



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

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COMMITTEE AGAINST TORTURE  
Thirty-eighth session  
Geneva, 7 to 26 May 2007

**List of issues to be considered during the examination of the  
fourth periodic report of ITALY (CAT/C/67/Add.3)**

**Article 1**

1. Please inform the Committee of steps taken by the State party to amend its legislation and institute a crime of torture as defined by the Convention in its Penal Code<sup>1</sup>. What is the status of Bill No. A.C. 1483? (State party report, paras. 12-18)

**Article 2**

2. Please provide information on the steps taken by the State party to further guarantee the rights of persons in police custody from the very outset of detention, including prompt access to defence counsel, medical examination, and contact with family members, and any restrictions that may be imposed on these rights. Could you please elaborate on the statement that there are *“some specific and exceptional reasons for which the judicial authority can delay the exercise of the right to talk to a defender/counsel within five days, by a motivated decree”*. (State party report para. 219)

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<sup>1</sup> **Committee against Torture:** Conclusions and recommendations, A/54/44, paras. 163-169, at paras. 165(a) and 169(a).

3. Does the State party's domestic law specifically provide that no exceptional circumstances whatsoever, or an order from a superior or a public authority, may be invoked as justification of torture?

4. Please inform the Committee of any measures taken by the State party, including legislative measures, to ensure access to a fair and impartial individual asylum determination procedure<sup>2</sup>. What is the status and content of the government bill (A.C. 5381) introducing substantive amendments to the procedure for the recognition of refugee status and implementing article 10 of the Italian Constitution? (State party report, para. 105)

5. Please inform the Committee whether legislation prohibiting torture and cruel, inhuman and degrading treatment contains specific provisions regarding gender-based breaches of the Convention, including sexual violence. Please also describe all, if any, effective measures taken to monitor the occurrence of and to prevent such acts, and please provide data, disaggregated by the sex, age and ethnicity of the victims, and information on investigation, prosecution and punishment of perpetrators.

6. Please inform the Committee on any developments with regard to the establishment of an independent national human rights institution<sup>3</sup>. Could you please provide more information about the suggested mandate and activities of this institution as well as information on human and financial resources to be allocated to it?

7. What is the status of the bill for the creation of the national Civic Defender for persons deprived of their personal freedom or "warrant of prisoners' rights" (State party report para. 255) Please explain why visits to the temporary residence centres and to police stations would need adequate notification? (State party report para. 264)

8. Please provide more information on the establishment of a guarantor for the rights of persons deprived of their personal freedom by the city councils of Rome and Florence and by the Lazio region (resolutions 90 of 14 May 2003 and 666 of 9 October 2003 and regional law 31 of 6 October 2003). Please elaborate on the mandate of the guarantor, including its "*functions of observation and indirect supervision*" (State party report para. 250). Could you please provide information about activities undertaken by these guarantors as well as human and financial resources allocated for their functioning? Have the guarantors carried out visits to prisons and other detention centres, in accordance with their mandate?

9. Does the State party consider that the Convention applies to persons under its jurisdiction in cases where the Italian troops or police officers are stationed abroad?

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<sup>2</sup> See also **Committee on Economic, Social and Cultural Rights**, Concluding Observations, E/C.12/1/Add.103, para. 21 and 42 and **Amnesty International Report 2006**, page 1.

<sup>3</sup> **Human Rights Committee**, Concluding Observations, CCPR/C/ITA/CO/5, para. 7. See also Committee on Economic, Social and Cultural Rights, Concluding Observations, E/C.12/1/Add.103, paras. 14 and 32 and **Committee on the Rights of the Child**, Concluding Observations, CRC/C/15/Add.198, paras. 14-15.

### Article 3

10. Please inform the Committee of the specific safeguards against non-refoulement that are in place and the practice of the State party in this respect. Please provide examples of cases where the authorities did not proceed with extradition, return or expulsion because of fear that the persons might be tortured. Does the State party have a list of “safe third countries” for removal? If so, how is it created and maintained?

11. Please provide statistical data with respect to the implementation of article 3 of the Convention in cases of expulsion or return (refoulement) of foreigners, indicating, in particular:

- (a) The number of persons seeking asylum and the number of returnees, including the countries of return;
- (b) How the probable risk of torture is assessed in the determination and the process to appeal the decisions; and
- (c) The procedure for the examination of asylum requests submitted at the border.

12. Please comment on reports that the State party has deported more than 1,000 migrants to Libya without knowing who they were, or giving them access to a proper asylum procedure<sup>4</sup>. Please provide information on measures taken by the State party to ensure that these foreign nationals did not run a real risk of being subjected to torture or inhuman or degrading treatment or punishment in the country of destination, and that they would not subsequently be deported to any other country where they might run a real risk of being subjected to such forms of ill-treatment. Please inform the Committee of any follow-up measures taken by the State party in respect of these cases?

13. Please comment on the allegations contained in the report of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, from June

<sup>4</sup> **Amnesty International: Italy: Lampedusa, the island of Europe’s forgotten promises, AI Index 30/008/2005:** ...The number of people arriving in the space of a few hours can easily reach 1,000. Consequently, the overcrowded centre becomes an unhygienic, unhealthy place, with only eight properly functioning toilets and insufficient sleeping pallets...The authorities state that they decide who will be sent to mainland Italy and who will be deported to Libya. However, the individuals’ physical appearance and language spoken are reportedly the only factors being considered when seeking to determine the nationality of those who have arrived in Italy. This procedure is highly questionable, not only because of its inherent inaccuracy at a practical level, but also because it may lead to a discrimination of potential asylum seekers according to their nationality....The Italian government has refused to grant the UNHCR access to the Lampedusa Centre during these “emergencies” due to alleged “security reasons”. However, in March 2005, Libyan investigators had access to foreign nationals in Lampedusa, breaching the confidentiality of Libyan and non-Libyan asylum-seekers present in the centre, potentially leading to valid *sûr place* refugee claims...After this dubious identification, over a thousand migrants have been handcuffed and put on military or charter flights in recent months. Destination: Libya, a country where refugees’ rights are not respected.

2006, regarding the role of the State party in the rendition of Hassam Osama Mustafa Nasr, known as Abu Omar<sup>5</sup>.

[14. Could you please comment on unofficial reports that the State party plans to build three detention centres for migrants in Libya?<sup>6</sup>]

#### **Article 4**

15. Please provide data with respect to persons tried and convicted, including the punishments received, for the crime of torture, attempted torture and complicity or participation in torture. Please clarify for the Committee which sections of the Italian Penal Code were violated in such cases.

#### **Article 5**

16. Please indicate whether the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and thus engaging its own prosecution as a result. What is the status and outcome of such proceedings? Which sections of the Italian Penal Code were violated in such cases?

#### **Article 10**

17. Please provide updated information on the instruction and training provided for law-enforcement officials and other public officials with respect to human rights, specifically on the treatment of detainees and vulnerable groups, in particular the Roma, and on the measures for the prevention of torture and cruel, inhuman or degrading treatment or punishment. Please specify who conducts and who undergoes the training, and if the Convention is made known in the course of such programmes. Furthermore, please provide detailed information on the training of police enforcement officials in crowd control and the regulations on the use of force and firearms by law enforcements officials? How and by whom are these training and instruction programmes monitored and evaluated?

18. Please indicate further whether there are specific programmes to train the medical personnel who are assigned to identify and document cases of torture and assist in the rehabilitation of victims and, if so, who conducts, undergoes, monitors and evaluates the programmes. Which measures has the State party taken to further improve the use of the “Registry of visits, observations and doctors’ propositions - Model 99”? (State party report, para. 188)

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<sup>5</sup> See the **Explanatory Memorandum, Committee on Legal Affairs and Human Rights**, Parliamentary Assembly of the Council of Europe, June 2006 (AS/Jur (2006) 16 Part II), in particular para. 162.

<sup>6</sup> **Amnesty International report 2006: Italy**, pages 1-2

## Article 11

19. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any new rules, instructions, methods and practices or arrangements for custody that may have been introduced. Please also indicate the frequency with which these are reviewed. Does the State party consider establishing an independent organization to supervise the management of detention centres, respect for the human rights of the people held there and the health, psychological and legal assistance provided? What is the status and content of the guidelines for the management of temporary stay and assistance centres? (State party report, para. 45)

20. Please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons and the occupancy rate of the accommodation capacities for the period 2002-2006.

21. Could you please comment on reports of ill-treatment, including severe overcrowding, unsuitable infrastructures, unhygienic living conditions and inadequate medical care in the “temporary stay and assistance centres” (CPTAs) and identification centres<sup>7</sup>? Please inform the Committee of measures taken by the State party to improve these material conditions and of any concrete legislative plans and budget allocations relevant to addressing this problem in the future.

22. In view of the change in the legislative framework resulting from Law 189/2002 which permits the detention of undocumented migrants and doubles the detention period of “illegal” aliens (from 30 to 60 days), what measures has the State party taken to ensure that detention is used only as an exceptional measure in line with international refugee standards? (State party report paras. 39, 43 and 59)

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<sup>7</sup> Report of the **European Committee for the Prevention of Torture** and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Italy from 21 November to 3 December 2004 CPT/Inf (2006) 16, including paras. 17-20 and 164-168.

**Amnesty International: ITALY: TEMPORARY STAY – PERMANENT RIGHTS: The treatment of foreign nationals detained in ‘temporary stay and assistance centres’ (CPTAs),** page 1: “...Each year thousands of foreign nationals in Italy, some of them asylum-seekers, are subject to expulsion or refusal-of-entry orders. These orders are issued on grounds of illegal, or attempted illegal entry to, or illegal residence in Italy, and the majority currently require that the people concerned be escorted to the border by law enforcement officers and expelled from the territory. While awaiting their removal from Italy these individuals are deprived of their liberty and detained in ‘temporary stay and assistance centres’, where they may be held for up to a maximum of 60 days, until the orders can be carried out, or the maximum detention limit is reached. This report highlights Amnesty International’s concerns about the situation of such people, in the light of numerous, consistent allegations which have emerged from the centres where they are detained of treatment and conditions which violate international human rights and refugee standards.”

**Amnesty International:** Europe and Central Asia: Summary of Amnesty International’s Concerns in the Region: July – December 2004 (Italy).

See also the report of the **UN Special Rapporteur on the human rights of migrants** (UN Doc No: E/CN.4/2005/85/Add.3), following her June 2004 visit to Italy.

23. Please provide the Committee with updated information on the Government's prison-building programmes and the review of the ordinary prison-building programme adopted through the Ministerial Order of 2 October 2003, as well as the project for relaunch of penitentiary treatment (State party report paras. 216 and 276). Please indicate whether there has been an increase in the number of staff in the educational area and of experts, including psychologists and criminologists? (State party report, paras. 308-309)

24. Could you please comment on reports of routine detention of minors, especially those seeking asylum and unaccompanied by a family member, and provide statistics of the number of children in detention, disaggregated by sex, age and ethnicity. Furthermore, please comment on the lack of independent structures to monitor the conditions of detention of children and the inadequate training of the personnel involved in the juvenile justice system. Please indicate what the situation is at present with regard to the strict separation of persons below 18 years of age from adults in places of detention<sup>8</sup>.

### **Articles 12 and 13**

25. Please provide information, including statistics, on the number of complaints of torture and ill-treatment and results of all the proceedings, both at the penal and disciplinary levels. This information should be disaggregated by sex, age and ethnicity of the individual bringing the complaint.

26. Information before the Committee indicates frequent impunity for law enforcement and prison officers accused of torture, ill-treatment and excessive use of force. Please describe the procedure to be followed in cases of complaints against police and prison staff misconduct. In particular, please describe the steps taken by the State party to ensure that the investigation of complaints is independent, prompt and effective. Does the State party consider establishing an independent police complaints and accountability body? Please provide updated information on the criminal proceedings, where applicable, described in paras. 354-359 and 396-406 of the State party report.

27. Could you please update the Committee on the outcome of the criminal proceedings against officers of the State Police and some persons who took part in the demonstrations in Naples on the fringes of the 3<sup>rd</sup> Global Forum and in Genoa during the G8 Summit, including the incidents in the Bolzaneto temporary detention facility and the overnight police raid in the Diaz-

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<sup>8</sup> Committee on the Rights of the Child, Concluding Observations, CRC/C/15/Add.198, paras. 31 and 32 and 51 to 55.

Extracts from an Amnesty International report: *Italy: Invisible children – the human rights of migrant and asylum-seeking minors detained upon arrival at the maritime border in Italy*: "...Made invisible by the lack of statistics and the general lack of transparency of the centres, they are forced to live sometimes for prolonged periods of time in unhygienic and unsuitable conditions without an opportunity to challenge the lawfulness of their detention...Amnesty International has received more than 890 allegations and other information regarding the presence of minors in most detention centres in Italy in recent years. The organization has a detailed knowledge of 28 unaccompanied minors who have been detained at some point between January 2002 and August 2005. Almost all were asylum-seekers from sub-Saharan African countries in which the human rights situation is very precarious. ..Minors, with or without their families, are often not given legal aid or information and are at risk of being forcefully returned to the countries they have fled from due to inaccurate age assessment..."

Perdini school building (State party report paras. 360-395). Has the State party considered establishing an independent public commission of inquiry into the G8 summit events?<sup>9</sup> Please inform the Committee of measures taken to review current police practices and to ensure that similar incidents do not occur in the future. Are law enforcement officials required to display some form of individual identifications during operations and how is this controlled?

#### **Article 14**

28. Please provide information on redress and compensation measures ordered by the courts and actually provided to victims of torture, or their families, since the examination of the last periodic report in 1999. This information should include the number of requests made, the number granted, and the amounts ordered and actually provided in each case. Please indicate how many victims have been compensated despite the perpetrator not being identified. Do investigations into such cases continue until the perpetrator(s) is/are identified and brought to justice? Please inform the Committee on any progress regarding the establishment of a compensation fund for victims of torture. (State party report para. 18)

29. Could you please provide information on recent steps taken by the State party to ensure medical and psychosocial rehabilitation of the victims? Please provide the Committee with updated information about the outcome of the educational initiatives included in para. 335 of the State party report, i.e. the “Argo” project, the “Solidarity Pact” and the executive action programme to increase the number of special detention options for drug addicts.

#### **Article 15**

30. Please specify the legal basis for the prohibition of the use of information obtained under torture in any proceedings. Please provide examples of any cases where allegations of confessions extracted under torture have existed and inform the Committee of any measures taken by the State party to ensure that the burden of proof rests with the prosecution.

#### **Article 16**

31. Please provide updated information on any new legislation and/or measures adopted to prevent and combat sexual trafficking, particularly of children, and to provide assistance to victims, including sensitization of law-enforcement officials in contact with these victims<sup>10</sup>. What measures are taken to ensure the effective implementation of Law 228 of 11 August 2003 on Measures against the trafficking of people? Could you please provide more information about the Fund for Anti-Trafficking Measures established in the Prime Minister’s Office, including the number of requests made, the number granted, and the amounts actually provided in each case? Please provide updated information on the initiatives referred to in paras. 120 and 121, including the special assistance programme for victims and training courses. Furthermore, please describe

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<sup>9</sup> **Amnesty International, Public Statement:** Five years after the G8 Genoa policing operations: Italian authorities must take concrete action to prevent and prosecute police brutality in all circumstances, AI Index: EUR 30/005/2006, 21 July 2006.

<sup>10</sup> See **Committee on the Rights of the Child**, Concluding Observations, CRC/C/OPSC/ITA/CO/1, para. 5 (b) and (c) and paras. 22-23.

results obtained through the assisted repatriation project and the project for the prevention of trafficking (State party report, paras. 127-142).

32. Please describe measures taken to combat racism and discrimination, in particular racially motivated violence against Roma, foreigners and Italians of foreign origin, including prompt and impartial investigations into allegations of offences pursuant to articles 1 and 16 of the Convention. Please comment on information that Roma camps are regularly subjected to abusive police raids<sup>11</sup>, reported cases of discrimination against children of foreign origin and Roma children within the juvenile justice system and allegations of instances of ill-treatment by law enforcement officers against children and the prevalence of abuse, in particular against foreign and Roma children. Please provide information about the number of members of minority groups that are recruited into the law-enforcement agencies, especially from the Roma minority.

33. Please provide information on legislative and other measures that the State party has taken to prevent domestic violence and to classify acts of domestic violence as specific offences under the criminal law. Please provide statistical data on complaints, prosecutions and sentences in matters of domestic violence.<sup>12</sup>

### **Other**

34. Does Italy envisage ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment?<sup>13</sup> If so, does Italy envisage setting up or designating a national mechanism that would conduct periodic visits to places of deprivation of liberty in order to prevent torture or other cruel, inhuman or degrading treatment or punishment? (State party report paras. 4-6)

35. Please provide further information on steps taken by the State party to implement the Rome Statute of the International Criminal Court.<sup>14</sup> (State party report paras. 439 and 440)

36. Please indicate whether there is legislation in Italy aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or other

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<sup>11</sup> **Human Rights Committee**, Concluding Observations, CCPR/C/ITA/CO/5, para. 11.

<sup>12</sup> **Human Rights Committee**, Concluding Observations, CCPR/C/ITA/CO/5, para. 9 and **Committee on the Elimination of Discrimination against Women**, Concluding comments, CEDAW/C/ITA/CC/4-5, paras. 31 and 32.

<sup>13</sup> Italy signed the Optional Protocol on 20 August 2003.

<sup>14</sup> **Amnesty International: ITALY Law reform needed to implement the Rome Statute of the International Criminal Court, page 1:** "...However, despite numerous promises, nearly seven years after the adoption of the Rome Statute, Italy has failed to enact implementing legislation making it possible to investigate and prosecute these crimes under international law in its courts and providing for cooperation with the International Criminal Court in its investigations and prosecutions."

cruel, inhuman or degrading treatment<sup>15</sup>. If so, please provide information about its content and implementation. If not, please indicate whether the adoption of such legislation is being considered.

37. Please provide information on the legislative, administrative and other measures the Government has taken to respond to the threat of terrorism, and please indicate if, and how, these have affected human rights safeguards in law and practice.

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<sup>15</sup> See the **Committee on the Rights of the Child**, Concluding Observations, CRC/C/OPAC/ITA/CO/1, paras. 17-18.