



International Federation of Action by Christians for the Abolition of Torture

Action by Christians for the Abolition of Torture in Italia



**Joint alternative report by FIACAT and
ACAT Italy on the implementation by Italy
of the Convention against torture and other
cruel, inhuman or degrading treatment or
punishment.**

**Committee against torture
62th session, November 2017**

Table of contents

<i>Authors of the report</i>	3
I. FIACAT	3
II. ACAT Italy	3
<i>Implementation of the Convention against torture and other cruel, inhuman or degrading treatment or punishment</i>	4
I. Incrimination of torture (Articles 1 and 4)	4
II. Fundamental safeguards (Article 2)	5
III. Principle of non-refoulement (Article 3)	7
A. Expulsion of migrants	7
o Arbitrary detention and collective expulsion	7
o Bilateral agreements	8
B. Procedure	9
o Offence of irregular entry into or stay on Italian territory	9
o Legal aid for migrants in CIE	9
o Decree Law Minniti Orlando	9
o Statistics on migrants in detention	9
IV. Detention condition (Article 11)	11
A. Prison overcrowding	11
B. Foreign detainees	13
C. Minors	13
D. Alimentation and healthcare	13
E. Deaths in prison	15
F. National preventive mechanism	16
V. Investigations on allegations of torture and ill-treatments (Articles 12 and 13)	17
A. Investigations, prosecutions and convictions in cases of torture and ill-treatment in the past five years	19
B. Code of conduct and identification of law enforcement officials	20
VI. Cruel, inhuman or degrading treatment or punishment (Article 16)	21
A. Treatment of migrants	22
o Living conditions	22
▪ Hotspots conditions	22
▪ Condition of reception centres and identification and expulsion centres	25
o Unaccompanied minors	30
o Commission of Inquiry established by the Chamber of Deputies on 27 th November 2014	31
o Access to housing	33
o Statistics	33
B. Violence against women	34
o The legal framework	34
o Legal aid and medical and psychological centres	35
o Violence against migrants and foreign women	36
o Raising public awareness	36

Authors of the report

Authors of the report

I. FIACAT

The International Federation of Action by Christians for the Abolition of Torture, FIACAT, is an international non-governmental human rights organisation, set up in 1987, which works towards the abolition of torture and the death penalty. The Federation brings together some thirty national associations, the ACATs, present in four continents.

FIACAT – representing its members in international and regional organisations

It enjoys Consultative Status with the United Nations (UN), Participative Status with the Council of Europe and Observer Status with the African Commission on Human and Peoples' Rights (ACHPR). FIACAT is also accredited to the International Organisation of *la Francophonie* (OIF).

By referring the concerns of its members working on the ground to international bodies, FIACAT's aim is to encourage the adoption of relevant recommendations and their implementation by governments. FIACAT works towards the application of international human rights conventions, the prevention of torture in places of detention, and an end to enforced disappearances and impunity. It also takes part in the campaign against the death penalty by calling on states to abolish capital punishment in their legal systems.

To give added impact to these efforts, FIACAT is a founding member of several campaigning coalitions, in particular the World Coalition against the Death Penalty (WCADP), the International Coalition against Enforced Disappearances (ICAED) and the Human Rights and Democracy Network (HRDN).

FIACAT – building up the capacities of the ACAT network in thirty countries

FIACAT assists its member associations in organising themselves, supporting them so that they can become important players in civil society, capable of raising public awareness and having an impact on the authorities in their country.

It coordinates the network by promoting exchanges, proposing regional and international training events and joint campaigns, thus supporting the activities of the ACATs and providing them with exposure on the international scene.

FIACAT – an independent network of Christians united in fighting torture and the death penalty

FIACAT's mission is to awaken Churches and Christian organisations to the scandal of torture and the death penalty and convince them to act.

II. ACAT Italy

Azione dei Cristiani per l'Abolizione della Tortura (ACAT Italia) is an association founded in 1987 and is one of the first national ACATs born in Europe; ACAT Italia is also one of the founding associations of the International Federation FIACAT. It works for the abolition of torture and the death penalty. ACAT Italia works in network with other Associations and NGOs, and it focuses on youth education on human rights. In this field ACAT Italia launches every year a prize for university graduation thesis on torture or death penalty.

Implementation of the Convention against torture and other cruel, inhuman or degrading treatment or punishment

I. Incrimination of torture (Articles 1 and 4)

Issue 1: Please provide updated information on any steps taken by the State party to incorporate into domestic law the crime of torture as defined by article 1 of the Convention, as recommended by the Committee in its previous concluding observations (CAT/C/ITA/CO/4, para. 5). In particular, please indicate if discrimination is explicitly included as a possible motive for acts of torture and ill-treatment as defined under article 1 of the Convention. In this respect, please inform the Committee of the status of Senate Act No. 1216.

Issue 2: Please elaborate on steps taken to ensure that acts of torture and attempts and complicity or participation to commit torture are no longer subject to the statute of limitations.

Issue 3: In light of the previous concluding observations of the Committee, please indicate any steps taken to ensure that torture is made punishable by appropriate penalties which take into account its grave nature, as set out in article 4, paragraph 2, of the Convention (CAT/C/ITA/CO/4, para. 5).

1. The process to include into Italian domestic law the crime of torture is one of the hardest the Italian Parliament has had to face. This issue is dividing the Italian politicians and it seems they can't reach an agreement on this important issue.

2. The Decree No. 362, that was supposed to introduce an article defining and criminalizing torture in the Italian criminal code. If the definition of torture given by this Bill was not completely in conformity with the definition provided by the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, especially because it was not defined as a specific offence relating solely to public officials, it still represented an important step for the Italian legal system.¹ In early summer, after a long series of controversies, the parliamentary groups decided to set aside the Bill. In fact, in July 2016, political confrontation has reached its highest level. Part of the centre-right party objected strongly to the Bill, decrying potential hazards for law enforcement officers. Thus, Angelino Alfano, Minister of the Interior during the Renzi government and member of the centre right party asked for a better definition of various terms of the Bill such as what is intended by psychological torture or what is considered as reiteration.

3. Eventually, after 4 years of discussion and amendments, the law introducing the crime of torture in the Italian system (Law No. 110) was adopted by the Italian parliament on 5 July 2017. However, despite some amendments on the initial Decree, this law remains unsatisfactory. Firstly, the offence is still not a specific offence related to public official. The fact that the torture was committed by a public official is solely an aggravated circumstance raising the penalty to 5 to 12 years imprisonment (instead of 4 to 10 years). Secondly, the text of law requires multiple acts of violence or threats in order to be qualified as torture. Thirdly, psychological torture is limited to cases where psychological trauma can be verified.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- ***Amend the Law No. 110 of 14 July 2017 to put in line with the provisions of the Convention against torture.***

¹ FIACAT and ACAT Italy's contribution to the list of issues for the review of the sixth periodic report of Italy, April 2016, para.

II. Fundamental safeguards (Article 2)

Issue 6: Pursuant the Committee's previous concluding observations, please provide updated information on measures taken to reduce the maximum period during which a person may be held in custody following arrest on a criminal charge without being conducted before a judicial authority, including in exceptional circumstances (CAT/C/ITA/CO/4, para. 7). Please provide information on measures taken to ensure that persons in police custody benefit from an effective right of access to a lawyer and a medical doctor of their own choice, as well as the right to inform a relative, as from the outset of their deprivation of liberty, even in exceptional cases.

4. The Supreme Court in its decision 44932/2012 and 4960/2009 clarified that the decree of the judge that delays the right of the accused to talk to his/her counsel cannot be appealed nor re-examined but can only be challenged during the proceeding if it infringes the rights of the defence of the suspect. Also, the court explained in its decision 5401/2001, that this decision to delay access to a lawyer does not have to be notified but must only be shown if required by the accused.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- ***Ensures that the provisions of article 104 (3) and (4) of the Criminal Procedure Code are strictly apply in situation where it is necessary and that a control on the use of such provisions is carried.***

Issue 7: Please provide information on steps taken to address the concern at the lack of effective remedies against renewal of the special detention regime used by the State party in its fight against organized crime (article 41 bis of the Law on the Penitentiary System). Please elaborate on the status and content of possible reforms of article 41 bis

5. Article 41-bis of the Act. No. 354 of 26th July 1975, applies to criminals being part of: organized criminal organizations (such as Sicilian Mafia, Camorra, etc.), terrorist organizations those or who do not cooperate with the judicial authorities. This article sets out a derogatory regime for those persons. For instance, these detainees have several of their rights restricted such as the right to have contact with the outside world or the right to exercise outside. Moreover, they cannot benefit from alternative measures to imprisonment. The European Court of Human Rights has already rejected an abstract incompatibility between the regime under art. 41-bis and art. 3 ECHR, e.g. prohibition of torture. In fact, only the complete sensorial and social isolation is forbidden, but not the application of such high-security penitentiary regime.²

6. Since then, the discussion has moved to evaluate the conditions necessary to enforce this regime and its renewal. In 2008, CPT visiting Italy, underlined that: *"It was evident that, for a considerable number of "41-bis" prisoners – if not for virtually all of them – application of this detention regime had been renewed automatically; consequently, the prisoners concerned had for years been subject to a prison regime characterised by an accumulation of restrictions, a situation which could even be tantamount to a denial of the concept of penitentiary treatment, which is an essential factor in rehabilitation"*.³ Thus, the renewal of this regime is problematic since it is automatic in most cases and the appeals often end up being rejected. This contravenes

² See European Court of Human Rights' decisions: - 9 January 2001, Natoli c. Italia, §§ 35 ss; - 8 June 1999, Messina c. Italia; - 22 June 1999, Rinzi c. Italia; - 31 August 1999, Di Giovine c. Italia; - 25 November 1999, Marincola c. Italia; - 1 February 2000, Vincenti c. Italia; - 28 June 2005, Gallico c. Italia; - 10 November 2005, Argenti c. Italia; - 29 June 2006, Viola c. Italia; - 11 July 2006, Campisi c. Italia; - 15 January 2008, Bagarella c. Italia, quoted by E. NICOSIA, "Il c.d. 41-bis è una forma di tortura", pp. 1265-1266.

³ CPT, Report to the Italian Government on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, CPT/Inf (2010) 12 (Italia), § 82 available on <http://www.cpt.coe.int/documents/ita/2010-12-inf-eng.pdf>

the principles of proportionality and necessity. Consequently, what was set up as a regime to be enforced only in exceptional cases has been applied to over 700 detainees.⁴

7. On 10th June 2015, the UN Working Group on Arbitrary Detention (hereinafter WG) published its report related to its follow-up mission to Italy.⁵ In the summary, the WG notes that “*the special detention regime for mafia offenders under article 41-bis of the Law on the Penitentiary System has not yet been brought into compliance with international human rights requirements. The judicial review of the orders imposing or extending this form of detention would need to be sufficiently strengthened and expedited*”. According to the Working group, the most relevant change to the regime is the Law No. 94 of 2009 “22. [...] *which strengthened the special detention regime, and new circulars were subsequently issued by the Department of Prison Administration. During the visit, the Working Group was informed that approximately 700 detainees had been subjected to this regime. 23. [...] the regime has a duration of four years and can be extended for an additional period of two years. Complaints can be lodged within 20 days from the date of the communication of the provision, and the decision shall be made by the Supervisory Court of Rome. The restrictions of the Section 41-bis regime cannot be modified either by the administrative authority or by the judicial authority, since they are provided by the Penitentiary Law*”.

8. Furthermore, the Italian Constitutional Court issued a decision, No. 143 of 17th June 2013, in which it sanctioned the unconstitutionality of the provision limiting interviews with defence counsels and obliged the Head of the Department of the Penitentiary Administration to prepare an amendment “25. [...] *in order to allow prisoners to have interviews with their defence counsels, even prisoners, without any authorization nor limitation of the number and duration of interviews, without the possibility to check the actual need or the reasons for the interviews [...]*”.⁶

9. The debate across the Italian civil society, the Senate and the Ministry of Justice has not come to halt. In June 2016 an article was published with this headline “Sepolti vivi” (*Buried alive*)⁷ reporting on a 2012 research of the Permanent Observatory of deaths in prison which found out that the frequency of suicides for detainees kept under the 41-bis regime is 3,5 times higher than for other detainees.⁸ The article also mentions the recent death of two detainees under the security regime in April and May 2015. One of the detainee suffered a lung cancer and a kidney failure but was still kept in detention under the special regime conditions. He died in the penitentiary cell of the hospital San Salvatore in Aquila. The second detainee committed suicide. The journalist underlines that the number of detainees under article 41-bis regime has increased from 543 in 1993 to 729 in December 2015, and that they are kept in 13 different prisons across the Italian territory.

10. In April 2016, a report of the Human Rights Commission of the Senate was published⁹ and the President of this Commission, Sen. Luigi Manconi, declared that “*Any type of reasoning about the regime*

⁴ Giulia Zaccheroni, *La tortura: profili di diritto internazionale e repressione penale*, 2010-2011 available on <http://www.penalcontemporaneo.it/upload/Tesi%20Zaccheroni.pdf>

⁵ Report of the Working Group on Arbitrary Detention (Follow-up mission to Italy), Human Rights Council, 13th Session, A/HRC/30/36/Add.3, available on <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/154/49/PDF/G1515449.pdf?OpenElement>

⁶ Corte Costituzionale, sentence 143/2013, available on <http://www.cortecostituzionale.it/actionSchedaPronuncia.do?anno=2013&numero=143>

⁷ Gregorio Romeo, *Sepolti vivi: luci e ombre del 41-bis, il più duro regime carcerario italiano*, 29 June 2016, available on <https://news.vice.com/it/article/41-bis-carcere-duro-italia>

⁸ Osservatorio permanente sulle morti in carcere, *Detenuto del 41bis si impicca nel carcere di Opera, sesto suicidio in cella da inizio mese*, available on http://www.ristretti.it/commenti/2013/maggio/pdf4/suicidi_41bis.pdf

⁹ Commissione straordinaria per la tutela e la promozione dei diritti umani, *Rapporto sul regime detentivo speciale indagine conoscitiva sul 41-bis*, April 2016, available on https://www.senato.it/application/xmanager/projects/leg17/file/repository/commissioni/dirittiumaniXVII/allegati/Rapporto_41bis_aprile_2016.pdf

of 41-bis has to make clear that the aim of this special regime is not to make the punishment more troubling, but to interrupt the ties between the detainee and the criminal organization". Between the most powerful recommendations given by the Commission, there are the following: "Rec. 1: A more accurate investigation from the competent authorities concerning the renewal of the application of the special regime [...]; Rec. 8: removal of limitations concerning the possibility to keep all means related to reading, studying and development of artistic activities" [...]; Rec. 11: to facilitate meetings with relatives of detainees".

11. It should be noted that a new circular was released on 2nd October 2017 by the Ministry of Justice's department of penitentiary administration regulating the daily life of detainees under the 41bis regime. The circular aims at uniformizing the application of this regime in all prisons and avoid any abuse of power. In particular, it contains, among other things, provisions on contact with the outside world, on the detainee's right to privacy and provides that prison directors must answer to the detainee's request within a reasonable period of time¹⁰.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Pursues its efforts to put the 41-bis regime in line with the rights set out in the Covenant especially by addressing the issue of the renewal of application of this special regime.*

III. Principle of non-refoulement (Article 3)

Issue 8: With reference to the previous concluding observations of the Committee, please provide information on any steps taken by the State party to ensure that it complies fully with article 3 of the Convention and that individuals under the State party's jurisdiction receive appropriate consideration by its competent authorities and are guaranteed fair treatment at all stages of the proceedings, including an opportunity for effective, independent and impartial review of decisions on expulsion, return or deportation (CAT/C/ITA/CO/4, para. 11). In this respect, please elaborate on the Treaty on Friendship, Partnership and Cooperation between the State party and Libya and the impact thereof on the State party's migration policy. Please provide details about steps taken to address the concern at reports of forced return of migrants to Libya without proper assessment of their possible protection needs.

Issue 12: Please provide information on special measures adopted by the State party in order to conduct large-scale operations designed to detect and expel illegal immigrants from the Italian territory. In particular, please provide detailed information on (a) The instructions given to those in charge of such operations; (b) The characteristics and outcome of such operations, including the number of persons detected and expelled, disaggregated by sex, age and ethnicity; (c) The legal basis for such operations in the light of article 3 of the Convention; (d) The number of such operations that have taken place, since the consideration of the previous report.

A. Expulsion of migrants

○ *Arbitrary detention and collective expulsion*

12. Several articles reported the expulsion of a group of 48 Sudanese migrants who were stopped at Ventimiglia border on 24th August 2016¹¹. Some activists were able to share with a journalist the stories of some of these migrants: "Yesterday they were at the Red Cross centre, they felt safe and they were preparing to seek asylum". This expulsion is also criticised because of the lack of official explanation

¹⁰Ansa, 41 bis, "decalogo" sul trattamento dei detenuti, 2 October 2017, available on http://www.ansa.it/sito/notizie/cronaca/2017/10/02/41bisdecalogo-su-trattamento-detenuti_ea789588-4516-4ef8-8a94-9e3e525ee77b.html

¹¹ Il Fatto Quotidiano, Migranti, prima espulsione di gruppo: 48 presi a Ventimiglia e rispediti in Sudan. « Ma Khartoum viola diritti umani », 24th August 2016, available on <http://www.ilfattoquotidiano.it/2016/08/24/migranti-prima-espulsione-di-gruppo-48-presi-a-ventimiglia-e-rispediti-in-sudan-ma-khartoum-viola-diritti-umani/2993664/>

for it and the lack of information on bilateral agreements. According to some humanitarian associations, this expulsion could be the result of a memorandum signed on 4th August with Sudan. In fact, a memorandum of understanding was signed by Italy and Sudan on 4th August 2016. This memorandum is about cooperation regarding migration and border control. The memorandum also contains articles on the repatriation of irregular migrants. This memorandum was signed by Franco Gabrielli (chief of the Italian police). The journalist Pietro Barabino explained that in August 2016, the Sudanese Minister of Foreign Affairs agreed to send a delegation of agents to Ventimiglia to identify the migrants and initiate their repatriation. According to Pietro Barabino, this visit already took place. However, no official information about this event can be found. It should be noted that on 13th February 2017, 5 of the repatriated Sudanese appealed to the European Court of Human Rights.

13. According to an activist from Italians for Darfur some of the Sudanese repatriated were asylum seekers. One of them explained to Pietro Barabino: *“Policemen told me they would bring me to the Commissariat to make photos and identification. [...] I discovered I was with approximately 40 compatriots. Policemen seized our mobile phones and bags; they forced us to give them our fingerprints for the umpteenth time, by beating and undressing us. [...] During the flight we had to stay handcuffed”*.

14. Several activists and organisations asked for clarification about this event but their request remained unanswered. According to Fulvio Vassallo Paleologo, lawyer and Professor at Palermo University, this is not the first forced repatriation. He explains that *“forced expulsions and repatriations have affected Nigerian, Egyptian, Tunisian and also Sudanese migrants even before August 24”*.¹² Another case of forced repatriation should be mentioned. On 13th April 2017 23 Tunisians in the CIE of Caltanissetta were subjected to forced repatriation. One of them, a man with a handicap at his right arm, was forced to take off his prosthesis, totally undress and to do some squats. Another man had ingested razor blades a few days before because of the bad conditions in the CIE but was still repatriated. Also, on 17th May 2017, still in the CIE of Caltanissetta, 15 Nigerians were suddenly subjected to forced repatriation. The National Guarantor for the rights of persons detained or deprived of personal liberty is still awaiting explanations from the Ministry of Interior on these events.

15. Another concern raised by Ventimiglia No Borders was about the excessive use of force by police officers to collect photographs and fingerprints, including the use of mechanical tools. In July and August 2016 the Italian activist from the association Ventimiglia No Borders who gave this testimony received the order to leave Ventimiglia.

○ **Bilateral agreements**

16. The website of Labour and Social Policy Ministry shows current bilateral agreements with the following nations: Mauritius, Moldavia, Albania, Sri Lanka, Morocco, Egypt, Libya. The bilateral agreement with Libya was made on 2nd February 2017, despite inquiry, particularly from the association MEDU, showing that migrants detained in Libya were often tortured and abused¹³.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

¹² Il Fatto Quotidiano, *Migranti « Notte in cella e legati in aereo »*. Parlano gli espulsi dall'Italia al Sudan E il Viminale Tace, 31st August 2016, available on <http://www.ilfattoquotidiano.it/2016/08/31/migranti-notte-in-cella-e-legati-in-aereo-parlano-gli-espulsi-dallitalia-al-sudan-e-il-viminale-tace/3003577/>

¹³ *Torture e morte delocalizzate, ecco l'ordine delle cose. E tutti sappiamo*, 23 September 2017, available on <https://lorenzoguardagnucci.wordpress.com/2017/09/23/torture-e-morte-delocalizzate-ecco-lordine-delle-cose-e-tutti-sappiamo/>

- *Investigates the allegations according to which asylum seekers have been expelled from Italy during a collective expulsion that took place on the 24th August 2016 and takes all necessary measures to ensure that such incident does not occur again.*

B. Procedure

○ Offence of irregular entry into or stay on Italian territory

17. The crime of irregular entry and stay remained in force in Italy despite the instructions passed by the Parliament in April 2014.¹⁴

○ Legal aid for migrants in CIE

18. On 10th March 2016 the association MEDU (Medici per I Diritti Umani) visited the CIE in Turin. The delegation met the director of the Centre, some members of the staff and some policemen. However, they were not allowed to visit the places where migrants are detained. Consequently, dialogues took place through the metal bars surrounding the housing units and for very short time. Because of these conditions, dialogues were confused. Someone is specially in charge of the legal assistance of the detainees in the CIE, that person ensured that all detainees had a lawyer. However, some lawyers informed MEDU of difficulties to meet and speak with the detainees. They also mentioned obstacles when they requested information (medical information included) about the detainees.

19. During its visit to the CIE in Brindisi, the LasciareCIEEntrare delegation discovered that even though each detainee should have a lawyer none of them seems to know why they are there and only few of them met with their lawyer more than once.

○ Decree Law Minniti Orlando

20. The new Decree Minniti Orlando, DL 13/2017, which became a law contains some worrying provisions that were denounced by human rights organisations and even by the Chairman of the Court of Cassation as being unconstitutional.

21. In particular, the Decree abolishes the appeal of the rejection decision of asylum claims and abolishes the court hearing with regard to the asylum application. As a result, the judge will only base its decision on the recording of the asylum seeker's interview by the territorial Commission and won't be able to ask question to the asylum seeker thus going against the right to contradiction of the latter¹⁵.

○ Statistics on migrants in detention¹⁶

22. Migrants in CIE as of January 20, 2016:

	MANAGING BODY	THEORETICAL CAPACITY	ACTUAL CAPACITY	PRESENCE
BARI	Connecting People	122	72	71

¹⁴ Amnesty International, Report 2015/16, p. 205 available on <https://www.aivl.be/sites/default/files/bijlagen/pol1025522016english.pdf>

¹⁵ Open Migration, *Why the new Italian law on immigration and asylum is not good news at all*, 28 April 2017, available on <https://openmigration.org/en/analyses/why-the-new-italian-law-on-immigration-and-asylum-is-not-good-news-at-all/>

¹⁶ Report on CIE compiled by the Senate Extraordinary Committee on Protection and Promotion of Human Rights, president Senator Luigi Manconi.

BOLOGNA		95	0	0
BRINDISI	Cultural Association Acuarinto	83	48	46
CALTANISSETTA	Auxilium	96	96	64
CROTONE	Misericordie d'Italia	124	30	29
GORIZIA	Connecting People	248	0	0
MILANO	Italian Red Cross	132	0	0
ROMA	Gepsa Cooperative	125	125	34
TORINO	RTI – Gepsa and Acuarinto	180	42	40
	TOTALE	1.195	413	284

During 2015, 397 migrants were transferred from Lampedusa hotspot into CIE structures.

23. People who have been in CIEs between 1st January – 20th December 2015:

	Occupancy	Migrants who seek international protection inside the CIE
CALTANISSETTA	1.659	183
CROTONE	40	26
BRINDISI	60	22
ROMA	1.665	635
BARI	613	261
TORINO	738	116
TRAPANI	467	113

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Abolishes the criminal offence of irregular entry into or stay on Italian territories;*

- *Takes all necessary measure to guarantee in practice that legal aid is provided to migrants in Identification and Expulsion Centres.*

IV. Detention condition (Article 11)

Issue 15 In light of the Committee's previous concluding observations, please provide updated information on efforts undertaken by the State party to alleviate the overcrowding of penitentiary institutions (CAT/C/ITA/CO/4, para. 16). Since the follow-up report, please elaborate on the progress of renovation and building of prisons, and on the impact thereof on prison overcrowding. Furthermore, updated data should be provided on the application of alternative measures to imprisonment and on the impact thereof on prison overcrowding. In particular, please provide information on steps taken to increase the access to alternatives to imprisonment for immigrants in conflict with the law, both in the adult and juvenile justice systems.

A. Prison overcrowding

24. Prison overcrowding remains a persistent problem in Italy despite some improvements since 2010.¹⁷ On 31 August 2017, the prison population was of 57393 for an overall capacity of Italian prisons of 50501 that is a rate of occupation of 113.6% (for comparison, on 31 October 2016, the prison population was of 54912 for an overall capacity of 50062, that is a rate of occupation of 109.6%)¹⁸.

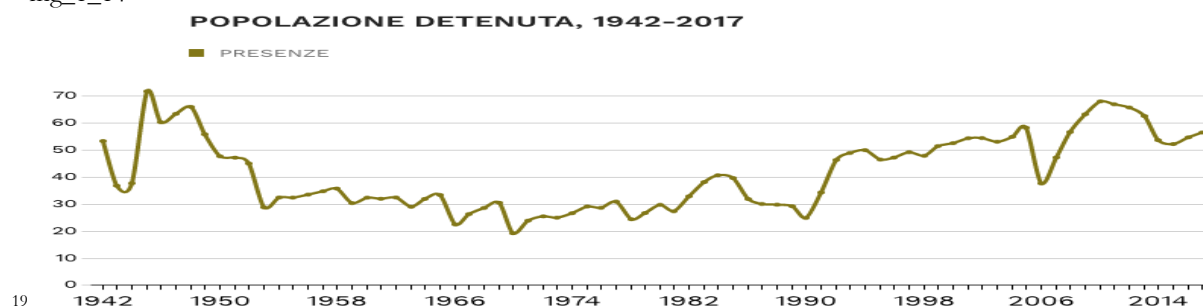
25. If there has been an improvement between 2012 and 2015, the number of detainees has started to increase again in 2016, and further worsened in 2017, with the number of detainees increasing by 2481 units in only 10 months (October 2016-August 2017).¹⁹ The association Antigone explains that this is the outcome of the strategy used by the police and the judiciary to use detention as the first restrictive measure.²⁰ Lombardy is among the worst regions on this issue, hosting 8,309 inmates for an official capacity of only 6,246 places.²¹ According to the same data, only 5 of the 20 Italian regions have enough beds for the detainees their prisons are hosting.

Region	Capacity	Occupancy	Rate of occupancy
--------	----------	-----------	-------------------

¹⁷ FLACAT and ACAT Italy's contribution to the list of issues for the review of the sixth periodic report of Italy, April 2016 available on

http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ITA/INT_CCPR_ICO_ITA_23522_E.pdf

¹⁸ https://www.giustizia.it/giustizia/it/mg_1_14_1.page?facetNode_1=4_54&contentId=SST43398&previousPage=mg_1_14



²⁰ Antigone, *I detenuti hanno ricominciato a crescere. Pre-rapporto 2016 di Antigone*, available on

<http://www.associazioneantigone.it/news/antigone-news/2972-i-detenuti-hanno-ricominciato-a-crescere-il-pre-rapporto-2016-di-antigone>

²¹ Ministero della Giustizia, *Detenuti presenti e capienza regolamentare degli istituti penitenziari per regione di detenzione al 31 agosto 2017*, available on

https://www.giustizia.it/giustizia/it/mg_1_14_1.page?facetNode_1=4_54&contentId=SST43398&previousPage=mg_1_14

Abruzzo	1605	1882	117%
Basilicata	416	506	122%
Calabria	2656	2607	98%
Campania	6139	7129	116%
Emilia Romagna	2824	3520	125%
Friuli Venezia Giulia	476	653	137%
Lazio	5256	6268	119%
Liguria	1115	1385	124%
Lombardia	6246	8309	133%
Marche	894	951	106%
Molise	264	408	155%
Piemonte	4048	4131	102%
Puglia	2326	3403	146%
Sardegna	2723	2308	85%
Sicilia	6411	6228	97%
Toscana	3131	3264	104%
Trentino Alto Adige	504	446	88%
Umbria	1331	1432	108%
Valle d'Aosta	181	173	96%
Veneto	1955	2339	120%

26. The number of people in pre-trial detention is particularly high even though the number of complaints registered by judicial authorities has not increased. On 30th August 2017 there were 10 119 pre-trial detainees (9 120 on 30 June 2016).

27. The Ministry of Justice has started in 2016 a discussion to dismiss 12 of the most infamously known prisons, among which San Vittore (Milan), Regina Coeli (Rome) and Poggioreale (Naples), in order to acquire new penitentiaries, allegedly to avoid that the conditions in these places become a further burden for the inmates, particularly given the overcrowding.²² However, this discussion has not yet led to any concrete action.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Continues its efforts to reduce prison overcrowding especially through the application of alternatives measures to imprisonment and by reducing the application of pre-trial detention.*

²² Repubblica, *Piano carceri, il governo vende Regina Coeli, San Vittore e Poggioreale*, 28 May 2016, available on http://www.repubblica.it/cronaca/2016/05/28/news/piano_carceri_il_governo_vende_regina_coeli_san_vittore_e_poggioreale-140776930/

B. Foreign detainees

28. According to the latest report of the Ministry of Justice, the number of foreign detainees has increased in the last 12 months, as of 31 August 2017, they were 19,747, i.e. 34,4% of the whole number of detainees, compared to 33,5% last year (August 2016). Comparing the data with the number of new Italian detainees, the foreign ones account to more than half of the new increased detainee population over the past year (Total detainees in August 2016: 54195 and total detainees in August 2017: 57393. Increase in Italian detainees: 1582. Increase in Foreign detainees: 1616).

Inmates: foreign nationalities. Comparison 2016-2017 (31 August)

Country of origin	Percentage compared to the total of foreign detainees	
	2017 ²³	2016 ²⁴
Morocco	18,6%	17,2%
Romania	13,7%	15,3%
Albania	12,8%	13,3%
Tunisia	10,5%	10,9%
Nigeria	5,5%	4,3%

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Conducts a study on discrimination against foreigners in terms of sentencing and takes measure to address the high number of foreigner among detainees*

C. Minors

29. According to the Ministry of Justice,²⁵ on 15 August 2017, there were 468 detainees in juvenile prisons among which 203 foreigners (43,4%). The same data also shows that 54,5% of all inmates have not received a final judgment yet. It also appears from the Antigone's report²⁶ that the over-representation of foreign minors might be caused by an increased attention of law enforcement agencies and the fact that the Italian population is more inclined to denunciation against foreigners.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Prioritises alternative measures to detention for minors.*

D. Alimentation and healthcare

²³

https://www.giustizia.it/giustizia/it/mg_1_14_1.page?facetNode_1=4_54&contentId=SST43405&previousPage=mg_1_14

²⁴https://www.giustizia.it/giustizia/it/mg_1_14_1.page?facetNode_1=4_54&contentId=SST1268361&previousPage=mg_1_14

²⁵ *I servizi della giustizia minorile*, Dati Statistici, 15 Agosto 2017, Ministero della Giustizia, page 21, available on https://www.giustizia.it/resources/cms/documents/dgmc_mensile_15.08.2017.pdf

²⁶ Antigone XIII *Rapporto Nazionale sulle Condizioni di Detenzione. Torna il carcere*. « Ragazzi Dentro », May 2017, available on <http://www.associazioneantigone.it/tredicesimo-rapporto-sulle-condizioni-di-detenzione/03-giustizia-minorile/>

30. ACAT Italy and FIACAT would also like to highlight the inadequacy of the food provided by the prison canteens: many detainees are forced to cover the cost of their meals, even though this is not always possible, but not all detainees may face charges of canteens fees. For example, people in solitary confinement have access to a kitchen. Prison canteens do not always serve the adequate regime to the inmates. For example, an elderly inmate from the Sulmona prison wrote: *"I have not eaten [for 2 days], not because I do not like the food but because I am suffering from cholesterol, so I cannot eat it."*²⁷

31. Italian prisons are not in the best conditions regarding healthcare, as it is shown in various reports. In the Scarceranda report published by Radio Onda Rossa, it is reported that many detainees testify each year of the lack of healthcare in prison. They report cases of healthcare denied and prescription of drugs allocated without previous medical examinations. The report also denounces the high use of psychotropic drugs in prison and shares the testimony of the spokesman of OSAPP (Autonomous Trade Union Organization of the Penitentiary Police) who said in 2012 that *"in Italian prisons there are at least 16,000 detainees in chemical containment because of the massive use of psychotropic drugs. It is more than 40% of prisoners awaiting trial"*.²⁸ The report of Antigone Onlus²⁹ states also on this topic that: *"One inmate out of two is suffering from an infectious disease, nearly one out of three of a psychiatric disorder. [...] the reform of the prison health should pursue the fundamental goal of ensuring that the right of detainees to protect their health is the same as for free citizens. But, after seven years there are too many cases of healthcare denied. In fact, the relations between the medical department and some of the detainees are often conflicting. The law provides that the doctor is a member of the disciplinary board. The same doctor is called to make judgments of compatibility with the penitentiary environment. It is thus undermining the relationship of trust which should bind the doctor with each of his patient"*. The report also criticises the fact that prison inmates can only seek the assistance of a doctor from outside at their own expenses creating a risk of disparity in the healthcare received by the detainees based on their resources and that the wait for an authorization is often very long.

32. Moreover, according to a news article from "Il Fatto quotidiano", in 2015 around 100,000 detainees passed through Italian prisons, out of them: one out of three was a drug addict, 5,000 had contracted HIV and 31,500 hepatitis. Between 60 and 80% of inmates have contracted at least one disease, in 48% of cases a contagious one. 32% of inmates suffer from psychiatric troubles – and an Italian law would impose to these detainees to be helped by specialized psychiatric helpers, but it is not always the case.³⁰

33. However, some improvements can be noted on this issue but also the huge gap between the regions that comes with it. The region of Emilia Romagna has the most advanced system. It has a professional, called prison health promoter, who is working alongside the healthcare team and who promotes healthcare through information session, orientation, support and education, to foster healthy lifestyles among detainees. Moreover, Emilia Romagna has also adopted in 2015 the "Guidelines for the clinic management of medicines in prisons".³¹ These guidelines aim at governing the following points: continuity of care; supply, demand and management of medication, preparation of medication, administration of medication, adherence to treatment, disposal of expired or unused medicines and reporting. The territorial health garrison of Siena, a city in

²⁷ Carmelo musumeci, *Giuseppe Zagari dopo l'arrivo a Sulmona...*, May 2015, available on

<https://urladalsilenzio.wordpress.com/2015/04/28/giuseppe-zagari-dopo-larrivo-a-sulmona-di-carmelo-musumeci/>

²⁸ Radio Onda Rossa, *Scarceranda 2015 Quaderno 10*, p. 26-30, available on

<http://scarceranda.ondarossa.info/sites/default/files/testi/04-SaluteESuicidiInCondizioniDiDetenzione.pdf>

²⁹ Antigone XI *Rapporto Nazionale sulle Condizioni di Detenzione. Oltre i tre metri quadri*, p.15, 2015 available on

http://www.osservatorioantigone.it/upload2/uploads/docs/cartella_stamp_Rapporto.pdf

³⁰ il Fatto quotidiano *Carceri: sovraffollamento, suicidi e Hiv. L'inferno quotidiano per 56mila detenuti*, 24th September 2016, available on <http://www.ilfattoquotidiano.it/2016/09/24/carceri-sovraffollamento-suicidi-e-hiv-linferno-quotidiano-per-56mila-detenuti/3053018/>

³¹ Emilia Romagna, *Assistenza sanitaria in carcere*, October 2016, available on <http://salute.regione.emilia-romagna.it/carcere>

Tuscany region, has made available a series of informational brochures in English, French, Spanish and Arabic,³² to inform about the health services for the convicted population. An excerpt mentions that: “*The Regional Health Service strives to guarantee: equality, free health care and continuity, confidentiality of the health services as well as ensuring that the Penitentiary System guarantees the appropriate use of the results of medical tests, founded on the principles of civil rights and of the rehabilitative function of the restriction of freedom*”.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Improves the quality and quantity of food provided to detainees taking into account the special needs of some of them related to their medical condition;*
- *Regulates the use of psychotropic drugs on detainees and addresses the issue of illness and diseases caught in detention.*

E. Deaths in prison

34. The number of people who died in prison has decreased between 2010 and 2015, to then slightly rise again in 2016 and 2017. According to the prison population, the number of deaths is average for European prisons. The data for the first nine months of 2017 is way above compared to the previous years.

Years	Total number of deaths in penal institutions	Suicides	% suicides
2010	184	66	35,9%
2011	186	66	35,5%
2012	154	60	39,0%
2013	153	49	32,0%
2014	132	44	33,3%
2015	120	42	35,0%
2016	115	45	39,1%
2017 (as of 24 September)	90	44	48,9%

35. The number of suicide attempts is worrying, as it is very high.³³ While in 2016, the number of suicides represented 39% of the total number of deaths in penal institutions in the first nine months of this year, it reached a particularly high percentage, almost 50% according to the Association “Ristretti”.

36. While according to the association Antigone, the numbers of suicide is less worrying (report issued in May 2017), on the contrary in the last two years a new increase of cases of self-injury has been reported, (almost 9,000 cases), a level unknown since 1946. Self-harm is much more widespread among the foreign population than the Italian population. If the proportion of foreigners held in prison amounts to 34% of the total detainees, statistics show that incidence of

³² <http://www.usl7.toscana.it/index.php/servizi/iscrizione-al-s-s-e-medici-di-base/assistenza-sanitaria-in-carcere>

³³ Carceri in Italia : crescono pericolosamente sovraffollamento e suicidi, *La Repubblica*, 31 Luglio 2017, available on http://www.repubblica.it/solidarieta/diritti-umani/2017/07/31/news/carceri_in_italia_crescono_pericolosamente_sovraffollamento_e_suicidi-172043754/

self-harm is almost twice as important among foreign detainees.³⁴

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- ***Takes the measure necessary to reduce the number of suicide, suicide attempt and self-mutilation in prison.***

F. National preventive mechanism

37. In February 2016, Mauro Palma was appointed as the first "National Guarantor for the rights of persons detained or deprived of personal liberty" (hereinafter National Guarantor) as required by the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), that Italy has ratified on 9 November 2012 (Law n. 195). The National Guarantor has been established by the Law Decree 23rd December 2013 No. 146 (art. 7) and Act No. 10, of 21st February 2014³⁵. The Ministerial Decree of 11th March 2015 No. 35 established the office internal rules. He will deal with all forms of deprivation of liberty, including, police custody, identification and expulsion centres and psychiatric institutions.

38. The National Guarantor coordinates also a network of local Guarantors, which are institutions already in place or to be set up at regional and city levels.³⁶ Regional Guarantors are present, at the moment, in 15 out of the 20 Italian regions.³⁷ The office of the National Guarantor includes the president, Mauro Palma, and two other members: Ms. Daniela de Robert (professional journalist) and Avv. Emilia Rossi (criminal lawyer).³⁸ They are appointed for a non-renewable mandate of 5 years. They are conferred a fixed annual allowance equal to 40% of the members of parliament's fixed allowance for the President, and 30% of the same for the two members. For the functioning of the National Guarantor 200 000 euros were allocated in 2016 per year. The Ministry of Justice, in which the National Guarantor's office is established, allocates the space and offices necessary to its functioning, and 25 civil servants of its staff,³⁹ which are under the direct supervision and

³⁴ Antigone XIII *Rapporto Nazionale sulle Condizioni di Detenzione. Torna il carcere. «Non devono morire»*, May 2017, available on <http://www.associazioneantigone.it/tredicesimo-rapporto-sulle-condizioni-di-detenzione/02-autolesionismo-e-suicidi/>

³⁵ Law n° 10, 21st February 2014, art. 7, available on <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2013-12-23;146/vig=>

³⁶ Regional Guarantors existed already before the National office was established. In 3 out of the 20 Italian regions, e.g. Calabria, Liguria and Basilicata, there is not yet a specific law establishing the regional offices. In Abruzzo region, notwithstanding the specific law from 2011, there is still no regional Guarantor, and for this reason the National Guarantor has recently addressed an appeal to the Regional Council of Abruzzo (see <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/7cbfd5cc7d158467e53a0bf0f4d9ae.pdf> and visited again some detention centers located in the region,

<http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/dd34c9f00172ae125bed082066720e5b.pdf>) There are also 9 provincial guarantors, and 43 city guarantors established as of September 2017, latest update, https://www.giustizia.it/giustizia/it/mg_3_2_3.page?tab=w

³⁷ https://www.giustizia.it/giustizia/it/mg_3_2_3.page?tab=w

³⁸ Ministero della Giustizia, *Garante nazionale diritti persone detenute o private della libertà personale*, 20th July 2016, available on https://www.giustizia.it/giustizia/it/mg_2_21_2.page

³⁹ Ministerial Decree 3 August 2016 available on <http://www.polpenul.it/attachments/article/7252/03.08.2016%20-%20Decreto%20Ministro%20Giustizia%20e%20Garante%20Naz.le%20Diritti%20Detenuti.pdf>; Moreover, a first call for applications to appoint 15 officers, has been recently closed and received 249 applications (see more on <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/b76563f318c781ae30005a0f7c991562.pdf>)

management of the National Guarantor.⁴⁰

39. According to the Law No. 354, 26 July 1975 (Norms on the penitentiary system and the execution of measures of deprivation or limitation of Liberty), article 35: “*detainees may raise a complaint before the: 1) the prison warden; 2) supervisory judges; 3) judicial and sanitary authorities visiting the prison; 4) president of the Region; 5) President of the Italian Republic*”. Since the establishment of the National Guarantor, detainees can also raise a complaint before him in order to have specific recommendations formulated to the involved administration, if violations of the penitentiary law are found.⁴¹ The Ministerial Circular of 18th May 2016 (internal to the Ministry of Justice, Dpa), recalls the independence of the National Guarantor vis-à-vis the State administration and powers, in particular regarding the authority’s power to visit and access all places of detention in the territory of the Republic and the possibility to conduct individual and confidential interviews with the detainees.⁴² However, some academics still consider the new National Guarantor to be between an independent authority and a ministerial office with larger autonomy (given the strong link with the Ministry of Justice who provides its civil servants and allocates its offices to the National Guarantor).⁴³

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Takes all measures necessary to ensure the effective independence of the National Guarantor and allocates it the necessary funds for its functioning.*
- *Ensures that local Guarantors are established without delay in all regions.*

V. Investigations on allegations of torture and ill-treatments (Articles 12 and 13)

Issue 18: In light of the previous concluding observations of the Committee, please provide detailed information on further measures taken to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials, and to bring the perpetrators to justice and impose appropriate sentences (CAT/C/ITA/CO/4, para. 19). Are these investigations undertaken by an independent body, as recommended by the Committee in its previous concluding observations (CAT/C/ITA/CO/4, para. 19)? Are all suspects in prima facie cases of torture and ill-treatment as a rule suspended or reassigned during the process of investigation?

Issue 19: Please provide information on measures taken to ensure that the State party acts in compliance with article 5 of the Convention and takes the necessary measures to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials and Italian troops, in Italy or abroad, and try perpetrators, as well as impose appropriate sentences on those convicted, as recommended by the Committee in its previous concluding observations (CAT/C/ITA/CO/4, para. 13)

⁴⁰ Ministerial decree n° 35, 11 March 2015, art. 3-4 available on <http://www.gazzettaufficiale.it/eli/id/2015/03/31/15G00050/sg>

⁴¹ The Italian Constitutional Court, in its decision of 8-11 February 1999, n° 26 declared the unconstitutionality of art. 35 of the Law No. 354 as it does not include judicial safeguards against acts of the penitentiary administration that violate the rights of the detainees.

⁴² Ministerial Circular, 18 May 2016, available on: https://www.giustizia.it/giustizia/it/mg_1_8_1.page?contentId=SDC1240387&previousPage=mg_2_21_2

⁴³ Il Sole 24 ore, *Il Garante trascurato anti-tortura*, 5th September 2016, available on http://www.ilssole24ore.com/art/commenti-e-idee/2016-09-05/il-garante-trascurato-anti-tortura-063536.shtml?uuiid=ADYSG5EB&refresh_ce=1

40. In 2007, the Committee against torture recommended to Italy to “*Strengthen its measures to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials. In particular, such investigations should not be undertaken by or under the authority of the police, but by an independent body. In connection with prima facie cases of torture and ill-treatment, the suspect should as a rule be subject to suspension or reassignment during the process of investigation, especially if there is a risk that he or she might impede the investigation; (b) Try the perpetrators and impose appropriate sentences on those convicted in order to eliminate impunity for law enforcement personnel who are responsible for violations prohibited by the Convention*”⁴⁴. However, Italy has not implemented this recommendation despite its recent unsatisfactory criminalisation of torture (see paragraph 3) and the implementation of a national preventive mechanism (see paragraphs 36 to 38)

41. FIACAT and ACAT Italy note that in recent years there have been frequent cases of abuse by law enforcement officers denounced by various human rights groups in Italy, many of which have had a strong media response and have become the subject of complex legal proceedings which are only partly completed so far.

42. The Italian legal framework should be modified especially the offences related to acts of violence committed by police officers. For example, article 582 of the Criminal Code makes it impossible to prosecute police officers whose conduct resulted in slight injuries if there hasn't been a formal complaint from the victim. This provision is highly problematic since police officers should be held responsible for illegal acts of violence whether or not the victim has brought a complaint. Otherwise, it contributes to create a sense of impunity for the offences committed by law enforcement officers because it makes it increasingly difficult to prosecute the offences committed by public officials.

43. Regarding the events that occurred in Genoa and Naples in 2001, on 5 July 2012 the Court of Cassation confirmed the sentence against 25 defendants belonging to the Italian police, sentencing them to detention periods ranging between 3 years and 8 months to four years and interdiction from public offices for 5 years.⁴⁵ In addition, last year the European Court of Human Rights (ECHtR) delivered a judgment on those cases that has certainly significantly contributed to the final approval by the Italian Parliament of the Bill criminalising torture. The case *Cestaro v Italy* concerned the events which occurred at the end of the G8 summit in Genoa in July 2001, in a school made available by the municipal authorities to be used as a night shelter by demonstrators. An anti-riot police unit entered the building around midnight to carry out a search, leading to acts of violence. In this emblematic case, “*the Court found that there had been a violation of Article 3 of the Convention on account of ill-treatment sustained by Mr Cestaro and of inadequate criminal legislation concerning the punishment of acts of torture which was not an effective deterrent to prevent the repetition of such acts. After emphasising the structural nature of the problem, the Court pointed out that, as regards the remedial measures to be taken, the State's positive obligations under Article 3 might include the duty to introduce a properly adapted legal framework, including, in particular, effective criminal-law provisions.*” In this judgment Italy was condemned not only because of the beating suffered by one of the protesters during the G8 summit in Genoa, but also because it does not have adequate legislation to punish the crime of torture; a legislative gap that allowed the perpetrators to go unpunished. According to the European judges, “*This result is not attributable to delay or negligence of the judiciary, but the Italian criminal law that does not allow to sanction acts of torture and prevent others*”.⁴⁶ The action initiated by Cestaro is of particular importance as it is

⁴⁴ Concluding observations of the Committee against torture on the review of Italy, [CAT/C/ITA/CO/4](#), para 19.

⁴⁵ Sentenza della Corte di Cassazione per i fatti della scuola Diaz : importante ma incompleta e tardiva, *Amnesty International*, available on : <https://www.amnesty.it/sentenza-della-corte-di-cassazione-per-i-fatti-della-scuola-diaz-importante-ma-incompleta-e-tardiva/>

⁴⁶ See European Court of Human Rights, Sentence No. 6884/11, 07/04/7th April 2015

intended to act as a precedent for a group of outstanding appeals. Italy will have to pay to Cestaro a compensation of 45 000 euros. *"The money does not compensate the evil that has been done. It's true, is a first step to today, but I'll feel really compensated only when the state will introduce the crime of torture"*, was the comment of Cestaro after the verdict⁴⁷.

44. Furthermore, the ECtHR condemned Italy again for the same reasons on 22 June 2017. The Court awarded compensation ranging between 45 and 55 000 euros for moral damages to 29 applicants.⁴⁸

A. Investigations, prosecutions and convictions in cases of torture and ill-treatment in the past five years

45. It should be noted that cases about acts of torture, ill-treatment or excessive use of force by police officers often give rise to very lengthy trials. The prosecutions are very long and judges have difficulties to issue a final verdict even after many years. Moreover, when authors have been convicted, some of them benefit from pardon and therefore serve a sentence much lower than the one decided by the judge. In all cases, the lack of the criminalization of torture does not permit to condemn the authors for such crime⁴⁹. As an example, several important cases can be mentioned.

46. Case Cucchi: There have been recent developments on this case. The case concerns a young man, Stefano Cucchi, arrested in 2009 for possession of drugs who died after only a week in custody in a hospital in Rome. The cause of the death of Stefano Cucchi remains unclear. In fact, during his detention, Stefano Cucchi was examined by doctors three times. During these examinations, several signs of beatings were found including several fractures. According to the experts, his death was probably due to a crisis of epilepsy however it could also be due, even if less likely, to the fractures he suffered.⁵⁰ The case has finally come to a final judgment. On 15th December 2015, the Supreme Court overturned the acquittal of five doctors and convicted them for manslaughter. However, three prison officers, the doctor who first visited Cucchi and the three nurses who came under trial were acquitted.⁵¹

47. The case Uva: is about a 43-years old man arrested in 2008 who died the day after his arrest. During his detention the boy was visited once by a doctor who required a mandatory medical treatment due to allegedly self-inflicted injuries. According to the Prosecutor, the victim was also beaten while he was at the hospital. The trial has lasted for a very long time due to countless delays, omissions and irregularities in the investigation. The case is still pending. The 8 defendants in this case were prosecuted for manslaughter but acquitted by the Court of Assizes in April 2016.

⁴⁷ Repubblica, *G8 Genova, Corte Strasburgo condanna l'Italia: "Alla Diaz fu tortura, ma colpevoli impuniti"*, 7 April 2015 available on

http://www.repubblica.it/politica/2015/04/07/news/diaz_corte_strasburgo_condanna_l_italia_per_tortura-111347188/

⁴⁸ Reato di tortura, da Strasburgo un'altra condanna all'Italia per la Diaz, *La Repubblica*, 22 July 2017, available on http://www.repubblica.it/politica/2017/06/22/news/reato_tortura_strasburgo_diaz-168799815/

⁴⁹ FLACAT and ACAT Italia's concerns in prevision of the periodic visit of the CPT in Italy, March 2016, p. 15, available on <http://www.acatitalia.it/newsite/sites/default/files/FLACAT%20-%20ACAT%20Italy%20-rapporto%20-cpt-2016.pdf>

⁵⁰ Medici per I diritti umani, *Il caso Cucchi, un'indagine medica indipendente*, October 2015, available on http://www.mediciperidirittiumani.org/pdf/RAPPORTO_CUCCHI.pdf

⁵¹ La Repubblica, *Caso Cucchi, la Cassazione: annullata assoluzione medici, nuovo appello*, 15th December 2015, available on http://roma.repubblica.it/cronaca/2015/12/15/news/il_caso_cucchi_arriva_in_cassazione-129476239/?refresh_cc

However, the Attorney general appealed this decision, assuming that “stress deriving from constraint and deprivation of freedom” caused the death.⁵²

48. The case Aldrovandi: deserves to be mentioned as it is one of the few most serious cases in recent years, involving the Italian police for abuse and torture, to have reached a final conviction of the accused. In this case, a young man, Federico Aldrovandi, died during an arrest after being severely beaten. On 21 June 2012, the Court of Cassation issued a verdict condemning the four policemen accused to 3 years and 6 months of prisons for manslaughter. The Court rejected the appeal filed by the defence of the four agents against their conviction which had already been delivered by the Court of Appeal of Bologna. The policemen, however, benefited from mercy for 36 of the 42 months of imprisonment provided for by the sentence. The last officer, a woman, was admitted the house arrest regime after a month of detention.⁵³ After the implementation of these convictions, disciplinary measures – allegedly, suspension from service⁵⁴ – were taken.⁵⁵ Reportedly, in January 2014, the policemen were allowed to come back to service.⁵⁶

B. Code of conduct and identification of law enforcement officials

Issue 20: Pursuant the Committee’s previous concluding observations, please provide information on measures taken to send a clear and unambiguous message to all levels of the police force hierarchy and to prison staff that torture, violence and ill-treatment are unacceptable, including through the introduction of a code of conduct for all officials, and to ensure that law enforcement officials only use force when strictly necessary and to the extent required for the performance of their duty (CAT/C/ITA/CO/4, para. 17). Please provide information on measures taken to certify that those who report assaults by law enforcement officials are protected from intimidation and possible reprisals for making such reports. Furthermore, information should be provided on the progress of the judicial and disciplinary proceedings related to the incidents in Naples, Genoa and Val di Susa, as requested by the Committee in its previous concluding observations (CAT/C/ITA/CO/4, para. 17).

Issue 21: Please indicate steps taken to ensure that all law enforcement officials on duty be equipped with visible identification badges.

49. Italy has not adopted, unlike many Member States of the European Union, a system of identification of police officers through identification codes on their uniform. It is not required for the agents in service to wear an ID number on their uniform or helmet. These regulatory gaps are one of the reasons of the persistence of ill-treatment and abuse by law enforcement agents which

⁵² Il Fatto Quotidiano, *Caso Uva, procura Varese: Rinvio a giudizio per 8 tra carabinieri e poliziotti*, 24th March 2014, available on: <http://www.ilfattoquotidiano.it/2014/03/24/caso-uva-procura-varese-chiede-rinvio-a-giudizio-per-agenti/924456/> and Il Fatto Quotidiano, *Giuseppe Uva, la Procura generale: “Morì per stress e privazione della libertà”*, 4 October 2016, available on: <http://www.ilfattoquotidiano.it/2016/10/04/giuseppe-uva-la-procura-generale-mori-per-stress-e-privazione-della-liberta-chiesta-la-condanna-per-carabinieri-e-agenti/3075051/>

⁵³ Scarcerata l’agente Segatto, *La Nuova Ferrara*, 19 March 2013, available on <http://lanuovaferrara.gelocal.it/ferrara/cronaca/2013/03/19/news/scarcerata-l-agente-segatto-da-ieri-agli-arresti-domiciliari-1.6727661>

⁵⁴ Internal disciplinary measures were covered by secret by the Italian police. Against this, also the Speaker of the Chamber requested the Chief of the Italian Police to remove the secret to internal disciplinary proceedings. Cfr. http://www.repubblica.it/cronaca/2014/05/03/news/caso_aldrovandi_coisp_all_attacco_di_pansa_sconcertati_abi_ssale_divario_con_poliziotti-85086011/

⁵⁵ *La Stampa*, *Caso Aldrovandi: La Cassazione conferma: 3 anni e 6 mesi di carcere ai poliziotti*, 21st June 2012, available on <http://www.lastampa.it/2012/06/21/italia/cronache/aldrovandi-la-cassazione-conferma-anni-e-mesi-di-carcere-ai-poliziotti-RvTlhtMinGH4iChzqjezM/pagina.html>

⁵⁶ Aldrovandi, poliziotti condannati tornano in servizio. Silenzio dal Viminale, *Il Fatto Quotidiano*, 23 January 2014, available on <http://www.ilfattoquotidiano.it/2014/01/23/aldrovandi-poliziotti-condannati-tornano-in-servizio-silenzio-dal-viminale/854507/>

continue to go unpunished because it is impossible or at least more difficult to identify the agent who commits the crime.⁵⁷ A decree aiming at introducing such identification tag (for each police squad and not individual ones) has been discussed in March 2017 but there is no measure taken yet.

50. In addition, in Italy there is no Code of Conduct for police forces, but only guidelines and the "Code of Conduct for employees of the Public Administration" applicable to police officers⁵⁸. This Code does not include any reference to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. It mainly states that employees of the Public administration should perform their functions in accordance with the law and without abusing his/her position or powers under this Code.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Ensures that all allegations of torture, ill-treatment and excessive use of force by law enforcement officials are properly investigated and prosecutes and punishes perpetrators of such acts with appropriate penalties taking into account the gravity of those acts;*
- *Makes sure that all law enforcement officials on duty be equipped with visible identification number on their uniform or helmet;*
- *Adopts a code of conduct for all law enforcement officials.*

VI. Cruel, inhuman or degrading treatment or punishment (Article 16)

Issue 23: In light of the recommendation of the Working Group on Arbitrary Detention in its report on the visit to Italy in November 2008, please provide detailed information on steps taken to address the concern that the deprivation of liberty in the first CDAs has no cognizable legal basis and is thus arbitrary (A/HRC/10/21/Add.5, paras. 70-72 and 120). Please indicate steps taken to ensure that detention of asylum-seekers in CDAs, if maintained, is used only in exceptional circumstances or as a last resort, and then only for the shortest possible time.

Issue 24: Regarding the detention of expelled foreigners awaiting deportation in CIEs, the Working Group on Arbitrary Detention expressed several concerns and recommendations, inter alia, about a possible legislation change that would extend the maximum length of detention in the CIEs and the need for a more careful examination of individual cases (A/HRC/10/21/Add.5, paras. 75-82 and 121). Please provide detailed information on measures taken to address these considerations.

Issue 25: Please indicate steps taken to ensure a more effective judicial review of the detention of asylum-seekers and provide adequate legal aid to the asylum-seekers.

Issue 26: With reference to the Committee's previous concluding observations, please provide details about measures, including legislation, taken by the State party to ensure that all asylum-seekers have access to a fair and prompt asylum procedure (CAT/C/ITA/CO/4, para. 10). In this respect, please elaborate on the 2009 implemented policy whereby all migrants and asylum-seekers arriving by sea in Lampedusa must remain in the CDA on the island until a decision is made on their cases, instead of being transferred to special centres in Southern Italy set up

⁵⁷ FIACAT and ACAT Italia's concerns in prevision of the periodic visit of the CPT in Italy, March 2016, p.14, available on <http://www.acatitalia.it/newsite/sites/default/files/FIACAT%20-%20ACAT%20Italy%20-rapporto%20-cpt-2016.pdf>

⁵⁸ Ministero dell' Interno, Codice di comportamento dei dipendenti del Ministero dell'Interno, available on http://interno.usb.it/fileadmin/archivio/interno/fotografie_e_disegni/schema_codice_comportamento_Ministero_Interno_2015.pdf

to examine their case. In particular, please provide detailed information on the impact of this policy on the access of the migrants to fair procedures and adequate legal representation.

Issue 27: The Committee and the Committee on the Elimination of Racial Discrimination expressed their concern at reports of ill-treatment and unsatisfactory detention conditions in immigration centres (CAT/C/ITA/CO/4, para. 16, and CERD/C/ITA/CO/15, para. 18). In particular, the Office of the High Commissioner for Refugees expressed its concern about the living conditions at the reception centre in Lampedusa (23 January 2009). Please provide information on measures taken to further improve living conditions in the immigration centres. Please provide updated information on steps taken to address the concern of overcrowding in immigration centres. In this respect, please elaborate on the status and possible implementation of the draft Action Plan on, inter alia, immigration centres, as mentioned in the follow-up report. Please indicate steps taken to establish an independent body that will systematically monitor the management of these centres, respect for the human rights of the people held there and the health, psychological and legal assistance provided.

A. Treatment of migrants

○ Living conditions

51. First, it should be noted that the Italian migrants' reception system is composed of 2 steps. The first reception structures are managed by local prefectures under the control of the Ministry of Interior. They are the hotspots and the regional hubs (created from the conversion of the First aid and reception centres (Centri di primo soccorso e accoglienza - CPSA), the Reception centres (Centri di accoglienza - CDA) and Reception centres for asylum seekers (Centri di accoglienza per richiedenti asilo - CARA)). The second reception structures are the Protection System for Asylum Seekers and Refugees (SPRAR). They are managed by private associations in agreement with the concerned municipality. Upon their arrival in Italy migrants are placed in the hotspots. There, they are identified and they should indicate the reason of their migration and more precisely if they are seeking international protection. Migrants seeking international protection are relocated to regional hubs whereas the others are placed inside an Identification and Expulsion Centre (Centri di identificazione ed espulsione – CIE). Migrants relocated to regional hubs should stay there for a maximum period of 30 days, after this they should be hosted in a SPRAR.

▪ Hotspots conditions

52. In Italy there are four hotspot centres: Pozzallo, Porto Empedocle, Trapani and Lampedusa. All of these hot-spots are managed by Catania offices (Sicily). The initial reception facilities of the hot-spots can host 1.500 migrants overall: Pozzallo 300 people; Porto Empedocle 300 people; Trapani 400 people; Lampedusa 500 people. The creation of new hotspots (5 in in Crotone, Reggio Calabria, Palermo, Messina and Corigliano Calabro) has been planned but this has not been implemented yet and won't be in the near future.

53. The association Melting Pot expresses serious concerns about this approach from a judicial and administrative point of view. *"It seems like summary and discretionary methods are used in the hot-spots to distinguish asylum seekers from so-called "economic migrants": the consequence of this approach is the increase of immediate refoulement (at the time of the landing in Italy). Foreigners often receive the order to leave Italy in seven days, without any consideration of their personal conditions and without facilities and means (in contrast with the law) to afford the journey; in this way their right to seek asylum is highly violated"*. Melting Pot and ASGI (Associazione per gli Studi Giuridici sull'Immigrazione) are concerned about the use of violent methods to overcome passive resistance of migrants who refuse to be identified. According to the standards, migrants can leave the hot-spot only after the photo-reporting.

54. During the month of June 2016, the campaign *LasciateCIEntrare* organised an inquiry dedicated to more than 60 centres (CIE, CARA, HUB, CAS) but the visits of the hotspots were forbidden. Journalists were only allowed by the Ministry of the Interior to visit hotspots on 14th July 2016 after only a 12 hours' notice.

55. Alessandra Ballerini (lawyer and member of the associations *Terres des Hommes* and *LasciateCIEntrare*) and Elly Schlein (European Parliament) took part to the inspections to Trapani and Lampedusa Hot-spots from 20th to 22nd July 2016⁵⁹. Here is a summary of their findings:

Trapani Hotspot. 20th July 2016: Trapani Hotspot is considered like the "jewel" of the hotspot system. Delegations of NGOs and MPs are often invited to visit it instead of other structures which are generally inaccessible to the outside world. Ms. Ballerini and Schlein underline that the hotspot system is not ruled by a specific law, so these structures "do not respect the article 10 of the Constitution nor the freedom and guarantees provided for by art. 13 of the Constitution". Ballerini and Schlein explain that Trapani hotspot host migrants already identified who have been rejected from the Ventimiglia border.

- Population: At the time of their visit, there were 180 migrants for an overall capacity of 400.

- Length of stay: According to the operators of the hotspot, the average stay is of 5 days. It can go up to 13 days when encountering difficulties to find a place in a regional centre. If the migrants are supposed to be allowed to go outside, it seemed difficult since the centre is isolated and there is nothing outside not even buses.

- Staff: The staff working inside the centre gather people from the Badia Grande cooperative (3 psychologists, 2 social workers, 2 legal advisers, one doctor and mediators), from the High Commissioner for Refugees, the International Organisation for Migration, Frontex (16 people divided into teams with a head of each team Italian) from the European Asylum Support Office - EASO - (4 operators) and since April 2016 2 doctors from the National Institute for Health, Migration and Poverty (a dermatologist and a specialist in infectious disease) present 9 hours and a half per day.

- Women and minors: There are many families in this centre, often with very young child including babies. The number of unaccompanied minors is quite important (around 30%) and they are often very young (under 10 years old). The number of women has also increased.

- Arrival kit: Upon arrival, each migrant, receives a travel bag containing: 3 phonecards of 5 euros each, 2 bed sheets, 1 pillowcase, 1 comb, 3 towels, 4 socks, a pair of slippers, pyjamas, 1 roll of toilet paper, 4 small shower gel and shampoo, a pair of shoes, 4 pairs of underwear, a toothpaste and a toothbrush, 4 shirts and 2 tracksuits. Women also receive a bra and a pack of sanitary pads. There is no public phone, so the refugees have to use their mobile phone.

- Procedure: Each migrant is submitted to pre-identification, is given initial legal information and undergoes a medical examination, more detailed than the one made at the landing, at their arrival at the hotspot. It is only the day after that they are properly identified with their fingerprints and photo. This identification takes place in presence of police officers and Frontex and EASO's staff. When they are doubts about the age of unaccompanied minors they undergo a test at the hospital using wrist X-ray. However, this method is criticised since it is very invasive and has an important margin of error.

⁵⁹ Elly Schlein, *Report delle visite agli Hotspot di Trapani e Lampedusa, 20-22 Luglio 2016*, 6th August 2016, available on <http://www.ellyschlein.it/report-delle-visite-agli-hotspot-di-trapani-e-lampedusa-20-22-luglio-2016.html>

It should be noted that inside the hotspot, migrants can only fill in application for asylum and not the C3 form for international protection. This creates a risk of refoulement.

- Vulnerability: According to the psychologists, almost all the migrants have experienced traumas (torture, rape ...). When the person is particularly vulnerable, a report is established and given to the concerned person with the rest of his/her medical files.

- Structures: The centre is made of several offices and dormitories (each of the dormitory having 12 beds, 3 showers and toilets) and a big refectory (120 seats) in which there is a small room used as a mosque and a room with toys.

- Landing: During their visit, Alessandra Ballerini and Elly Schlein were able to be present during the landing of 378 people. Many people were involved in the landing: the Italian Red Cross, the civil protection at regional and municipal level, Save the Children, the HCR, Frontex, EASO, hospital staff, doctors and police officers. It seemed that the landing respected the procedure in place and that the actions of all actors were coordinated.

Lampedusa hotspot 21st July 2016:

- Population: Lampedusa hotspot was supposed to host 500 people however its capacity is only of 381 places. On 19th May 2016, a fire destroyed one of the buildings of the centre, reducing its capacity to 140 places. However, officially the hotspot can still host 381 people. At the time of the visit, the hotspot hosted 350 migrants, including twenty women and several families including six small children, and ten unaccompanied minors.

- Length of stay: Some people have been staying in the hotspot for almost a month. Some staff testified that some people could even stay there for up to 3 months and a half.

- Staff: The medical staff of the centre is made of one doctor and one nurse available 24h per day. Turns are supposed to be organised every week or every other week. Two psychologists are available 6 hours per day. Members from the National Institute for Health, Migration and Poverty are also present in the centre (a specialist in infectious disease, a dermatologist, a paediatrician, a psychologist and a mediator).

- Minors: Some minors are present in the hotspot even though they should be directed to specialised centre. They stay there for an average of 25 days often in close promiscuity with adults.

- Arrival Kit: each of the migrant receive a kit upon arrival. Those kits are often inadequate and insufficient given the very long time migrants can stay in the hotspot for. Moreover, migrants don't have the possibility to do their laundry. One month the water had been cut off several times without notice and for few hours. Each migrant should be given 2,50 euros per day. However, sometimes they don't receive any money but only a pack of biscuits. Some migrants try to save up the money they receive each day to buy phone cards since the 35 euros phonecards given at the beginning of their stay is not enough in case of prolonged stay.

Procedure: After a landing that took place during the visit, migrants arrived at the hotspot were pre-identified. There, despite the presence of the migration police it appeared impossible for migrants to fill in the C3 form to testify of their willingness to apply for international protection. This is problematic since once transferred migrants will not be recognised as asylum seekers and might be requested to leave the territory in 7 days. The migrants were only informed on their rights and the procedure during the landing when they were quite confused and shocked from the journey. They

had to fill in the information paper in which the motive of the trip to Italy is asked. If the migrants don't fill in the form properly they risk being qualified as economic migrants and be expelled.

- *Structure*: The buildings contain 7 rooms with 12 beds each. However, bunk beds were put in some of the room to increase the number of places of these rooms to 24 places or even 36 places. There are 8 showers and 12 squat toilets in bad conditions. In the area reserved for unaccompanied minors (who sometimes represent over 30% of admissions) the showers do not exist at all and the toilets have been out of service for months. In the area for women and families with children there are 6 rooms with 6 beds. There is no canteen, so the refugees must have their meals in their room or outside. The buildings are in very bad conditions: it is very hot in summer and very cold in winter. The cleaning is not properly done.

There is another special area reserved for people suffering from scabies or other diseases. It is particularly hot in this part of the centre, it smells very strongly and the toilets are very dirty. Many mattresses are not covered with bed sheets and are not replaced. Consequently, disease can be easily transmitted.

- *Landing*: During their visit, Alessandra Ballerini and Elly Schlein were able to be present during the landing of 126 people. This landing took place in presence of the managing bodies, the police, the Guardia di Finanza, agents from Frontex (a dozen) and from EASO, a doctor and an ambulance. Some volunteers from Lampedusa solidarity forum are also present a bit further away to provide migrants with hot beverage, food and blankets.

56. Concerning the hotspot of Pozzallo in Sicilia, the journalist Damiano Aliprandi reported a worrying situation in September 2016. He explains that the centre was built to host 180 people but that it hosted around 400/500 people including 182 minors and that there were only 5 toilets.

▪ ***Condition of reception centres and identification and expulsion centres***

57. The organisation LasciateCIEntrare conducted a campaign on various structures for migrants. At the end of the campaign, Yasmine Accardo⁶⁰ highlighted the divergence between the Interior Ministry statements and what emerged from the monitoring carried out during the campaign. She expressed concerns about the high promiscuity between children and adults and about women trafficking. She was also concerned by the “criminalization of migrants” whose permit is revoked. She concluded “*We report a considerable increase of the ghettoization of the structures [...] and we are also concerned about the handling of migration by the media, which sometimes is instrumental and superficial in front of such complex issues*”.

58. Here is an overview of the situation in several centres:

Castelnuovo Di Porto, Roma (CARA)⁶¹: Castelnuovo di Porto is located at about 40 km from Rome. The structure has been used as a CARA since 2008. The management has been handled by a cooperative called Auxilium since 7th April 2014. The location of the centre is isolated, there is nothing nearby and the only way to get there is to get the bus specifically organised by the cooperative from the station.

⁶⁰ Current secretary of the Association Garibaldi 101 and regional and local coordinator of the LasciateCIEntrare campaign at the time.

⁶¹ Serena Chiodo, *Dobbiamo andara via da qui Visita al Cara di Castelnuovo*, 24th June 2016, available on <http://www.cartadiroma.org/news/36415/>

The capacity of the centre is of 650 places, but it currently houses 844 people: 661 men, 157 women, 26 children. The kit for personal hygiene and the disposable sheets are provided every three days. Every day people receive pocket money of 2.50 euros, not in money but in goods.

The structure is divided into three groups: people who are going to be transferred to extraordinary reception centres (CAS) or SPRAR; people who have stayed in the CARA from many months (some of them have sought international protection several times); people, mostly Eritrean, asking for relocation to another country. The author of the report comments that the concrete implementation of relocation shows several problems: *"Asylum seekers may express their preference about the country of destination. But the possibility of their request depends on the availability of the various countries. [...] The announcement of the transfer can also take place the night before the relocation. [...] People, from one day to another, can be moved to countries of which they know nothing, neither the language nor the geography, and where they have no contacts. [...] As the Ministry of Interior's document states, it is not possible to choose the country of the relocation. [...] If migrants refuse the transfer they stay inside the CARA for an unlimited time"*.

The activists of LasciateCIEntrare met two couples of migrants who landed in Lampedusa on 4th December 2015. They protested against the obligation to leave their fingerprints. In fact, many migrants, try to avoid seeking asylum in Italy because of the slow bureaucracy (*"We did not want to leave our fingerprints, because we do not want to be forced to stay in Italy"* they said). One of them explained: *"They promised that, if we left the fingerprints, they would immediately transfer us to the country we chose. We stopped the protest. We have been in the CARA from six months. [...] We have to get out of here"*.

Cona Migrants Centre (Venice)⁶²

Cona Migrants Centre is built in an isolated area, which doesn't help the social inclusion of the migrants hosted. The Centre hosts 620 people whereas its capacity is of 540 places according to the managing body. It should be noted that this centre does not fall within the above-mentioned categories but is a temporary emergency place set up to overcome the lack of reception centres in this region. In fact, many municipalities of Veneto refused to plan any kind of reception system for asylum seekers.

The management of the structure is handled by the cooperative Ecofficina. It was established in 2011 as a waste management group and was transformed into a reception cooperative in 2014. Ecofficina cooperative manages also Bagnoli HUB, Prandina HUB (both in Padova) and some SPRAR centres. Currently Ecofficina leaders are investigated by prosecutors in Padova for aggravated fraud and forgery offences in the reception of asylum seekers.

The structure is seriously overcrowded and there is a total lack of privacy. During the visit of the delegation, some of the mediators were discouraging migrants to talk to the delegation or to criticise the Centre. One of the migrants the delegation could talk to said that he was very ill and waiting for medicines but that the only answer he gets each time is that he will have them the day after. He was still waiting for his medicine at the time of the visit. Other migrants explained to the delegation that they have been in the structure for almost a year and they defined it as a "terrible place".

It is not clear whether there is legal aid inside the structure: the delegation that visited the Centre received different and conflicting answers. It is a very important issue, because the presence of an

⁶² Report della visita della Campagna LasciateCIEntrare e Melting Pot Europa, delegation made of Yasmine Accardo, Stefano Bleggi, Davide Carnemolla, Samanta di Fazio, Sara Monaci, available on http://www.meltingpot.org/Centro-per-migranti-di-Cona-Ve-620-persone-in-mezzo-al.html#.WDgOK_nhDIU

adequate legal team allows to complete the form to seek asylum adequately and not to be expelled as “economic migrants”.

A tragic event was recently reported by the Italian medias about a young woman from Côte d’Ivoire who died in the Centre on 2nd January 2017. This death led to an important demonstration by the asylum seekers present in the Centre to denounce the late arrival of the ambulance and the conditions in the Centre. According to them, the Centre hosted around 1300 asylum seekers at the time of the event.⁶³

Ex barracks Bisconte Temporary Reception Centre and Pala Nebiolo Tent City (Messina)⁶⁴

Both structures are managed by the cooperative L’Arca.

Migrants should remain maximum 72 hours in those two centres, instead they stay, in average, for about 15 days or even 3 months in winter time. At their arrival at both centres, migrants receive one hygiene kits and one welcome kit, both renewed every month or when needed.

Bisconte Temporary Reception Centre (CPA):

Bisconte Temporary Reception Centre only hosts migrants coming from the centre for minor migrants "House Ahmed" after they became adults, and some cooperating witnesses. The sleeping-quarters are overcrowded: there are 188 people in three rooms, with bunk beds so close that there is no space left to move, half-hidden and piled mattresses are also in the ways and there is a very strong smell in the rooms. Concerning the hygiene of the migrants, there are 20 -24 showers, in some containers placed in open space at the entrance.

Some migrants complained about force being used against them to collect their fingerprints even though none of them seems to have sought asylum.

Pala Nebiolo Tent City:

There are 155 people in Pala Nebiolo Tent-city, among which 22 women and 4 families with young children. The place hosts many witnesses of human trafficking. They remain in the structure for months without any news about the trial; many of them have never been summoned to court. The authors of the report remind that “*according to Article 18 of the Testo Unico per l’Immigrazione, the witnesses against alleged smugglers should be kept in a protected place [...] Justice witnesses are totally disoriented: they know nothing about their rights and their role as witness. They are scared because they think they are sentenced and are aware that they have no future. They do not have adequate legal information from anyone*”.

The delegation of LasciateCIEntrare arrived there after a morning of intense rains. “*Everything was flooded. It was possible to walk only in some places around the tents, thanks to wooden walkways*”. The delegation was particularly concerned with the issue of trafficking especially of Nigerian women, but the direction of Tend-city “*does not seem to know the existence of the national anti-trafficking plan. Everything is solved with a visit to the clinic of Messina*”.

⁶³ Internazionale, *Il centro per migranti di Conetta doveva essere già chiuso*, 4 January 2017, available on <http://www.internazionale.it/notizie/2017/01/04/conetta-migranti-venezia-cona>

⁶⁴ UNA TENDOPOLI E’ PER SEMPRE - Visite ai Centri di Accoglienza Temporanei Ex Caserma di Bisconte - Tendopoli Pala Nebiolo, the delegation made of Tania Poguisch, Elio Tozzi, Fulvio Vassallo, Yasmine Accardo, Agata Ronsivalle. 21st May 2016 – 3rd June 2016, available on <http://www.lasciatecientrare.it/j25/italia/news-italia/213-una-tendopoli-e-per-sempre-visite-ai-centri-di-accoglienza-temporanei-ex-caserma-di-bisconte-tendopoli-pala-nebiolo>

The delegation met a group of nine men and one woman (seven months pregnant), who claimed to be Eritreans: they explain that they were registered as Ethiopian and (one of them) as Sudanese by the policemen at the moment of landing, even though they declared themselves as Eritrean. They also complained about excessive use of force (even against the pregnant woman) during the collection of the fingerprints. The woman has only been visited by a doctor once. After the reading of the report, Senator Luigi Manconi obtained the transfer of the pregnant woman to a safer place. In June 2016, the delegation met other women: three young Senegalese girls. One of them suffered from severe burns (in the journey several migrants are burned by petrol).

In conclusion, the authors of the Report underline “*the general feeling of confusion, due to the lack of adequate legal information. The legal notice is explained collectively in the hours following the landing, when people are not really in conditions to understand so many details*”.

Restinco, Brindisi (CIE and CARA)⁶⁵

On 13 July 2016 the CIE hosted 48 migrants whereas the CARA hosted 220 (despite an official capacity of 128 places).

CIE:

The CIE is made of 3 dormitories for around 7 people each, a closed outside space and a common room with tables, some benches and a television where detainees can spend their days. In the dormitories, there are only beds with foam mattress and bed sheets but no tables, chairs or any other type of furniture. One of the dormitories has big damp patches on the wall.

The delegation that visited the centre received several testimonies from the migrants detained in the CIE:

- A. is a 28 years old South American man who has been in Italy for 13 years with his whole family. He served six years in prison. He explained to the LasciateCIEntrare delegation that even prison conditions were better than the conditions in the CIE. He had been in the CIE for twenty-two days because he had received an expulsion order as a consequence of being convicted to a prison sentence. He didn't know what was going to happen to him.

The story was the same in each block the delegation visited: loss and uncertainty. All migrants are waiting for the end of the 90 days hoping not to receive a repatriation order. Migrants who are seeking asylum (about 25% of inmates) wait up to twelve months, with no certainty about the outcome of their application.

- C. is a twenty-two years old Moldavian boy. He arrived in the CIE fifteen days before the visit took place, from Rimini where he lived with his pregnant girlfriend. He was arrested for a trivial argument with the police while he was skating with some friends. He complains about the mistreatments received by policemen before the arrival in the CIE.

- A. is a thirty-eight years old Nigerian who does not speak Italian. He looked heavily sedated. He arrived by boat from Libya, where he had spent 3 years in prison, five years ago. He served a two year and six month sentence in Pavia prison, Italy. He arrived at CIE three months ago. He said he received medicines every morning and evening.

⁶⁵ Internazionale Antonio Esposito, *La doppia prigione dei migranti: visita al Cie e al Cara di Brindisi*, 13th July 2016, available on <http://www.internazionale.it/reportage/antonio-esposito/2016/07/13/cara-cie-brindisi-visita>

Many migrants complained about the poor quality of the food and told the delegation it stank and had a bad taste. In the CIE, it is forbidden to cook, so people have no choice but to eat the food provided by the Centre, sometimes – when they can afford it – they buy some snack with the money they receive each day.

CARA:

The CARA hosts 220 people. Because of overcrowding there were six people in each of the two small rooms of each container. There is only one bathroom with a Turkish toilet, sink and shower for approximately 6 persons. Many migrants complained of being treated like animals especially regarding the food and showed with disgust the meal they had received. They opened the box with their portion of vegetables and it did smell bad. They also complained about the lack of drinking water: a single bottle of water for the whole day. Most of all, migrants denounced the absence of any activity and the isolation and forced idleness. Outside the Cara there is no public transportation. This condition of semi-detention may go on more than one year, waiting for the examination of the asylum request.

It should be noted that since the publication of this article, there has been a discussion between the direction of the Centre and the journalists. The Direction denied the content of the article but the journalist kept their version.

Borgo Mezzanone, Foggia (CARA)⁶⁶:

The journalist Fabrizio Gatti entered, clandestinely, in the CARA of Borgo Mezzanone (Foggia) and spent a week inside the Centre (15th to 21st August 2016). He wrote a diary to testify of the life of people inside of what he called “a State Ghetto”.

The CARA is handled by Sisyphus consortium in cooperation with Senis Hospes consortium. The centre is overcrowded. The Centre was built to host 636 persons but it hosts more than a thousand persons.

On top of this overcrowding, it should be noted that no protection is offered to the people staying in the CARA. The journalist witnessed Nigerian criminals entering the CARA to withdraw girls and force them to prostitute nearby the CARA; he also saw Afghan human traffickers offering trips to England and witnessed the illegal recruitment of agricultural workers for very low wages and without any right or protection (this practice is called Caporalato). During the night of 18th April 2016 Nigerian criminals kidnapped a migrant staying in the CARA and dragged him out. They blinded him by spilling diesel fuel in his eyes. They beat him until he fainted. A few days before they had wounded a Nigerian migrant with a machete. In June, the police arrested some of them.

Sometimes, stray dogs get inside the structure, urinate in the showers or on the mattresses, and even attack migrants. The journalist also reports the presence of rats and snakes.

There is no canteen, so migrants have to cook on the floor. There are electric cables on the floor, near to sheets and mattresses. It is very dangerous and could lead to a fire. According to the journalist, if a fire breaks out the migrant would be stuck in the Centre since there is no emergency exits.

⁶⁶ L'Espresso, *Sette giorni all'inferno : diario di un finto rifugiato nel ghetto di Stato*, 12th September 2016, available on <http://espresso.repubblica.it/inchieste/2016/09/12/news/sette-giorni-all-inferno-diario-di-un-finto-rifugiato-nel-ghetto-di-stato-1.282517> ou <http://www.osservatoriorepressione.info/sette-giorni-allinferno-diario-un-finto-rifugiato-nel-ghetto/>

During his stay, the journalist met some migrants who have been inside the CARA from months in terrible conditions. According to him, one of the reason for the “failure” of this CARA is the price cut made by the Sisyphus consortium in order to get the contract. In fact, instead of the 30 euros per diem per migrant, Sisyphus consortium only counts 22 euros per diem per migrant. Furthermore, the Ministry of the Interior keeps asking for an increase, of several hundreds, in the number of migrant hosted.

Mineo, Sicily (CARA):

The association LasciateCIEntrare visited the CARA in Mineo on 24th September 2017. The Centre was involved in a scandal called Mafia Capitale regarding embezzlement cases. As a result, employees and directors of the centre have been replaced. Despite the parliamentary inquiry committee’s call for the immediate closing of the structure, the CARA is still active.

There is a permanent office of the Ministry of Interior within the CARA which works in collaboration with the prefecture.

The LasciateCIEntrare delegation was not allowed to go inside the rooms during the visit. They were only able to talk with the directors and visit the canteen and the open space. The migrants in the Centre seemed to be afraid and none of them actually talked with the delegation. The CARA of Mineo hosted at that time 2987 migrants for an overall capacity of 3000 places. Some of the migrants present are awaiting relocation but 40% of them have renounced to it due to overly long waiting times.

Migrant can’t cook in their rooms, they have to have lunch at the canteen. The direction of the Centre is intending to replace pocket money with a prepaid card that could only be used in the market within the Centre.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Improves the conditions in the hotspots, reception centres and identification and expulsion centres and ensures the security of migrants in such structures;*
- *Investigates the allegations of excessive use of force for the collection of fingerprints of migrants by police forces and prosecutes the ones responsible for such acts;*
 - *Unaccompanied minors*

59. The situation of unaccompanied minors in the Trapani and Lampedusa hotspots has already been described in the above paragraphs. Regarding the Pozzallo hotspot, the journalist Damiano Aliprandi expressed similar concerns to the ones formulated regarding minors in the hotspots of Trapani and Lampedusa (see paragraph 47). In fact, the hotspot hosts many unaccompanied minors who sometimes stay there for weeks instead of being transferred to a safe structure.

60. During a visit in the Cona Migrant Centre in June 2016, members from the campaign LasciateCIEntrare identified 5 minors present in the centre (including 2 very young ones). According to the information they collected, every week about 25 young people undergo a wrist radiography in order to assess their age.

61. Members of associations who visited Pala Nebiolo Tent city on 3rd June 2016 also said that there were some young migrants (from Mali, Gambia and Senegal) there who explained them that they were minors but they didn’t want to declare their true age.

62. A delegation from the Association of Legal studies on migration (ASGI) was able to visit the Restinco reception centre in Brindisi where they were able to verify the presence of minors in situation of promiscuity with adults. Some of those minors were considered as adults despite the fact that they had declared being minors. When the delegation from LasciateCIEntrare visited the CARA in Brindisi on 13th June 2016, they also met some minors, a group of thirty Eritreans unaccompanied minors who had landed the night before.⁶⁷

63. In conclusion on this issue, attention should be paid to the concerns raised by the journalist Floriana Buflon. She wrote an article about the dangerous and worrying conditions of unaccompanied minors and Roma minors living in Termini Station in Rome. The journalist followed a group of young teenager migrants. They are homeless, very poor and alone. Those conditions make them vulnerable to paedophiles. As one of them told the journalist, they have to sell their body to survive. They would like to work, but when they find a job they are exploited. Therefore, they survive by committing little theft (like bag-snatch) or selling the so-called "smart drugs" or false cocaine.

In a video made by the journalist, a young boy testifies that once a man came to him to offer him money in exchange of sexual relations. The young boy explains that he took the money and run. The same boy further explains that he previously sold false cocaine: "*Once a guy asked me for two hundred euros worth of cocaine. I said ok. I took two medicines and I made them look like cocaine, but after police came saying I stole the money to him. I just sold cocaine. False cocaine*". For that theft and other ones, A. has already spent several months in Casal del Marmo juvenile prison. He comments: "*Better the prison than the family home. [...] You eat, you have a bed, you play soccer game and you learn Italian*". A. escapes continuously from the family home, where he is supposed to serve the rest of his sentence as an alternative measure. He says: "*I don't want to stay, they beat me*".⁶⁸

64. PD Deputy Sandra Zampa submitted a proposal aiming at creating a single system for the reception of unaccompanied minors which would be part of the SPRAR. It also aims at improving the measures for the identification of the age of the migrants and imposes for a tutor to be identified for each minor. Moreover, the proposal states at its article 1 that: "*unaccompanied foreign minors have the same rights of protection as Italian or European minors*" while considering the higher vulnerability of unaccompanied foreign minors. On 25 October 2016, the proposal of Sandra Zampa was approved by Parliament and then by the Senate in March 2017.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- ***Ensures that unaccompanied minors are given the appropriate care and attention in particular by ensuring that are placed in adequate structures and that all necessary measures are taken to ensure their safety.***
 - ***Commission of Inquiry established by the Chamber of Deputies on 27th November 2014***

⁶⁷ Internazionale, Antonio Esposito, Dario Stefano Dell'Aquila, *La doppia prigione dei migranti : visita al Cie e al Cara di Brindisi*, 18th July 2016, available on <http://www.internazionale.it/reportage/antonio-esposito/2016/07/13/cara-cie-brindisi-visita>

⁶⁸ It should be noted that this testimony shouldn't be interpreted as evidence that family home are never appropriate for unaccompanied minors, It only intends at showing the reality of these minors' life.

65. The Legislative Decree No. 18/2014 implements the Resolution 2011/95/UE. It includes in the definition of "international protection" political asylum and subsidiary protection. Both migrants and stateless people can apply to seek international protection.

66. The Legislative Decree established some measures to implement this change. In particular, a Commission of inquiry was established by the Chamber of Deputies on 27th November 2014. The resolution of 27th November 2014, created the Commission for a year at the end of which it should produce a report on the inquiry carried out. The main aims of the Inquiry were: the assessment of migrants condition and the efficiency of the structures, as well as eventual illegal and disrespectful of human rights behaviours; the verification of the procedures for the award of the management contracts of the centres for migrants; the evaluation of enforcement authorities' work and the verification of the economical sustainability of the current system. The financial means given to the Commission were the following: 10.000 Euros for 2014 and 90.000 Euros for 2015.

67. On 4th March 2016, the Commission of Inquiry presented a document (XXII Document N° 62) to amend the Resolution of 17th November 2014 to extend the duration of the inquiry until the end of the current XVII legislature (i.e.: Renzi Government, from 15th March 2013 until 21st February 2014), and the insertion of new issues as a consequence of the changes introduced by Legal Decree 18/2014. The main new issues inserted in the mandate of the inquiry were the following: the drafting of statistics on migration costs and migrants presences; observations on social effects of migrants' presence in Italy; the verification of identification measures, verification of the international protection system also in relation to unaccompanied minors and national health-care system; the assessment of CIE detention conditions; an evaluation to improve repatriation and expulsion measures; the verification of the amount of resources used in migrants reception system. This document also created a new requirement of yearly reporting and provided additional resources which are now of 90 000 euros per year.

68. In its final section the document underlines that any reference to CIE, CDA, or CARA will be deleted. In fact, the reception system was modified by the Legislative Decree 142/2015. The DL 142/2015 transposes the new UE instructions and converts those centres in temporary hubs. According to this new system migrants' reception is divided in two steps. The first one precedes the actual reception and consists in rescue and first aid to migrants. The actual reception is also divided into two steps: the first one inside the new first reception centres established by the Legislative Decree 142/2015. In these centres migrants are identified and asylum seekers can submit their application. If these centres are totally full, migrants can be hosted in temporary emergency centres. This Legislative decree also states that asylum seekers can only be held in CIE if they represent a danger for public order and security. The second step of the reception phase takes place in SPRAR Centres where asylum seekers waiting for their asylum documents are hosted. Even though those measures have already been implemented the situation is unclear. In fact, some of the ancient structures still exist but their purpose and the difference between the structures is not clear. With the new Decree Law Minitti Orlando, DL 13/2017, the number of Centres for identification and Expulsion (CIE) will be expanded from four to twenty and will be renamed Centres for Residence and Repatriation (CPR). The overall capacity of these centres will be of 1600 places (against 400 currently).

69. The concerns expressed by the Senate Extraordinary Committee on Protection and Promotion of Human Rights in its report on CIE in 2016⁶⁹ should also be mentioned. The Committee was

⁶⁹ Commissione straordinaria per la tutela e la promozione dei diritti umani, *Rapporto sui centri di identificazione ed espulsione in Italia*, February 2016, available on http://www.asylumineurope.org/sites/default/files/resources/senato_cie_report_2016.pdf

preoccupied by the use of a pre-identification system according to which migrants who have just landed are pre-identified as irregular migrants and can only raise their application for asylum at a later stage.

○ *Access to housing*

70. The Baobab experience, an association for the reception of migrants created in Rome by volunteers after hundreds of migrants were evicted from a Ponte Mammolo squat, gives an oversight of the housing situation of migrants in Italy, and in Rome particularly. The Baobab experience is composed of common citizens who wanted to help the migrants who were left to themselves. It received the support of several human rights and humanitarian organisations such as Medu (Medici per I Diritti Umani), Save the Children, Amnesty International, a buon diritto, the Italian Council for Refugees (CIR), Doctors without borders and InterSOS.⁷⁰ However, the Baobab centre was evacuated by the police on 30th September 2016. According to one of the volunteers, the policemen arrived with armoured vehicles around 7pm and took all migrants to the immigration office for identification and more and forced the volunteers to get away. After a few hours, the policemen started to throw away the tents that were on the site and access to the site was blocked by armoured vehicle. No housing alternatives were offered to the migrants.

71. Following this evacuation, several organisations wrote an appeal against it and underlined the dramatic consequences that this evacuation will have on the migrant (including on the pregnant women and children among them). The appeal highlighted the fact that for months this initiative had welcomed and provided legal assistance to a great number of migrants who had received no information on the procedure to get international protection and relocation. Furthermore, the initiative had discovered that the Rome police's headquarters was not accepting asylum applications until 21st October 2016.

72. One of the first consequences of the eviction of the migrants from the Baobab centre was that many of them had to sleep in the streets where they have no protection and are exposed to all kinds of violence including human traffickers and drug dealers. After the eviction, the Baobab volunteers and associations have continued to distribute meals, medical and legal assistance to migrants who are sleeping in the streets, but the situation is critical.⁷¹ One of the volunteers of the Baobab experience testified that she had to accompany a Somali boy to the emergency room after he got beaten up while he was sleeping under a bridge near the Tiburtina station.

73. On 11th October 2016, Baobab volunteers met with members of the Rome City Council but no solutions were found. Migrants are still sleeping on the streets while fearing to be attacked by policemen if they stay in groups. A volunteer testifies that one night some migrants had gathered in park to sleep (around 20 of them, including one pregnant woman), but that the police arrived at 8pm and started identifying and taking away all migrants including the pregnant woman.

74. The Baobab volunteers collected 17 000 signatures to ask the Ferrovie Dello Stato (the railway company) to allow them to use the yard in front of the Tiburtina Station. They met with the mayor's staff on 7th August 2017 but their request was refused. After that, they met with the Lazio District and obtained positive answer but since then the Ferrovie dello Stato has not replied to neither Baobab nor to Lazio District.

○ *Statistics*

⁷⁰ Internazionale, Nicola Lagioia, *Il centro Baobab a Roma è un antidoto contro il razzismo*, 27th July 2016 available on

⁷¹ Internazionale, Annalisa Camilli, *Lo sgombero dei migrant al Baobab rispecchia lo stallo politico di Roma*, 6th October 2016, available on <http://www.internazionale.it/opinione/annalisa-camilli/2016/10/06/baobab-roma-sgombero>

75. We collected incomplete information from different sources.

2012: 12,6 billion Euros (Fondazione Leone Moressa Study)

2014: 197.499.225,63 Euros (Repubblica Vladimiro Polchi)

2015: 885 millions Euros (www.ibtimes.com Vittoria Patanè, quoting OCSE data).

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Ensures the effective application of the Legislative Decree 142/2015;*
- *Guarantees the access to adequate housing to migrants.*

B. Violence against women

Issue 31: Please provide: (a) Information on steps taken to prevent, combat and punish violence against women and children, as recommended by the Committee in its previous concluding observations (CAT/C/ITA/CO/4, para. 23). Also, please provide updated information on the status of the Bill on “Awareness raising and prevention measures as well as the repression of crimes against the individual or within the household, on account of sexual orientation, gender identity and any other reason of discrimination” (Chamber Act No. 2169). (b) Statistical data on the number of complaints relating to violence against women and children and on the related investigations, prosecutions, and sanctions, as well as on compensation provided to victims.

76. According to a report published by the World Health Organisation, violence against women is a global health issue of large proportion. In fact, physical and sexual abuse is a health issue that affects over 35% of women around the world and the perpetrator of such abuse is an intimate partner in 30% of cases.⁷² In Italy, according to ISTAT data for June 2015, 6 million 788 thousand women have suffered physical or sexual violence throughout their lives. This represents 31.5% of women between 16 and 70 years, almost one out three. This number has slightly decreased over the last five years. On the contrary the percentage of children witnessing such acts has increased.⁷³

77. According to Catrina Madaghiele, President of the Female Gender Association: “*Nowadays, there is a greater awareness from women but many acts of violence are still not reported because of fear or lack of awareness. Domestic violence is far more widespread than you think. It remains in the private sphere largely invisible and under-reported*”.⁷⁴

○ The legal framework

78. The first significant legislative step on the topic of sexual violence in Italy was the approval of Law 15th February 1996 n. 66, which started considering violence against women as a crime against personal freedom, amending the previous legislation, which considered it as a crime against public morality and decency. With the Law of 4th April 2001 n. 154 new measures were introduced to address cases of domestic violence.⁷⁵ In particular, this Law introduced several measures that could be decided by the judge such as the precautionary removal from the family home or the

⁷² WHO, *Global and regional estimates of violence against women Prevalence and health effects of intimate partner violence and non-partner sexual violence*, 2013, available on

<http://www.who.int/reproductivehealth/publications/violence/9789241564625/en/>

⁷³ ANSA, *Giornata contro la violenza sulle donne LO SPECIALE*, 29th June 2016, available on

<http://www.ansa.it/sito/notizie/speciali/editoriali/2015/11/23/giornata-contro-la-violenza-sulle-donne-d0664078-a748-47d1-b81c-c3bd70c4dab1.html>

⁷⁴ Ibid.

⁷⁵ Law No. 154, 4th April 2001, available on <http://www.camera.it/parlam/leggi/01154l.htm>

intervention of the local social services or a family mediation centre. A law adopted in 2009⁷⁶ increased the sanctions for sexual violence⁷⁷ and introduced the crime of persecution or stalking⁷⁸. Italy has taken an important step in the fight against gender violence with the Law No. 77 of 27 June 2013 authorizing the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence.⁷⁹

79. The laws combatting violence against women were further strengthened in Italy by the Decree No. 93 of 14th August 2013 on gender violence, converted into the Law No. 119 of 15th October 2013, on urgent provisions on security and to combat gender-based violence.⁸⁰ This law sets out mandatory arrest in case of flagrante delicto of domestic violence and stalking. According to this law, the police can also be authorised by the prosecutor to apply precautionary measure such as the removal from the family home and the restriction of access to places where the victim goes. Those measures can be controlled through the use of an electronic bracelet or other electronic devices or telephone tapping (for cases of stalking). Other measures were also introduced related to the protection of the victim to comply with the European Directive on the protection of victims of a crime.

○ *Legal aid and medical and psychological centres*

80. The Italian health care system provides all women, Italian and foreign, a network of services across the country, inpatient and outpatient. It is at the ER that it is the easiest to engage with women victims of violence. There, the victims, sometimes unaware of their condition, receive a first medical intervention. Some first aid centres are testing a special procedure for women victims of violence. The victims are identified by a pink code, and placed in a protected space, called pink room, where they are offered physical and psychological as well as legal information, while respecting their need for confidentiality.⁸¹

81. Also, the Anti-violence centres play an important role to reduce the phenomenon of violence against women. The use of the funds allocated by the government to these structures for women victims of violence is unfortunately not always clear as it is shown by a map presented by DonneCheContano, an open data platform created by ActionAid in collaboration with Dataninja, during the meeting "On Violence I want to see clearly" organized by Wister (Women for Intelligent and Smart Territories) and D.i.re (Donne in rete contro la violenza - Women in Network Against Violence).⁸² According to this map, only seven local authorities (Veneto, Piedmont, Puglia, Sardinia and Sicily, Florence and Pistoia) let know in a clear and transparent way how they are using the funds. For other local authorities, the data is either fragmentary or unavailable. In some localities,

⁷⁶ Law No. 38, 23rd April 2009, available on <http://www.camera.it/parlam/leggi/09038l.htm>

⁷⁷ With this law, the author of a murder perpetrated on the occasion of sexual violence, sexual acts with a minor or group sexual assault can be sentenced to life imprisonment. Also, this law provides mandatory custody when there are serious indication of guilt to an important number of offenses including sexual assault, sexual acts with a minor and group sexual assault.

⁷⁸ This Law introduced a new article 612 bis in the Criminal Code which states that : shall be punished with imprisonment from six months to four years anyone who repeatedly threatened or harassed anybody so as to cause a continuing and serious state of anxiety or fear for their integrity or for the integrity of a close relative or forcing them to alter their living habits

⁷⁹ Law No. 77, 27th June 2013, available on <http://www.gazzettaufficiale.it/eli/id/2013/07/01/13G00122/sg>

⁸⁰ Decree No.93, 14th August 2013, available on <http://www.gazzettaufficiale.it/eli/id/2013/08/16/13G00141/sg>

⁸¹ Ministero della Salute, *Violenza sulle donne*, 21/04/2016, available on <http://www.salute.gov.it/portale/donna/dettaglioContenutiDonna.jsp?lingua=italiano&id=4498&area=Salute%20donna&menu=societa>

⁸² ActionAid, *Diritti delle donne, ActionAid : sui fondi antiviolenza dati parziali e poco trasparenti*, available on <https://www.actionaid.it/informati/press-area/diritti-delle-donne-actionaid-sui-fondi-antiviolenza-dati-parziali-e-poco-trasparenti>

information can be guessed from other administrative acts (as in Abruzzo), or because of the small number of structures (Valle d'Aosta and Basilicata). However, for the rest of the regions it is impossible to find any data.⁸³

82. According to the latest report of DI.RE, the national association coordinating all anti-violence centres in our country, there have been 13.048 new women accepted (those who have been in contact for the first time with an anti-violence centre) in 2014 that is 7.9% less than in 2013 when they were 14.161 (30% more than in 2012 when they were 10.230). However, it should be noted that each year, there are more centres participating to the survey.⁸⁴

- ***Violence against migrants and foreign women***

83. There are no official statistics, but the testimonies collected reveal that migrant women are often victims of forced marriages, rapes and violence perpetrated by other migrants and refugees, smugglers and even by police officers.⁸⁵

84. According to Istat 2015 report, foreign women have suffered physical or sexual violence to an extent similar to the Italian in their lifetime (31.3% and 31.5%). Physical violence is more common among foreign women (25.7% versus 19.6%), while sexual violence is more common among Italian women (21.5% versus 16.2%). However, foreign women are much more subject to rapes and attempted rapes (7.7% vs. 5.1%). Women from Moldova (37.3%), Romania (33.9%) and Ukraine (33.2%) were the ones found to have suffered the most violence.⁸⁶

85. Nearly 2.2 million foreign women were registered at anagrafe in Italy at the beginning of 2010. The figures are lacking, denounces the CNR researcher Misiti Maura, who was in the Iris project. In the already sketchy records of violence against women, data on migrants are a chasm. The facilities for foreigners have meticulously collected data and raised the alarm. Among all, Trama di Terre, in Imola (Bologna), is considered a model. "*In discussions with women who come to us for other types of problems* - explains the president, Tiziana Dal Pra – *one out of two recounts incidents of domestic violence*". The problem in this case is to recognize the abuse, then find a language to name it and ask for help. There is a need to go meet the communities. In fact, the better advisement for women comes from word of mouth. Meetings are organized with groups of different nationalities. There are more and more foreign women arriving in the flow of migrants. Despite this reality, the Italian government has not taken any specific legislative measures to fight violence against foreign or migrant women. To face this problem the authorities must apply the laws No. 77 of 27th June 2013 and No. 119 of 15 October 2013 and take effective measures, including urgent measures, at national level to prevent and combat this phenomenon.

- ***Raising public awareness***

86. In 2016, on the International Day Against Violence Against Women (25th November), the Department for Equal Opportunities of the Presidency of the Council of Ministers, in collaboration with RAI, has realized a video to raise public awareness on violence against women

⁸³ Ansa, *Giornata contro la violenza sulle donne LO SPECIALE*, 29 June 2016, available on http://www.ansa.it/sito/notizie/speciali/editoriali/2015/11/23/gi...-sulle-donne-_d0664078-a748-47d1-b81c-c3bd70c4dab1.html

⁸⁴ Donne in rete contro la violenza, *Rapporto 2014*, available on http://www.direcontrolaviolenza.it/wp-content/uploads/2015/11/Report_dati-2014.pdf

⁸⁵ Left, *Non solo Colonia. Quelle terribili storie di viaggio e violenza sulle donne in fuga verso la Germania*, 13th January 2016, available on <https://www.left.it/2016/01/13/colonia-germania-molestie-sessuali-migranti/>

⁸⁶ ISTAT, *La violenza contro le donne dentro e fuori la famiglia*, 2014 available on http://www.istat.it/it/files/2015/06/Violenze_contro_le_donne.pdf?title=Violenza+contro+le+donne+-+05%2Fgiu%2F2015+-+Testo+integrale.pdf

in Italy. The video aims to show the true dimensions of violence against women in Italy and to raise awareness on the different aspects of this phenomenon. The movie offers images of the daily lives of women, overlaid by some real data from ISTAT survey "*Violence and abuse against women inside and outside the family*." A voice accompanies the images and the data saying the sentences usually used by the authors of violence.⁸⁷ Even though this video is significant of the efforts made by the government, this measure is too weak to raise awareness among the public opinion.

FIACAT and ACAT Italy invite the Committee against torture to recommend that the State party:

- *Increases its efforts to prevent, combat and punish domestic violence and violence against women and to protect the victims of such crimes and pays a specific attention to the situation of migrant women victims of violence;*
- *Ensures the transparency on the allocation of funds to centres for women victims of violence;*
- *Increases the measure taken to raise awareness on the issue of domestic violence and violence against women.*

⁸⁷ Campagna informativa 100% contro la violenza sulle donne, 14 November 2015, more information on <http://www.governo.it/media/campagna-informativa-100-contro-la-violenza-sulle-donne/3017>