



Joint submission for the UPR of Italy

Submitted by:

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I. Introduction

1. Italy is implementing its third National Action Plan for the implementation of the Security Council resolution 1325/2000 (UNSCR1325) and subsequent related resolutions (NAP1325), which covers the period 2016-2019. Prevention is one of the essential pillars of the Women, Peace and Security agenda. This includes taking effective measures to prevent any form of gender-based violence. As recalled by the Organization for Security and Cooperation in Europe (OSCE), national implementation strategies of the Women, Peace and Security agenda are relevant for all countries and should always ensure that countries' own domestic policies are in line with UNSCR1325 and subsequent related resolutions.

II. Loosening of regulations for the acquisition and use of guns

2. Effective gun control laws are key factors to prevent violence against women, including femicides. Possession of a firearm is a risk factor in cases of domestic violence and in case of recidivism. In fact, the Spousal Assault Risk Assessment method (SARA method) for the assessment of the risk of recidivism in cases of intimate partner violence lists as a risk indicator the possession of a weapon, even if legally held.¹ Firearms are correlated with a generalised culture of violence. Firearms' accessibility and availability can facilitate or exacerbate violence against women in a country where gender equality, especially in practice, is still a challenge for the majority of women.

3. According to data from the latest (2014) Survey on women's safety carried out by the Italian National Institute of Statistics (ISTAT), in the course of their lives just under 7 million women in Italy between 16 and 70 years of age (6,788,000), almost one in three (31.5%), report having been subjected to some form of physical or sexual abuse.² In 2015, EURES reported that firearms were used in 28 % of cases of domestic violence against women resulting in death between 2010 and

1 <http://www.ingenere.it/articoli/pistola-non-rende-casa-piu-sicura> .

2 Femicide, The final report of the first Italian Joint Committee of Inquiry. Data and Statistics, page 2, available at:

https://www.senato.it/application/xmanager/projects/leg18/English_Focus_Femicide_1.pdf .

2014, representing the third most common weapon in femicides in Italy.³ In 2018 alone, 28 femicides were committed with legally held firearms.⁴

4. The Ministry of Interior, which collects administrative data on homicides, does not collect disaggregated data on gender-based killings, nor does it provide figures to understand how many gender-based homicides are committed with firearms. Moreover, the Ministry does not publish information on the exact number of firearms in circulation in Italy, not even the total number of licences issued and still valid. In 2018, Small Arms Survey reported 8,600,000 as the estimated total civilian-held legal and illicit firearms in Italy in 2017.⁵

5. Both the National Action Plan on violence against women and the NAP1325 pay no attention to the correlations between violence against women and notably femicides committed with firearms.

6. The loosening of legislation regulating the acquisition and use of guns in Italy is of serious concerns. In 2018, the government loosened the country's gun control regulations.⁶ A legislative decree doubled the number of 'sport' weapons that licensed citizens could own; the category of sport weapons includes some semiautomatic weapons such as several models of the AR-15, an assault rifle. It also loosened limits on magazine capacity.⁷

3 <http://www.quotidianosanita.it/allegati/allegato4803121.pdf> . Note: Femicides are a form of gender-related killings which are those killings that have as main motive or cause gender-based discrimination, for more information see "Gender-Related Killings of Women and Girls", United Nations Office of the High Commissioner for Human Rights, available at: https://www.ohchr.org/Documents/Issues/Women/WRGS/OnePagers/Gender_motivated_killings.pdf .

4 <https://addioallearmi.it/femminicidi-armi-legalmente-detenute/> .

5 Estimating Global Civilian Held Firearms Numbers, Briefing Paper, June 2018, available at: <http://www.smallarmssurvey.org/fileadmin/docs/T-Briefing-Papers/SAS-BP-Civilian-Firearms-Numbers.pdf> .

6 "Italy Loosens Gun Laws as Matteo Salvini Polishes His Tough Guy Image", available at: <https://www.nytimes.com/2018/11/07/world/europe/italy-gun-laws-matteo-salvini.html>

7. "Major updates to their gun control were:

- previous 6 sporting guns allowed, now 12 sporting guns allowed;
- magazine capacity for long guns from 5 rounds to 10, and from 15 rounds to 20 for "short firearms";
- Hunting and sporting licenses have been reduced from 6 years to 5 years;
- Reporting of the license directly to the police departments can now be done through certified email;
- No legal obligation to inform cohabitants of your firearm possession;
- Introduces to sport shooters authorization to purchase A6 and A7 class weapons;

7. In November 2018, the New York times reported that “the number of sport shooting licenses – the license of choice for ordinary citizens who want to keep a gun at home for self-defence – has skyrocketed from approximately 400,000 in 2014 to nearly 600,000 this year.”⁸ According to Giorgio Beretta, an arms trade analyst for the Permanent Observatory on Light Weapons and Security and Defence Policies (*Osservatorio permanente sulle armi leggere e le politiche di sicurezza e difesa*, OPAL), more than half of those who hold this licence do not carry out any sport activity, not even occasionally.⁹

8. The surge in gun ownership is in good part fuelled by an amplified climate of fear, insecurity and anti-immigrant sentiments. Even though the crime rate in Italy has been falling for years, there is a growing sense of fear and insecurity. Seeking to mobilise the voting public, right-wing politicians deploy narratives about the supposed threat posed by the criminal tendencies of migrants’ and refugees.’ Biased media reports and so-called ‘fake news’ further contribute to increased sentiments of insecurity and a perceived ‘threat’ from migrants and refugees.

III. Concerns around the new self-defence legislation

9. A new law on self-defence was presented by the right-wing political party *LeGa*; it aims to amend a law of 2006, which had been drafted on the basis of a proposal by the same political party,¹⁰ and further broadens the legal grounds for private persons to apply lethal force for self-defence. The new law on self-defence was adopted by the Parliament in March 2019.

– Hunting with semiautomatic rifles is now permitted.” See <http://libertyhangout.org/2018/11/italy-loosens-gun-laws-legalizes-ar-15-rifles/>

⁸ <https://www.nytimes.com/2018/11/07/world/europe/italy-gun-laws-matteo-salvini.html>

⁹ Quanti armi circolano in Italia | Intervista a Giorgio Beretta “Se pensiamo che le due principali associazioni sportive, l’Unione Italiana Tiro a Segno (Uits) e la Federazione Italiana Tiro a Volo (Fitav), dichiarano di non superare nel loro insieme i 100 mila tesserati e anche ammettendo che altrettanti siano gli iscritti ad altre associazioni e ai poligoni di tiro privati, resta il fatto che più della metà di coloro che detengono questa licenza non svolgono, nemmeno saltuariamente, alcuna pratica sportiva. Essendo questa licenza, insieme col nulla osta, la più semplice da ottenere è evidente che l’intenzione di gran parte dei richiedenti non è quella di praticare uno sport, bensì di poter avere delle armi a disposizione.” <http://www.today.it/cronaca/armi-italia-intervista-beretta-opal.html/pag/2> .

¹⁰ <http://news.bbc.co.uk/2/hi/europe/4645228.stm> .

10. Self-defence in Italy is currently regulated by Article 52 of the Italian Criminal Code. This provision establishes that those who resort to self-defence, when such a response is needed in the face of a clear threat, cannot be punished. However, the defence must be proportional to the offense. The 2006 law amended this provision and increased the possibility to lawfully resort to self-defence by including the risk of threat and the possibility to use firearms in cases of trespass. The recently adopted law widens even more the legal grounds for self-defence. More specifically, it aims to make it lawful in any case to react against - and even shoot - anyone who enters one's private property (whether this is a house, a plot of land, or a shop), regardless of whether this act of trespassing endangers one's physical safety. Article 1 states that "defence is *always* legitimate" (emphasis added), modifying Article 52 of the Criminal Code, and provides that "the proportionality always exists" between the offence and the defence, making the latter not punishable. Moreover, those who suffer aggression can defend themselves even in the face of the simple 'threat of the use of weapons.' This law will encourage more people to 'take justice in their own hands'.¹¹

11. In its General Comment 36 on the right to life, the UN Human Rights Committee recalled that in order not to be qualified as an arbitrary deprivation of life under article 6 of the Covenant on Civil and Political Rights (ICCPR), "(...) the application of potentially lethal force by a private person acting in self defence, or by another person coming to his or her defence, must be strictly necessary in view of the threat posed by the attacker; it must represent a method of last resort after other alternatives have been exhausted or deemed inadequate; the amount of force applied cannot exceed the amount strictly needed for responding to the threat; the force applied must be carefully directed only against the attacker; and the threat responded to must involve imminent death or serious injury."¹² The approach of the law on self-defence is completely at odds with Article 6.1 of the ICCPR and with the principles of proportionality and strict necessity in acts of self-defence by private persons.

12. In a report to the Human Rights Council, OHCHR concluded that "Firearms-related violence and insecurity therefore pose direct risks to the rights to life, security and physical integrity, and also affect other civil, political, social, economic and cultural rights such as the rights to health, education,

11 For more information, see 'Passport to Murder': Changing Self-Defense Law Would Endanger Italians

<https://www.liberties.eu/en/news/self-defence-antigone-petition-stop-far-west-italy/15570> .

12 General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, para. 12, available at:

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf .

an adequate standard of living and social security and the right to participate in cultural life (see A/54/2000, paras. 238-239 and E/CN.4/Sub.2/2002/39, para. 16). Given the potential harm and devastating impact of the misuse of firearms on the enjoyment of human rights, public policies with respect to civilian access to firearms should be reviewed and formulated through a human rights lens.¹³

13. In 2014, Italy voted in favour of Human Rights Council resolution 26/16 on “Human rights and the regulation of civilian acquisition, possession and use of firearms”, which, among other things, “calls upon all States to take appropriate legislative, administrative and other measures, consistent with international human rights law and their constitutional frameworks, in order to ensure that civilian acquisition, possession and use of firearms are effectively regulated with the aim of enhancing the protection of the human rights, in particular the right to life and security of person, of all.”¹⁴ Yet, through the above-mentioned measures, Italy is taking actions that run counter these recommendations.

Recommendations

14. Italy should:

- a. Review and amend the legislation on self-defence to bring it in line with international human rights standards, including Article 6 of the International Covenant on Civil and Political Rights, particularly with the standards of proportionality and strict necessity in acts of self-defence by private persons;
- b. Adopt a tight regulation of firearms, including by repealing the recent legislation that fosters arms proliferation;
- c. Assess each sport shooting license application carefully, including to ascertain whether it is indeed linked to the exercise of a sport activity;
- d. Publish data on the number of sport shooting licenses, hunting licences, and other firearms licences issued and still valid as well as sex-disaggregated data on the possession of firearms;
- e. Ensure that the Ministry of Interior collect and publish administrative data on femicides and other gender-based killings and data on the potential correlation between gender-based homicides and the weapon used to kill the victim;

¹³ “Human rights and the regulation of civilian acquisition, possession and use of firearms. Report of the United Nations High Commissioner for Human Rights.”, UN Index: A/HRC/32/21, 15 April 2016, paragraph 52.

¹⁴ Operative paragraph 2.

- f. Support civil society groups that carry out awareness raising campaigns about the risks associated to violence against women, threats and gender-based killings with an increase of weapon licence ownerships;
- g. Fund research on the link between firearms and arms in general and gender-based killings and gender-based violence;
- h. Implement positive awareness-raising campaigns, together with civil society, counteracting fearful tendencies and stereotypes against refugees and migrants.

IV. Human rights impact of Italy's arms transfers

15. Italy is a State Party to the Arms Trade Treaty (ATT) and is further bound by the European Union's Code of Conduct on Arms Exports.¹⁵ It supported the call for the inclusion of provisions around gender-based violence during the drafting of the Treaty. Italy's arms export control is based on Law 9 July 1990, n. 185, as updated by Legislative Decree 105 of 2012.)¹⁶

16. The Stockholm International Peace Research Institute (SIPRI) ranks Italy as the 9th largest arms exporters for the period 2014-2019.¹⁷ According to the SIPRI arms transfers database, between 2007-11 and 2012-16 Italian arms exports increased by 22%, which includes transfers mainly to the UAE, Turkey, Algeria, India, Pakistan, Israel and Saudi Arabia. From the government's annual report to Parliament "on operations authorised and carried out concerning the control of export, import and transit of weapons materials" (data relating to 2017) it is possible to ascertain that arms transfers were made to countries such as Qatar, Turkey, Pakistan, UAE, Saudi Arabia, Kuwait, and Egypt. Over the last two years for which data is available, the government issued a total amount of 25 billion EUR of licences (top two years in history); a great part of destination countries are authoritarian regimes. The real export (i.e. after production, so with actual deliveries) is about 3 billion EUR per year.

17. In the following paragraphs, we describe arms export agreements between Italy and countries involved in the Yemen conflict, including Saudi Arabia, as well as Niger. These raise significant human

15 See, European Union Adopts Code of Conduct on Arms Sales, at: https://www.armscontrol.org/act/1998_05/wb2my98.

16 Nuove norme sul controllo dell'esportazione, importazione e transito dei materiali di armamento (1) (2) (3), Legge 9 luglio 1990 n.185, at http://www.difesa.it/Legislazione/Norme_in_rete/Pagine/urn_nir_parlamento_legge_1990-07-09_185_28_02_200501_06_2011_15_07_28.aspx.

17 https://www.sipri.org/sites/default/files/2019-03/fs_1903_at_2018_0.pdf.

rights concerns, including but not limited to facilitating gender-based violence. For additional information on concerns relating to arms transfers, please see also WILPF's report "The Impact of Italy's Arms Transfers on Women, Shadow report to the CEDAW Committee",¹⁸ sent as an Annex.

18. Since 2015, the Saudi-led coalition, which notably includes Kuwait, and the UAE, has been involved in the Yemen conflict and have made widespread use of explosive weapons that have a wide area impact in populated areas. Qatar was a member of the Saudi-led coalition until June 2017.

19. Women and girls are disproportionately affected by the use of explosive weapons in populated areas. Parties in the Yemen conflict often use heavy explosive weapons, including aircraft bombs, rockets and artillery, to carry out attacks in, on and around residential areas and civilian objects. A UN panel investigating the Saudi-led bombing campaign in Yemen has uncovered "widespread and systematic" attacks on civilian targets.

20. A 2016 report by the Control Arms Coalition lists Italy among the countries having reported licences and sales to Saudi Arabia worth more than USD 25 billion in 2015, including for drones, bombs, torpedoes, rockets and missiles. These are the types of arms being used by Saudi Arabia and its allies in the conflict in Yemen.

21. According to that report, "Italian arms manufacturer RWM Italia transferred at least six shipments of Mark-80 series bombs to Saudi Arabia in 2015 and January 2016. According to official statistics, between January and November 2015, Italy exported USD 39.7m (EUR 37.2m) worth of arms, ammunition and spare parts to Saudi Arabia."¹⁹ In 2016, Italy authorised arms transfers for EUR 427,5 million to Saudi Arabia, which ranked 6th on the list of more than 82 countries recipient of licenses for Italian weapons exports. Arms shipments to Saudi Arabia continued in 2017 and in 2018 while no new licenses were issued in 2018. In 2016, Kuwait was the biggest end user of Italian arms licenses, Italy having authorised a EUR 7.3 billion contract with Kuwait for 28 Eurofighters that year. The Eurofighters jets are produced by the Italian global hi-tech company *Leonardo S.p.A*, which is partially owned by the Italian government through the Ministry of Economy and Finance. In June 2016, the Italian Minister of Defence also proudly announced a mega-deal with the Qatari government,

18 https://wilpf.org/wilpf_publications/the-impact-of-italys-arms-transfers-on-women/ .

19 https://www.amnesty.org.uk/files/webfm/Documents/issues/att_monitor_case_study_2_-_saudi_arabia_-_final_version.pdf?4MD5MH6FuNH8AYULhXQj5Xvw5mHijPQZ .

celebrating the sale of seven naval vessels from Italy's *Fincantieri* shipyard as part of the nation's largest ever naval export sale, a contract worth some 5 billion EUR. The Minister described the sale as "the greatest objective ever reached by the Italian navy in terms of international cooperation."²⁰ The deal involved the company *Leonardo* S.p.A., which provided all of the combat systems for the vessels in return for a third of the contract share. The production of the vessels began in 2017.

22. Italy also authorised, among others, licenses for arms exports to the UAE for nearly EUR 60 million in 2016. According to the Centre for International Policy, the UAE has played a central role in the Saudi-led coalition in Yemen. It has more than twice as many ground troops as any other member of the Saudi-led coalition and it has contributed ships to the naval blockade of Yemen. The blockade has been a major contributor to the humanitarian crisis in Yemen.

23. On 8 October 2016, an airstrike allegedly by the Saudi-led military coalition struck the village of Deir AlHajari in Northwest Yemen. The airstrike killed a family of six, including the pregnant mother and four children. At the site of the airstrike, remnants of the bomb were found, including a suspension lug manufactured by RWM Italia S.p.A., a subsidiary of the German arms manufacturer Rheinmetall AG. In 2018, civil society organisations filed a criminal complaint with the public prosecutor of Rome against managers of RWM Italia S.p.A. and senior officials of Italy's national authority for the export of armament (UAMA).²¹

24. On 26 September 2017, an agreement was made between Italy and Niger supposedly to strengthen cooperation between the two countries on migrant flows management, defence and security.²² The agreement was not submitted to the Italian Parliament for ratification despite a requirement to do so contained Article 80 of the Italian Constitution in relation to international agreements; the agreement was not published either. Using the Freedom of Information Act, the organisations CILD, ASGI and *Rete Disarmo* requested access to the content of the agreement. In

20 Italy arms deals with Qatar fuel furore, at: <http://www.italianinsider.it/?q=node/546>; see also UPDATE 2- Italy's Fincantieri signs 4 bln euro deal to build ships for Qatar, at: <http://www.reuters.com/article/italy-qatar-fincantieri-idUSL8N1984VR> .

21 <https://www.ecchr.eu/nc/en/press-release/are-arms-manufacturer-and-italian-authorities-complicit-in-deadly-saudi-coalition-airstrike-in-yemen/> .

22 See, for example, https://www.open.online/mondo/2019/02/07/news/italia_niger_svelato_l_accordo_le_ong_e_per_il_business_delle_armi-136248/; and <https://www.asgi.it/approfondimenti-speciali/niger-italia-armi-immigrazione/> .

February 2019, they succeeded in their bid to be granted access to it, notwithstanding opposition from the Italian government, which was invoking security concerns and risks of detriment to international relations. However, it appears that the Lazio Regional Administrative Court did not order the disclosure of the contents of the letters that constitute the real legal basis for cooperation between Italy and Niger, which means that neither civil society nor Italian MPs know what is in them.²³

25. The agreement opens the door to simplified exports of arms and defence equipment. It allows the transfer of military equipment from Italy and allows private individuals to export military equipment, circumventing arms trade rules. It makes Niger a contracting country, which reduces arms export controls.²⁴ The lack of transparency in this agreement contradicts Italy's obligations as a State party to the ATT.

The need for a tighter arms transfers regulation

26. Italy must take effective measures to prevent that the transfer of weapons facilitates or exacerbates gender-based violence or violence against women in other countries. Doing so is also consistent with the obligations under the ATT as well as commitments in Italy's National Action Plan 1325 and in its pledges for election to the UN Human Rights Council such as to: strengthen its efforts to prevent and protect women and girls affected by conflict and post-conflict, from all forms of discrimination and violence, and to hold perpetrators accountable; contribute to eradication of sexual violence in conflict and post-conflict settings; and protect human rights of women, children and the most vulnerable groups, affected by conflict and post-conflict, by helping to ensure their safety, physical and mental health, well-being, economic security, and equality. In 2017, the CEDAW Committee expressed concerns about Italy's arms exports, including to conflict zones, and on the absence of a specific mechanism for gender-based violence risk assessments and made specific recommendations in this regard.²⁵

23 <https://www.liberties.eu/en/news/civic-access-italy-niger-agreement/16975> .

24 <https://www.ilfattoquotidiano.it/2019/02/06/italia-niger-asgi-svela-il-trattato-secretato-e-copia-e-incolla-previste-navi-ma-non-ce-mare-il-governo-pubblichi-lettere/4952433/> .

25 "The Committee recommends that legislation regulating arms export control be harmonized with article 7 (4) of the Arms Trade Treaty and with Council Common Position 2008/944/CFSP of the Council of the European Union defining common rules governing control of exports of military technology and equipment. It also recommends that the State party integrate a gender dimension into its strategic dialogues with countries purchasing Italian arms and that, before export licences are granted, comprehensive and transparent assessments be conducted of the impact that the misuse of small arms and light weapons has on women, including those living in conflict zones. paragraph 20 of CEDAW/C/ITA/CO/7; see also:

27. Italian organisations, such as the *Rete Italiana per il Disarmo*, have been urging greater and more thorough parliamentary scrutiny of both the government's annual report and arms transfers authorised by the government. This includes ensuring greater transparency in the government's annual report to Parliament on arms transfers.

28. In February 2019, a Senator presented to the Senate a bill²⁶ that aims at, *inter alia*, re-establishing an inter-ministerial committee to review requests for arms transfers, promoting measures to convert military equipment for public utility purposes, introducing clearer and more stringent criteria for transfers, and of an explicit reference to the criteria of the ATT.

Recommendations

29. Italy should:

- a. Suspend immediately arms transfers to countries involved in the coalition in Yemen and to any other country where there is a *risk* that arms might be used to facilitate or commit serious violations of international human rights law and international humanitarian law, in line with its obligations under the Arms Trade Treaty (ATT) and the EU Common Position for the control of military exports;
- b. Conduct rigorous and transparent gendered impact assessments of international transfers of arms by adopting national legislation and policies to this effect, developed in full consultation with civil society organisations, in order to fully implement Italy's obligations under CEDAW, the ATT, and the EU Common Position for the control of military exports.²⁷ This requires the inclusion of specific criteria for analysing whether any arms transfers being assessed as well as the granting of licenses on production facilities will facilitate or contribute to gender-based violence or violence against women by the recipient;
- c. Deny authorisation of any arms sales or transfers when there is a *risk* that they would be used to commit or facilitate acts of gender-based violence or where there are widespread or serious violations of women's human rights, including acts of gender-based violence;²⁸

<https://wilpf.org/cedaw-committee-recommends-more-stringent-regulation-of-italys-arms-exports/>
26 <https://www.luccaindiretta.it/politica/item/137619-senatore-ferrara-m5s-presenta-disegno-di-legge-contro-la-vendita-di-armi-a-paesi-in-guerra.html> .

27 https://eeas.europa.eu/headquarters/headquarters-homepage/57407/eu-statement-arms-trade-treaty-working-group-effective-treaty-implementation-geneva-29--30_en .

28 It is important to underscore that risk assessments required by the ATT assess just that – the risk that the arms in question will be used in any of the ways prohibited by the Treaty. It is not necessary

- d. Improve overall transparency around arms transfer decisions, including by providing transparent, comprehensive, and timely reports of arms export decisions and the rationale for allowing transfers to states with poor human rights records, and create opportunities for public debate and input as well as possibilities for judicial review of export licences;
- e. Refrain from using development and cooperation or similar agreements to circumvent arms export controls;
- f. Ensure that the adoption of robust and effective arms policies are included in the list of legislative level measures to be taken to prohibit all forms of gender-based violence;
- g. Promote policies, including legislative measures, for industrial reconversion from military to civilian purposes;
- h. Align Italy's defence and security policies, as well as the foreign ministry's and economic ministry's policies with the Women, Peace and Security Agenda and Italy's National Action Plan on Security Council resolution 1325, including through strengthening policy coherence on conflict prevention and the SDG implementation around SDGs 5, 16, and 17.

V. Concerns around the response to migration flows

30. Through a combination of political pressure, financial incentives and military assistance, the EU has tried to induce transit countries in the Sahel to close their borders to Europe-bound migrants.²⁹ As part of this, Italy has increasingly adopted deterrence measures to prevent sea arrivals of migrants; these have included the signing of cooperation and development agreements with countries in Africa which are, in fact, focused on controlling and stopping migration.

31. After the closure of ports to vessels carrying migrants, including asylum seekers, and the reduction of search and rescue operations at sea,³⁰ the government adopted a restrictive approach to

to establish the direct presence of a transferred item as having been used in a specific act in order to prevent future transfers of the same item. If the risk alone is high enough, the transfer must be denied.

29 See, for example, Villa, M., Gruijters, R. and Steinhilper, E. (2018) 'Outsourcing European Border Control: Recent Trends in Departures, Deaths and Search and Rescue Activities in the Central Mediterranean'. Available at: <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2018/09/outsourcing> .

30 <https://www.ispionline.it/en/publication/sea-arrivals-italy-cost-deterrence-policies-21367> .

internal legislation, reforming the architecture of the Italian system of international protection for asylum.

32. In September 2018, the Italian Council of Ministers unanimously adopted a new Decree-law 113/2018 on Immigration and Security. Strongly endorsed by the Minister of the Interior Matteo Salvini, leader of the right-wing political party *Lega*, it represents a crackdown on migrants and asylum seekers. The decree contains ‘urgent measures’ on international protection and immigration, as well as on public security, prevention of terrorism and organised crime. It was converted, with some amendments, into Law 132 of 1 December 2018.³¹ As noted by Professor Cecilia Corsi, the decree “weighs very heavily upon legal provisions and protections for migrants in Italy, particularly for migrants seeking asylum. The principal changes are both substantive (the abolition of humanitarian protection) and procedural (the introduction of accelerated procedures and new grounds for detention of individuals seeking asylum), as well as the modalities of reception. There is a wide debate concerning the dubious constitutionality of this legislative measure, not only in relation to its contents, but also to the methods with which it was approved.”³²

33. The decree, *inter alia*, modifies the System for the Protection of Asylum Seekers and Refugees (SPRAR) managed by local authorities making it available only to adults who had already been granted international protection and to unaccompanied minors; while asylum seekers will be hosted in collective reception centres (CARA, CDA) or temporary reception centres (CAS), with access to only a basic level of reception. The decree also extends the period of detention of asylum seekers and migrants at so-called repatriation centres (*Centri di permanenza per il rimpatrio*, CPR).

34. Moreover, while stating that the residence permit for asylum constitutes an identification document, it establishes that it does not constitute a valid document for the registration of asylum seekers in the civil registry of municipalities. This is particularly concerning as the registration at the civil registry is the ‘access key’ to fundamental rights and services and can affect asylum seekers’

31 <https://www.gazzettaufficiale.it/eli/id/2018/10/04/18G00140/sg> .

32 See “Evaluating the ‘Salvini Decree’: Doubts of constitutional legitimacy,” by Cecilia Corsi, EUI, available at: <http://cadmus.eui.eu/bitstream/handle/1814/61784/QM-AX-19-006-EN-N.pdf?sequence=1&isAllowed=y> . See also Italian Mayors, Lawmakers Call Security Decree Unconstitutional, available at: <https://www.voanews.com/a/italian-mayors-lawmakers-call-security-decree-unconstitutional-/4737739.html> ,

ability to rent accommodation, enrol in public schools and nursery schools.³³ Some city mayors have proceeded with the registration of asylum seekers even after the adoption of the decree.³⁴ In March 2019, the *Tribunale di Firenze* upheld an appeal by an asylum seeker whom had been refused registration in the registry of the resident population of the municipality of *Scandicci*, in whose reception centre he was hosted. The court ordered to the municipality his immediate registration.³⁵

35. The UNHCR and the Council of Europe Commissioner for Human Rights are among those to have expressed concerns about the decree.³⁶ On 12 November 2018, several UN Special Procedures sent to the Italian government a detailed communication with concerns relating to the adverse implications of the implementation of the decree on the rights of migrants, including victims or potential victims of trafficking in persons, as well as to the continuing smear campaigns against civil society organisations engaged in search and rescue operations in the Mediterranean Sea and the criminalisation of the work of migrant rights defenders.³⁷

33 Morozzo della Rocca P., “Residenza, dimora, domicilio e condizione alloggiativa nella disciplina del permesso di soggiorno”, in *Diritto, Immigrazione e Cittadinanza*, Fascicolo n.1/2019. <https://www.dirittoimmigrazionecittadinanza.it/archivio-saggi-commenti/saggi/fascicolo-n-1-2019-1/360-residenza-dimora-domicilio-e-condizione-alloggiativa-nella-disciplina-del-permesso-di-soggiorno> .

34 See, for example, “Decreto sicurezza, la rivolta dei sindaci. Salvini: “Ne risponderanno legalmente” Palermo e Napoli guidano la fronda: stop alla norma che impedisce di dare la residenza ai richiedenti asilo”, available at: <https://www.lastampa.it/2019/01/03/italia/decreto-sicurezza-la-rivolta-dei-sindaci-salvini-ne-risponderanno-legalmente-lN8LdNArbEaIIKokuUQdP/pagina.html>

35 See (...) “il Tribunale dà atto del fatto che “ogni richiedente asilo, una volta che abbia presentato la domanda di protezione internazionale, deve intendersi comunque regolarmente soggiornante” sul territorio dello Stato quantomeno per il tempo occorrente ad accertare il diritto alla protezione pretesa e che “la regolarità del soggiorno sul piano documentale” può essere comprovata, oltre che dal permesso di soggiorno, di cui la norma in commento esclude la spendibilità, da ulteriori e diversi documenti quali ad esempio “gli atti inerenti l’avvio del procedimento volto al riconoscimento della fondatezza della pretesa di protezione ed in particolare attraverso il cd. “modello C3”, e/o mediante il documento nel quale la questura attesta che il richiedente ha formalizzato l’istanza di protezione internazionale” in “Tribunale di Firenze: i richiedenti asilo hanno diritto all’iscrizione anagrafica” available at: <https://www.asgi.it/asilo-e-protezione-internazionale/tribunale-di-firenze-i-richiedenti-asilo-hanno-diritto-alliscrizione-anagrafica/> .

36 See <https://www.infomigrants.net/en/post/13382/council-of-europe-italian-security-decree-a-step-backwards>. See also, <https://ec.europa.eu/migrant-integration/news/council-of-europe-concerned-by-consequences-of-italian-government-actions> and <https://ec.europa.eu/migrant-integration/news/controversial-decree-in-italy-to-abolish-humanitarian-protection-make-naturalised-citizens-less-equal> .

37 See communication by The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Independent Expert on human rights and international solidarity; the Special Rapporteur on the

36. Moreover, Italy, with backing from the EU,³⁸ has been outsourcing its border control to Libya by funding immigration detention centres under the pretext that such centres deter trafficking.³⁹ However, credible reports have shown that rights abuses, such as torture, including torture of children, and gender-based violence, have been perpetrated in in these centres.⁴⁰ In 2017, Amnesty International reported that Italy had increasingly engaged in co-operation with local authorities and tribal leaders and informal groups in Libya, not all under the control of the Government of National Accord to halt the flow of refugees and migrants to Europe.⁴¹ In March 2019, the High Commissioner for Human Rights reiterated a “call upon Libya, the European Union and Italy to urgently take the steps necessary to ensure that NGOs can safely resume search and rescue operations in the Mediterranean Sea in line with international law – and to ensure that cooperation between them fully respects the rights and dignity of migrants and the principle of *non-refoulement*,” stressing that “the significant support provided by European States and others to Libyan authorities must prevent, not further, human rights violations against migrants.”⁴²

human rights of migrants; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on trafficking in persons, especially women and children; and the Special Rapporteur on violence against women, its causes and consequences, available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24084>

See also: Legal changes and climate of hatred threaten migrants’ rights in Italy, say UN experts, available at:

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23908&LangID=E> .

38 See, for example, Amnesty International ‘Between the Devil and the Deep Blue Sea: Europe Fails Refugees and Migrants in the Central Mediterranean.’ Available at:

<https://www.amnesty.org/en/documents/eur30/8906/2018/en/> .

39 See, for example, Amnesty International ‘EU leaders must fix “broken system” that leaves people adrift at sea’. Available at: <https://www.amnesty.org/en/latest/news/2019/01/eu-leaders-must-fix-broken-system-that-leaves-people-adrift-at-sea/> .

40 “Libya: child refugees abused in UK-funded detention centres” The Guardian, 20.11.2018

<https://www.theguardian.com/world/2018/nov/20/child-refugees-facing-abuse-in-libyan-detention-centres> .

41 Amnesty International Libya's Dark Web of Collusion: Abuses Against Europe-bound Refugees and Migrants. Available at:

<https://www.amnesty.org/en/documents/mde19/7561/2017/en/> .

42 <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22170> .

Recommendations

37. Italy should:
- a. Implement the recommendations on women refugees and asylum seekers made to Italy by the CEDAW, including in relation to gender-appropriate, individual screening and assessment procedures, adequate reception standards for refugees and asylum seekers, with particular attention to the needs of women and girls, strict observation of the principle of *non-refoulement*, support to civil society organizations working with women refugees and asylum seekers, and allowing rescue boats of NGOs to dock in Italian ports and allowing those rescued to disembark;⁴³
 - b. Bring the national asylum system in full compliance with Italy's constitutional obligations and international obligations, including under international human rights law and refugee law;
 - c. Refrain from using measures that breach human rights, such as migrant detention centres, to allegedly deter trafficking;
 - d. Counter trafficking by addressing its root causes and manage migration by providing safe and dignified access routes for those fleeing conflict and persecution;
 - e. Address the root causes of forced displacement, including armed conflict, arms proliferation, poverty, and environmental degradation and promote alternatives to militarised security policies;
 - f. Ensure that migrant rights defenders and other human rights defenders are able to carry out their legitimate work, including through the use of their right to freedom of opinion and expression, in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

VI. The National Action Plan 1325 (NAP 1325)

38. As noted earlier, Italy is implementing its third National Action Plan for the implementation of the Security Council resolution 1325/2000 and subsequent related resolutions (NAP1325), which covers the period 2016-2019. Although Italy's commitment to the Women, Peace and Security agenda is welcomed, the NAP1325 presents several gaps. For instance, it lacks a solid peace-building approach, focuses disproportionately on military operations and on training of military forces; does not

⁴³ CEDAW/C/ITA/CO/7, 24 July 2017.

define means to support women promoting alternative peace-building models in conflict-affected contexts, and does not provide indications about the role of civil society for the implementation of the plan.

39. UNSCR 1325 and subsequent related resolutions apply to international and domestic policies and programmes in and related to peace and conflict. As recalled by the OSCE, the Women, Peace and Security agenda is not relevant exclusively to the national contexts of States in conflict situations. National implementation strategies are relevant for all countries and should always ensure that countries' own domestic policies are in line with UNSCR 1325 and subsequent related resolutions. Furthermore, the Sustainable Development Goals (SDGs) require all countries to deliver on the whole agenda both at home and abroad, including SDG 5 on gender equality and SDG 16 on peaceful societies. Italy's NAP 1325 is the first policy under which funding is allocated to support actions related to Women, Peace and Security issues. This was a great achievement for civil society organisations and followed from the 2010 round table consultation to develop the strategy and NAP.

40. However, the plan has not resulted into concrete actions to support exchanges between Italian civil society organisations and women civil society organisations in conflict-affected countries. The Ministry of Foreign Affairs uses a top-down approach in the only activity involving women from abroad, experts in mediation. Furthermore, actions under the NAP are mainly focused on trainings carried out in Italy for Italian students and professionals. No qualitative indicators were developed to monitor the implementation of the NAP.

41. Moreover, Italy's NAP 1325 does not address the issue of Italy's arms transfers and of their impacts on gender-based violence in importing countries.

Recommendations

42. Italy should:

- a. Promote actions directly between Italian civil society organisations/women organisations and women organisations in conflict-affected areas towards conflict prevention and promotion and protection of women's rights in all phases of the peacebuilding process (e.g. peace negotiations, disarmament, demobilisation and reintegration (DDR), election processes, reconstruction programmes, institutional reforms);
- b. Support the participation of local women in peace processes, particularly in regards to activities of prevention, negotiation, mediation, and ensure regular consultations with civil

society working in the field so as to promote a collaboration on the implementation of UNSCR1325 that is effective and permanent;

- c. Mainstream the Women, Peace and Security Agenda in domestic policies, particularly with respect to women asylum seekers and refugees in Italy, including by promoting policy coherence in the implementation of the SDGs;
- d. Ensure specifically allocated, sufficient and sustained funding for the implementation of the upcoming new NAP 1325, with detailed roles and responsibilities for implementation of various ministries and agencies, and make that information publicly available;
- e. Ensure the full involvement of civil society across the NAP1325 cycle, including in the conceptualisation, development, implementation and evaluation of the next NAP;
- f. Ensure that the issue of the impacts of Italy's arms transfers and of the proliferation of small and light weapons on gender-based violence are fully addressed in the next NAP 1325;
- g. Establish an independent, non-governmental monitoring mechanism based on a specific list of indicators to evaluate and monitor the implementation of NAP 1325, so as to measure the effectiveness of the various stakeholders in its implementation;
- h. Ensure greater coherence between the NAP 1325's focus, goals, and actions in the implementation of the NAP, while keeping at its core the role of women as agents of change.