

Council of Europe contribution for the 34th UPR session (Oct-Nov 2019)

Regarding Italy

Contents

<i>Prevention of torture (CPT)</i>	2
<i>Council of Europe Commissioner for Human Rights</i>	3
<i>Fight against racism and intolerance (ECRI)</i>	5
<i>Protection of minorities</i>	5
<i>Framework Convention for the Protection of National Minorities</i>	5
<i>European Charter for Regional or Minority Languages</i>	6
<i>Promoting good governance and Roma empowerment at local level - JUSTROM</i>	6
<i>Action against trafficking in human beings (GRETA)</i>	7
<i>Preventing and combating violence against women and domestic violence (GREVIO)</i>	7
<i>Protection of children against sexual abuse (Lanzarote Convention)</i>	8
<i>Fight against corruption (GRECO)</i>	9
<i>Execution of judgments and decisions of the European Court of Human Rights</i>	10
<i>Statistical data</i>	10
<i>Main cases / groups of cases under the Committee of Ministers' supervision</i>	11
<i>Social and Economic Rights (ECSR)</i>	11
<i>Venice Commission</i>	12
<i>Freedom of expression</i>	12
<i>Elections</i>	12

Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

2017 ad hoc visit

CPT report:



CPT_inf_2018_13_I_{tal}y.pdf

Executive summary:



CPT_inf_2018_13_p_{art}_italy.pdf

Government response:



CPT_inf_2018_14_it_{aly}_Gov_response.p_c

Publication news flash for a brief summary of the report and response: <https://www.coe.int/en/web/cpt/-/anti-torture-committee-publishes-report-on-its-visit-to-italian-hotspots-and-removal-centres>

2016 periodic visit

CPT report:



CPT_Inf_2017_23_I_{tal}y.pdf

Executive summary:



CPT_inf_2017_23_p_{art}_Italy.pdf

Government response:



CPT_Inf_2017_24_Gov_response_I_{tal}y.p_c

Publication news flash for a brief summary of the report: <https://www.coe.int/en/web/cpt/-/cpt-publishes-new-report-on-italy>

2015 ad hoc visit (return flight)

CPT report:



CPT_Inf_2016_33_Italy.pdf

Government response:



CPT_2016_34_Gov_response_Italy.pdf

Publication news flash for a brief summary of the report and response: <https://www.coe.int/en/web/cpt/-/italy-and-spain-cpt-reports-critical-that-safeguards-for-foreign-nationals-returned-by-air-not-adequate>

Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.

Following the country visit, in 2013, the Commissioner addressed a [letter](#) to the Mayor of Rome urging the discontinuation of policies of forced evictions and segregated camps for Roma and Sinti. He also expressed concerns on the living conditions and integration of beneficiaries of international or humanitarian protection. Reports of forced evictions of Roma and Sinti in different localities in Italy continued to reach the Commissioner's Office in 2014 and 2015. In a [letter](#) to the Prime Minister in early 2016, the Commissioner reiterated his continuing concerns regarding the human rights of Roma and Sinti in Italy, particularly as regards the continuation of past policies on segregated camps and forced evictions in Rome and Milan in contradiction not only with Italy's international obligations, but also with its national strategy for the inclusion of Roma and Sinti adopted in 2012 and the lack of resources devoted to its implementation.



CHR_italy_12Novem CommDH_Italy_26January2013.pdf



nuary2016.pdf

On 16 May 2017, the Commissioner published a [letter](#) sent to the President of the Senate expressing concerns about a bill transferring juvenile justice competencies from specialised to ordinary courts. The Commissioner recalled that children's rights are best met in a system where justice is delivered by specialised professionals with exclusive competencies, as was currently the case in Italy. He warned that such a transfer would be a step in the wrong direction as it might lead to a dilution of the capacity of judges and prosecutors to pay adequate and specific attention to children's needs and, therefore, weaken the protection of the rights of children who come into contact with judicial authorities.



CHR_Italy_9May2017.pdf

In a [letter](#) addressed to the Italian Parliament in June 2017, the Commissioner welcomed the efforts to incorporate the crime of torture into the Italian Criminal Code, but urged the Chamber of Deputies to improve the Bill in order to make it fully compliant with international human rights standards. The Commissioner was particularly concerned about the definition of torture provided in the bill which may result in certain cases of torture or inhumane or degrading treatment or punishment remaining unaddressed and, therefore, create potential loopholes for impunity. He also underscored the need to ensure that a statute of limitations, or any other measures of clemency, amnesty, pardon or suspended sentences, does not undermine the authorities' ability to hold those who commit these acts to account and the possibility for victims to obtain redress.



CHR_Italy_17June2017.pdf

On 11 October 2017, the Commissioner published a [letter](#) addressed to the Minister of the Interior of Italy, on Italy's maritime operations in Libyan territorial waters aimed at managing migration flows. Expressing appreciation for Italy's efforts in saving lives at sea and receiving migrants arriving at its shores, the Commissioner stressed the duty of states to protect and safeguard the human rights of migrants even when migration flows pose difficulties. Noting that handing migrants over to the Libyan authorities would expose them to a real risk of torture or inhuman or degrading treatment or punishment, the Commissioner invited the Italian government to clarify the kind of support it expected to provide to the Libyan authorities in Libyan territorial waters and the safeguards it had put in place to avert such risks for people intercepted or rescued by Italian vessels in Libyan territorial waters. He also requested information about measures to ensure that search and rescue operations in the Mediterranean, including those conducted by non-governmental actors, can continue to be carried out effectively and safely.



CommHR_Italy_28September2017.pdf

In a [letter](#) addressed to the Prime Minister of Italy in early 2019, the Commissioner expressed her concerns about the negative consequences that the Decree-Law No. 113/2018 on International Protection, Immigration and Public Security may have on the human rights of asylum seekers and beneficiaries of protection, including of persons who have been granted humanitarian protection, in particular to access reception and essential services, such as healthcare and education. In addition, the Commissioner regretted the apparent hastiness with which people were transferred from the asylum seekers reception centre in Castelnuovo di Porto (Rome) in view of its closure and expressed concerns that this measure could disrupt the commendable efforts put in place at the local level for the integration and rehabilitation of the residents of this centre in the past years. The Commissioner also underscored the need to uphold the human rights of persons rescued at sea. While acknowledging Italy's role in the past in saving lives at sea and in receiving asylum seekers and migrants arriving at its shores, the Commissioner expressed her deep concerns about some recent measures hampering and criminalising the work of NGOs who play a crucial role in saving lives at sea, banning disembarkation in Italian ports, and relinquishing responsibility for search and rescue operations to authorities which appear unwilling or unable to protect rescued migrants from torture or inhuman or degrading treatment. The Commissioner urged the authorities to ensure that the human rights of persons rescued at sea are never put at risk because of current disagreements

between member states about disembarkation, and that humanitarian considerations always take priority.



CommHR_Italy31January2019.pdf

Fight against racism and intolerance (ECRI)

The European Commission against Racism and Intolerance ([ECRI](#)) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as "race", national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI's monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI's country reports.

ECRI's fifth report on Italy was adopted on 18 March 2016 and published on 7 June 2016.



ECRI2016_19_Italy.pdf

Government comments appended to the report:



ECRI_Italy_gov_viewpoint.pdf

Protection of minorities

Framework Convention for the Protection of National Minorities

The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.

The Advisory Committee on the Framework Convention adopted the [4th Opinion in respect of Italy](#) on 19 November 2015.



ACFC_Italy_2015_06.pdf

Resolution CM/ResCMN(2017)4 on the implementation of the Framework Convention for the Protection on National Minorities by Italy was adopted by the Committee of Ministers on 5 July 2017 at the 1291st meeting of the Ministers' Deputies.



CM_ResCMN2017_4
_Italy.pdf

European Charter for Regional or Minority Languages

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals. A committee of independent experts examines the state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.

Italy n/a

Promoting good governance and Roma empowerment at local level - JUSTROM

The Programme "JUSTROM", a Joint Programme between the Council of Europe Roma and Travellers Team and the European Commission DG Justice and Consumers, initially introduced in Bulgaria, Greece, Ireland, Italy, and Romania, is being implemented in the following two Italian municipalities: Rome and Naples.

This Joint Programme, launched in Italy in October 2016, aims to inter alia: support the empowerment of Roma, Sinti and Caminanti women through increasing their awareness about discrimination, complaint mechanisms, the judicial systems, and human rights institutions/equality bodies; enhance professional resources used at a national level by the judiciary, law enforcement and NGOs/human rights advocates regarding the application of anti-discrimination standards, with a focus on multiple discrimination, gender equality and Roma, Sinti, and Caminanti women; increase synergies between the institutional frameworks of the EU and Council of Europe, including through NRCPs and CAHROM, and with national and local authorities on national Roma integration strategies, and civil society regarding access to justice.

An innovative aspect under the second phase of JUSTROM - formally launched in Italy, in June 2018 - is the work on country-specific issues - that are being addressed by the JUSTROM legal clinics. This has been done in order to achieve substantive and sustainable results, without disregarding general concerns raised by those beneficiaries approaching the legal clinics. Thus, in Italy, focus is on, inter alia: access to identity documents; statelessness and legal status; women and children/girls' rights; and violence against women and girls.

In Italy, working/liaising with national and local authorities and international organizations, in particular UNHCR, has contributed to an important cooperation with, among others, the National Roma Contact Point, relevant Municipalities, and the prison circuit in Rome, taking into account the National Strategy on Roma, Sinti and Caminanti Inclusion, 2012-2020.

Through the legal clinics and mobile Teams in Rome and Naples, the JUSTROM Programme has been working to further implement the so-called Kyenge Decree, passed in September 2013. Law-Decree

No. 69/2013, converted into Act No. 98/2013, aims at simplifying citizenship acquisition for those who have come of age and cannot prove their constant stay in the Italian territory for the past 18 years, due to administrative failure not directly caused by them but by their parents' negligence and/or birth register personnel. Its Art. 33 also envisages the mandatory use of IT programs by relevant state officers, to make this proceeding faster and less expensive.

In accordance with the aforementioned legislation, Roma children at the coming of age can more easily acquire Italian citizenship. On a similar note, the JUSTROM Programme has been asked to take part in the UNHCR National Working Group on Statelessness. It has been also increasingly working on information and training on Roma issues and international, regional and national standards, for Roma, especially women and youth as well as for detainees, teachers, university students, social care workers, lawyers, judges, journalists, and so forth.

Action against trafficking in human beings (GRETA)

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.

The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.



GRETA_Italy_2018_28.pdf

Preventing and combating violence against women and domestic violence (GREVIO)

The Council of Europe Convention on preventing and combating violence against women and Domestic violence ([Istanbul Convention](#), CETS No. 210) is the most far-reaching international treaty to tackle this serious violation

of human rights. It aims at zero tolerance for such violence and is a major step forward in making Europe and beyond safer. Preventing violence, protecting victims and prosecuting the perpetrators are the cornerstones of the convention. It also seeks to change the hearts and minds of individuals by calling on all members of society, in particular men and boys, to change their attitudes. In essence, it is a renewed call for greater equality between women and men, because violence against women is deeply rooted in the inequality between women and men in society and is perpetuated by a culture of intolerance and denial.

The Council of Europe Istanbul Convention provides for two types of monitoring procedures:

1. a country-by-country evaluation procedure;
2. and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention.

The aim of the monitoring mechanisms of the Istanbul Convention is to assess and improve the implementation of the Convention by Parties. It consists of two distinct, but interacting, bodies:

1. **GREVIO**, the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.
2. The **Committee of the Parties** is composed of the representatives of the Parties to the Convention. The Committee of the Parties may adopt, on the basis of the reports and conclusions of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), specific recommendations addressed to the Parties concerned.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

GREVIO's Page on Italy: <https://www.coe.int/en/web/istanbul-convention/italy>

First (baseline) evaluation (on-going)

State report (Received on 22 October 2018)



GREVIO_inf_2018_1
4_Italy.pdf

Protection of children against sexual abuse (Lanzarote Convention)

The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as "[the Lanzarote Convention](#)", requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

The "Lanzarote Committee" (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. To do so, the Committee evaluates the information which has been provided by the national authorities and other sources in their replies to questionnaires developed by the Committee itself. This monitoring procedure is divided by rounds, each round concerning a theme; starting with sexual abuse in the circle of trust.

As to the 1st monitoring round on the "Protection of children against sexual exploitation and sexual abuse in the circle of trust", Italy was urged to:

- review its legislation to ensure effective protection of children from situations where abuse is made of a recognised position of influence (R1, 1st implementation report);
- take the necessary legislative or other measures to set up or designate mechanisms for data collection or focal points at national or local level and in collaboration with civil society, for the purpose of observing and evaluating in terms of quantitative data collection the phenomenon of the sexual exploitation and sexual abuse of children in general and child sexual abuse committed in the circle of trust, in particular (R13, 1st implementation report);
- put in place effective intervention programs or measures for persons, including children, who fear they may offend to prevent the risk of offences being committed (R24, 2nd implementation report);
- which have not yet put in place effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed, in the pre-trial phase of the procedure, to do so (R29, 2nd implementation report).

As regards the urgent monitoring round on "Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse", Italy (as well as the other 39 parties covered by the round) received the following 5 "urge recommendations":

- urges Parties in line with Article 5 of the Convention to effectively screen all persons who, by their professions, have regular contact with children affected by the refugee crisis for convictions of acts of sexual exploitation or sexual abuse of children in line with their internal law (R18);
- since examining the family situation is important where there are suspicions of child sexual exploitation or abuse, urges Parties to take the necessary measures to avoid risks that the child may be abused or exploited in case of family reunification (R27);
- urges Parties that have not yet done so to take the necessary legislative or other measures to ensure that child victims of sexual exploitation and sexual abuse affected by the refugee crisis may benefit from therapeutic assistance, notably emergency psychological care (R29);
- urges Parties to encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that appropriate support may be provided immediately after the disclosure of sexual exploitation and sexual abuse (R30);
- urges Parties to make use, within the context of the refugee crisis, of the specific co-operation tools already available in the framework of Europol/Interpol which are specifically aimed at identifying victims of sexual exploitation and sexual abuse (R33).

Fight against corruption (GRECO)

The 'Group of States against Corruption' ([GRECO](#)) monitors all its 49 members through a peer review evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.

Fourth Evaluation Round: "Corruption prevention in respect of members of parliament, judges and prosecutors".

On 13 December 2018, GRECO published the 4th Round Compliance report on Italy.



GRECO concluded that Italy has implemented satisfactorily or dealt with in a satisfactory manner only three of the twelve recommendations contained in the Fourth Round Evaluation Report.

As regards MPs, there is no substantive progress. The development of a mandatory lobbyist register in the Chamber of Deputies is a notable move, but additional measures should be taken to better focus on the parliamentarian side of the lobbying equation. The Senate has yet to embark on a similar path to promote a robust integrity ethos among its members. Regrettably, overall, the results in this domain are rather disappointing.

Implementation records regarding the recommendations made to the judiciary are much more positive. The triennium 2016-2018 has witnessed a much awaited reform of the justice sector to substantially improve the efficiency of both civil and criminal law trials, efforts for which the Italian authorities must clearly be commended. The reform has operated on different fronts regarding for example, appellate remedies, decriminalisation of minor offences and expedited procedures, alternative dispute mechanisms, organisation of courts, digitalisation of case management, etc. Time and experience with the newly introduced changes will show whether further adjustments are still necessary to accomplish the ambitious and multifaceted underlying goals of the justice reform.

Good effort has been made to establish dedicated mechanisms to open up channels for the discussion of ethical dilemmas shared by magistrates and to deliver advisory tools in relation to integrity-related matters. Action has been initiated to strengthen the current financial disclosure regime of magistrates. Positive steps have been taken to strike the necessary balance between hierarchical organisation of prosecution offices and internal autonomy of individual prosecutors. Important changes have also been introduced regarding the matter of honorary judges, notably, by enhancing their professional training, supervision and assessment. A similar comprehensive approach is yet to follow in fiscal jurisdiction. Finally, the adoption of stricter regulation regarding the participation of magistrates in political life - a particularly sensitive issue in Italy – requires support in the newly elected Parliament.

Execution of judgments and decisions of the European Court of Human Rights

Statistical data

At 31 December 2018, there were 227 (389 cases at 31.12.2017) cases against Italy pending before the Committee of Ministers (“CM”) for supervision of their execution. Among these cases, 55 cases were “leading cases” evidencing more or less important general problems (55 leading cases also at 31.12.2017).

In 2018, the CM was seized by 9 new leading cases (7 new leading cases in 2017) and the amount of just satisfaction awarded was € 9,792,285 (€ 12,545,831 awarded in 2017). In 2018, 192 cases (2001 cases closed in 2017) were closed by the adoption of a Final Resolution.

Main cases / groups of cases under the Committee of Ministers' supervision

The main cases presently under the CM supervision cover notably the issues highlighted below. For fuller overview of the situation see the [Country Factsheets](#) available on the website of the Department for the Execution of Judgments of the European Court of Human Rights and in the [Committee of Ministers' Annual Reports](#) on its supervision activity. More detailed information on the status of execution in individual cases can be found through *Hudoc-EXEC*.



EJECHR_Italy.pdf

Migration

Khlaifia and Others, Application No. 16483/12, judgment final on 15/12/2016, enhanced supervision; Sharifi and Others, Application No. 16643/09, judgment final on 21/01/2015, enhanced supervision;

Acts of torture perpetrated by members of security forces against demonstrators at G8 summit

Cestaro, Application No. 6884/11, judgment final on 07/07/2015, enhanced supervision;

Extraordinary rendition under a CIA programme which exposed the applicant to ill treatment and secret detention

Nasr and Ghali, Application No. 44883/09, judgment final on 23/05/2016, enhanced supervision;

Violence against women

Talpis, Application No. 41237/14, judgment final on 18/09/2017, enhanced supervision;

Retroactive application of a law to on-going judicial proceedings

Group of cases Agrati and Others, Application No. 43549/08, judgment final on 28/11/2011, enhanced supervision;

Excessive length of judicial proceedings revealing complex problems in the administration of justice

Cases/groups of cases under enhanced supervision:

Trapani (civil proceedings), Application No. 45104/98, judgment final on 14/03/2000;
Ledonne (No. 1) (criminal proceedings), Application No. 35742/97, judgment final on 12/08/1999;
Abenavoli (administrative proceedings), Application No. 25587/94, judgment final on 02/09/1997;
Collarile and Others (bankruptcy proceedings), Application No. 10652/02), judgment final on 18/12/2012;
Olivieri and Others (domestic remedy for excessive length of proceedings), Application No. 17708/12, judgment final on 04/07/2016.

Social and Economic Rights (ECSR)

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four

thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Please note that these factsheet will be updated by the end of March, after the conclusions of the European Committee of Social Rights are made public.

Italy

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805ac10d>



ESC_Italy.pdf

Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

Since 2013 the Commission adopted three opinions on freedom of expression and electoral matters concerning Italy.

Freedom of expression

[CDL-AD\(2013\)038](#)

Opinion on the legislation on defamation in Italy



CDL-AD2013_038_It
aly.pdf

Elections

[CDL-AD\(2017\)025](#)

Amicus curiae brief for the European Court of Human Rights in the case of Berlusconi v. Italy



CDL-AD2017_025_It
aly.pdf

CDL-AD(2015)009

Opinion on the Citizens' bill on the regulation of public participation, citizens' bills, referendums and popular initiatives and amendments to the Provincial Electoral Law of the Autonomous Province of Trento (Italy)



CDL-AD2015_009_It
aly.pdf