



ITALY: REFUGEES AND MIGRANTS' RIGHTS UNDER ATTACK

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC
REVIEW, 34TH SESSION OF THE UPR WORKING GROUP, NOVEMBER 2019

Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

© Amnesty International 2019

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence.

<https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode>

For more information please visit the permissions page on our website: www.amnesty.org

Where material is attributed to a copyright owner other than Amnesty International this material is not subject to the Creative Commons licence.

First published in 2019

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: EUR 30/0237/2019

March 2019

Original language: English

amnesty.org

**AMNESTY
INTERNATIONAL** 

CONTENTS

INTRODUCTION	4
FOLLOW UP TO THE PREVIOUS REVIEW	4
TORTURE AND OTHER ILL-TREATMENT	5
DISCRIMINATION	5
TREATMENT OF MIGRANTS AND ASYLUM-SEEKERS	5
THE NATIONAL HUMAN RIGHTS FRAMEWORK	6
NATIONAL HUMAN RIGHTS INSTITUTION	6
TORTURE	6
POLICING	7
ARMS TRADE	7
HUMAN RIGHTS SITUATION ON THE GROUND	8
RIGHTS OF MIGRANTS, ASYLUM-SEEKERS AND REFUGEES	8
HUMAN RIGHTS DEFENDERS	12
ROMA'S RIGHT TO ADEQUATE HOUSING	12
RECOMMENDATION FOR ACTION BY THE STATE UNDER REVIEW	13
ANNEX	16

INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of Italy in November 2019. In it, Amnesty International evaluates the implementation of recommendations made to Italy in its previous UPR, including in relation to the rights of refugees and migrants.

It also assesses the national human rights framework with regard to protection against torture and police accountability.

With regard to the human rights situation on the ground, Amnesty International raises concern about violations of refugees and migrants' rights, including in the context of cooperation with Libya to control migration; restrictions to the activities of human rights defenders; and continuing violations of Roma's right to adequate housing.

FOLLOW UP TO THE PREVIOUS REVIEW

In 2014, Italy received 186 recommendations,¹ mostly focusing on ratifying treaties; establishing a National Human Rights Institution (NHRI); fighting discrimination, racism and xenophobia; combatting violence against women; upholding the rights of Roma; and protecting the rights of migrants and asylum-seekers. A few recommendations addressed other issues, such as torture and cruel, inhuman and degrading treatment; prison conditions; and the protection of journalists. Italy accepted 176 recommendations, which it considered to be already implemented or under implementation. It partially accepted one recommendation regarding the integration of migrants and rejected nine recommendations.²

Amnesty International considers that Italy's implementation of the recommendations it accepted has been largely inadequate in the period under review, notwithstanding progress in a few areas.

¹ Report of the Working Group on the Universal Periodic Review, Italy, A/HRC/28/4.

² In particular, it rejected six recommendations to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/HRC/28/4, Recommendations 145.1 to 145.6) considering that the Italian legal framework already guarantees their rights; two recommendations on the corporal punishment of children (Recommendations 145.126 and 145.127); explaining that protection already exists in the criminal code and because of the incorporation into national law of the UN Convention on the Rights of the Child; and one recommendation to suspend summary returns of foreign nationals to Greece (Recommendation 145.170), denying that they have occurred and stating that relevant safeguards apply. Italy added that specific inquiries could be followed up if precise references about specific cases were made available

TORTURE AND OTHER ILL-TREATMENT

Amnesty International welcomes the establishment of an independent National Preventive Mechanism (NPM) as required by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.³ Furthermore, after nearly three decades of failed attempts, in July 2017 Italy enacted legislation against torture.⁴ However, the definition of torture introduced in national law is not consistent with the Convention.

DISCRIMINATION

Italy has yet to implement accepted recommendations to establish a national human rights institution (NHRI), in line with the Paris Principles,⁵ and to strengthen the National Office against Racial Discrimination.⁶ There has also been no noticeable progress in the implementation of the many recommendations to combat all forms of discrimination,⁷ with groups such as Roma and people of African descent being particularly affected. Specific recommendations to address racist speech in the political discourse⁸ have not been acted on, rather there has been a rise in xenophobic, racist and discriminatory speech by politicians and representatives of national and local institutions.

Progress in the implementation of the National Strategy for the Inclusion of Roma, Sinti and Caminanti, as recommended by other states,⁹ has been disappointing, leaving Romani people facing hardship and social exclusion and unable to access their rights, notably to adequate housing.

TREATMENT OF MIGRANTS AND ASYLUM-SEEKERS

The treatment of migrants and asylum-seekers, including unaccompanied minors, which was raised by several states,¹⁰ continues to be inadequate and registered a marked setback in the second part of 2018, when Italy passed new measures restricting opportunities to be granted protection and a regular status and to access rights for foreign nationals. In order to reduce the arrival of foreign nationals from Libya, Italy continues to implement policies which increase the risk of dying at sea for those attempting the crossing of the central Mediterranean and of being returned to Libya, where refugees and migrants are arbitrarily detained in centres where torture is rife. Since June 2018, Italy has also refused or delayed the disembarkation of people rescued at sea in its ports, exposing traumatized and exhausted individuals, including children, to the risks of prolonged periods at sea and in some cases arbitrarily detaining them onboard ships.

³ A/HRC/28/4, Recommendations 145.49 to 145.51 (Switzerland, Liechtenstein, Morocco).

⁴ A/HRC/28/4, Recommendation 145.99 (Australia). Legge 14 luglio 2017, n. 110 Introduzione del delitto di tortura nell'ordinamento italiano, at <http://www.gazzettaufficiale.it/eli/id/2017/07/18/17G00126/sg>

⁵ A/HRC/28/4, Recommendations 145.26 to 145.48 (Malaysia, Bulgaria, Chad, Indonesia, Bahrain, Chile, Morocco, DRC, Togo, Portugal, Senegal, Costa Rica, Azerbaijan, Peru, Kenya, Egypt, Guatemala, Denmark, Pakistan, Uruguay, France, Ireland, India).

⁶ A/HRC/28/4, Recommendations 145.86 to 145.89 (Sierra Leone, India, Pakistan, Uruguay).

⁷ A/HRC/28/4, Recommendations 145.59 to 145.85 (France, Viet Nam, Djibouti, Israel, Algeria, Pakistan, Romania, Azerbaijan, Trinidad and Tobago, Venezuela, Bangladesh, Brazil, Uzbekistan, Argentina, Iran, Saudi Arabia, Mauritania, Spain, DRC, Togo, Tunisia, Cote d'Ivoire, Norway, Cuba, Malaysia, Chile).

⁸ A/HRC/28/4, recommendations 145.78 to 145.80 (DRC, Togo, Tunisia).

⁹ A/HRC/28/4, recommendations 145.145 to 145.156 (Germany, USA, Finland, Serbia, Holy See, Sri Lanka, Iran, Ghana, Algeria, Venezuela).

¹⁰ A/HRC/28/4, recommendations 145.159 to 145.164 (Trinidad and Tobago, Cote d'Ivoire, Cuba, Djibouti, Kenya, Japan); 145.166 to 145.169 (Philippines, Qatar, Guatemala, Nicaragua); 145.171 (Holy See); and 145.173 to 145.181 (Israel, Netherlands, Norway, USA, Sudan, Kyrgyzstan, Denmark, Brazil, Angola).

THE NATIONAL HUMAN RIGHTS FRAMEWORK

NATIONAL HUMAN RIGHTS INSTITUTION

Gaps in the national human rights framework remain. Italy has yet to establish an NHRI in line with the Paris Principles, despite having accepted recommendations to do so¹¹ and despite having committed to do so in its voluntary pledge when putting forward its candidature to the Human Rights Council for 2011-2014.¹² Amnesty International notes with concern that no mention of its intention to establish an NHRI is contained in Italy's voluntary pledge when putting forward its candidature to the Council the 2019-2021 term.¹³

TORTURE

Italy introduced the crime of torture in Law 110/2017.¹⁴ However, the definition contained in the new Article 613bis of the Criminal Code¹⁵ is, according to the Committee against Torture, "significantly narrower than the definition contained in the Convention, and establishes a higher threshold for the crime of torture by adding elements beyond those mentioned in article 1 of the Convention".¹⁶ The Committee against Torture also noted that the definition does not include the purpose of the act of torture, and that the basic offence of torture fails to include reference to the act being committed by, at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity. Furthermore, the prosecution of the crime of torture is subject to a statute of limitation of 18 years, contrary to the requirement of the Convention that there be no statute of limitation in case of torture.¹⁷

¹¹ A/HRC/28/4, Report of the Working Group on the Universal Periodic Review – Italy, recommendations 145.26 to 145.48 (Malaysia, Bulgaria, Chad, Indonesia, Bahrain, Chile, Morocco, DRC, Togo, Portugal, Senegal, Costa Rica, Azerbaijan, Peru, Kenya, Egypt, Guatemala, Denmark, Pakistan, Uruguay, France, Ireland, India).

¹² A/65/733, Note verbale dated 11 February 2011 from the Permanent Mission of Italy to the United Nations addressed to the Secretariat, 15 February 2011, para 29, <https://undocs.org/en/A/65/733>

¹³ A/73/72, Note verbale dated 22 February 2018 from the Permanent Mission of Italy to the United Nations addressed to the President of the General Assembly 26 February 2018, <http://undocs.org/en/A/73/72>

¹⁴ Legge 14 luglio 2017, n. 110 Introduzione del delitto di tortura nell'ordinamento italiano, at <http://www.gazzettaufficiale.it/eli/id/2017/07/18/17G00126/sg>

¹⁵ Article 613-bis defines torture as follows: "Anyone who with serious violence or threats, or acting with cruelty, causes acute physical suffering or a verifiable psychic trauma to a person deprived of his/her liberty or entrusted to his/her custody, authority, supervision, control, care or assistance or who is in a situation of vulnerability [diminished ability to defend oneself] is punished with four to ten years of imprisonment if the offence is committed by multiple acts or if the offence involves inhuman and degrading treatment for the person's dignity."

¹⁶ CAT/C/ITA/CO/5-6, Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Italy, 18 December 2017, para 10.

¹⁷ CAT/C/ITA/CO/5-6, Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Italy, 18 December 2017, para 10.

Amnesty International is concerned also that, according to Article 5 of Law 110/2017, the implementation of the law must not result in new or increased expenditure for the state budget. This is a recipe for non-implementation of the law and of the obligations in the Convention, some of which clearly require resources.¹⁸ Of concern is also the fact that Law 110/2017 contains no clear provisions on several key measures to combat and prevent torture.¹⁹

POLICING

Italy has yet to ensure police accountability, despite abundant evidence of the need for such measures. The experience of victims and their families in cases of torture, other ill-treatment or deaths in custody demonstrate how challenging it is to ensure that investigations are thorough and impartial, to bring the perpetrators to justice, and to achieve penalties that are commensurate with the gravity of the crimes committed.²⁰ Italy has also yet to ensure that law enforcement officers can be effectively identified at all times when carrying out their functions.²¹

In September 2018, police forces were provided with projectile electric shock weapons on a three-month trial basis. In October 2018, Decree Law 113/2018 extended their distribution to the municipal police in major cities.²² Due to the persisting lack of clarity about the applicable regulations on the use of force,²³ Amnesty International is concerned about the adequacy of training, guidelines and safeguards put in place to counter risks to health and safety and to avoid the misuse of such weapons. Projectile electric shock weapons should not be employed for public order management but should only be introduced on the basis of a clearly defined operational need and for situations that would otherwise require the use of lethal force.

ARMS TRADE

Italy continues to sell arms to countries at war, including Saudi Arabia and the United Arab Emirates, both active in the Yemen conflict, in breach of Law 185/1990 and of the Arms Trade Treaty, which Italy ratified in 2014.²⁴

¹⁸ Such as Article 10 on education and training; Article 11 on the review of interrogation policies; and Article 14 on redress

¹⁹ Such as: the inadmissibility of any justification for torture, in order to bar the applicability of certain defenses, as required under Article 2(2) of the Convention; the obligation to ensure that education and information regarding the prohibition against torture are fully included in the training of all relevant officials, as required by Article 10 of the Convention; and on the obligation to keep under systematic review all interrogation policies and practices and arrangements regarding the custody and treatment of persons deprived of liberty to prevent torture, as required by Article 11 of the Convention. For Amnesty International's full critique of Italy's law on torture see: Italy: Submission to the United Nations Committee against Torture, 62nd Session, 6 November - 6 December 2017, 10 October 2017, Index Number: EUR 30/7241/2017 <https://www.amnesty.org/en/documents/eur30/7241/2017/en/>

²⁰ The fight for justice of Stefano Cucchi's family is a clear illustration of the enormous challenges victims and their families face. The case of Stefano Cucchi, who died in police custody in 2009, featured in Amnesty International's annual reports between 2010 and 2018. For a journalistic timeline of the case, see <https://www.panorama.it/news/cronaca/tutte-le-tappe-caso-stefano-cucchi/>

²¹ CAT/C/ITA/CO/5-6, Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Italy, 18 December 2017, para 39.

²² The outcome of the trial phase had not been published by March 2019.

²³ CAT/C/ITA/CO/5-6, 18 December 2017, para 38 and 39.

²⁴ According to its most recent report on arms transfers, in 2017 Italy authorised 12 licences valued at 51,902,241 euros for arms to Saudi Arabia, mostly under ML10 (aircraft) and ML6 (ground vehicles); and 38 licences valued at 29,267,547 euros for arms to the United Arab Emirates covering mainly small arms and light weapons; bombs/missiles; and electronic equipment. *Relazione sulle Operazioni Autorizzate e Svolte Per Il Controllo Dell'esportazione, Importazione e Transito dei Materiali di Armamento*, Doc. LXVII, No. 1, Vol.

HUMAN RIGHTS SITUATION ON THE GROUND

RIGHTS OF MIGRANTS, ASYLUM-SEEKERS AND REFUGEES

New measures on international protection, immigration and public security

Measures introduced by the government in Law Decree 113/2018 on international protection, immigration and public security raise concerns on several grounds.²⁵ First, the abolition of humanitarian protection status is depriving thousands of people, who had their asylum request rejected and who cannot lawfully be repatriated, of a legal status which would allow them to access health, housing and social services, education and work, negatively affecting their well-being, safety and dignity.²⁶ Secondly, the new measures exclude asylum-seekers from the local authorities' network of reception facilities, making their integration harder to achieve. Thirdly, as noted by Italy's NPM, extending detention for identification purposes in centres for repatriation, hotspots, regional hubs, border police stations and other police structures is likely to lead to arbitrary detention.²⁷ This is especially worrying in light of a 2016 European Court of Human Rights ruling against Italy for the arbitrary detention of three Tunisian nationals.²⁸ Fourthly, the new law has modified asylum procedures, making it harder for people coming from countries deemed "safe" to prove they need protection, thereby increasing the risk of *refoulement*.

Violations of the principle of *non-refoulement*

Since its last review, Italy has breached the principle of *non-refoulement* on multiple occasions when carrying out expulsions of irregular migrants to their presumed country of origin. Relevant

1, Comunicata alla Presidenza il 4 aprile 2018, https://www.sipri.org/sites/default/files/2018-10/italy_17_vol1.pdf

²⁵ Decree-Law 4 October 2018, n. 113 was converted into Law 1 December 2018, n. 132 available at: <http://www.gazzettaufficiale.it/eli/id/2018/12/03/18G00161/sg>; Decree Law 113/2018 is available at: <http://www.gazzettaufficiale.it/eli/id/2018/10/04/18G00140/sg>

²⁶ As noted by 13 UN experts, "Removing protection measures from potentially thousands of migrants and limiting their ability to regularise their stay in Italy will increase their vulnerability to attacks and exploitation ... and many will have no means to meet their basic needs through lawful means." <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=23908&LangID=E>

²⁷ Italy's NPM has highlighted several concerns in relation with the new provisions: the new terms of detention, 30 days in hotspots and up to 180 days in centres for repatriation, appear excessive and disproportionate to the purpose of identification; the four types of places where people can be detained are structurally inadequate and wholly indeterminate, rendering it impossible for the NPM to pursue its mission of accessing and visiting all places of detention; there is no primary legislation regulating detention in hotspots and regional hubs; and the new law fails to list the circumstances which render detention necessary for the purpose of identification and determination of nationality, contrary to the principles of necessity and proportionality which must be upheld when the right to liberty is at stake. See: <http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/17ebd9f9895605d7cdd5d2db12c79aa4.pdf>

²⁸ Grand Chamber, Case of *Khlaifia and others v. Italy*, (*Application no. 16483/12*), 15 December 2016, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-170054%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-170054%22]})

procedures do not provide for an adequate and individualized assessment by the judicial authorities of the risks which foreign nationals would face if returned to their country of origin. Appeals against expulsion decisions do not automatically suspend the procedure, making them an ineffective remedy. Re-admission agreements between Italy and third countries devised to ensure swift forcible returns through a fast identification and registration process add to the risks inherent in the expulsion procedure.²⁹ In August 2016, the agreement which Italy had just negotiated with Sudan led to a collective expulsion of several Sudanese nationals belonging to a persecuted minority. The agreement does not permit the return of someone who has requested asylum in Italy. However, it provides for an identification process that is so superficial that it risks leading to the rapid transfer to Sudan of individuals who, despite not having submitted a request for asylum in Italy, nonetheless risk facing severe human rights violations if returned to Sudan.³⁰

The “hotspot approach” to controlling borders, which aims to increase the number of irregular migrants returned to their own countries,³¹ has also increased the risk of returning people to countries where they are at risk. The “hotspot approach” aims to identify and fingerprint all arrivals, separate asylum-seekers from those considered irregular migrants, and repatriate the latter. Those deemed to be irregular migrants are singled out for a rapid forcible return and are not given adequate information regarding their status and rights, or given a genuine opportunity to seek asylum.³²

Italy has also summarily returned people who entered irregularly through the “Balkan route”, and ignored their asylum claims.³³ Asylum-seekers interviewed by Amnesty International in Bihac and Velika Kladuša, Bosnia and Herzegovina, in June 2018 reported that they had reached Trieste, Italy, and expressed their intention to apply for asylum. However, the Italian authorities ignored their requests. None of them had their individual situation assessed to determine any risks if

²⁹ European Commission, Communication on establishing a new Partnership Framework with third countries under the European Agenda on Migration, 7 June 2016, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-wedo/policies/european-agenda-migration/proposal-implementationpackage/docs/20160607/communication_external_aspects_eam_towards_new_migration_o mpact_en.pdf. Italy has negotiated bilateral readmission agreements with many countries, including Egypt, Tunisia, Morocco and Nigeria. Few have been published or discussed in parliament. Expulsion orders against nationals of these countries have been issued only a few hours or days after disembarkation in Italy. The European Commission has noted that such agreements allow for a “48 hour return procedure” and has encouraged Italy to guarantee “swift forced returns”. See European Commission, Progress Report on the implementation of the hotspots in Italy, 15 December 2015, <http://eurlex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0679>

³⁰ For details about the case, see Italy: Submission to the United Nations Committee against Torture, 62nd Session, 6 November - 6 December 2017, 10 October 2017, Index Number: EUR 30/7241/2017 <https://www.amnesty.org/en/documents/eur30/7241/2017/en/>, pp 8-10.

³¹ The European Commission tabled the “hotspot approach” in its Agenda on Migration in May 2015, stating: “[T]he European Commission will set up a new ‘Hotspot’ approach, where the European Asylum Support Office, Frontex and Europol will work on the ground with frontline Member States to swiftly identify, register and fingerprint incoming migrants... Those claiming asylum will be immediately channelled into an asylum procedure... For those not in need of protection, Frontex will help Member States by coordinating the return of irregular migrants...”, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/backgroundinformation/docs/communication_on_the_european_agenda_on_migration_en.pdf

³² Amnesty International has documented human rights violations by Italian authorities in connection with the implementation of various aspects of the hotspot approach in “Hotspot Italy, How EU’s flagship approach leads to violations of refugee and migrant rights”, Index: EUR 30/5004/2016, <https://www.amnesty.org/en/documents/eur30/5004/2016/en/>

³³ Pushed to the edge: Violence an abuse against refugees and migrants along the Balkan route, 13 March 2019, Index number: EUR 05/9964/2019, <https://www.amnesty.org/en/documents/eur05/9964/2019/en/>, pp 24-26.

returned or to establish their asylum needs. These collective chain expulsions from Italy and Slovenia ultimately deliver people back to squalid and unsafe camps in Bosnia and Herzegovina.

Ill-treatment during identification procedures

In 2016, Amnesty International received a significant number of consistent reports of ill-treatment and excessive use of force by police to coerce refugees and migrants to give their fingerprints in a number of Italian towns and cities.³⁴ The police abuses were reported to have taken place in “hotspots”, reception centres or police stations across the country, while people were in custody, to force them to give their fingerprints. Circulars from the Ministry of Interior, during 2014 and 2015, to police officers indicated that the use of force could be considered permissible to ensure fingerprinting but failed to indicate the legal basis and precise circumstances in which force could be used. Amnesty International is not aware of any investigation into the reports of ill-treatment.

Complicity in torture resulting from cooperation on migration with Libya

Italy has also violated refugees and migrants' rights through the externalization of border control to countries outside Europe. To counter the arrival of people from Libya between 2014 and 2016,³⁵ Italy reduced efforts to provide search and rescue at sea and cooperated with Libyan actors to enhance their willingness and capacity to stop crossings of the central Mediterranean. Sea crossings plummeted,³⁶ but at the cost of trapping tens of thousands of people in Libya, where they are at risk of serious human rights violations.³⁷ The centrepiece of Italy's strategy,³⁸ backed by the European Council,³⁹ has been to build the capacity of the Libyan authorities to stop irregular border crossings through provision and refurbishment of ships,⁴⁰ training of Libyan

³⁴ See the full description of the cases and the interviews in “Hotspot Italy, How EU's flagship approach leads to violations of refugee and migrant rights”, Index: EUR 30/5004/2016, <https://www.amnesty.org/en/documents/eur30/5004/2016/en/>

³⁵ Sea arrivals in Italy were 170,100 in 2014, 153,842 in 2015, and 181,436 in 2016, according to UNHCR. <https://data2.unhcr.org/en/situations/mediterranean/location/5205>

³⁶ See arrivals in Italy were 119,369 in 2017, 23,370 in 2018, and just 349 as of 20 March 2019, according to UNHCR. <https://data2.unhcr.org/en/situations/mediterranean/location/5205>

³⁷ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Libya, A/HRC/30/16, 22 July 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/162/91/PDF/G1516291.pdf?OpenElement>

³⁸ Memorandum d'intesa sulla cooperazione nel campo dello sviluppo, del contrasto all'immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere tra lo Stato della Libia e la Repubblica Italiana, 2 February 2017, <https://www.asgi.it/wp-content/uploads/2017/02/Libia.pdf>

³⁹ Malta Declaration by the members of the European Council on the external aspects of migration: addressing the Central Mediterranean route, 3 February 2017, www.consilium.europa.eu/en/press/press-releases/2017/02/03/malta-declaration/#

⁴⁰ In 2017, Italy provided at least four speedboats to the Libyan Coast Guard, promised to deliver a further six, and spent 2,5m euro in the refurbishment of another 4 speedboats to be used by the Libyan General Administration for Coastal Security. In 2018, the Italian government approved the donation to Libya of a further 12 speedboats. See: Italian Ministry of Interior, Contro il traffico dei migranti: consegnate le prime motovedette alla Marina libica, 21 April 2017, www.interno.gov.it/it/notizie/contro-traffico-dei-migranti-consegnate-prime-motovedette-alla-marina-libica; Minniti in Libia: fronte comune contro il traffico di migranti, 16 May 2017, www.interno.gov.it/it/notizie/minniti-libia-fronte-comune-contro-traffico-migranti; Intesa Tecnica tra il Ministero degli Affari Esteri e della Cooperazione Internazionale – Direzione Generale per gli Italiani all'Estero e le politiche Migratorie ed il Ministero dell'Interno – Dipartimento della Pubblica Sicurezza per l'uso dei finanziamenti a valere sul Fondo di cui all'articolo 1, comma 621, della legge 11 dicembre 2016, n. 232 (“Fondo per l'Africa”), https://www.esteri.it/mae/resource/doc/2017/12/dgit_scheda_accordi_30_11_2017.doc; and Decreto-Legge n. 84, Disposizioni urgenti per la cessione di unità navali italiane a supporto della Guardia costiera del Ministero della difesa e degli organi per la sicurezza costiera del Ministero dell'interno libici, 10 July 2018, <https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2018-07->

crews;⁴¹ deployment of Italian navy ships and officials in Libya to support the Libyan authorities to counter irregular migration and human smuggling;⁴² and assistance to establish a Libyan Search and Rescue Region and two coordination centres in Libya.⁴³

Cooperation with Libya has resulted in a surge in interceptions at sea and in the number of refugees and migrants taken back to Libya.⁴⁴ Given the documented cases of ill-treatment and other serious human rights violations against refugees and migrants by Libyan maritime authorities, their documented reckless conduct at sea, and their complicity with criminal groups involved in trafficking and smuggling activities, Italy's policy amounts to a circumvention of the principle of *non-refoulement*.⁴⁵ Furthermore, interceptions by Libyan maritime authorities systematically end with disembarkation in Libya of those intercepted – despite the fact that Libya cannot be considered a “place of safety” under international law – and with their automatic transfer to detention centres. In these centres, managed by the General Directorate for Combating Illegal Migration (DCIM) within the Libyan Ministry of Interior, people are systematically subjected to indefinite arbitrary detention in abysmal conditions, and exposed to torture, rape and other abuse, and killings. These violations are well documented by UN bodies⁴⁶ and human rights organisations, including Amnesty International.⁴⁷

Despite being fully aware of these violations, Italy has not conditioned its assistance to Libya on measures to protect refugees and migrants and has failed to review its continuing assistance in

[10&atto.codiceRedazionale=18G00111&queryString=%3FmeseProvvedimento%3D7%26formType%3Drice
rca_semplice%26numeroArticolo%3D%26numeroProvvedimento%3D%26testo%3D%26annoProvvediment
o%3D2018%26giornoProvvedimento%3D10¤tPage=1](https://www.camera.it/dati/leg17/lavori/documentiparlamentari/IndiceETesti/250/002/INTERO.pdf)

⁴¹ This was conducted, in particular albeit not only, through the EUNAVFOR Med Operation Sophia, a EU naval operation under Italian command. The operation was launched in 2015, however in 2016 its mandate was amended to include capacity-building of the Libyan authorities as one of its fundamental objectives.

⁴² Italian Chamber of Deputies, Deliberazione del consiglio dei ministri in merito alla partecipazione dell'Italia alla missione internazionale in supporto alla guardia costiera Libica, 28 July 2017, www.camera.it/dati/leg17/lavori/documentiparlamentari/IndiceETesti/250/002/INTERO.pdf

⁴³ EU Emergency Trust Fund for Africa, Support to Integrated border and migration management in Libya – First phase, https://ec.europa.eu/trustfundforafrica/region/north-africa/libya/support-integrated-border-and-migration-management-libya-first-phase_en

⁴⁴ See relevant data at <https://docs.google.com/spreadsheets/d/1ncHxOHlx4pt4YFXgGi9Tlbwd53HaR3oFbrBm67ak4/edit#gid=0>

⁴⁵ In 2012, the European Court of Human Rights ruled that Italy had violated human rights principles by intercepting at sea a group of about 200 asylum seekers and migrants and returning them to Libya, their point of departure. The practice, which had been adopted by Italy in 2008, violated international obligations to not return individuals to countries where they could be at risk of human rights abuses. European Court of Human Rights, *Hirsi Jamaa and Others v. Italy*, Judgement, 23 February 2012, <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=001-109231&filename=001-109231.pdf>

⁴⁶ See e.g. UNSMIL/OHCHR, *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*, 20 December 2018, <https://www.ohchr.org/Documents/Countries/LY/LibyaMigrationReport.pdf>; OHCHR, UN human rights chief: Suffering of migrants in Libya outrage to conscience of humanity, 14 November 2017, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22393>; UNSC, Final report of the Panel of Experts on Libya established pursuant to resolution 1973 (2011), 1 June 2017, undocs.org/en/S/2017/466.

⁴⁷ Amnesty International, *Libya's dark web of collusion: Abuses against Europe-bound refugees and migrants*, December 2017, www.amnesty.org/en/documents/mde19/7561/2017/en/; *Between the Devil and the deep blue sea: Europe fails refugees and migrants in the central Mediterranean*, August 2018, <https://www.amnesty.org/en/documents/eur30/8906/2018/en/>; *A Perfect Storm: The Failure of European Policies in the central Mediterranean*, 6 July 2017, <https://www.amnesty.org/en/documents/eur03/6655/2017/en/>

light of additional serious human rights violations documented after the beginning of the cooperation.⁴⁸ Italy has therefore become complicit in the human rights violations suffered by refugees and migrants in the central Mediterranean and returned to Libya.⁴⁹

HUMAN RIGHTS DEFENDERS

Italy lacks an institutional and legal framework to ensure the protection of human rights defenders (HRDs). In its 2018 pledge for election to the Human Rights Council,⁵⁰ Italy committed to actively support HRDs and to step up its efforts against all forms of reprisals. Instead, Italy has obstructed and undermined the activities of HRDs, including those involved in sea rescue of refugees and migrants, and has failed to assist HRDs in need of assistance.⁵¹

Italy's and other states' increasingly hostile treatment of NGOs dedicated to saving lives at sea has depleted the central Mediterranean of vital rescue assets. NGOs, which in 2017 and until May 2018 carried out about 40 percent of rescues at sea,⁵² face slander, intimidation, the imposition of bureaucratic restrictions on their operations, and court cases. The few NGO vessels that are still operating are confronted with refusals and delays before being allowed to disembark or are requested to travel long distances to disembark, in contravention of the law of the sea.⁵³ This results in subjecting people to further sufferings and undermines the overall functioning of the search and rescue system. It is also inconsistent with states' duties set out in the UN Declaration on Human Rights Defenders.⁵⁴

ROMA'S RIGHT TO ADEQUATE HOUSING

Italy's failure to address the violation of Roma's right to adequate housing persists despite repeated criticism by international human rights bodies.⁵⁵ Roma continue to experience and be disproportionately affected by forced evictions, which have left many families homeless.⁵⁶ New

⁴⁸ Amnesty International, Libya: EU's patchwork policy has failed to protect the human rights of refugees and migrants, 12 November 2018, <https://www.amnesty.org/en/documents/mde19/9391/2018/en/>

⁴⁹ United Nations, Responsibility of States for Internationally Wrongful Acts 2001, Art.16, Aid or assistance in the commission of an internationally wrongful act, http://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf

⁵⁰ A/73/72, 26 February 2018, paras 31-32, <http://undocs.org/en/A/73/72>

⁵¹ For example, Italy's Ministry of Foreign Affairs failed to assist a Saharawi HRD who needed to undergo surgery in Italy because of the lack of a Schengen visa, whose release was blocked by another EU state

⁵² Amnesty International elaboration on data by Italian Coast Guard, www.guardiacostiera.gov.it/attivita/Documents/attivita-sar-immigrazione2017/Rapporto_annuale_2017_ITA.pdf; www.guardiacostiera.gov.it/attivita/Pages/Ricerca.aspx

⁵³ For details about the ways in which Italian and other states' authorities have obstructed NGOs activities at sea, see Between the devil and the deep blue sea: Europe fails refugees and migrants in the central Mediterranean, 8 August 2018, Index number: EUR 30/8906/2018.

⁵⁴ Commonly known as the "Declaration on Human Rights Defenders", the full text of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1998, A/RES/53/144, can be consulted at: www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf

⁵⁵ CERD/C/ITA/CO/19-20, 17 February 2017, Committee on the Elimination of Racial Discrimination, Concluding observations on the combined nineteenth and twentieth periodic reports of Italy, paras 21 and 22

⁵⁶ Italy: Authorities defy European Court's ruling and render dozens of Roma homeless, 26 July 2018, 16:38 UTC, <https://www.amnesty.org/en/latest/news/2018/07/italy-authorities-defy-european-courts-ruling-and-render-dozens-of-roma-homeless/>; Italy: hundreds of Roma at risk of forced eviction, 22 March 2017, Index number: EUR 30/5937/2017, <https://www.amnesty.org/download/Documents/EUR3059372017ENGLISH.pdf>

camps for Roma continue to be built and thousands of Roma remain segregated in substandard housing.⁵⁷ Italy has also failed to take action to remove discriminatory obstacles to accessing social housing and housing assistance. In light of the persistent violations it has documented over the years and Italy's failure to address them, in March 2019, Amnesty International filed a complaint against Italy at the European Committee of Social Rights.⁵⁸

RECOMMENDATION FOR ACTION BY THE STATE UNDER REVIEW

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF ITALY TO:

NATIONAL HUMAN RIGHTS INSTITUTION

- Establish without delay a national human rights institution in line with the Paris Principles.

TORTURE AND OTHER ILL-TREATMENT

- Amend the definition of torture and all other elements in Law 110/2017 to bring it into line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Despite the shortcomings and gaps of Law 110/2017, ensure that its implementation is carried out in a manner fully consistent with Italy's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol;
- Allocate adequate resources for the full implementation of Italy's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

POLICING

- Ensure prompt, impartial and effective investigations by an independent authority into cases of deaths in custody and into all allegations of torture, ill-treatment and excessive use of force by police and other law enforcement officers and, where there are reasonable grounds to believe that an act of torture or ill-treatment has been committed, that the perpetrators are punished in a manner commensurate with the gravity of their actions, and that the victims are adequately compensated;
- Ensure that members of the police and other law enforcement officers can be effectively identified at all times when carrying out their functions;
- Increase and improve training of law enforcement officers on the use of force and ensure

⁵⁷ Italy: hundreds of Roma at risk of forced eviction, 22 March 2017, Index number: EUR 30/5937/2017, <https://www.amnesty.org/download/Documents/EUR3059372017ENGLISH.pdf>

⁵⁸ The ongoing scandal of Roma housing in Italy: Amnesty International files complaint before European Committee of Social Rights, 18 March 2019, Index number: EUR 30/0064/2019, <https://www.amnesty.org/en/documents/eur30/0064/2019/en/>

that training and guidelines on the use of force are in line with international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

ARMS TRADE

- Stop supplying arms to countries where they may be used to commit serious human rights violations or violations of international humanitarian law, including Saudi Arabia and other states engaged in the conflict in Yemen;
- Support the adoption of an arms embargo for all states party to the Saudi Arabia-led coalition active in the Yemeni conflict.

REFUGEES, ASYLUM-SEEKERS AND MIGRANTS' RIGHTS

- Ensure that irregular migrants' human rights are protected and that measures are in place to prevent their homelessness and destitution;
- Take steps to prevent migrants losing their regular status and make available processes to regularize their status;
- Amend Decree-Law 113/2018 as converted into Law 132/2018 on international protection, immigration and public security to prevent the risk of arbitrary detention of asylum-seekers and migrants;
- Amend Decree-Law 113/2018 as converted into Law 132/2018 to remove references to the notion of "safe countries of origin" in the asylum procedure;
- Immediately scrap the Memorandum of Understanding with Sudan, and any other bilateral re-admission agreement providing for return procedures that breach international obligations;
- Amend expulsion procedures to ensure they include a formally recorded, individualized assessment of the risks to the person upon return before a decision to expel is taken and before any information on the identity of the person due to be expelled is shared with the consular authorities of the country of origin;
- Ensure that an appeal against an expulsion order has suspensive effect until a final judicial decision is rendered;
- Ensure that all relevant authorities have a clear understanding of the principle of *non-refoulement*, including being separate from the right to seek asylum;
- Immediately halt all pushbacks and collective expulsions of refugees and migrants;
- Ensure that all asylum-seekers have access to fair and effective asylum procedures;
- Clarify unequivocally to law enforcement officers that the use of force is not permissible to obtain fingerprints, in line with international standards.

COOPERATION WITH LIBYA

- Make continued cooperation with Libya conditional on progress towards: a) release of refugees, asylum-seekers and migrants in arbitrary detention; b) recognition of UNHCR; and c) enactment of new legislation and policies to decriminalize irregular entry, stay and exit, end the system of automatic detention, and create an asylum system;
- Seek assurances, including with Libya, that search and rescue operations by civilian vessels take place unhindered, and that those rescued are transferred onto EU or foreign vessels to prevent disembarkation in Libya;
- Establish an independent monitoring mechanism, with full and unhindered access to oversee the conduct of the Libyan Coast Guard and the General Directorate for Combating Illegal Migration (DCIM);

- Ensure that an adequate number of vessels with search and rescue as their primary purpose are deployed along the routes taken by boats carrying refugees and migrants, including near Libyan territorial waters, and that these vessels can disembark those rescued in a place of safety;
- Replace the February 2017 Memorandum of Understanding with an agreement informed by human rights priorities and focused on action to achieve them.

HUMAN RIGHTS DEFENDERS

- Ensure that NGOs can continue to contribute to rescuing people at sea, in compliance with relevant international law and standards, and that, in line with the Declaration on Human Rights Defenders, they can operate in a safe and enabling environment;
- Refrain from misusing criminal law and other punitive procedures against NGOs rescuing people in the Mediterranean, engage in responsible public communication on life and death issues such as search and rescue at sea, and applaud the work of HRDs.

ROMA

- Amend legislation and policy to prohibit forced evictions in law and practice, in line with international human rights law;
- Establish a complaint mechanism tasked with investigating reports of forced evictions to bring them to the attention of relevant authorities;
- End all forms of racial segregation in housing both in legislation and policy;
- Elaborate national and local plans for the de-segregation of Roma living in authorized camps, including by offering a range of adequate alternatives in genuine consultation with Roma, in line with international human rights law and standards;
- Ensure effective access to social housing and housing benefits to everyone, including Roma, without discrimination;
- Review the social housing system and assignment procedures in all regions and municipalities and swiftly remove any provisions that directly or indirectly discriminate against Roma and other groups;
- Increase the offer of social housing available to the general population in line with current needs.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE⁵⁹

Italy: the ongoing scandal of Roma housing in Italy: Amnesty International files complaint before European Committee of Social Rights, 18 March 2019, Index number: EUR 30/0064/2019

Between the devil and the deep blue sea: Europe fails refugees and migrants in the central Mediterranean, 8 August 2018, Index number: EUR 30/8906/2018

Libya's dark web of collusion: abuses against Europe-bound refugees and migrants, 11 December 2017, Index number: MDE 19/7561/2017

Italy: Submission to the United Nations Committee against Torture, 62nd session, 6 November - 6 December 2017, 10 October 2017, Index number: EUR 30/7241/2017

Hotspot Italy: How EU's flagship approach leads to violations of refugee and migrant rights, 3 November 2016, Index number: EUR 30/5004/2016

⁵⁹ All these documents are available on Amnesty International's website:
<https://www.amnesty.org/en/countries/europe-and-central-asia/italy/>

**AMNESTY INTERNATIONAL
IS A GLOBAL MOVEMENT
FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

JOIN THE CONVERSATION



www.facebook.com/AmnestyGlobal



[@AmnestyOnline](https://twitter.com/AmnestyOnline)