



ITALY

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 20TH SESSION OF THE UPR WORKING GROUP, OCTOBER-NOVEMBER 2014

FOLLOW UP TO THE PREVIOUS REVIEW

During the first Universal Periodic Review (UPR) of Italy in 2010, reviewing states made recommendations on a number of issues, including protection against torture, the rights of migrants, asylum seekers and refugees, and the rights of Roma. In total, Italy received 92 recommendations, of which it accepted 78, partially accepted two and rejected 12. Amnesty International considers that Italy's implementation of the accepted recommendations has been inadequate.

Italy has not implemented accepted recommendations to strengthen the National Office against Racial Discrimination (*Ufficio Nazionale Anti-discriminazioni Razziali*, UNAR).¹ Its ability to combat discrimination remains limited, particularly due to lack of independence from the government.²

With regard to migrants, asylum-seekers and refugees, Italy continues to implement policies which lead to violations of the principle of *non-refoulement*, arbitrary detention and grave violations of the rights of migrants in detention, ignoring many of the recommendations it accepted.³ Irregular entry and stay remain a crime,⁴ which results in discrimination against migrants in the access to justice and in their increased vulnerability to labour exploitation.⁵

Several recommendations to ensure the rights of Roma which Italy accepted remain unimplemented.⁶ For almost two years after the first UPR, a discriminatory 'state of emergency' was in force, which targeted Roma and facilitated the violation of their rights.⁷ Even after the end of the 'state of emergency' in November 2011, Roma continue to experience severe discrimination in access to adequate housing. Their living conditions remain harsh and thousands are segregated in sub-standard housing in mono-ethnic camps set up by the authorities.⁸ Romani families are largely excluded from social housing and continue to be targeted by forced evictions, in violation of international standards.⁹

Parliament is currently considering a bill aimed at extending the existing protection against hate crimes to crimes motivated by hate based on sexual orientation and identity.¹⁰ However, there is opposition to the proposed legislation and its final outcome remains uncertain as of the end of March 2014.¹¹

Italy's rejection of a recommendation to incorporate the crime of torture into domestic law clearly violates its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹² In a positive development, on 3 April 2013, Italy ratified the Optional Protocol to the Convention against Torture (OPCAT).¹³ However, it appears unlikely that Italy will have established the national preventive mechanism required by the OPCAT by the deadline of one year after ratification "at the latest".¹⁴

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Serious gaps persist in the national human rights framework. It is disappointing that Italy has failed to establish a national human rights institution (NHRI) in accordance with the Paris Principles, despite having accepted

recommendations to this effect.¹⁵ Italy had also committed to establishing an NHRI in its voluntary pledge when putting forward its candidature to the Human Rights Council for the term 2011-2014.¹⁶

Italy's failure to incorporate the crime of torture into national legislation constitutes a continuing violation of its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁷ It also leaves victims of acts of torture without access to justice and redress, as became evident from the judgements of the appeals and Supreme Court in the cases arising from the abuses by law enforcement officials against demonstrators at the Genoa G8 in 2001.¹⁸

The government has taken no measures to increase police accountability at the systemic level despite ample evidence of the need for such measures, for example following the investigations and judicial proceedings surrounding the Genoa G8 abuses against demonstrators and numerous cases of deaths in custody and ill-treatment by police. There has been no progress to make identity badges for police officers compulsory, nor in strengthening and rendering more transparent the internal disciplinary system. There has also been no progress to ensure adequate training in the use of non-violent and non-lethal methods and when to resort, when strictly necessary and in a legitimate and proportionate manner, to the use of force.

The examination of a bill to establish a national preventive mechanism, as required by the OPCAT, was stalled in parliament, as of end of March 2014. Such a mechanism is needed, including to oversee detention in police stations, prisons and migration detention centres.

THE HUMAN RIGHTS SITUATION ON THE GROUND

Roma's right to adequate housing

In the period since Italy's first UPR, discrimination against Roma and violations of their rights have continued. The authorities have taken retrogressive measures which have further aggravated the living conditions and segregation of Roma. A 'state of emergency' in relation to the settlements of 'nomad' communities in several regions, declared in May 2008, was in force until it was struck down by the courts in November 2011. During the 'state of emergency', special powers were conferred on delegated commissioners, including derogation from ordinary laws. Using the emergency powers and funds, thousands of Roma were forcibly evicted with no legal safeguards and in many cases left homeless. Some Romani families have experienced several forced evictions in the course of a few months.¹⁹ Authorized camps have been closed without due process, including lack of genuine consultation and without reparation to those who lost their homes. Discriminatory regulations were issued for the camps set up by the authorities, which severely limit rights and contain inadequate safeguards against evictions.²⁰ International human rights bodies have criticized the 'state of emergency', including the European Committee on Social Rights which, in June 2010, found against Italy for aggravated violations of the Revised European Social Charter.²¹

In November 2011, the Council of State, Italy's highest administrative court, ruled that the 'state of emergency' was unfounded and unsubstantiated and that acts issued by the delegated commissioners were illegitimate.²² The government appealed the ruling, but in April 2013, the Supreme Court upheld the Council of State judgement and confirmed that the 'state of emergency' had been unlawful.

Amnesty International considers the 'state of emergency' unlawful and discriminatory because it breaches international and regional human rights treaty obligations not to engage in any act of, create or perpetuate racial discrimination.²³ The authorities' claim that the emergency measures were aimed at all those living in nomad settlements, irrespective of ethnicity, was contradicted by the reality that virtually all residents in camps set up by the authorities and settlements were Roma.²⁴

In February 2012, the government presented its National Strategy for the Inclusion of Roma to the European Commission, which on paper marks a different approach to the situation of Roma based on respect for human rights.²⁵

However, on the ground, neither the end of the 'state of emergency' nor the adoption of the National Strategy have

resulted in significant improvements in the lives of Roma. Relentless human rights violations continue, including widespread forced evictions and segregation in isolated camps. The camps are often far from basic services and the residents experience extremely poor living conditions, threatening their health and undermining their human dignity. Informal camps have little or no access to water, sanitation and energy.

Segregated and substandard housing in camps set up by the authorities in Rome constitutes a parallel housing system to house Roma for the long term. In June 2012, a new segregated camp for Roma, *Nuova Barbuta*, was opened on the outskirts of Rome. Hundreds of Roma were forcibly evicted from other camps and transferred to the new camp without having been offered any alternative adequate housing.

Roma continue to be excluded from social housing in Rome through discriminatory allocation policies. An openly discriminatory circular, adopted by the municipality of Rome, remains in place as of March 2014 to prevent Roma from camps set up by the authorities from being prioritized for allocation of social housing. The national authorities are failing to ensure respect for international human rights standards, including by failing to hold local authorities to account.²⁶

Rights of migrants, asylum-seekers and refugees

Italy continues to pursue policies which violate the human rights of migrants, asylum-seekers and refugees, including by denying them access to a fair and satisfactory asylum procedure. In some instances, migrants and asylum-seekers have been “pushed back” or collectively and summarily expelled:

- In 2011 the authorities’ failure to respond adequately to increased arrivals by sea from North Africa (over 52,000 people by the end of the year) resulted in grave and large scale human rights violations, including collective summary expulsions, violations of the obligation of *non-refoulement* and unlawful detention.²⁷
- On 21 August 2011, the authorities reportedly carried out a “push-back” operation after Italian vessels intercepted a boat travelling from North Africa towards Lampedusa. There are reports that this was not an isolated incident.²⁸
- In October 2011, several organizations including the Office of the United Nations High Commissioner for Refugees (UNHCR), and the International Organization for Migration (IOM), expressed regret and disappointment when denied access to 150 individuals in Bari, Puglia, who had been intercepted at sea. More than 70 of them were immediately repatriated.²⁹

Agreements on migration control with several North African countries³⁰ has lead to refugees and asylum-seekers, including children, being denied access to international protection and being subjected to summary removals.

In February 2012, in the case of *Hirsi Jamaa and Others v. Italy*, the European Court of Human Rights considered the plight of 24 people from Somalia and Eritrea, among more than 200 people intercepted at sea by Italian authorities in 2009 and forced to return to Libya. The Court ruled that Italy had violated international human rights obligations not to return individuals to countries where they could be at risk of ill-treatment and arbitrary repatriation. In September 2012, the Council of Europe opened proceedings to examine how Italy is progressing in executing the judgment (as of March 2014, these proceedings remain open).³¹

On 3 April 2012, Italy signed a new “technical” agreement with Libya on migration control.³² The agreement ignores the fact that migrants, refugees and asylum-seekers continue to risk serious human rights violations and abuses in Libya, gives no consideration to the rights of those in need of international protection and does not contain effective human rights safeguards.³³

While the Italian coast guard and the navy have saved thousands of lives at sea, many have been left stranded on unseaworthy vessels and died, in the period under consideration. In March 2012, the Parliamentary Assembly of the Council of Europe (PACE) published the findings of an investigation into an incident a year earlier where a boat in distress was left drifting in the Mediterranean Sea for two weeks. There were only nine survivors out of 72 migrants on board. The PACE investigation criticized a “catalogue of failures”, including by Italian and NATO authorities, which contributed to the deaths.³⁴

On 3 and 11 October 2013 two shipwrecks, in which at least 400 and possibly over 600 lives were lost, including those of many children, highlighted the inadequacy of arrangements and mechanisms for search and rescue operations at sea.³⁵ In the aftermath of the shipwrecks, on 18 October 2013, Italy began operation "Mare Nostrum" aimed at strengthening search and rescue at sea. Since then, the operation has resulted in the interception of almost all migrants' boats heading for Italy, with over 10,600 people brought safely to the island of Sicily. Most of the migrants, asylum-seekers and refugees taken on board the Italian navy vessels of "Mare Nostrum" have had their fingerprints and photos taken by police officers for identification purposes, raising concerns that such practice implemented at sea may deprive them of adequate legal safeguards at a time of particular vulnerability.

Those who have made it to Italy by sea – and who are often in dire need of humanitarian assistance and traumatized due to their dangerous and exhausting journeys - have in many cases been unlawfully detained in poor conditions in reception centres:

- In March 2011, due to the failure of the authorities to ensure timely transfers to Sicily and the mainland, thousands of migrants, asylum-seekers and refugees were left stranded on the small island of Lampedusa in appalling conditions.³⁶
- Between October and December 2013, hundreds of asylum-seekers from Eritrea and Syria were subjected to gravely sub-standard conditions in Lampedusa, including sleeping outdoors in deplorable hygienic conditions. Among them were the survivors of the 3 October 2013 shipwreck.³⁷

Irregular entry and stay is a crime under Italian domestic law.³⁸ Legislation adopted in August 2011 to transpose the EU Returns Directive into domestic law violates migrants' right to liberty, including by extending the maximum period of detention from six to 18 months. The conditions in many detention centres for irregular migrants (CIE, centri di identificazione ed espulsione) are degrading.³⁹

Many refugees and asylum-seekers, including minors, face economic hardship and destitution in Italy, especially in the main cities, prompting some courts in EU countries to halt their returns to Italy under the Dublin Regulation.⁴⁰ Migrant workers are often exploited and vulnerable to abuse, with little access to justice, including because irregular entry and stay remain criminalized. Italy's migration policies do not respect the rights of migrants to work, to just and favourable working conditions and to justice.⁴¹

Prison conditions

Prison conditions are often substandard and degrading and overcrowding remains rife.⁴² In January 2013, the European Court of Human Rights held that Italy had violated Article 3 of the European Convention on Human Rights (prohibition of torture and inhuman or degrading treatment) by subjecting detainees to conditions involving "hardship of an intensity exceeding the unavoidable suffering inherent in detention".⁴³ The Court found that the hardship was caused by the overcrowding of cells and the lack of sufficient living space and that overcrowding in Italian prisons amounted to a structural and systemic problem.⁴⁴ The authorities have taken some measures to address overcrowding,⁴⁵ however, much more is needed.⁴⁶

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Italy to:

National human rights framework

- Incorporate the crime of torture in domestic law, with a definition fully consistent with that of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Establish an effective and well-resourced National Preventive Mechanism as required by the Optional Protocol to the Convention against Torture;
- Establish a national human rights institution in accordance with the Paris Principles;
- Ensure in law and practice equal protection against hate crimes to victims of crimes motivated by hate based on sexual orientation and identity.

Roma's rights

- Stop forced evictions, including by issuing binding official guidelines incorporating relevant international human rights standards;
- Eliminate segregation in camps, including by facilitating the access of Romani families to adequate housing, consistent with international human rights law and standards;
- Eliminate discriminatory barriers which impede Roma's access to social housing, including by amending legislation regulating access to social housing and guaranteeing essential levels of adequate housing for everyone within the national territory;
- Hold local governments accountable for policies violating Roma's rights, including by ensuring that the National Strategy for the Inclusion of Roma is rapidly and consistently implemented at the local level.

Migrants, asylum-seekers and refugees' rights

- Ensure access to fair and satisfactory asylum procedures for all asylum-seekers, including by refraining from carrying out summary or collective expulsions and identification operations at sea;
- Include effective and verifiable human rights safeguards in all migration agreements with third countries and publish all international agreements on migration control;
- Set aside all migration control agreements with other countries until those countries demonstrate that they respect and protect the human rights of refugees, asylum-seekers and migrants and have in place a satisfactory system for assessing and recognizing claims for international protection;
- Ensure adequate living conditions in reception centres and detention centres for migrants;
- Decriminalize irregular entry and stay by amending article 10-bis of *Decreto legislativo, testo coordinato, 25.07.1998 n° 286, G.U. 18.08.1998*;
- Strengthen protection for all migrants, including by expanding regular migration channels;
- Limit restrictions of the liberty of migrants to exceptional cases, based on an individualized assessment of the situation of the person concerned;
- Ensure that asylum-seekers and refugees have access to adequate housing, health care, education, social assistance and employment;
- Ensure that adequate arrangements and mechanisms for search and rescue operations are maintained consistently with international human rights and refugee law, including by implementing the recommendations of the PACE report on the Left-to-die boat.

Prison conditions

- Reduce overcrowding and improve living conditions in prisons as a matter of urgency.

ENDNOTES

¹ A/HRC/14/4, recommendation 84.16 (Philippines, Bosnia and Herzegovina, Pakistan, Algeria) on strengthening the capacity, mandate and independence of UNAR.

² Operating within the department for equal opportunities of the Presidency of the Council of Ministers, UNAR appeared to function as an advisory and implementing body to the Ministry for Integration, with which it shared the premises, and the Ministry for Labour and Equal Opportunities. Following a government reshuffle in February 2014, the Ministry for Integration was disestablished. UNAR continues to operate within the Presidency of the Council of Minister. In Amnesty International's experience, UNAR's closeness to government makes it ill-equipped to critique and challenge weak or ineffective government action to combat racism and discrimination, for example against Roma.

³ A/HRC/14/4, recommendations 84.26 (Uzbekistan) and 84.27 (Egypt); 84.71 (Czech Republic) on *non-refoulement*; 84.75 (Mexico) on access to basic social services; 84.76 (United Kingdom) on protection and integration; 84.77 (Japan) on transparency of arrival and return procedures; 84.79 (Burkina Faso) on full enjoyment of human rights; and 84.80 (Cuba) on the rights of migrants in detention centres.

⁴ Italy rejected recommendation 84.72 (Brazil and Mexico) to decriminalize irregular entry.

⁵ Amnesty International, *Italy: Exploited labour: Migrant workers in Italy's agricultural sector* (Index: EUR 30/020/2012), 18 December 2012.

⁶ A/HRC/14/4, recommendations 84.25 (Bangladesh) on ensuring equal opportunities for the enjoyment of economic, social and cultural rights, including housing; 84.57 (Australia, Russian Federation, Finland, Sweden and United States) on integration of Roma and access to economic, social and cultural rights, including housing; 84.61 (Sweden) and 84.62 (Australia) regarding compliance of evictions with international law and alternatives to evictions.

⁷ Under Law 225/1992 on the establishment of the civil protection service, the Council of Ministers may declare a state of emergency to respond to natural calamities, catastrophes or "other events that owing to their intensity and extent have to be confronted with extraordinary means and powers". The deliberation on the state of emergency must set out its duration and its geographical extent in relation to the "quality" and the "nature" of the events. In order to overcome the emergency, the government may adopt ordinances derogating from legislation in force: these ordinances have to indicate from which main legal provisions there can be derogations and the reasons for the derogations. With a view to carrying out the interventions needed to overcome the emergency, the government may appoint a delegated commissioner. The administrative act designating the delegated commissioner must indicate the delegated activities, the ways in which they can be implemented, and the time frame. The following measures were adopted to declare and implement the "Nomad Emergency" in accordance with Law 225/1992: the Decree of the President of the Council of Ministers of 21 May 2008 entitled "Declaration of the state of emergency in relation to the settlements of nomad communities in the territory of the regions of Campania, Lazio and Lombardy"; three Ordinances of the President of the Council of Ministers of 30 May 2008, Nos. 3676/3677/3678, entitled "Urgent measures of civil protection aimed at confronting the state of emergency in relation to the settlements of the nomad communities in the territory of the regions of Lazio, Lombardy and Campania"; the Ordinance of the President of the Council of Ministers of 1 April 2009 No. 3751 entitled "Additional urgent measures of civil protection aimed at confronting the state of emergency in relation to the settlements of nomad communities in the territory of the regions of Campania, Lazio and Lombardy"; the Decree of the President of the Council of Ministers of 28 May 2009, entitled "Prorogation of the state of emergency for the continuation of the initiatives concerning the settlements of nomad communities in the territory of the regions of Campania, Lazio and Lombardy and extension of the above mentioned situation of emergency also to the territories of the regions of Piedmont and Veneto"; two Ordinances of the President of the Council of Ministers of 1 June 2009, Nos. 3776/3777, entitled "Urgent measures of civil protection aimed at confronting the state of emergency in relation to the settlements of the nomad communities in the territory of the regions of Piedmont and Veneto"; and the Decree of the President of the Council of Ministers of 17 December 2010, entitled "Prorogation of the state of emergency for the continuation of the initiatives concerning the settlements of nomad communities in the territory of the regions of Campania, Lazio, Lombardy, Piedmont and Veneto".

⁸ Over 4,300 Roma live in the camps set up by the municipality in Rome, according to data contained in a letter to Amnesty International from Roma Capitale, Department for the Promotion of Social and Health Services, dated 12 September 2013.

⁹ Committee on Economic, Social and Cultural Rights, General Comment No. 7.

¹⁰ Disposizioni in materia di contrasto dell'omofobia e della transfobia, Atto Senato n. 1052.

¹¹ A/HRC/14/4, recommendation 84.36 (Netherlands, Norway and Spain) on combating discrimination based on sexual orientation and gender identity and hate crimes on these grounds.

¹² Human Rights Council, Report of the Working Group on the Universal Periodic Review of Italy, A/HRC/14/4, recommendation 84.8 (Netherlands, Czech Republic, New Zealand). Regardless of Italy's rejection of that recommendation, however, a bill to introduce the crime of torture in domestic legislation was under parliament's examination as of March 2014.

¹³ A/HRC/14/4, recommendations 84.4 (Mexico, Azerbaijan, Czech Republic, United Kingdom) and 84.6 (Chile).

¹⁴ The deadline is set by Article 17 of OPCAT. Two bills were presented to parliament but their consideration had not progressed since July 2013.

¹⁵ A/HRC/14/4, recommendations 84.11 (India, Burkina Faso and Kuwait), 84.12 (Algeria, Philippines and Malaysia) and 84.13 (Pakistan, Iran, Azerbaijan, France, Bosnia and Herzegovina, and Chile).

¹⁶ Note verbale dated 11 February 2011 from the Permanent Mission of Italy to the United Nations addressed to the Secretariat, A/65/733.

¹⁷ A bill introducing the crime of torture passed in the upper chamber in March 2014 (Atto Senato n. 10 - XVII Legislatura) and was awaiting consideration in the lower chamber. The definition of torture in the proposed bill was not fully consistent with the Convention against Torture.

¹⁸ Corte d'appello di Genova, 5.3.2010 (dep. 15.4.2011), Pres. D'Angelo, Est. Settembre (G8 - Bolzaneto) and Corte d'appello di Genova, 18.5.2010, Pres. Sinagra, Est. Diomeda (G8 - Diaz); and Cass., sez. V, sent. 14.6.2013 (dep. 10.9.2013), n. 3708813 (G8 - Bolzaneto) and Cass. pen., Sez. V, 5 luglio 2012 (dep. 2 ottobre 2012), n. 38085 (G8 - Diaz).

¹⁹ In one case Amnesty International described, and which, in the organization's experience, was not exceptional, a family in Milan was subjected to 15 forced evictions in six months. See *On the edge: Roma, forced evictions and segregation in Italy* (Index: EUR 30/010/2012), September 2012.

²⁰ *Italy: 'Zero Tolerance for Roma': Forced evictions and discrimination against Roma in Milan* (Index: EUR 30/020/2011), November 2011.

²¹ In *Centre on housing rights and evictions (COHRE) v. Italy*, the Committee held that "the living conditions of Roma in camps worsened following the adoption of the contested 'security measures'. As, on the one hand, the measures in question directly target these vulnerable groups and, on the other, no adequate steps are taken to take due and positive account of the differences of the population concerned, the situation amounts to stigmatisation which constitutes discriminatory treatment." European Committee of Social Rights, 25 June 2010, para 58. The Committee explained that an "aggravated violation" was constituted when measures violating human rights specifically targeting and affecting vulnerable groups were taken, and when public authorities were passive, did not take appropriate action against the perpetrators of these violations and also contributed to such violence (para 76). The Committee noted that it had taken into consideration the fact that it had already found violations in *European Roma Rights Centre (ERRC) v. Italy* (European Committee of Social Rights, European Roma Rights Centre vs Italy, Decision on the merits, 7 December 2005) and "the situation has not been brought into conformity but it has worsened as highlighted by several international monitoring bodies". European Committee of Social Rights, 25 June 2010, para 77. The Committee of Ministers of the Council of Europe considered the decision in *COHRE v. Italy* in October 2010. The government of Italy gave assurances to the Committee of Ministers that it would "ensure the effective implementation of the rights deriving from the revised European Social Charter for every individual, including for persons belong to the Roma communities." See Council of Europe, Committee of Ministers, Resolution CM/ResChS(2010)8 Collective complaint No. 58/2009 by the Centre on Housing Rights and Evictions (COHRE) against Italy, 21 October 2010, available at <https://wcd.coe.int/ViewDoc.jsp?id=1692929&Site=CM> (last accessed 9 November 2011).

²² This included the fingerprinting and photographing of everyone in 'nomad' settlements and the regulations issued by the delegated commissioners for the authorized camps of Lazio and Lombardy in 2009, which were found to be unlawful and in breach of the right to freedom of movement, work, privacy and family life.

²³ These include: International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, International Convention on the Elimination of All Forms of Racial discrimination, European Convention on Human Rights, EU Directive 2000/43 (EU Race Equality Directive) and Revised European Social Charter. *The wrong answer: Italy's 'Nomad Plan' violates the housing rights of Roma in Rome* (Index: EUR 30/001/2010) and *Italy: 'Zero Tolerance for Roma': Forced evictions and discrimination against Roma in Milan* (Index: EUR 30/020/2011).

²⁴ Only some three percent of Roma in Italy are estimated to be conducting a nomadic lifestyle, while the vast majority is sedentary. See Senato della Repubblica, Commissione straordinaria per la tutela e la promozione dei diritti umani, *Rapporto conclusivo dell'indagine sulla condizione dei rom, sinti e caminanti in Italia*, 9 February 2011.

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- ²⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, National Roma Integration Strategies: a first step in the implementation of the EU Framework, COM(2012) 226 final, Brussels, 21 May 2012.
- ²⁶ *Double standards – Italy's housing policies discriminate against Roma* (Index: EUR 30/008/2013), October 2013.
- ²⁷ *Italy: Amnesty International findings and recommendations to the Italian authorities following the research visit to Lampedusa and Mineo*, (Index: EUR 30/007/2011), 21 April 2011.
- ²⁸ *Italy: Over 100 reportedly "pushed back" at sea* (Index: EUR 30/017/2011), 30 August 2011.
- ²⁹ Accesso negato alle organizzazioni umanitarie a 150 migranti sbarcati a Bari, 25 ottobre 2011, <http://www.unhcr.it/news/dir/26/view/1087/accesso-negato-alle-organizzazioni-umanitarie-a-150-migranti-sbarcati-a-bari-108700.html>. All the organizations were partners of the government in the implementation of the "Presidium project", which aimed to improve the capacity and quality of the reception of people potentially in need of international protection.
- ³⁰ These include Libya (agreements were renewed in June 2011 and April 2012), Tunisia (signed in April 2011) and Egypt (signed in May 2011).
- ³¹ Italy: 'Historic' European Court judgment upholds migrants' rights, News, 23 February 2012.
- ³² Processo verbale della riunione tra il ministro dell'Interno della Repubblica italiana ed il ministro dell'interno della Libia (Tripoli, 3 aprile).
- ³³ *S.O.S. Europe: human rights and migration control*, (Index: EUR 01/013/2012), 13 June 2012.
- ³⁴ *Lives lost in the Mediterranean Sea: Who is responsible?*, Report, Parliamentary Assembly, Doc. 12895, 05 April 2012, Committee on Migration, Refugees and Displaced Persons, Rapporteur: Ms Tineke STRIK, Netherlands, Socialist Group.
- ³⁵ CoE Parliamentary Assembly, *Lampedusa: call for investigation into allegations that boats failed to carry out rescue*, 4 October 2013. See also *Italy: Lampedusa shipwreck a grim reminder of EU's failure to protect migrants at risk*, Amnesty International, 7 September 2012.
- ³⁶ *Italy: Amnesty International findings and recommendations to the Italian authorities following the research visit to Lampedusa and Mineo* (I Index: EUR 30/007/2011), 21 April 2011.
- ³⁷ *Lampedusa: ancora condizioni di accoglienza inaccettabili, l'Unhcr chiede trasferimenti rapidi e regolari*, 17 Dicembre 2013, <http://www.unhcr.it/news/dir/26/view/1637/lampedusa-ancora-condizioni-di-accoglienza-inaccettabili-l-unhcr-chiede-trasferimenti-rapidi-e-regolari-163700.html>
- ³⁸ In January 2014, a bill was submitted to parliament, which included a proposal to abolish the crime of illegal entry and stay, which would thus become an administrative offence. However, according to the same proposed legislation, if the illegal entry or stay was repeated, then the offence would be criminal.
- ³⁹ On 5 March 2013 the Senate Commission for human rights passed a resolution asking government to implement a number of measures to improve conditions in CIE, including reducing detention to 30 days, which could be extended up to 60 days maximum (Legislatura 17^a - Commissione straordinaria per la tutela e la promozione dei diritti umani - Resoconto sommario n. 37 del 05/03/2014, Affare assegnato concernente le misure minime da adottare con riferimento ai Centri di identificazione ed espulsione, Risoluzione approvata dalla commissione sull'affare assegnato n. 244, Doc. XXIV-ter, n. 8).
- ⁴⁰ See for example the Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 3 to 6 July 2012 (Strasbourg, 18 September 2012 CommDH (2012)26 - Original version). Regarding the European courts' decision not to return asylum-seekers to Italy, see *Germany: The Administrative Court of Stuttgart rules against Dublin return to Italy, 12/07/2012*, at the European Database of Asylum Law, <http://www.asylumlawdatabase.eu/en/content/germany-administrative-court-stuttgart-rules-against-dublin-return-italy-12072012>. Similarly, the Grand Chamber of the European Court of Human Rights was considering the question of returns to Italy in the upcoming case of *Tarakhel v Switzerland*, as of January 2014.
- ⁴¹ Amnesty International, *Italy: Exploited labour: Migrant workers in Italy's agricultural sector*(Index Number: EUR 30/020/2012), 18 December 2012.
- ⁴² According to the Minister of Justice, as of 14 October 2013, there were 64.564 people in prisons. The places officially available were 47.599 places, but in reality, of these, some 4500 on average could not be used due to the need for repairs. See Audizione del Ministro della Giustizia, Anna Maria Cancellieri, sulle tematiche oggetto del messaggio del Presidente della Repubblica trasmesso alle Camere il 7 ottobre 2013, at http://documenti.camera.it/leg17/resoconti/commissioni/stenografici/html/02/audiz2/audizione/2013/10/17/indice_stenografico.0003.html#

⁴³ *Torreggiani and Others v. Italy* (application no. 43517/09). This was a “pilot-judgement”, allowing the court to identify a structural problem underlying the violations and to indicate specific measures or actions to be taken by the respondent state to remedy them.

⁴⁴ The living space available to the applicants was 3 sq m per person whereas the minimum recommended amount according to the Committee for the Prevention of Torture was 4 sq m per person. The court also found that the shortage of space was exacerbated by other conditions such as inadequate availability of hot water and inadequate lighting and ventilation. The Court concluded that the government must put in place, within one year from when the judgment became final, which it did on 27 May 2013, an effective domestic remedy or a combination of such remedies capable of affording adequate and sufficient redress in cases of overcrowding in prisons.

⁴⁵ The authorities have since taken some measures to address the issues raised by the court. In particular, the adoption of Law 9 August 2013, n. 94 which decreases the use of pre-trial detention, increases the possibility to have a reduction of the term of imprisonment and increases the options for detainees to carry out public utility work outside prison; the presentation of a number of bills proposing alternative penalties to detention – as suggested by the court – and the creation in June 2013 by the Minister of Justice of a commission to advise on overcrowding in prisons (Commissione ministeriale sul sovraffollamento degli istituti penitenziari italiani). The construction of extra places was also planned.

⁴⁶ At its 1193rd meeting on 6 March 2014, the Committee of Ministers of the Council of Europe, considering the execution of the *Torreggiani* judgment, expressed concern that the measures Italy was planning would not be adequate and “strongly urged the Italian authorities to take concrete steps to put in place a remedy or combination of remedies with preventive and compensatory effect affording adequate and sufficient redress in respect of Convention violations stemming from overcrowding in Italian prisons by the deadline set” of 27 May 2014.