



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

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COMMITTEE AGAINST TORTURE  
Forty-third session  
2-20 November 2009

**List of issues prior to the submission of the sixth periodic review of  
ITALY (CAT/C/ITA/6)\***

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

**Articles 1 and 4**

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.
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.
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).

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\* The present list of issues was adopted by the Committee at its forty-third session, according to the new optional procedures established by the Committee at its thirty-eight session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

## Article 2

4. Since the consideration of the previous report, please indicate any steps taken by the State party to establish an independent national human rights institution, in accordance with the Paris Principles.
5. In light of the Committee's concluding observations and the recommendations of the Working Group on Arbitrary Detention, please provide information on measures taken to reduce the length of preventive detention and restrict such detention to cases of last resort (CAT/C/ITA/CO/4, para. 6, and A/HRC/10/21/Add.5, paras. 28-34 and 112). Please elaborate on any steps taken to apply alternative non-custodial measures.
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.
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.

## Article 3

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.
9. In light of the Committee's previous concluding observations, please provide updated information on the State party's expulsion procedure, particularly concerning migrants suspected of being involved in terrorist activities (CAT/C/ITA/CO/4, para. 12). Please indicate steps taken to ensure that each individual case is thoroughly examined on its merits, adequate judicial mechanisms for the review of the decision are in place and judicial remedies against expulsion have a suspensive effect in all cases. In this respect, please provide updated information on steps taken to address the concern expressed by the Working Group on Arbitrary Detention at the deportation of alleged

terrorists to States where they are at substantial risk of arbitrary detention and torture (A/HRC/10/21/Add.5, paras. 51-56 and 115). Please provide information on the status of the trial in the case of Osama Mustafa Hassan Nasr, known as Abu Omar, as well as on the decisions of the State party to expel Essid Sami Ben Khemais, Mourad Trabelsi and Ali Ben Sassi Toumi to Tunisia, despite repeated rulings from the European Court of Human Rights to suspend the planned expulsion until the court fully investigates the claim that they would face torture or other mistreatment upon their return.

10. Please provide information on any cases involving “rendition flights” through Italy or in which the Italian authorities have participated.

11. Please indicate whether the State party relies on “diplomatic assurances” to return persons to countries known for practicing torture. If so, please provide detailed information on:

- (a) The procedures in place for obtaining “diplomatic assurances”;
- (b) Steps taken to establish a judicial mechanism for reviewing, in last instance, the sufficiency and appropriateness of diplomatic assurances in any applicable case;
- (c) Steps taken to guarantee effective post-return monitoring arrangements;
- (d) All cases where diplomatic assurances have been provided, since the consideration of the previous report;
- (e) Assurances that have not been honoured and appropriate actions taken in such cases by the State party.

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.

### **Articles 5, 7 and 9**

13. Pursuant the Committee’s previous concluding observations, please describe the measures taken by the State party to establish its jurisdiction over acts of torture in cases where the alleged offender is present in any territory under its jurisdiction, either to extradite or prosecute him or her, in accordance with the provisions of the Convention (CAT/C/ITA/CO/4, para. 14). In this respect, please indicate whether the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and thus engaging

its own prosecution as a result, since the consideration of the previous report. If so, please provide information on the status and outcome of such proceedings.

### Article 10

14. Please provide information on the following:

(a) Educational programmes further developed and implemented by the State party to ensure that law enforcement officials, border guards and personnel working in the reception centres (*Centro di Accoglienza*, CDAs), centres for asylum-seekers (CARAs) and identification and expulsion centres (CIEs) are fully aware of the provisions of the Convention, that breaches will not be tolerated and will be investigated, and that offenders will be prosecuted, in accordance with the previous concluding observations of the Committee (CAT/C/ITA/CO/4, para. 15).

(b) Further educational programmes developed and implemented to ensure that law enforcement officers are adequately equipped and trained to employ non-violent means and only resort to use of force and firearms when strictly necessary and proportionate. In this respect, please indicate if the State party has conducted a thorough review of current policing practices.

(c) Specific training and sensitization programmes developed by the State party for law enforcement personnel concerning the treatment of children, women and vulnerable groups, including Roma.

(d) Measures undertaken to ensure that all relevant personnel receive specific training on how to identify signs of torture and ill-treatment? Please indicate whether the Istanbul Protocol of 1999 has effectively become an integral part of the training provided to physicians.

(e) Whether the State party has developed and implemented a methodology to evaluate the implementation of these training and educational programmes, and its effectiveness and impact on the incidence of cases of torture and ill-treatment. If so, please provide information on the content and implementation of such methodology, as well as on the results of the implemented measures.

### Article 11

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.

16. Please provide updated information on measures taken to ensure the prompt appointment of additional prison staff, including staff in the educational and health area, as recommended by the Committee in its previous concluding observations (CAT/C/ITA/CO/4, para. 16). Please provide

data on the number of staff members recruited since the consideration of the previous report. Since the health-care functions shifted from the Ministry of Justice to the National Health-Care Service, please provide information on the impact thereof on the penitentiary health-care service.

### **Articles 12 and 13**

17. With reference to the Committee's previous concluding observations, please describe steps taken to establish an effective system to gather all statistical data relevant to the monitoring of the implementation of the Convention at the national level, including complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, trafficking and domestic and sexual violence, as well as on compensation and rehabilitation provided to the victims (CAT/C/ITA/CO/4, para. 24). Please provide the compiled data, disaggregated by sex, age and ethnicity of the individual filing the complaint.

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?

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).

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).

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

#### **Article 14**

22. Please provide information on steps taken to provide victims compensation, redress and rehabilitation, including the means for as full rehabilitation as possible, and develop a specific programme of assistance in respect of victims of torture and ill-treatment, as recommended by the Committee in its previous concluding observations (CAT/C/ITA/CO/4, para. 20). In this respect, please provide updated information on the status of draft law No. S. 1216. Furthermore, information should be provided about any reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, as well as the allocation of adequate resources to ensure the effective functioning of such programmes. Please provide data on the number of requests made for compensation and other forms of assistance, the number granted, and the amounts ordered and those actually provided in each case. Please provide information on steps taken to establish a domestic fund for victims of torture and to allocate sufficient financial sources for its effective functioning.

#### **Article 16**

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.

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.

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.

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 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.

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.

28. The Committee on the Elimination of Racial Discrimination and the Working Group on Arbitrary Detention expressed their concern about reports of ill-treatment of migrants, in particular of Roma, by members of the police force (CERD/C/ITA/CO/15, para. 19, and A/HRC/10/21/Add.5, para. 16). Please describe measures taken to prevent the use of illegal force by the police against immigrants.

29. Please provide details on steps taken by the State party:

(a) In response to the Committee's call to the State party in its previous concluding observations to intensify its efforts to prevent and combat discrimination against and ill-treatment of vulnerable groups, including the Roma, foreigners and Italians of foreign origin (CAT/C/ITA/CO/4, para. 21).

(b) To ensure prompt, impartial and thorough investigations into all such motivated violence and prosecute and punish perpetrators with appropriate penalties.

(c) In response to the Committee's recommendation to publicly condemn racial discrimination, xenophobia and related violence and to send a clear and unambiguous message that racist or discriminatory acts within the public administration, especially with regard to law enforcement personnel, are unacceptable. Please provide any examples of interventions of the State party in this manner. Please elaborate on the so-called "security package" which criminalizes "irregular migration" and makes the status of irregularly present foreigners an aggravating circumstance for any offence.

30. With reference to the Committee's previous concluding observations (CAT/C/ITA/CO/4, para. 22), please provide:

(a) Information on the efforts undertaken by the State party to combat trafficking in persons, especially in women and children, and to prosecute and punish trafficking in persons, including by strictly applying relevant legislation, raising awareness of the problem, and including the issue in training of law enforcement personnel and other relevant groups. Further, please provide updated information on the work and impact of the ad hoc inter-ministerial Committee to manage and implement programmes for victims of trafficking, as well as on the impact of the so-called "Article 18 approach" and Law Decree No. 300.

(b) Statistical data on the number of complaints relating to trafficking in persons and on the related investigations, prosecutions, and sanctions, as well as on compensation provided to victims.

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.

#### **Other issues**

32. Following the oral assurances, please indicate the practical measures taken towards the ratification of the Optional Protocol to the Convention since the previous concluding observations.

33. Please indicate any measures taken towards the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

34. Please provide updated information on measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these measures have affected human rights safeguards in law and practice, and how it has ensured that those measures taken to combat terrorism comply with all its obligations under international law. Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected to anti-terrorist measures, whether there are complaints of non-observance of international standards, and the outcome of these complaints.

#### **General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention**

35. Please provide detailed information on relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level that have occurred since the previous periodic report, including any relevant jurisprudential decisions.

36. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level that have occurred since



the previous periodic report, including on any national human rights plans or programmes, and the resources allocated to it and its means, objectives and results.

37. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2007, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.

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