



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to submission of the seventh periodic report of Italy*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee’s previous recommendations

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (CAT/C/ITA/CO/5-6, para. 48),¹ the Committee requested the State party to provide information on the follow-up to its recommendations on: the implementation of the Memorandum of Understanding of 2 February 2017 between Italy and Libya; the monitoring of immigration detention facilities; and the investigation and prosecution of instances of police brutality or excessive use of force (see paras. 23, 27 and 39, respectively). Noting that replies concerning the information sought by the Committee were provided on 21 December 2018, 30 July 2019 and 5 August 2019 (see CAT/C/ITA/CO/5-6/Add.1 to Add.3) and, with reference to the letter dated 27 June 2019 from the Committee’s Rapporteur for follow-up to concluding observations, the Committee considers that the recommendations included in paragraphs 27 and 39 of the previous concluding observations have not yet been implemented. The recommendations in paragraph 23 of the previous concluding observations are considered to have been partially implemented.

Articles 1 and 4

2. With reference to the Committee’s previous concluding observations (paras. 10–13), please provide updated information on the measures taken to bring the content of article 613 bis of the Criminal Code into line with article 1 of the Convention.² Has the State party taken steps to ensure that acts of torture are not subject to any statute of limitations?

Article 2³

3. Further to the Committee’s previous concluding observations (paras. 16–17), please indicate the measures taken to establish a national human rights institution that complies with

* Adopted by the Committee intersessionally on 2 December 2020.

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

² A/HRC/43/4, paras. 148.124, 148.126, 148.128 and 148.133.

³ The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee’s general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman and degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent



the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).⁴ In view of the establishment in 2014 of the National Authority (*Garante nazionale*) for the Rights of Persons Deprived of Personal Liberty as the national preventive mechanism under the Optional Protocol to the Convention, together with the existing preventive mechanisms at the regional and city levels, please provide information on the National Authority's activities and achievements with respect to the prevention of torture and ill-treatment during the period under review. In this regard, please provide information about the steps taken by the State party in response to the recommendations made by the National Authority. Please also provide updated information on the concrete measures that have been adopted to ensure the functional, structural and financial independence of the existing regional and municipal preventive mechanisms for the prevention of torture,⁵ as well as information about the coherence and consistency between the central and local components of the national preventive mechanism.

4. With reference to the Committee's previous concluding observations (paras. 18–19), please provide information on any new measures taken by the State party during the reporting period to ensure that detainees enjoy in practice all fundamental legal safeguards from the outset of their deprivation of liberty. In particular, please indicate the steps taken, and procedures in place: (a) to ensure that all detainees are informed of their rights and the charges against them, have access to a lawyer, including consultations in private, have the right to request and receive a medical examination by an independent doctor and are authorized to communicate with a relative or any other person of their choice; (b) to keep detention registers up to date; and (c) to ensure the availability of legal aid and interpretation services.⁶ What measures have been taken to reduce the current five-day maximum period during which a person may be held in custody following arrest on a criminal charge before being brought before a judicial authority?

5. Bearing in mind the Committee's previous concluding observations (paras. 44–45), please provide information on the measures taken by the State party to combat all forms of violence against women, particularly with regard to cases that involve the actions or omissions of State authorities or others that engage the State party's international responsibility in accordance with the Convention.⁷ Please also provide updated information on the protection and support services available to victims of all forms of violence against women that involve actions or omissions of the State authorities.⁸ Please include statistical data, disaggregated by the age and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences recorded in cases of gender-based violence since the consideration of the State party's previous periodic report.⁹ Please provide up-to-date information on the measures taken to strengthen training programmes on prosecution for gender-based violence for law enforcement officers and justice officials.¹⁰

6. Taking note of the Committee's previous concluding observations (paras. 46–47), and noting the State party's follow-up replies,¹¹ please provide updated information, disaggregated by the age, sex and ethnicity or nationality of the victims on the number of complaints, investigations, prosecutions and sentences recorded in cases of trafficking in persons since the consideration of the State party's previous report. Please also provide information on the provision of redress to victims of trafficking during the reporting period,

torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

⁴ CED/C/ITA/CO/1, paras. 10–11; A/HRC/43/4, paras. 148.17–61.

⁵ CAT/C/ITA/CO/5-6, paras. 14 and 15 (a).

⁶ A/HRC/43/4, para. 148.136.

⁷ A/HRC/43/4, paras. 148.222–226, 148.228–231, 148.236–237 and 148.239–240.

⁸ A/HRC/43/4, para. 148.238.

⁹ CAT/C/ITA/CO/5-6/Add.2, paras. 13–14.

¹⁰ CAT/C/ITA/CO/5-6/Add.2, paras. 17–19; CRC/C/ITA/CO/5-6, para. 22 (b); A/HRC/43/4, para. 148.227.

¹¹ CAT/C/ITA/CO/5-6/Add.2, paras. 20–23.

including data on the number of persons who benefited from protection and support measures for victims.¹²

Article 3

7. With reference to the Committee's previous concluding observations (paras. 20–21), please provide information on the measures that have been taken to revise domestic legislation on refugees and asylum seekers to fulfil all obligations under article 3 of the Convention.¹³ In this regard, please describe the measures taken during the period under review to ensure that, in practice, no person is returned to a country where he or she would be in danger of torture.¹⁴ Please indicate whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and to appeal a deportation decision, including through judicial procedure. If so, please indicate whether such an appeal has suspensive effect. Please also provide detailed information on the measures adopted to identify vulnerable persons seeking asylum in the State party, including victims of torture or ill-treatment, trauma or trafficking, and to ensure that their specific needs are taken into consideration and addressed in a timely manner, including by providing access to medical services.¹⁵ How does the State party guarantee access to free legal assistance and interpretation services during the asylum procedure?

8. Please inform the Committee of the measures taken by the State party to resume, support and facilitate search and rescue operations in the Mediterranean and to ensure safe disembarkation arrangements that uphold the principle of non-refoulement and the right to seek and enjoy asylum for persons in need of international protection.¹⁶ Please comment on reports that non-governmental organizations and their members have been subjected to criminal proceedings for engaging in aid work, including by participating in maritime search-and-rescue activities.¹⁷ Please indicate what measures the State has put in place to avoid pushback operations and collective expulsions and to ensure that all expulsion orders are based on an individual assessment and are conducted in strict compliance with the principle of non-refoulement.¹⁸

9. With reference to the Committee's previous concluding observations (paras. 22–23) and the State party's follow-up replies,¹⁹ please clarify whether the State party's cooperation with the Libyan Coast Guard and other Libyan security actors within the framework of the Memorandum of Understanding of 2 February 2017 has been reviewed in light of alleged human rights violations and abuses by the Libyan Coast Guard and other Libyan security actors, the appalling conditions in detention facilities under the control of the Libyan Department for Combating Illegal Migration²⁰ and the ongoing armed conflict in Libya.²¹

¹² A/HRC/43/4, paras. 148.151 and 148.153–168; Office of the United Nations High Commissioner for Human Rights (OHCHR), Special Rapporteur on contemporary forms of slavery, including its causes and consequences, "End-of-mission statement, country visit to Italy (3–12 October 2018)".

¹³ A/HRC/43/4, paras. 148.268 and 148.300; OHCHR, "Legal changes and climate of hatred threaten migrants' rights in Italy, say UN experts", 21 November 2018.

¹⁴ CRC/C/ITA/CO/5-6, paras. 33–36; A/HRC/43/4, paras. 148.274 and 148.279–281.

¹⁵ CED/C/ITA/CO/1, paras. 26–27; A/HRC/43/4, para. 148.273.

¹⁶ A/HRC/43/4, para. 148.270; S/2020/275; A/72/335, paras. 56–64 and 107–113; OHCHR, "Italy: UN experts condemn criminalisation of migrant rescues and threats to the independence of judiciary", 18 July 2019; OHCHR, "Italy: UN experts condemn bill to fine migrant rescuers", 20 May 2019; OHCHR, "Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination, 28 January–1 February 2019", para. 84.

¹⁷ See Allegation letter transmitted by special procedure mandate holders, AL ITA 2/2018. Available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24117>.

¹⁸ A/HRC/43/4, para. 148.298.

¹⁹ CAT/C/ITA/CO/5-6/Add.1, paras. 6–10.

²⁰ OHCHR, "UN human rights chief: Suffering of migrants in Libya outrage to conscience of humanity", 14 November 2017.

²¹ See letter dated 27 June 2019 from the Committee's Rapporteur for follow-up to concluding observations to the Permanent Mission of Italy to the United Nations Office and other international organizations in Geneva. Available at https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/ITA/INT_CAT_FUL_ITA_35363_E.pdf; United Nations Support Mission in Libya and

10. Please provide information on the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please provide updated information on the type of appeal mechanisms that exist, any appeals that have been made and the outcome of those appeals. Please include information, disaggregated by sex, age and country of origin or receiving country, on the number of persons who have been returned, extradited or expelled since the consideration of the State party's previous report. Please provide details of the grounds on which they were sent back, including the list of countries to which individuals were returned. Has the State party put in place mechanisms to monitor the situation of vulnerable individuals and groups in receiving countries after their deportation? Please indicate the number of refoulements, extraditions and expulsions carried out by the State party during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances where the State party has offered such diplomatic assurances or guarantees, and what measures have been taken in such cases with regard to subsequent monitoring.

Articles 5–9

11. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention. Please also inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties. Please describe the legislative and administrative measures taken by the State party to ensure that the Convention may be invoked as a legal basis for extradition in respect of the offences referred to in article 4 of the Convention when it receives an extradition request from a State with which it has no extradition agreement or treaty. Please indicate whether the State party has, since its previous periodic report was considered by the Committee, rejected, for any reason, the request of another State party for the extradition of an individual suspected of having committed torture and whether it has started prosecution proceedings against that individual as a result. If so, please provide information on the status and outcome of the procedures. Please give details of the mutual legal assistance treaties or agreements that the State party has entered into and indicate whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

12. With reference to the Committee's previous concluding observations (paras. 30–31), please provide up-to-date information on educational programmes developed by the State party to ensure that all public officials, in particular law enforcement officials, including prison staff and coast guard (*Guardia Costiera*) and *Guardia di Finanza* personnel, are fully aware of the provisions of the Convention and the absolute prohibition of torture, and know that breaches will not be tolerated and will be investigated and that any offenders will be prosecuted.²² Please include details of the programmes used in the training of police officers and other law enforcement officials in non-coercive investigating techniques. Please indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes in reducing the number of cases of torture and ill-treatment and, if so, please provide information on the methodology. Please also indicate the measures taken to give effect to the provisions of article 10 (2) of the Convention.

13. Please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting and documenting the physical and psychological sequelae of torture, including whether they contain specific training with regard to the Manual on the Effective

OHCHR "The airstrikes on the Daman building complex, including the Tajoura Detention Centre, 2 July 2019", January 2020.

²² CAT/C/ITA/CO/5-6/Add.3, paras. 2–11.

Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

Article 11

14. Please describe the measures taken and procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices related to arrangements for custody, in particular those that may have been introduced, reviewed or revised since the consideration of the State party's previous periodic report. Please indicate the frequency with which they are reviewed. Please also indicate the steps taken to ensure that all law enforcement officials on duty are equipped with visible identification badges.²³ Taking note of the Committee's previous concluding observations (paras. 32–33), please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention. Please describe the measures taken to reduce prison overcrowding and improve the material conditions in all detention centres, including police detention facilities,²⁴ including any measures to increase the use of alternatives to imprisonment, both before and after trial.²⁵

15. Please provide information on the State party's efforts to meet the special needs of women, minors and persons with disabilities in detention. Please indicate whether protocols are in place to meet the needs of other groups of prisoners with special needs, such as persons with disabilities, older persons and lesbian, gay, bisexual, transgender and intersex persons. Please provide information on concrete measures taken by the State party to address concerns about deficiencies in access to appropriate mental health care. What measures have been taken to ensure that prison search procedures are not degrading to inmates or visitors?²⁶

16. In the light of the Committee's previous concluding observations (paras. 34–35), please indicate whether the State party has taken measures to bring the special surveillance regime under article 41 bis of the Law on the Penitentiary System into line with international standards, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).²⁷ Please inform the Committee about the measures taken to address concerns regarding other forms of isolation and segregation of inmates, especially court-imposed solitary confinement under article 72 of the Criminal Code. Please include data on the use of solitary confinement during the period under review and an indication of its duration.

17. Please provide information on the measures taken during the period under review to ensure security inside prisons. Please report on incidents of violence among detainees and riots, including cases involving possible negligence on the part of prison personnel, the number of complaints made in this regard and their outcome. What preventive measures have been taken?

18. With regard to the Committee's previous concluding observations (paras. 36–37), please provide statistical data regarding deaths in custody during the period under review, disaggregated by place of detention, the sex, age and ethnicity or nationality of the deceased person and the cause of death. Please provide information on the results of the investigations into those deaths and on the measures taken to prevent similar cases occurring in the future. Please indicate whether relatives received compensation in these cases.

19. With reference to the Committee's previous concluding observations (paras. 26–27), and noting the State party's follow-up replies,²⁸ please provide data on the visits to places of detention carried out by the National Authority for the Rights of Persons Detained or Deprived of Personal Liberty and its regional counterparts during the period under review

²³ OHCHR, "Report of mission to Italy on racial discrimination, with focus on incitement to racial hatred and discrimination, 28 January–1 February 2019", para. 47.

²⁴ A/HRC/43/4, paras. 148.127 and 148.137.

²⁵ A/HRC/43/4, paras. 148.129 and 148.138.

²⁶ CAT/C/ITA/CO/5-6, para. 33 (d).

²⁷ A/HRC/43/4, para. 148.125.

²⁸ CAT/C/ITA/CO/5-6/Add.1, paras. 24–29.

and clarify whether these preventive mechanisms have unhindered access to all places of detention, including immigration detention facilities, without prior notice.²⁹ Is the State party considering the possibility of authorizing monitoring visits to reception centres for asylum seekers and migrants, including “crisis centres” and centres for unaccompanied children, by non-governmental human rights organizations and other civil society actors?

20. With regard to the Committee’s previous concluding observations (paras. 24–25 and 28–29), please indicate the measures taken by the State party during the reporting period to ensure that the detention of asylum seekers and migrants is used only as a last resort, where necessary and for as short a period as possible, and to further implement in practice alternatives to detention.³⁰ Please include statistical data on the number of asylum seekers and migrants in detention awaiting administrative deportation in the State party. Please also provide information on the State party’s efforts to increase the reception capacity of the so-called “hotspots” and immigration detention centres, as well as to improve the material conditions in all immigration facilities.

21. Please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities, including care homes. Please indicate what the situation is with respect to alternative forms of treatment, such as community-based rehabilitation services and other forms of outpatient treatment programmes.

Articles 12–13

22. Further to the Committee’s previous concluding observations (paras. 24–25 and 38–41), and noting the State party’s follow-up replies,³¹ please provide updated statistical data on complaints of acts of torture, ill-treatment and excessive use of force recorded by the State authorities during the reporting period.³² Please include information on investigations, disciplinary and criminal proceedings and convictions and on the criminal or disciplinary sanctions applied.

23. With reference to the Committee’s previous concluding observations (paras. 32 and 33 (e)), please indicate the measures taken to ensure that all newly admitted detainees have prompt access to comprehensive medical examinations by a doctor without a prison guard present, unless the doctor so requests. Please comment on reports indicating that the independence and confidentiality of medical examinations of detainees are not always guaranteed. Please provide information on the number of cases reported by prison medical personnel as possible instances of torture or ill-treatment during the period under review. Please also provide information on the measures taken to ensure adequate protection for health professionals documenting torture and ill-treatment from intimidation, retaliation and other forms of reprisals.

Article 14

24. Taking note of the Committee’s previous concluding observations (paras. 42–43), please provide information on redress and compensation measures, including the means of rehabilitation ordered by the courts or other State bodies and actually provided to the victims of torture or ill-treatment or their families since the consideration of State party’s previous periodic report. This should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided. Please also provide information on any ongoing reparation programmes, including the treatment of trauma and other forms of rehabilitation, provided to victims of torture and ill-treatment and on the material, human and budgetary resources allocated for their effective functioning.

²⁹ CED/C/ITA/CO/1, paras. 28–29; CAT/C/ITA/CO/5-6/Add.3, paras. 21–32; A/HRC/43/4, para. 148.134.

³⁰ A/HRC/43/4, paras. 148.139 and 148.302.

³¹ CAT/C/ITA/CO/5-6/Add.1, paras. 43–112; CAT/C/ITA/CO/5-6/Add.2, paras. 5–12; CAT/C/ITA/CO/5-6/Add.3, paras. 12–20 and Annex.

³² OHCHR, “Report of mission to Italy on racial discrimination, with focus on incitement to racial hatred and discrimination, 28 January–1 February 2019”, para. 45.

Article 15

25. Please provide information on the concrete measures taken to ensure respect, in practice, for the principle of inadmissibility of evidence obtained through torture or cruel, inhuman or degrading treatment. Please also provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16

26. Please provide information on any measures taken by the State party to combat racially-motivated violence and hate crimes against persons of minority groups and non-citizens, including persons of African descent, refugees and migrants, Roma, Sinti and Camminanti communities and lesbian, gay, bisexual, transgender and intersex persons.³³

27. Please provide information on the measures taken by the State party to protect human rights defenders and members of civil society organizations working on migrants' human rights and to punish the perpetrators of attacks, intimidation and other criminal acts against them.

Other issues

28. Please provide updated information on the measures taken by the State party to respond to the threat of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that the measures are compatible with its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to anti-terrorism measures; and whether there have been complaints of non-observance of international standards and, if so, what the outcome was.

29. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions comply with its obligations under the Convention. Also, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement such as homes for the elderly, hospitals or institutions for persons with mental and psychosocial disabilities.

General information on other measures and developments relating to the implementation of the Convention in the State party

30. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the State party's previous periodic report to implement the provisions of the Convention or the Committee's recommendations. Such measures may include institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.

³³ A/HRC/43/4, paras. 148.62–120 and 148.143; OHCHR, "Report of mission to Italy on racial discrimination, with focus on incitement to racial hatred and discrimination, 28 January–1 February 2019", para. 36; Allegation letter transmitted by special procedure mandate holders, AL ITA 4/2018. Available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24117>.