

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 34th Session

ITALY

I. BACKGROUND INFORMATION

Italy is a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the “*1951 Convention*”). The *1951 Convention* was given full effect in 1990, when the law abolishing the geographical limitation was enacted. Furthermore, Italy ratified the *1954 Convention Relating to the Status of Stateless Persons* (the “*1954 Convention*”) in 1962, and the *1961 Convention on the Reduction of Statelessness* (the “*1961 Convention*”) in 2015.

Following a period of particular pressure on the Italian asylum system due to the increase in asylum-seeker arrivals, in 2018 Italy saw a considerable reduction in sea arrivals, with 23,370 people arriving (80 per cent less than in 2017). International protection requests have also decreased, with 54,002 claims received in 2018, compared to 130,119 in 2017.

In December 2017, Italy reformed the national refugee status determination (RSD) system in line with the principles of professionalization and specialization, by passing the Legislative Decree no. 220 and hiring, in 2018, about 250 dedicated decision-making officers. On 4 October 2018, the Italian Government approved the Law Decree n.113/2018 that was then converted into Law n.132 by Parliament on 01 December 2018, which weakens the implementation of standards related to RSD procedures, detention, and reception of asylum-seekers. Some provisions are potentially inconsistent with certain aspects of international refugee law and human rights law.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 145.179: “Introduce legislation to ensure assistance and protection for unaccompanied children seeking asylum” (Denmark).

UNHCR wishes to commend Italy for the adoption of Law no. 47/2017, a consolidated act which provides a progressive legal framework on the protection of unaccompanied children.

Linked to 2nd cycle UPR recommendation no. 145.18: “Accede to the *1961 Convention on the Reduction of Statelessness*, and streamline the administrative process in order to reduce the number of stateless persons” (Hungary).

UNHCR welcomes Italy’s accession to the *1961 Convention* through Law no. 162 of 29 September 2015.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Independent national human rights institution

Linked to 2nd cycle UPR recommendations no. 145.26 to 145.48 on the establishment of an independent national human rights institution.

Following previous lengthy parliamentary debates on the subject, during the last legislature, the Senate of the Republic discussed several law proposals (AS. 1908, AS. 1939, AS. 865) on the establishment of independent public bodies for the promotion of human rights. However, none of these proposals were passed, and Italy still lacks an independent national human right institution.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Establish an independent national human rights institution that promotes the effective exercise of fundamental rights, including those of beneficiaries of international protection.

Issue 2: Reception of asylum-seekers

Linked to 2nd cycle UPR recommendations no. 145.176: “Work with international partners in responding to the protection needs of maritime migrants, asylum-seekers and refugees, by developing standardized processing procedures and making necessary upgrades to improve conditions of reception and expulsion centres” (United States of America); **and no. 145.177:** “Improve the facilities in the reception centres.” (Sudan)

UNHCR is concerned about the impact of Law 132/2018 on the detention of asylum-seekers and on the reception system. The Law broadens the use of administrative detention by introducing the possibility of detaining asylum-seekers in order to verify their identity and nationality for a maximum of 210 days. Pursuant to Article 31 of the *1951 Convention*, persons should not be detained merely because they are seeking international protection. In UNHCR’s view, detention may occur only as a last resort after the consideration of alternative measures and if lawful, necessary, reasonable, and proportionate to a legitimate purpose, and on the basis of an individual assessment.

Moreover, the aforementioned Law substantially changes the reception system, by accommodating asylum-seekers in first-line reception centres for the whole duration of the asylum procedure. The guidelines for reception services in first-line facilities that the Government approved following the entry into force of the Law have lowered reception standards, for instance by eliminating mental health and psychological support services, with a significant negative impact on persons with specific needs.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Maximize the use of alternatives to detention, consider detention a measure of last resort, and for cases where deemed necessary, reduce the time limit for administrative detention;
- (b) Guarantee adequate reception services and standards in first-line reception centres where asylum-seekers are hosted for the whole duration of the procedure.

Issue 3: Integration of beneficiaries of international protection

Linked to 2nd cycle UPR recommendations no. 145.137: “Facilitate the development of small businesses for both Italian citizens and migrants and establish programmes to encourage the economic and social integration of refugees” (Mexico); **no. 145.160:** “Reinforce measures aiming at the protection of the rights of migrants and asylum-seekers and the improvement of their conditions” (Cote d’Ivoire); **and no. 145.167:** “Take further efforts to improve the conditions of migrants and asylum-seekers who arrive to the Italian territories, and ensure that they are provided with their guaranteed rights” (Qatar).

Inclusion prospects for beneficiaries of international protection continue to be severely limited, especially for persons with specific needs, due to the lack of services within the institutional reception system and of specific support to foster social inclusion.

In September 2017, Italy approved the first National Integration Plan for beneficiaries of international protection. However, most of the recommendations and policy measures contained therein have not yet been implemented. One consequence of the lack of integration prospects is the rising number of beneficiaries of international protection, including vulnerable persons, who live in destitute conditions, especially in informal settlements, at high risk of labour or sexual exploitation. Although Italy has approved a law (Law 199/ 2016) to tackle illegal work and exploitation in the agricultural labour market, many beneficiaries of international protection continue to live in slums and to be exploited in seasonal agricultural work.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Implement the National Integration Plan for beneficiaries of international protection, including by allocating the necessary financial resources;
- (b) Adopt dedicated measures for supporting access to the job market, sustainable housing solutions, effective access to legal residence, and access to health services for beneficiaries of international protection residing outside the reception system; and
- (c) Implement the Law 199/2016 on tackling illegal work and labour exploitation in agriculture, particularly regarding the reception system for seasonal workers.

Issue 4: Child protection

Linked to 2nd cycle UPR recommendation no. 145.180: “Ensure that every child, particularly unaccompanied minors, whether on the high seas or on its territory, who seeks to enter Italy, has the right to an individual consideration of his/her circumstances and is provided prompt access to asylum and other relevant national and international procedures and protective measures” (Brazil).

UNHCR welcomes the adoption of Law 47/2017 which prescribes concrete measures to ensure the protection of unaccompanied children, including adequate reception consolidated with age assessment, timely transfer to appropriate care facilities and integration into local communities. However, in the absence of implementing decrees, the application of this Law has been inconsistent. For instance, the incorrect application of the age determination procedure deprived certain asylum-seeking children of adequate reception conditions, guardianship and specific counseling because they were not recognized as children.

Moreover, the protection of children could be also undermined when their asylum claims are dealt with under the accelerated procedure established under Law 132/2018.

Lastly, youth asylum-seekers who turn 18 years old may lose the specific safeguards they were enjoying as unaccompanied and separated children, such as access to dedicated and specialized reception services, and dedicated counseling appropriate to their age. As a result, their progressive integration, including access to work and education, may be hampered.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Ensure that dedicated child reception system, criteria, and standards, as well as identification of children and proper age assessment as provided by law, are fully implemented and further strengthened;
- (b) Introduce and properly regulate best interests procedures by law and/or implementing regulations, ensuring that the best interests of the child is a primary consideration in every decision or action pertaining to her/him;
- (c) Ensure that specific safeguards are explicitly provided for children to be exempted from accelerated procedures provided by Law 132/2018; and
- (d) Ensure that particular attention is paid to the specific needs of youth and ease the transition to adulthood, in particular facilitating access to legal status, access to education, work, and dedicated pathways to integration.

Issue 5: Sexual and Gender-Based Violence (SGBV)

Linked to 2nd cycle UPR recommendations no. 145.115: “Take the necessary measures to ensure that national protection laws against sexual violence, including in the domestic context,

be applied at all levels consistently and effectively to fight against impunity” (Switzerland); and no. 145.116: “Take the necessary measures to maintain existing and/or set up new anti-violence shelters to assist and protect women victims of violence” (Malaysia).

Italian legislation provides for a number of safeguards to respond to issues related to SGBV, including an early identification mechanism of SGBV survivors, potentially in need of international protection, for an overall ban on administrative detention for immigration purposes of persons with specific needs, listed in the domestic legislation, for the adoption of SGBV preventive measures in the asylum and reception systems, and for the non-discriminatory access to services. These measures are intended to respond to SGBV having occurred both prior and during the stay in Italy.

However, the overall system is still lacking standard operating procedures integrated in the asylum system or accessible by persons under UNHCR’s mandate for systematic and coordinated identification and referral of SGBV victims to the appropriate services. Follow-up mechanisms at national level as well as a disaggregated data collection system are also missing. UNHCR is particularly concerned about the limited and substandard protection response for SGBV survivors in need of international protection, which mainly consists of limited access to information on available services, inadequate access to health care services, and unlawful administrative detention for immigration purposes for SGBV survivors. Access to social and health services are significantly hampered by cultural and structural barriers, such as lack of cultural mediators as well as by limited capacity and expertise.

Despite Government efforts, reflected in the establishment in 2013 of an Extraordinary National Plan against SGBV (Law Decree n.93/2013, converted into Law n.119/2013) that includes as of 2017 female asylum-seekers and refugees, the overall response remains insufficient. In some Italian regions, specialized services have limited capacity to respond to the protection needs of refugees and asylum-seekers who are survivors of SGBV, including lack of places in safe shelters and culturally-sensitive psychosocial support.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Allocate adequate and proportionate resources to relevant national SGBV plans to ensure their effective implementation;
- (b) Establish an inter-ministerial mechanism to develop standard operating procedures addressing SGBV at the national level;
- (c) Define a procedure for early identification of persons with specific needs, encompassing SGBV survivors, including in detention in order to secure their release while identifying alternative reception measures;
- (d) Establish coordinated mechanisms with relevant competent authorities at different levels (national, regional, municipal) to ensure effective access to safety, legal, social, and health services; and
- (e) Design a training programme on dealing with SGBV victims, including in the context of asylum, for main actors competent for individual case management (police, reception personnel, provincial governments, health workers, social services, judges/lawyers, etc.).

Issue 6: Identification and Protection of Stateless Persons

Linked to 2nd cycle UPR recommendations no. 145.18: “Accede to the 1961 Convention on the Reduction of Statelessness, and streamline the administrative process in order to reduce the number of stateless persons” (Hungary); and no. 145.146: “Effectively implement the National Strategy for the Inclusion of Roma” (United States of America).

Although Italy has established statelessness determination procedures, a number of challenges remain with regard to the identification of stateless persons, including the enforcement of restrictive criteria for access to the procedures, excessively lengthy processes, absence of procedural safeguards and protection against expulsion during the procedures, and issues related to the standard of proof. Consequently, only a limited number of stateless people living in Italy are recognized as such, leaving a significant number of unrecognized stateless persons with limited access to fundamental rights. According to official statistics, there are currently 732

recognized stateless persons in Italy, compared to an estimated number of stateless persons (or persons at risk of statelessness) of between 3,000 to 15,000 individuals.

Moreover, stateless children born in Italy to stateless parents, especially among the Roma population, still encounter a number of difficulties accessing Italian nationality at birth. In practice, in these cases, Italian nationality is conferred at birth by operation of law only when the parents have already been formally recognized as stateless. Otherwise, the child remains stateless. The inter-ministerial working group on the legal status of Roma, Sinti, and Caminanti, created by the Government in 2013, has not convened any meetings in the last three years, despite the many unresolved problems faced by these communities.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Adopt the necessary measures to prevent and reduce statelessness and protect the rights of stateless persons, in law and in practice, including of persons belonging to Roma communities by, *inter alia*:
 - i. Adopting national legislation to bring the statelessness determination procedure in line with international standards;
 - ii. Adopting measures to prevent statelessness and to ensure the effective implementation of the law regulating the acquisition of Italian citizenship at birth to otherwise stateless children; and
 - iii. Resuming the meetings of the working group on the legal status of Roma, Sinti, and Caminanti and taking action to address the situation of undocumented or stateless persons belonging to these communities.

Issue 7: Racism, racial discrimination, xenophobia, and related intolerance

Linked to 2nd cycle UPR recommendations no. 145.63: “Strengthen the institutional framework to combat all forms of racial discrimination and incitement to hatred, in particular against migrants” (Algeria); **no. 145.68:** “Continue strengthening mechanisms to combat racism, racial discrimination, xenophobia and other forms of related intolerance” (Venezuela (Bolivarian Republic of)); and **no. 145.87:** “Take measures to ensure that the National Office against Racial Discrimination (UNAR) is independent and adequately resourced” (India).

UNHCR is particularly concerned about the increase in xenophobic attacks targeting refugees, asylum-seekers, and migrants in recent years, with numerous verbal and physical abuses having been reported throughout Italy. Furthermore, racist language and narratives, amounting in certain instances to hate speech, have proliferated in the public discourse. Lack of coherent data collection mechanisms hinders a comprehensive analysis of the extent of this phenomenon. While efforts were undertaken by the Italian Government with the adoption of a dedicated National Action Plan against Racism, Xenophobia and Intolerance in 2015, limited human and financial resources allocated to its implementation undermine its overall effectiveness.

Furthermore, Italy has not implemented the accepted UPR recommendation No. 145.87 to strengthen the independence and resources of the National Office against Racial Discrimination (UNAR), thus affecting its capacity to effectively counter discrimination and assist victims in accessing justice and redress.

Recommendations:

UNHCR recommends that the Government of Italy:

- (a) Implement the National Action Plan against Racism, Xenophobia and Intolerance, including by allocation of the necessary financial and human resources;
- (b) Strengthen the capacity of the National Office against Racial Discrimination (UNAR), both financially and in terms of human resources, to provide support to victims, monitor incidents, and take legal actions, as well as to maintain its independence from the Government; and
- (c) Establish a systematic data collection mechanism to record incidents of racism, racial discrimination, xenophobia, and related intolerance.

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

ITALY

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to ITALY.

I. Universal Periodic Review (Second Cycle – 2014)

Recommendation ¹	Recommending State/s	Position ²
Refugees, asylum seekers and stateless persons		
145.18 Accede to the 1961 <i>Convention on the Reduction of Statelessness</i> , and streamline the administrative process in order to reduce the number of stateless persons;	Hungary	Supported
145.137 Facilitate the development of small businesses for both Italian citizens and migrants and establish programmes to encourage the economic and social integration of refugees;	Mexico	Supported
145.146 Effectively implement the National Strategy for the Inclusion of Roma;	United States of America	Supported
145.160 Reinforce measures aiming at the protection of the rights of migrants and asylum seekers and the improvement of their conditions;	Cote d'Ivoire	Supported
145.163 Fully align its migration and asylum policy in accordance with international law;	Kenya	Supported
145.167 Take further efforts to improve the conditions of migrants and asylum seekers who arrive to the Italian territories, and ensure that they are provided with their guaranteed rights;	Qatar	Supported
145.168 Continue working at the national level to protect the human rights of migrants, including those who have requested refuge or asylum, and in particular with regard to the principle of non- <i>refoulement</i> ;	Guatemala	Supported
145.170 Suspend summary returns to Greece;	Sweden	Noted
145.171 Strengthen other efforts already in practice which provide life-saving assistance for migrants and initiate the new Asylum, Migration and Integration Fund 2014–2020;	Holy See	Supported
145.172 Finalize the Programme of Action for the new Asylum, Migration and Integration Fund 2014–2020 in due time frame;	Turkey	Supported
145.174 Ensure that all those involved in the reception process for migrants have the training, time and ability to identify persons who want to apply for asylum. Anyone claiming to be an unaccompanied minor should benefit, without exception, from the specific protections guaranteed under Italian law, pending a properly conducted age determination;	Netherlands	Supported
145.175 Ensure that the system for receiving and registering immigrants and asylum seekers is of a high standard, both in regards to capacity and expediency. In particular, that extra attention is given to minors;	Norway	Supported

¹ All recommendations made to Italy during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Italy" (10 December 2014), A/HRC/28/4, available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ITIndex.aspx>.

² Italy's views and replies, in English, can be found in: *Addendum* (12 March 2015), A/HRC/28/4/Add.1, available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ITIndex.aspx>.

145.176 Work with international partners in responding to the protection needs of maritime migrants, asylum seekers and refugees, by developing standardized processing procedures and making necessary upgrades to improve conditions of reception and expulsion centres;	United States of America	Supported
145.177 Improve the facilities in the reception centres;	Sudan	Supported
145.179 Introduce legislation to ensure assistance and protection for unaccompanied children seeking asylum;	Denmark	Supported
145.180 Ensure that every child, particularly unaccompanied minors, whether on the high seas or on its territory, who seeks to enter Italy, has the right to an individual consideration of his/her circumstances and is provided prompt access to asylum and other relevant national and international procedures and protective measures;	Brazil	Supported
Migrants' rights		
145.166 Continue to review and periodically assess its immigration laws and policies, taking into consideration the recommendations made by relevant United Nations agencies, human rights treaty bodies and special procedures, and to ensure that the rights of migrants are fully safeguarded, in accordance with international human rights standards;	Philippines	Supported
145.169 Continue to strengthen its national migration policy, bearing in mind important pillars like protection, integration, non-discrimination and non- <i>refoulement</i> ;	Nicaragua	Supported
145.178 Allow undocumented migrants to protect their rights and to file complaints irrespective of immigration status;	Kyrgyzstan	Supported
145.182 Include all migrants irrespective of their status within the national plans and programmes to integrate and ensure their human rights;	Bangladesh	Partially Supported
Equality and non-discrimination		
145.58 Adopt a national strategy for the advancement of women, and end prevailing cultural stereotypes of the role of women in all fields;	Bahrain	Supported
145.62 Continue raising awareness and promoting tolerance and diversity in society;	Israel	Supported
145.63 Strengthen the institutional framework to combat all forms of racial discrimination and incitement to hatred, in particular against migrants;	Algeria	Supported
Prevention of torture and ill-treatment		
145.55 Submit its overdue reports to the Committee against Torture and the Human Rights Committee;	Ghana	Supported
145.99 Implement effective domestic measures to ensure all acts of torture are offences under its criminal law;	Australia	Supported
Violence against women and children		
145.115 Take the necessary measures to ensure that national protection laws against sexual violence, including in the domestic context, be applied at all levels consistently and effectively to fight against impunity;	Switzerland	Supported
145.116 Take the necessary measures to maintain existing and/or set up new anti-violence shelters to assist and protect women victims of violence;	Malaysia	Supported
145.127 Explicitly prohibit all corporal punishment of children, bringing legislation into line with the 1996 Supreme Court ruling against violence in child-rearing;	Sweden	Noted
Trafficking and exploitation		
145.118 Consolidate the measures aimed at combating violence against women and at achieving social reintegration of those women who are victims of human trafficking;	Romania	Supported
145.121 Continue its efforts regarding the combat of the phenomenon of trafficking in persons;	Sudan	Supported

145.122 Expand efforts to combat human trafficking and account for other forms of trafficking, such as labour exploitation and forced begging;	Australia	Supported
Racism and xenophobia		
145.69 Prevent all forms of discrimination and vilification and deliberate negative stereotyping of the Roma community, Muslims and migrants;	Bangladesh	Supported
145.70 Adopt a national plan against racism, racial discrimination, xenophobia and related intolerance, including measures to prevent and fight racist and xenophobic violence;	Brazil	Supported

II. Treaty Bodies

Committee against Torture,

Concluding Observations, (18 December 2017), [CAT/C/ITA/CO/5-6](#)

Non-refoulement

20. The Committee notes the efforts made by the State party to respond to the large influx of asylum seekers and irregular migrants, including high numbers of unaccompanied minors, arriving in its territory. It is, however, concerned at reports alleging that the State party may have acted in breach of the principle of non-*refoulement* and carried out collective returns during the period under review. Of particular concern are the forcible returns of irregular migrants in application of readmission agreements providing for accelerated identification procedures, such as the agreement signed by the Italian and Sudanese police authorities on 3 August 2016, which led to the repatriation on 24 August 2016 of dozens of Sudanese nationals, who allegedly belonged to a persecuted minority. The Committee also notes with concern that the procedure of expulsion on grounds of national security continues not to provide for sufficient and effective safeguards against the risk of *refoulement*, which is in addition to the lack of suspensive effect of the appeals against expulsion decisions. In this connection, the Committee notes that the European Court of Human Rights has found in several cases that the expulsion of foreign nationals under article 3.1 of Law No. 144/2005 violated the prohibition of torture and ill-treatment under article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights) (*O. v. Italy*, *Saadi v. Italy*, *CBZ v. Italy* and *Trabelsi v. Italy*). Furthermore, the Committee is concerned that Decree Law No. 13 of 17 February 2017 (subsequently Law No. 46 of 13 April 2017, i.e. the Minniti-Orlando decree) has introduced measures to accelerate asylum procedures, reducing the number of possible appeals and thereby limiting the protection afforded to asylum seekers, and speeding up deportations of rejected asylum seekers. Finally, in the light of the judgment of the European Court of Human Rights in *Hirsi Jamaa and others v. Italy* (art. 3), in which, inter alia, two violations of article 3 of the European Convention on Human Rights were found because the applicants had been exposed to the risk of ill-treatment in Libya and of repatriation to Somalia and Eritrea, the Committee takes note of the State party's statement that there will no longer be "pushback" to Libya of migrants and asylum seekers intercepted on boats in the Mediterranean Sea by the Italian maritime forces (art. 3).

21. Recalling the Committee's previous recommendations (see CAT/C/ITA/CO/4, paras. 10–12), the State party should:

- (a) Ensure that in practice no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal, foreseeable risk of being subjected to torture;**
- (b) Ensure that all asylum seekers have the opportunity for an individual review and are protected from *refoulement* and collective return;**
- (c) Amend its legislation in order to provide rejected asylum seekers with an effective judicial remedy with automatic suspensive effect against expulsion decisions;**
- (d) Ensure that the accelerated procedures under readmission agreements and Law No. 46/2017 are subject to a thorough assessment on a case-by-case basis of the risks of violations of the principle of non-*refoulement*.**

Memorandum of Understanding of 2 February 2017 between Italy and Libya

22. The Committee takes note of the explanations offered by the State party's delegation regarding the content and initial results of the Memorandum of Understanding signed between Italy and the Government of National Accord, of Libya, on 2 February 2017, on development, on countering illegal immigration, human trafficking and smuggling and on strengthening border security. Nonetheless, the agreement, which was welcomed by the members of the European Council in the Malta Declaration of 3 February 2017 and affirms that the European Union will support Italy in implementing it, does not contain any particular provision that may render cooperation and support conditional on the respect of human rights, including the absolute prohibition of torture. Furthermore, the Committee is deeply concerned at the lack of assurances that cooperation for the purpose of enhancing the operational capabilities of the Libyan Coast Guard or other Libyan security actors would be reviewed in light of possible serious human rights violations. In this connection, the Committee draws the State party's attention to the numerous reports of dangerous, life-threatening interceptions by armed men believed to be from the Libyan Coast Guard, as stated in the latest report of the Secretary-General on the United Nations Support Mission in Libya (see S/2017/726, para. 36), and the horrific conditions in detention facilities under the control of Libya's Department for Combating Illegal Migration, recently documented by United Nations human rights monitors (see S/2017/726, para. 35, and the press release from the Office of the United Nations High Commissioner for Human Rights, of 14 November 2017, entitled "Suffering of migrants in Libya outrage to conscience of humanity").

23. The State party should take all necessary legal, political and diplomatic measures to ensure that any cooperation and/or support that it may provide under bilateral or regional migration management agreements is consistent with the purposes of the Convention and with its obligations under international human rights law and international refugee law. In this context, the State party is requested to provide the Committee with information regarding the follow-up to the implementation of the Italy-Libya agreement. As a first layer of control in guaranteeing the correct use of European Union funds, the State party should also consider, as a matter of urgency, establishing an effective mechanism for monitoring the conditions on the ground in Libya for the implementation of the cooperation projects.

Allegations of ill-treatment in "crisis centres" and other reception facilities

24. While taking note of the information provided by the State party on the implementation of the "hotspot approach" agreed upon by the European Union in 2015 to achieve swift identification and screening of migrants and asylum seekers at points of arrival, the Committee remains concerned at reports of ill-treatment and excessive use of force by the police when taking the fingerprints of newly arrived asylum seekers and migrants. The Committee notes the delegation's affirmation that, under Italian law, the police are allowed to use force to arrest individuals and obtain identification as a measure of last resort, despite reports to the contrary. Also of concern are the reportedly substandard living conditions in several reception centres for asylum seekers and irregular migrants, including "crisis centres" and centres for unaccompanied children, and the fact that women and minors are not always provided with separate accommodation, due to limited facilities. There is also a lack of clear guidelines, clear procedures and a clear division of responsibilities as regards the identification of vulnerable people and of individuals in need of international protection. In this regard, the Committee regrets that the State party has provided no complete information on the procedures in place for timely identification of victims of torture and trafficking among asylum seekers and migrants (arts. 11 and 16).

25. The State party should:

- (a) Clarify the legal basis for deprivation of liberty and the use of force to obtain fingerprints from uncooperative asylum seekers and migrants;**
- (b) Ensure that all allegations of excessive use of force in order to fingerprint migrants and asylum seekers who resist the identification process are investigated promptly, thoroughly and impartially, and that perpetrators are prosecuted and punished;**
- (c) Ensure that law enforcement officials receive appropriate professional training, including on how to avoid excessive use of force and how to handle the fingerprinting of uncooperative migrants and asylum seekers, and that authorities**

develop explanatory materials for the persons being fingerprinted to minimize trauma;

(d) Take the measures necessary to ensure appropriate reception conditions for asylum seekers and irregular migrants;

(e) Formulate clear guidelines and related training on the identification of individuals in need of international protection, including torture and trafficking victims, from among asylum seekers and migrants.

Monitoring of immigration detention facilities

26. The Committee notes with concern that there have been instances where the regional and local preventive mechanisms' right of access to places of detention has been questioned by the authorities, especially in relation to certain immigration centres and "crisis centres". Civil society organizations and municipal authorities also reported difficulties in accessing reception centres for asylum seekers and migrants, be they publicly or privately managed.

27. The State party should:

(a) Guarantee that the National Authority for the Rights of Persons Detained or Deprived of Personal Liberty and its regional counterparts are allowed to visit all — and any suspected — places of deprivation of liberty, as set out in articles 4 and 29 of the Optional Protocol, that are within its jurisdiction. For these purposes, the jurisdiction of the State extends to all those places over which it exercises effective control (see CAT/OP/12/5, para. 24);

(b) Authorize non-governmental human rights organizations and other civil society actors to undertake monitoring activities at reception centres for asylum seekers and migrants, including at "crisis centres" and centres for unaccompanied children.

Detention pending deportation

28. While noting the reduction in the maximum length of detention in immigration detention centres (identification and expulsion centres) from 18 months to a strict limit of 90 days, in application of Law No. 161/2014, the Committee considers that detention pending deportation should be further reduced and only applied as an exceptional measure (arts. 11 and 16).

29. The State party should ensure that rejected asylum seekers and irregular migrants are held in detention only as a last resort and, if such detention becomes necessary, that they are held for as short a time as possible and that use is made of alternatives to detention whenever feasible.

Committee on the Elimination of Discrimination against Women.

Concluding Observations, (24 July 2017), [CEDAW/C/ITA/CO/7](#)

Women refugees and asylum seekers

15. The Committee commends the State party for its remarkable and sustained efforts to rescue at sea and receive, host and provide protection and assistance to high numbers of persons fleeing armed conflict or persecution. It also welcomes the inclusion of gender-based persecution as grounds for recognition of refugee status. The Committee is, however, concerned that the support from European Union member States has been insufficient to alleviate the efforts of the State party and the host community. It is further concerned about:

(a) The lack of a comprehensive and harmonized framework, including clear procedures, guidelines and standards, for the identification of and provision of assistance to individuals with specific needs and vulnerabilities, especially refugees and asylum seekers who are women and girls;

(b) The insufficient number of reception centres and the overcrowding and substandard conditions in existing centres owing to the increasing number of refugees and asylum seekers entering the country;

(c) The lack of services provided to refugees and asylum seekers placed in administrative detention, in particular to women with specific needs and vulnerabilities;

- (d) The insufficient financial support given to civil society organizations working with women refugees and asylum seekers;
- (e) The planned ban preventing rescue boats of non-governmental organizations from allowing those rescued to disembark in Italian ports.

16. The Committee recommends, in line with its general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, that the State party:

- (a) Put in place gender-appropriate, culturally sensitive and age sensitive individual screening and assessment procedures to ensure the systematic and early identification of refugees and asylum seekers, in particular women and girls who have been victims or are at risk of gender based violence;
- (b) Increase the number of available places in reception centres and ensure adequate reception standards for refugees and asylum seekers, with particular attention to the needs of women and girls;
- (c) Provide adequate services to refugees and asylum seekers placed in administrative detention, in particular women with specific needs and vulnerabilities;
- (d) Ensure that immigration detention is applied only as a measure of last resort, after it has been determined, on a case-by-case basis, to be strictly necessary, proportionate, lawful and non-arbitrary, and is imposed for the shortest possible period;
- (e) Strictly observe the principle of non-*refoulement* for all women and girls in need of international protection and amend expulsion procedures to ensure that no individual is expelled without an individualized risk assessment;
- (f) Increase collaboration with and financial support to civil society organizations working with women refugees and asylum seekers;
- (g) Continue to allow rescue boats of non-governmental organizations to dock in Italian ports and allow those rescued to disembark;
- (h) Seek and strengthen cooperation with countries in the region, in particular European Union member States, to share the economic burden and provide for the needs of refugees, including resettlement and humanitarian admission opportunities.

Human Rights Committee,

Concluding Observations, (1 May, 2017), [CCPR/C/ITA/CO/6](#)

Statelessness and citizenship

22. The Committee is concerned that most stateless persons, mainly Roma and third-country nationals, remain stateless owing to the complicated statelessness determination procedures, which put children at a high risk of inheriting the stateless status of their parents, despite the legislative guarantee of Italian citizenship to those children born in Italy. It is also concerned about the slow progress in adopting legislation to address these issues (arts. 2 and 24).

23. The State party should take the measures necessary to simplify the statelessness determination procedures, reform the citizenship law and expedite the adoption of appropriate legislation designed to reduce statelessness.

Migrants, asylum seekers and refugees

24. While appreciating the great efforts made by the State party to receive and host exceptional numbers of persons fleeing armed conflict or persecution, the Committee is concerned at:

- (a) The non-implementation of Law No. 67/2014, which authorizes the executive branch to suspend the offence of irregular entry and stay in Italy;
- (b) Continued reports of the collective expulsion of migrants, including the deportation of 48 Sudanese migrants in August 2016, which was reportedly facilitated by a bilateral agreement on migration;
- (c) The prolonged detention at hotspots beyond the legally prescribed period of 72 hours;
- (d) The insufficient number of places in first- and second-level reception centres and the substandard living conditions in several reception centres;

- (e) The lack of effective safeguards against erroneous classification of asylum seekers as economic migrants, including insufficient provision of information on and legal assistance for the pre-identification and identification procedures and asylum application procedure at hotspots and reception centres (arts. 7 and 9-10).

25. The State party should:

- (a) **Implement Law No. 67/2014 with a view to abrogating the crime of irregular entry and stay;**
- (b) **Refrain from carrying out the collective expulsion of migrants, ensure that all expulsion orders are based on an individual assessment of each migrant's situation, taking into account the person's special protection needs, ensure that bilateral and multilateral agreements are applied in such a way as to guarantee full respect of Covenant rights and strict compliance with the principle of non-refoulement, and suspend any agreement that does not include effective human rights protections;**
- (c) **Ensure that immigration detention is only applied for the shortest period possible and as a measure of last resort, after it has been determined, on a case-by-case basis, to be strictly necessary, proportionate, lawful and non-arbitrary;**
- (d) **Strengthen its efforts to increase the number of available places in reception centres and take all measures necessary to improve, without delay, the conditions therein;**
- (e) **Fully implement the standard operating procedures at hotspots and provide in all first-level reception centres information and legal aid, where necessary, in relation to the pre-identification and identification procedures and the asylum procedure.**

Unaccompanied minors

26. While noting the difficult challenge arising from the increasing number of unaccompanied minors arriving in Italy, the Committee is concerned at the insufficient safeguards for such children, in particular relating to the inadequate age determination procedure, delays in the appointment of guardians and conditions in first-level reception centres. It is particularly concerned at the increasing number of children going missing from reception centres, which places them at risk of labour and sexual exploitation (arts. 7, 9 and 24).

27. The State party should:

- (a) **Ensure that the age assessment procedure is based on safe and scientifically sound methods, taking into account the children's mental well-being;**
- (b) **Review the guardian assignment procedure to ensure that each unaccompanied minor is provided with a legal guardian in a timely manner;**
- (c) **Ensure adequate conditions for unaccompanied minors in reception facilities, including their segregation from adults;**
- (d) **Take the measures necessary to prevent the disappearance of children and to find the whereabouts of those already missing.**

Committee on the Elimination of Racial Discrimination,

Concluding Observations, (17 February, 2017), [CERD/C/ITA/CO/19-20](#)

Mixed migratory flows: migrants, asylum seekers and refugees

18. The Committee is aware of the efforts of the State party to implement the specific rights of persons fleeing armed conflict or persecution who arrive on its shores, ensuring respect for the rights of migrants arriving in the same migratory flows as refugees and asylum seekers, which should also be stepped up through strengthened international cooperation, in particular by the European Union and countries of origin, transit and reception.

19. The Committee welcomes the adoption of Law No. 67/2014 in April 2014 to abolish the criminal offence of irregular entry or stay in the territory of the State party, although it remains concerned that irregular migrants re-entering the country following an expulsion will continue to face criminal sanctions. The Committee also expresses concern at the "hotspot" approach adopted by the State party, pursuant to the recommendation of the European Commission in May 2015, which has been designed to provide locations in which irregularly arriving migrants

and asylum seekers can quickly be identified and transferred for the purposes of the processing of asylum applications, relocation in another European Union member State, or return to their countries of origin. Some of the Committee's concerns regarding the hotspot approach include:

- (a) The lack of a legal basis for the establishment of the hotspots and the de facto detention of migrants and asylum seekers beyond the legally permissible 48-hour period;
- (b) The insufficient number of reception centres and the substandard conditions therein;
- (c) The inadequate protection of unaccompanied and separated minors, whose guardianship system is not sufficiently individualized and places too much responsibility on some municipalities;
- (d) The use of violence to force individuals to provide their fingerprints;
- (e) The lack of clear guidelines, procedures and division of responsibilities with regard to the identification of and assistance to persons in situations of vulnerability, who require specific attention and protection measures, including victims of torture, trafficking and sexual and gender-based violence;
- (f) The lack of effective preventive safeguards against *refoulement*, including a disproportionate reliance on nationality in the hotspot approach, which increases the likelihood of violations of the prohibition of collective expulsions and the principle of non-*refoulement* (arts. 1, 2, 5 and 6).

20. The Committee recommends that the State party:

- (a) Consider introducing a presumption against immigration detention in law and ensure that immigration detention is only applied as a measure of last resort, after it has been determined, on a case by case basis, to be strictly necessary, proportionate, lawful and non-arbitrary, and is imposed for the shortest period of time;
- (b) Decriminalize all instances of irregular re-entry or stay;
- (c) Ensure that all facilities where migrants and asylum seekers are deprived of their liberty have a basis in law and that they are not held beyond the legally permitted duration of 48 hours;
- (d) Ensure that there are sufficient reception centres with adequate conditions and that the management and the staffing of the hotspots reflect the human rights concerns and needs of migrants and asylum seekers;
- (e) Put in place gender-appropriate, culturally sensitive and age-sensitive individual screening and assessment procedures to ensure the rapid and appropriate identification of international protection needs or situations of vulnerability;
- (f) Ensure that the physical integrity of migrants and asylum seekers is safeguarded, that they receive the assistance of lawyers and independent monitors and that law enforcement officers are guided by the principle of the minimum use of force when fingerprinting them;
- (g) Strictly observe the principle of non-*refoulement* and amend expulsion procedures to ensure that no individual is expelled without an individualized assessment that the person will not be at risk of serious human rights violations upon return;
- (h) Fully implement the recommendations contained in the report by the Special Rapporteur on the human rights of migrants following his mission to the State party (A/HRC/29/36/Add.2).

Committee on the Rights of Persons with Disabilities,

Concluding Observations, (6 October, 2016), [CRPD/C/ITA/CO/1](#)

Situations of risk and humanitarian emergencies (art. 11)

25. The Committee is concerned about the challenges encountered by refugees, migrants and asylum seekers with disabilities arriving in the State party, especially those with psychosocial disabilities, in accessing appropriate processing facilities and mental health support, including counselling.

26. The Committee recommends that the State party ensure that all persons with disabilities arriving in the State party are able to access facilities on an equal basis with others and that those with psychosocial disabilities are given appropriate support and rehabilitation through strengthened systems. It also recommends that the State party

ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and endorse the 2016 Charter on Inclusion of Persons with Disabilities in Humanitarian Action.

Committee on Economic, Social and Cultural Rights,

Concluding Observations, (28 October, 2015), [E/C.12/ITA/CO/5](#),

Migrants, asylum seekers and refugees

18. The Committee appreciates the efforts made by the State party, including through the launch in 2013 of operation Mare Nostrum, to receive and host exceptional numbers of migrants, asylum seekers and refugees. The Committee, however, remains concerned about the reported practice of pushbacks and about limited enjoyment of the Covenant rights by migrants, asylum seekers and refugees upon arrival in the State party. The Committee is particularly concerned about the insufficient number of reception centres in the State party and the substandard conditions therein (art. 2 (2)).

19. The Committee urges the State party to stop the practice of pushbacks. The Committee recommends that the State party intensify its efforts to ensure the full enjoyment of economic, social and cultural rights by migrants, asylum seekers and refugees. In implementing its Covenant obligations towards these persons, it is recommended that the State party seek and strengthen international cooperation and assistance, in particular with States members of the European Union. The Committee also recommends that the State party take measures to increase the number of reception centres, to improve the living conditions therein and to ensure that everyone in the centres has access to medical care, interpreters, adequate food, clothing and social support.

III. Special Procedures Mandate Holders

Report of the Working Group on People of African Descent on its mission to Italy

Addendum: Mission to Italy (12 August 2016) [A/HRC/33/61/Add.1](#)

Conclusions and recommendations

90. It further recommends that the Government adopt laws guaranteeing the right to counsel and the right to an interpreter at all stages of the asylum proceedings, including at the initial stage, when asylum seekers apply for refugee status.

91. The Working Group recommends that people of African descent be included in the relevant mechanisms as officials with the duty to decide the refugee status of applicants

Report of the Working Group on Arbitrary Detention on its mission to Italy

Addendum: Mission to Italy (10 June 2015) [A/HRC/30/36/Add.3](#)

Conclusions and recommendations

73. Deprivation of liberty of asylum seekers, refugees and migrants in an irregular situation should only be used as a measure of last resort. The Government should take sustained measures to ensure that these groups of individuals are detained only because they present a danger for themselves or others, or would abscond from future proceedings, always for the shortest time possible, and that non-custodial measures are always considered first as alternatives to detention.

74. Where the expulsion of a migrant is ordered by a criminal court, preparations for the deportation should be carried out while the migrant is in prison, to avoid detention in an identification and expulsion centre.

Report of the Special Rapporteur on the Rights of Migrants on his mission to Italy

Addendum: Mission to Italy (1 May 2015) [A/HRC/29/36/Add.2](#)

Conclusions and recommendations

109. The Special Rapporteur recommends that the Government:

- (a) Ensure full and proper access to justice for all detainees, including through a more accountable system for lodging complaints within reception centres;
- (b) Ensure that all detained persons who claim protection concerns are, without delay, informed adequately of their right to seek asylum, have access to the procedure for registering asylum claims and can easily communicate with UNHCR, lawyers and civil society organizations;
- (c) Ensure that all decision makers within the territorial commissions are trained adequately in asylum and human rights law so that they can appropriately determine asylum claims;
- (d) Establish a fairer and simpler system for migrant detainees to be able to challenge expulsion and detention orders, and ensure that the appeal proceedings are based on the merits and validation of the detention;
- (e) Provide justices of the peace with training on international human rights law and international refugee law;
- (f) Ensure that migrants awaiting a judicial decision on their request to suspend repatriation procedures, following a negative decision made by the competent