely, in a safe environment, not criminalized/delegitimized for their activities in defence of HR and of "people on the move".*
- 3) *Indicate how Italy intends to follow up on the Special Rapporteur's recommendations on criminalization of defenders of migrant rights.*
- 4) *Review, if not abolish, Salvini's decrees and implement measure to prevent possible future abuses of the executive power against CSOs.*
- 5) *Comply with international obligations, considering the reiterated call on Libya, the EU and Italy, on behalf of the UN High Commissioner for Human Rights to urgently take steps to ensure NGOs can resume safely search & rescue operations in the Mediterranean Seas, in respect of international law.*