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The progress of the Assembly's monitoring procedure (January-December 2018) and the periodic review of the honouring of obligations by Iceland and Italy

Periodic review: Italy

Report¹

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe
(Monitoring Committee)

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Summary

All member States of the Council of Europe that are not under a full monitoring procedure, or engaged in a post-monitoring dialogue, are the subject of a regular periodic review by the Monitoring Committee of the honouring of their membership obligations to the Council of Europe. In this report, the committee presents the periodic review on Italy. The committee concluded that Italy is globally fulfilling its membership obligations to the Council of Europe and, overall, its democratic institutions function in line with the standards of the Council of Europe. However, a number of concerns were raised, and recommendations made in that respect, that deserve the prompt attention of the authorities.

1. See also Doc. 14792 [Part 1](#) and [Part 2](#).



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Explanatory memorandum by Sir Roger Gale, rapporteur

1. Introduction

1. Italy is located in southern Europe and its peninsula and islands extend into the heart of the Mediterranean Sea. With a total area of around 300 000 km², the country has land borders with Austria, France, the Holy See, San Marino, Slovenia and Switzerland. Italy has around 60.7 million inhabitants, about 80% of which are Catholic Christians.

2. Inheriting the legacy of the Roman Empire and Renaissance, Italy became a unified nation-State in 1861 under King Victor Emmanuel II, when the Kingdom of Italy was founded.² In 1922, the parliamentary government was replaced by a fascist dictatorship under Benito Mussolini, which lasted for two decades until Italy's defeat in the Second World War after a two-year civil war. Following liberation, the Italian Republic was established in 1946 by a popular referendum that abolished the monarchy and reinstated democracy.

3. The country plays a prominent role in regional and global politics. Italy is a founding member of the Council of Europe and of the European Economic Community, later transformed into the European Union; it joined the Schengen Area in 1997 and the Eurozone in 1999. Italy adhered to the United Nations in 1955 and is a founding member of the North Atlantic Treaty Organization (NATO), the Organisation for Economic Co-operation and Development (OECD), the Organization for Security and Co-operation in Europe (OSCE), the World Trade Organization (WTO) and the Union for the Mediterranean.

4. Italy is the third largest economy in the Eurozone, the eighth largest in the world and among the leaders in world trade and exports.³ The economic and sovereign debt crisis did not spare the country and the Italian economy entered into a major recession in 2008, and again in 2011. Between 2007 and 2013, gross domestic product (GDP) declined by around 9%.⁴ Unemployment reached 13% in 2014, with youth unemployment reaching over 43.5%.⁵ Italy's sovereign debt increased to become the third largest in the world⁶ and the public debt-GDP ratio increased from 100% in 2007 to 131.8% (i.e. more than 2.2 trillion euros) in 2018.⁷ In 2011, debt interest rates surged and Italy faced a government bond declassification by financial rating agencies; the European Central Bank (ECB) had to intervene to avoid a major crisis of the Eurozone.⁸ Banking system problems amplified the economic contraction. The crisis also highlighted the country's underlying structural weaknesses⁹ and increased regional disparities and the characteristic North-South divide of the Italian economy.¹⁰ Deep cuts in social spending led to great inequalities and increased poverty and triggered a number of anti-austerity protests between 2012 and 2014. In 2017, almost 15.6% of Italians lived in relative poverty and 8.4% in absolute poverty.¹¹ In 2017, one in three children in Italy was considered at risk of poverty or social exclusion.¹²

5. Under pressure from the financial markets, the European Union and the International Monetary Fund, the Italian Parliament adopted in 2011 two austerity packages worth more than 90 billion euros in savings¹³ and introduced the principle of balanced budget in the Constitution.¹⁴ Italy also adopted a number of structural economic reforms.¹⁵ According to the OECD, Italy's economy is slowly recovering, with a projected growth of

2. The process of Italian unification, known as *Risorgimento*, which began in 1815 with the Congress of Vienna, was completed in 1871 when Rome became the capital of the Kingdom of Italy.

3. World Bank, World Development Indicators database, [Gross domestic product 2016](#), 17 April 2017.

4. Eurostat, Annual national accounts, [Real GDP growth rate – volume \(tec00115\)](#).

5. Eurostat, Employment and unemployment (Labour Force Survey), [Total unemployment rate \(tsdec450\)](#). In 2017, these rates were respectively 11.2% and 34.7% ([Eurostat](#), tipsun20).

6. Public debt was accumulated by several decades of massive spending aimed at reviving the stagnating economy. Annual growth rates were persistently below the European Union average, making Italy the slowest growing economy in the Eurozone.

7. Eurostat, Government statistics, [General government gross debt \(tsdde410\)](#) and <https://tradingeconomics.com/italy/government-debt-to-gdp>.

8. The ECB purchased 102.8 billion euros of Italian bonds in 2011-12 and Italian banks have been absorbing 268 billion euros of liquidity issued by the ECB by means of the “long-term refinancing operations” (LTRO loans).

9. These include notably a large public sector, specialisation in traditional sectors, low productivity, high taxes, small firms size, limited competition, high corruption and red tape, slow judicial processes and gaps in the education system.

10. While, in 2015, the region of Trentino-Alto Adige in the industrial North had a GDP per capita of 147% of the EU28 average, compared to only 59% for the region of Calabria in the agricultural South, the unemployment rate, in the second trimester of 2017, stood at 6.6% in the North compared to 19.2% in the South. See Eurostat, Regional economic accounts, [Regional gross domestic product \(PPP per inhabitant in % of the EU28 average\) by NUTS 2 regions \(tgs00006\)](#); and Italian Institute of Statistics (Istat), *Il mercato del lavoro, Il trimestre 2017*, 12 September 2017.

11. www.istat.it/en/archivio/217653, June 2018.

12. Eurostat, [Children at risk of poverty or social exclusion \(tespm040\)](#).

GDP by 1% in 2017 and 0.8% in 2018.¹⁶ Unemployment has dropped but remains high and the economy is still running well below its potential, due to the structural weaknesses and the legacy of the crisis. In September 2018, a coalition government was formed after the 2018 elections (see below) and proposed a draft budget reflecting (partially) the two coalition parties' election campaign promises, including tax cuts, a universal basic income and pension changes. The draft budget submitted by the Italian authorities to the European Commission included a deficit of 2.4% of GDP in 2019 (instead of the 0.8% previously foreseen), which the authorities presented as an anticyclical economic boost to tackle the public debt of 130% GDP, twice above the limit fixed by the European Commission (60%). As a consequence, the European Commission rejected this proposal on 23 October 2018 and asked the Italian authorities to present a new document within three weeks. Following the agreement reached by the Italian Government and the European Commission, including the limitation of the budgetary deficit to 2.04% of the PIB, the 2019 budget was adopted on 29 December 2018 by the Italian Parliament.

6. At the same time, Italy remains heavily affected by the ongoing refugee and migration crisis in Europe. Due to the country's geographical location and to the gradual closure of other migratory routes to the European Union, the central Mediterranean route has again become the main entry point for refugees and migrants to Europe.¹⁷

7. Italy has a special relation with the Holy See,¹⁸ which is sovereign over Vatican City. Bilateral relations, which were complex and even hostile in the past, were normalised with the ratification of the Lateran Pacts in 1929.¹⁹ In 1947, they were incorporated into the Italian Constitution, which stipulates that "[t]he [Italian] State and the Catholic Church are independent and sovereign, each within its own sphere" (Article 7). In 1984, an agreement was signed between Italy and the Holy See, revising the Lateran Concordat. This agreement removed the status of Roman Catholicism as the sole State religion in Italy and ended direct State financing of the Church.²⁰ In 2012, following an investigation by the European Commission into alleged illegal State aid, Italy amended its legislation to remove some of the Church's historic property tax exemptions in order to comply with EU law.²¹ Although the power of the Church has decreased, Catholicism remains the predominant religion in Italy and the Church and the Pope still enjoy considerable societal and political influence.²²

8. Since its accession to the Council of Europe, Italy has ratified 131 Council of Europe treaties and signed 48 additional treaties without ratification.²³ In February 2017, Italy ratified the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196), its additional protocol (CETS No. 217) and the Council of Europe Convention on Money Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198). On 1 August 2018, it ratified the Protocol amending the European Landscape Convention (CETS No. 219).

13. Measures comprised spending cuts, increased taxes, a pension reform and steps to fight tax evasion and improve economic competitiveness.

14. [Constitutional Law No. 1](#) of 20 April 2012.

15. These included a comprehensive structural reform of the banking sector and a watered-down labour market reform. The State assisted seven banks that were experiencing major strain, including Italy's oldest bank, Monte dei Paschi di Siena, thus helping the financial sector to recover. Banks have also begun offloading non-performing loans. See OECD Ecoscope, [The Italian banking system at a turning point – The Italian View](#), 27 September 2017.

16. OECD, OECD Economic Surveys, [Italy, February 2017, Overview](#).

17. This issue will be addressed under Section 3.3, Rights of refugees and migrants.

18. The Holy See, as an independent non-State sovereign entity and full subject of international law, is the jurisdiction of the Catholic Church in Rome and the Episcopal see of the Pope. The Holy See acts and speaks for the whole Catholic Church and maintains diplomatic relations with States and international organisations.

19. The Lateran Pacts consist of a political treaty recognising the Vatican City State as an independent State, with the Italian Government agreeing to give the Church financial compensation for the loss of the Papal States, and a concordat regulating relations between the Catholic Church and the Italian State.

20. Instead, the Italian State created a new income tax largely beneficial for the Church and granted wide-reaching tax exemptions to it. See [Concordatwatch.eu](#), [Agreement between the Holy See and the Italian Republic, Modifications to the Lateran Concordat](#), 1984.

21. European Commission, [State aid: Commission finds Italian ICI real estate tax exemptions for non-commercial entities incompatible and clears amended exemptions under new IMU law](#), 19 December 2012.

22. [The Guardian](#), [Pope Francis defends "traditional" marriage ahead of Italy civil unions vote](#), 23 January 2016.

23. Council of Europe Treaty Office, [Statistics on signatures and ratifications: Italy](#). According to the Italian Constitution, domestic law must comply with international obligations, including international treaties adhered to by Italy (Article 117).

9. A number of important treaties still await ratification by Italy:
- in [Resolution 1953 \(2013\)](#), the Assembly²⁴ called on Italy to ratify the European Charter for Regional or Minority Languages (ETS No. 148) and Protocol No. 12 to the European Convention on Human Rights (ETS No. 177). The authorities explained that shortly before signing the European Charter for Regional or Minority Languages, Italy had drafted in 1999 Law No. 482 to transpose the Charter's principles into the Italian legal system. Additionally, Italy has joined the Council of Europe's Framework Convention for the Protection of National Minorities (ETS No. 157), signed in 1995 and ratified in 1997.²⁵ The Framework Convention and the 1999 Law are currently the main national legislative yardsticks for the protection of linguistic minorities, also in terms of implementation;²⁶
 - at the time of writing, no additional information is available on a possible ratification of the European Convention on Nationality (ETS No. 166);
 - concerning the ratification of Protocols Nos. 15 and 16 to the European Convention on Human Rights (CETS Nos. 213 and 214), a bill was recently submitted to the parliament for ratification.
10. This periodic report was drafted in line with [Resolution 2018 \(2014\)](#) on the progress of the Assembly's monitoring procedure (October 2013-September 2014) and the explanatory memorandum approved by the committee on 17 March 2015. It is based on the most recent findings of the Council of Europe monitoring mechanisms, the reports of the Assembly and the Council of Europe Commissioner for Human Rights and, when relevant, reports prepared by other international and civil society organisations. I would like to thank the authorities and the members of the Italian delegation to the Parliamentary Assembly who provided, in November 2018, extensive comments on my preliminary draft report.²⁷
11. This report is not intended to be an exhaustive review but aims to provide an analysis of the main developments in the country with regard to Council of Europe standards and obligations. The rapporteur has focussed on major challenges faced by Italy in the field of the functioning of its democratic institutions and administration of justice as well as human rights issues related to the migration crisis.

2. Democracy

2.1. Constitutional and electoral system

12. Italy is a parliamentary Republic with power divided among the executive, the legislative and judicial branches. The current Italian Constitution was drafted in the aftermath of the Second World War with the aim of preventing any resurgence of dictatorship.²⁸ To that extent, it established a constitutional system with a weak executive that is politically accountable to a strong bicameral parliament.
13. The President of the Republic is the Head of State. He is elected jointly by the two houses of the parliament and serves for a seven-year term of office. The President represents national unity and is the guarantor of the Constitution. Separate from all branches, he ensures the balancing of powers, and has himself the power to dissolve the parliament.²⁹ He appoints the ministers proposed by the Prime Minister, nominates for lifetime a limited number of non-elected Senators and presides over the High Council of the Judiciary and, as Commander-in-Chief of the armed forces, over the Supreme Council of Defence. The President has also other formal and ceremonial duties. The current President is Sergio Mattarella, who succeeded Giorgio Napolitano in January 2015.³⁰

24. [Resolution 1953 \(2013\)](#) on the progress of the Assembly's monitoring procedure (June 2012-September 2013), adopted on 1 October 2013.

25. Law No. 302 of 28 August 1997, Ratification and Implementation of the Framework Convention for the Protection of National Minorities, signed in Strasbourg on 1 February 1995.

26. AS/Mon (2018) 22, Comments made by the delegation of Italy to the preliminary draft periodic review report on Italy, 30 November 2018.

27. Ibid.

28. The [Constitution of the Italian Republic](#) was enacted on 22 December 1947 by the Constituent Assembly and came into force on 1 January 1948. According to the Constitution, the republican form of government cannot be altered.

29. On the contrary, an impeachment procedure exists, by which the President can be ousted by the parliament in joint session, with an absolute majority of its members, for high treason and violation of the Constitution.

30. In April 2013, Giorgio Napolitano, holder of the post since 2006, agreed to run for another term in an attempt to break the parliamentary deadlock that followed the 2013 general election and resolve the political crisis. This was the first time in the history of the Italian Republic that a President had been re-elected for a second term.

14. Executive power is exercised collectively by the Council of Ministers. The government is led by the Prime Minister, whose official title is President of the Council of Ministers. The Prime Minister and, on his proposal, the other ministers are appointed by the President of the Republic but they must be endorsed by, and have the confidence of, both Houses of Parliament.³¹ Either house can independently oust the government through a vote of no-confidence. The Prime Minister conducts and holds responsibility for the general government policy. Paolo Gentiloni was appointed in December 2016 Prime Minister in a caretaker capacity following the defeat of the ruling coalition in the general elections on 4 March 2018; Giuseppe Conte was then designated as Prime minister and took the oath of office in June 2018.

15. Legislative power is vested in the parliament, which consists of the Chamber of Deputies, with 630 nationally elected members, and the Senate of the Republic, with 315 regionally elected members. The two houses are elected simultaneously for five-year terms by direct and universal suffrage. The parliament guides the action of the government and exercises parliamentary control over it.³²

16. The Italian Parliament is characterised by a system of “perfect bicameralism”: the two houses have equal powers and perform identical functions. The choice for a strong Senate was made to guarantee an adequate representation of conflicting regional interests, while reducing the risk of a too powerful executive or Chamber of Deputies. A peculiarity of the Senate is that some Senators (currently five) serve for life, either appointed or *ex officio*.³³

17. This duplication of the functions of the two houses has drawn considerable criticism, however, as it caused delays with both houses having the right to veto bills and thereby hindering the implementation of a number of much needed and wide-ranging reforms. In addition, successive governments have frequently made use of their power to adopt decrees to avoid overly lengthy debates in the two houses, which can last for up to several years,³⁴ distorting the parliamentary law-making competence.³⁵ The authorities however pointed out that, in the 16th Parliament, 70 % of the bills initiated by the parliament, 85% of the bills initiated by the government, and 88% of Decree-Laws (adopted in case of necessity and urgency) have been approved after a single reading in each House. Since 2015, the number of Decree-Laws issued under conditions of urgency has diminished (from 25 in 2013, to 13 from 1 January 2017 to 22 March 2018). For the authorities, this trend reversal may result from Constitutional Court judgment No. 32 of 2014,³⁶ and from statements made by Presidents of the Republic Mr Napolitano and Mr Mattarella in 2013 and 2015 respectively on this matter.

18. Following the Second World War, Italy established a proportional electoral system. This was replaced in the early 1990s by a mixed system with different electoral arrangements for the two houses. A subsequent reform in 2005 introduced a complex system that favoured small parties and encouraged larger ones to form coalitions.³⁷ However, it also led to different majorities in the two houses and thus hung parliaments. To guarantee a government majority in the Chamber of Deputies, a majority bonus was granted to the party or coalition that received the most votes in the national proportional elections.³⁸ In October 2017, the Parliament adopted a new electoral law which introduced a mixed system of first-past-the-post and proportional representation in a single ballot (see below).

19. On 28 December 2017, President Mattarella dissolved the parliament and called for general elections on 4 March 2018. The centre-right coalition of Forza Italia of former Prime Minister Silvio Berlusconi,³⁹ Lega⁴⁰ and radical right party Fratelli d'Italia narrowly won the elections, with the Five Star movement led by Luigi Di

31. The Prime Minister is usually the leader of the party that has the largest representation in the Chamber of Deputies.

32. Members of the government have the obligation to attend the sessions of either of the two houses, if required. Conversely, they have the right to be heard every time they so request.

33. The [senators for life](#) (*Senatori a vita*) include former Presidents of the Republic who hold office *ex officio*, and up to five citizens who are appointed by the President “for [their] outstanding merits in the social, scientific, artistic or literary field”.

34. According to Article 77 of the Constitution, the government, in the case of necessity and urgency, can issue a temporary decree law that must be transposed into law and adopted by parliament within 60 days to have legal force. On the contrary, the government can adopt a legislative decree under its own authority, once the parliament has expressly delegated legislative authority by way of an enabling act.

35. Often, the constitutional and legislative requirements of necessity and urgency are not met. Given that the government usually holds the majority in parliament, the latter's role is thus limited to rubber-stamping or amending decree laws.

36. The Constitutional Court upheld the principle affirmed for the first time in judgment no. 22 of 2012, and declaring unconstitutional provisions, included in the enactment procedure of Decree-Laws that are unrelated to the original content. AS/Mon (2018) 22.

37. [Law No. 270/2005](#).

38. The coalition or party that received most votes but no absolute majority automatically obtained 55% of the seats.

Maio, which ran alone in these elections, coming in second. However, the Five Star Movement emerged as the largest single political force in Italy. Within the centre-right coalition, Lega overtook Forza Italia as the largest party, which many commentators saw as a clear defeat for former Prime Minister Berlusconi.⁴¹ The main loser of this election was the centre-left coalition led by former Prime Minister Matteo Renzi which lost two thirds of its seats in the Chamber of Deputies and half its mandates in the Senate. However, none of the parties won an outright majority, creating another hung parliament.

20. Following negotiations between the partners of the coalition, Giuseppe Conte, an academic and novice in politics, was proposed as Prime Minister on 21 May 2018. The President of the Republic Sergio Mattarella however blocked the formation of a cabinet that included Paolo Savona as Finance Minister because of Mr Savona's Eurosceptic position. The President argued that this nomination could create uncertainty in the Italian economy and could eventually provoke Italy's exit from the Eurozone. On 31 May 2018, an agreement was reached by the coalition partners to appoint Giovanni Tria as Minister of Economy, which led, on 1 June 2018, to the formation of the government led by Prime minister Giuseppe Conte and the appointment of the leader of the Lega, Matteo Salvini, appointed as Minister of the Interior, and the leader of the Five Star Movement, Luigi Di Maio, appointed Minister for Labour and Economic Development, as Deputy Prime Ministers.⁴²

21. During the June 2018 local elections, the Lega, then in coalition with Forza Italia and Fratelli d'Italia, confirmed its popularity and won the municipal elections in strongholds of the centre-left Democratic Party in Tuscany (Siena, Pisa and Massa).⁴³ The Five Star Movement won in Imola (Emilia-Romagna) and Avellino (Campania).

2.2. Instability of the political system

22. The consequence of the design of the Italian Republic's constitutional and electoral systems described above is the notorious instability of the political system and its institutions, which has haunted Italian politics for decades. In the 71 years since the adoption of the new Constitution, there have been 42 consecutive premierships and 64 different governments, each one lasting for a little more than a year on average. Since the general elections in 2013, there have been three different Prime Ministers.⁴⁴ The country has often been portrayed as being "ungovernable".⁴⁵

23. As a side effect of Italian bicameralism, governments often resort to confidence votes to cut short lengthy debates and to avoid parliamentary vetoes on important reforms.⁴⁶ Conversely, governments have been regularly forced to resign after losing no-confidence votes in either one of the two Houses.⁴⁷ While it is common that the lower House has the right to introduce no-confidence motions, only in Italy can both Houses do so. This is widely considered as a flaw of the Italian parliamentary system as it increases the risk of government instability.⁴⁸ The authorities pointed out, however, that, in the history of the Republican parliaments, only two governments have resigned as a result of a parliamentary debate that began with a communication of the Prime Minister and ended with a vote of no confidence: the first Prodi government (1998) and the second Prodi government (2008).⁴⁹ Moreover, Italy has a fragmented party system with regularly alternating majorities, which increases the potential for government instability.⁵⁰

39. **Forza Italia** (FI) was initially founded in 1993. It merged notably with the National Alliance into the People of Freedom party in 2008/09 and was re-founded in 2013.

40. Formerly the Lega Nord, which dropped the "Nord" in its name to underscore its transformation from a secessionist party to an Italian nationalist party under the leadership of Matteo Salvini.

41. www.theguardian.com/world/ng-interactive/2018/mar/05/italian-elections-2018-full-results-renzi-berlusconi.

42. www.theguardian.com/world/2018/may/31/italys-populist-leaders-strike-deal-resurrect-coalition.

43. www.ft.com/content/e8c3476a-7844-11e8-bc55-50daf11b720d.

44. Former Prime Minister Silvio Berlusconi resigned from the government he presided in 2011. The Berlusconi government was succeeded by the Monti government (a technocratic Executive), which after the parliamentary elections of 2013 was succeeded in turn by three governments headed by Prime Ministers representing the centre-left (Letta, Renzi and Gentiloni), and after the parliamentary elections of 4 March 2018, by the Conte government. AS/Mon (2018) 22.

45. See, for example, *The New York Times*, [For Italy, a Possible Path Out of Political Instability](#), 19 January 2014, or *La Repubblica*, [Boost for Grillo: Italy ungovernable](#), 26 February 2013.

46. For example, Paolo Gentiloni's government, in October 2017, attached eight separate confidence votes to the new electoral law. See Politico, [Italian parliament approves controversial electoral law](#), 26 October 2017.

47. This was, for instance, the case when Romano Prodi's government was ousted in January 2008.

48. University College of London, The Constitution Unit, [More than just populism: Renzi, the Italian Senate referendum and the perils of second chamber reform](#), 15 December 2016.

49. AS/Mon (2018) 22.

50. This situation occurred both in November 2011 and December 2012, when Berlusconi and Monti were forced to step down as Prime Ministers, after having lost their respective majorities.

24. The political system has been weakened by a number of political crises. The Italian Republic's political landscape, long dominated by Christian Democracy,⁵¹ underwent a seismic shift in the early 1990s, when the *mani pulite* ("clean hands") operation exposed endemic corruption at the highest levels of politics and business, known as the so-called *tangentopoli* scandals. These corruption scandals implicated all the main political parties in illegal party financing and prompted a major political crisis which led to the breakdown of the system of *partitocrazia*.⁵² Subsequently, a bipolar party system between alternating centre-right and centre-left coalitions emerged. The new political system was dominated by media tycoon Berlusconi, who became mired in countless scandals, corruption allegations and a tax fraud conviction,⁵³ which further eroded the public trust in the political elites. The authorities objected to this analysis, explaining that despite frequent changes in government, the Italian political system has proved itself to be stable: during the so-called "First Republic", despite frequent government reshuffles or changes, the political class itself maintained a high degree of continuity, since all governments had a Christian Democratic majority. During the so-called "Second Republic", with the exception of the 11th and 12th parliaments,⁵⁴ all other governments were headed by the coalition that won the elections, usually alternating between the two main blocs.⁵⁵

2.3. Constitutional and electoral reform

25. An attempt to radically reform the Constitution, by increasing the role of the Prime Minister and reducing the powers of the Senate and the President, had been blocked in a referendum in 2006.⁵⁶ Several previous initiatives to reform the Italian political system had equally failed.⁵⁷ In 2012, an amendment to the Italian Constitution requiring balanced budgets entered into force, to comply with the Fiscal Compact chapter of the EU Treaty on Stability, Coordination and Governance in the Economic and Monetary Union.

26. Matteo Renzi, who in February 2014 became the youngest Prime Minister in Italian history, proposed several far-reaching changes to the political system. These included a major constitutional and electoral reform with the aim of ensuring greater institutional stability of the Italian political system. The Italian Constitutional Court, in December 2013, ruled the 2005 electoral law to be partly unconstitutional.⁵⁸ Subsequently, in 2015, a new electoral law for the Chamber of Deputies only, was adopted by the Italian Parliament.⁵⁹ The law provided for an electoral system with substantial majoritarian elements, and consisted of a first round of vote based on the proportional representation of open party lists – corrected by a majority bonus and a 3% election threshold – and a conditional second runoff vote.⁶⁰ However, in January 2017, the Constitutional Court found several elements of the 2015 electoral law for the Chambers of Deputies to be unconstitutional.⁶¹ Subsequently, in October 2017, the two houses of parliament adopted a new electoral

51. Christian Democracy (Democrazia Cristiana, DC) was a centrist catch-all political party, created in 1943 and disbanded in 1994.

52. During the nationwide judicial investigation into political corruption, several former Prime Ministers and thousands of businessmen and politicians were investigated, including more than 200 deputies and over 400 city and municipal councils. As a consequence, the main parties which had dominated the political process until then all disappeared.

53. In 2013, the Court of Cassation upheld Silvio Berlusconi's 2012 sentence to four years' imprisonment for tax fraud in favour of Mediaset, commuted to one year of community service because of his age. The Senate expelled him from parliament and he was also banned from holding public office for five years, a penalty which he is currently contesting before the European Court of Human Rights – see [Grand Chamber hearing in the case of Berlusconi v. Italy](#), 22 November 2011.

54. These were two "short" legislations of two years each, led essentially by technical governments.

55. 13th Parliament: 4 centre-left governments; 14th Parliament: 2 centre-right governments; 15th Parliament: 1 centre-left government; 16th Parliament: 1 centre-right government and 1 technocratic government; 17th Parliament: 3 centre-left governments. AS/Mon (2018) 22.

56. Under the 2006 constitutional reform proposal, the Prime Minister would have been granted the powers to dissolve the parliament, appoint and dismiss ministers and determine the general direction of government policy. See BBC, [Italy resoundingly rejects reform](#), 26 June 2006.

57. *The Journal of Legislative Studies*, [The Italian Senate](#), Volume 8, 2002 – Issue 3, pp. 67-78.

58. The Constitutional Court particularly criticised – and abolished – the majority bonus system, which had been allocated automatically without the need to reach any threshold, as well as the closed party list provision. See Constitutional Court, [Sentenza 1/2014](#), Decision of 4 December 2013.

59. Law No. 52/2015. The choice to introduce a new electoral law that only applied to the lower house was done in anticipation of the constitutional reform, which would have eliminated direct elections of the Senators.

60. The 2015 law granted a majority bonus, giving 55% of the seats to the party or coalition that wins more than 40% of the votes cast, with the remaining seats distributed in a proportional way. If none obtained that level, a second round would be held between the two most popular parties. See University College of London, The Constitution Unit, [More than just populism: Renzi, the Italian Senate referendum and the perils of second chamber reform](#), 15 December 2016.

61. The Constitutional Court notably found the two-round system unconstitutional, as it would allow a party to get to the second ballot without meeting any threshold, hence distorting the voters' will, having the same effect as a majority bonus allocated without any minimum requirement. See Constitutional Court, [Sentenza 35/2017](#), Decision of 25 January 2017.

law,⁶² which introduced a mixed system of first-past-the-post and proportional representation in a single ballot,⁶³ with a 3% threshold for single parties and a 10% threshold for coalitions to enter the Chamber of Deputies; a similar system was provided for the Senate. These changes to the electoral system favour the creation of large coalition governments through political bargaining but increase the risks of a hung parliament or an unstable majority. It is therefore uncertain that these changes will resolve Italy's perennial government instability.⁶⁴

27. The main elements of the planned constitutional reform aimed to significantly curtail the powers of the Senate, to reduce its membership from 315 to 100 and to change the election of senators from a direct election system to an indirect election by representatives of the regions. Crucially, under the proposed reforms, the government would no longer have been required to obtain the confidence of the Senate, the Senate would no longer have had the power to introduce a motion of no confidence against the government and the Senate's ability to veto legislation would have been considerably reduced.⁶⁵ In combination with the new electoral law, the constitutional reform would have completely transformed the nature of the Italian political system.⁶⁶ Although both houses voted in favour of the constitutional reform in 2016, it did not obtain the required two-thirds majority needed to bypass a constitutional referendum.

28. On 4 December 2016, after a long and highly personalised campaign, which turned the referendum into a protest vote against the government, the proposed constitutional reform was rejected by 59% of the popular vote. Prime Minister Renzi resigned on 7 December and was replaced by his Foreign Minister, Paolo Gentiloni.

2.4. Media freedom

29. Freedom of expression and of the media are constitutionally guaranteed and generally respected. Nevertheless, in spite of a number of steps taken, Freedom House classified Italy as only partly free with a total score of 31 out of 100 with regard to press freedom in 2017.⁶⁷ It is clear that several long standing issues that hamper media freedom still have to be adequately addressed.

30. Following liberalisation of the media sector in the 1990s, media ownership became highly concentrated and remains so today. Broadcast media is dominated by the two media giants: publicly owned *Radiotelevisione Italiana* (RAI) and the privately owned *Mediaset* of Silvio Berlusconi. Together they operate nearly all major public and private television stations in the country. Given that up to 80% of the population is said to rely on television for its daily news⁶⁸ – which is the highest rate in the European Union – this concentration of ownership is problematic, especially in the Italian context, where broadcasters, including public broadcasters, traditionally have close ties with political forces and personalities and where conflict of interest regulations are lacking.⁶⁹ The Italian authorities stressed that, in their view, these issues were tackled in the 2005 Consolidated Law on Media, Audiovisual and Radio Services (TUSMAR), which established the Integrated Communications System, set specific limitations to prevent the emergence of dominant positions in the Integrated Communications System and regulated the appointment of the members of the Communications Authority (AGCOM), who are now all university professors or senior State officials with experience in the fields of communications or competition. Law No. 215 of 20 July 2004 – also known as the “Frattoni Law” – contains provisions on conflicts of interest, establishes the rules for resolving such conflicts, and ensures that all government office holders, in the exercise of their functions, have as their sole objective the upholding and protection of public interests. The Competition and Market Authority and AGCOM evaluate the presence of conflicts of interest.⁷⁰

62. [Law No. 165/2017](#). The law entered into force on 12 November 2017.

63. 225 deputies will be directly elected to represent a constituency and 386 indirectly based on partly lists.

64. [Politico, Italian parliament approves controversial electoral law](#), 26 October 2017.

65. University College of London, The Constitution Unit, [All you need to know about the Italian constitutional referendum](#), 13 October 2016.

66. University College of London, The Constitution Unit, [More than just populism: Renzi, the Italian Senate referendum and the perils of second chamber reform](#), 15 December 2016. This was perceived by some constitutional experts as a potential threat to the constitutional checks and balances and thus as a potential source of new institutional system dysfunctions. See [La Stampa, Il documento di 50 costituzionalisti sulla riforma costituzionale](#), 22 April 2016.

67. Freedom House, [Freedom of the Press 2017, Italy](#), 28 April 2017.

68. www.bbc.com/news/world-europe-17433146.

69. Assembly report on “The state of media freedom in Europe”, [Doc. 13078](#).

70. Detailed explanations were provided by the authorities, see AS/Mon (2018) 22.

31. Concerns about the autonomy of the RAI were raised after the appointment of Marcello Foa⁷¹ as president of the RAI in September 2018 in spite of concerns expressed by the journalists' union. This appointment was made possible with the support of the leader of Forza Italia, Silvio Berlusconi, who dropped his opposition in the parliamentary body responsible for the oversight of the State broadcaster after an agreement was reached by the centre-right forces to run together in a number of upcoming regional elections.

32. Following a 2012 judgment of the European Court of Human Rights,⁷² Italy introduced a legislative and regulatory framework for the allocation of broadcasting licenses as well as the transfer and cessation of ownership of television broadcasting companies in order to guarantee effective media pluralism.⁷³ However, these new rules have not substantively reduced ownership concentration since the members on the new authority are in effect political appointments based on party affiliation.⁷⁴ Further efforts to reform the public broadcaster and to improve its independence, efficiency and sustainability have been introduced recently, including the changing the governance structure of the public broadcaster and by introducing a new system for collecting television licence fees. The Italian delegation pointed out that in the previous parliament, the Chamber of Deputies approved on first reading a measure introducing new rules on conflicts of interest, but the debate ran aground in the Senate. Currently, a new overhaul of this topic is included in the government contract signed by the League and the 5-Star-Movement following the 2018 elections.⁷⁵

33. Defamation remains a criminal offence in Italy, punishable by a fine or prison sentence of up to six years.⁷⁶ The European Court of Human Rights has regularly ruled against Italy for imposing disproportionate criminal sanctions for defamation, including prison sentences for journalists and editors.⁷⁷ In 2013, following a request by the Assembly,⁷⁸ the European Commission for Democracy through Law (Venice Commission) adopted an Opinion on the Italian defamation legislation, which urged the authorities to amend the criminal law in order to ensure the principle of proportionality of sanctions and to avoid a chilling effect on media freedom.⁷⁹

34. Various drafts aimed at amending the defamation legislation are currently being discussed in the Italian Parliament. In 2015, the Chamber of Deputies proposed to remove prison sanctions for journalists in defamation cases,⁸⁰ but in 2016 the Senate proposed to increase the maximum sentence from six to nine years imprisonment for defamation cases concerning politicians, judges and public servants. Following strong international criticism, including by the Commissioner for Human Rights, this proposal was later removed.⁸¹ The draft bill is currently stuck in the Senate. As a result, at the time of writing, the Italian legislation concerning defamation is not in line with European standards.⁸²

71. Marcello Foa is seen as a controversial, Eurosceptical journalist, holding anti-gay, anti-immigration, anti-vaccine and pro-Russia views, who has repeatedly shared fake news, including about Hillary Clinton during the United States presidential campaign. www.theguardian.com/world/2018/sep/26/fake-news-journalist-made-chair-of-italys-state-broadcaster.

72. *Centro Europa 7 S.R.L. and Di Stefano*, Application No. 38433/09, judgment of 7 June 2012 (Grand Chamber).

73. Committee of Ministers *Resolution CM/ResDH(2017)104*, 5 April 2017.

74. The Authority on the Regulation of Broadcasting (*Autorità per le Garanzie nelle Comunicazioni*, AGCOM), an independent administrative body, is responsible for the licensing, regulation and control of audiovisual media.

75. AS/Mon (2018) 22.

76. Under Sections 595-597 of the *Criminal Code*, defamation can be sanctioned by a fine or six months to three years in prison, if committed publicly or via the press. Defamation committed against a political, administrative or judicial body is considered as aggravated defamation, resulting in higher penalties as compared to defamation committed against private persons. Defamation is also considered a criminal offence under Section 13 of *Law No. 47/1948* and punishable by a fine or prison sentence between one and six years, if it is committed by the press and involves an accusation of fact.

77. In both cases, the Court found that the nature and severity of the penalty imposed, i.e. the prison sentence, even suspended, had a significant chilling effect, which – in the absence of any exceptional circumstances – constituted a disproportionate interference with the applicants' freedom of expression. See, *Belpietro v. Italy*, Application No. 43612/10, judgment of 24 September 2013, and *Ricci v. Italy*, Application No. 30210/06, judgment of 8 October 2013.

78. Parliamentary Assembly, *Resolution 1920 (2013)* on the state of media freedom in Europe, 24 January 2013.

79. Venice Commission, *Opinion No. 715/2013 on the legislation on defamation of Italy*, 9 December 2013, paragraphs 35-76, 79 and 82-87.

80. Although the draft bill was generally welcomed by the Venice Commission, it still includes the possibility to file penal suits for defamation, increases monetary fines and lacks effective deterrent measures to prevent abuse – all these measures risk having a chilling effect on media freedom. See *Defamation in Italy: a draft law to be changed*, joint open letter by the Commissioner for Human Rights, the OSCE Representative on Freedom of the Media and the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, published in // *Corriere della Sera*, 8 June 2014.

81. Council of Europe, Platform to promote the protection of journalism and safety of journalists, *Draft Bill to Tighten Criminal Penalties for Defamation*, 27 May 2016 (updated 13 September 2016); and Ministry of Foreign Affairs, *Italy's remarks on freedom of opinion and expression and the situation of journalists*, 10 June 2016.

35. As a result, Italian Courts continue to issue prison sentences for defamation. According to the organisation *Ossigeno per l'informazione*, 475 journalists were convicted for defamation in 2015, with 155 prison sentences issued.⁸³ In practice, prison sentences are usually suspended or not applied. However, as pointed out by the Commissioner for Human Rights, the continuing criminalisation of defamation and the willingness of public figures to use this to stifle criticism hampers media freedom in Italy.⁸⁴

36. Italian journalists regularly face intimidation, threats (including death threats) and physical attacks from organised crime networks. Reportedly, in 2016, 62 journalists received verbal or written threats, 57 were physically attacked and four had their equipment damaged. As a consequence, 20 journalists currently live under continuous police protection.⁸⁵ In a welcome development, in 2016 the Italian Parliament approved a proposal by the parliamentary Anti-Mafia Commission to introduce new aggravating circumstances in the Criminal Code for Mafia offences against journalists.⁸⁶

2.5. Local self-government

37. Italy is a unitary country with territorial decentralisation. The country is subdivided into 20 regions. The regions are divided into 96 provinces and 14 metropolitan cities, which in turn are subdivided into over 8 000 municipalities. Local autonomy is firmly established. The Italian Constitution recognises the principle of local self-government and requires the establishment of a statute for every region, which determines its organisation and functioning. Fifteen regions with “ordinary” status have only very limited autonomy, while the five regions with special “autonomous” status have greater legislative, administrative and financial competences.⁸⁷ There have been accusations that regions with special “autonomous” status have been more vulnerable to corruption and infiltration by organised crime. In the 2001 constitutional reforms, regions with ordinary status acquired increased competences in tax and education policies and in a set of areas expressly set out in the Constitution, but two major reform attempts were rejected by the 2006 and 2016 constitutional referendums.⁸⁸

38. The historic economic and cultural divisions between Italy's regions run deep, as is evident from the existence of numerous regionalist and regional political parties. While secessionist claims seem no longer to be on the political agenda, regional identities remain strong⁸⁹ and regular demands in favour of more regional autonomy are frequently voiced by regional leaders and political parties.⁹⁰ As a result of these tendencies, national consensus on future reforms of the system of local and regional democracy is lacking.

39. In its third monitoring report on Italy of October 2017, the Congress of Local and Regional Authorities of the Council of Europe welcomed the reforms to foster decentralisation and to enhance the political and financial efficiency of local governance.⁹¹ It also expressed a number of concerns, including with regard to the budget cuts and reduced State support as a result of austerity policies which have had a disproportionate impact on local authorities. The Congress urged the Italian authorities to reconsider budget cuts and lift financial constraints imposed on local authorities in order to ensure that they have sufficient financial and

82. Venice Commission, [Opinion No. 715/2013 on the legislation on defamation of Italy](#), 9 December 2013; and *Ossigeno per l'informazione*, [The defamation bill towards a dead end in Senate](#), 23 February 2017.

83. *Ossigeno per l'informazione*, [Taci o ti querelo!](#), October 2016.

84. [“Defamation in Italy: a draft law to be changed”](#), Joint open letter, op. cit.

85. Freedom House, *Freedom of the Press 2017*, [Italy](#), 28 April 2017. See also Council of Europe, Platform to promote the protection of journalism and safety of journalists, [Italian Journalists and Media Staff Face Death Threats Following Mafia Boss' Funeral](#), 26 August 2015 (updated 21 June 2016); and Mapping Media Freedom, [Italy: Mafia versus the media: Italian journalists face upsurge in threats and intimidation](#), 19 September 2017.

86. *Commissione Parlamentare Di Inchiesta sul Fenomeno delle Mafie e sulle altre Assoiazioni Criminali, anche Straniere* (Parliamentary Anti-Mafia Commission), [Report on “The state of information and the condition of journalists threatened by the Mafia”](#), 5 August 2015.

87. Namely Valle d'Aosta, Friuli-Venezia Giulia, Sardinia, Sicily and Trentino-Alto Adige/Südtirol. This special autonomy status was created mainly for historical reasons, but also for cultural, linguistic and geographical ones.

88. The 2006 constitutional reform had the intention to increase the powers of the Italian regions, while the 2016 one notably aimed at increasing their autonomy, eliminating the provinces and delimiting the competences between the regions and the central government to the benefit of the central State.

89. Congress of Local and Regional Authorities, [Local and regional democracy in Italy](#), 18 October 2017, paragraph 181.

90. In October 2017, respectively 95% and 98% of the voters in the two wealthy northern Italian regions of Lombardy and Veneto expressed in two legally non-binding consultative referendums their support to open a process of negotiation with the central State to obtain greater regional autonomy. By contrast, the region Emilia-Romagna has recently chosen to engage in direct negotiations with the central authorities. See University College London, The Constitutional Unit, [A new phase for Italy's regional system? The referendums in Lombardy and Veneto on greater autonomy](#), 30 October 2017.

91. Congress of Local and Regional Authorities, [Local and regional democracy in Italy](#), 18 October 2017, paragraph 3 of Recommendation 404 (2017).

human resources to carry out their legal duties. It recommended greater fiscal autonomy of the regions with ordinary status to reduce the gap between them and regions with special autonomous status, and invited the Italian authorities to sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207).⁹²

3. Human Rights

3.1. General human rights issues

40. Italy is strongly committed to protecting and promoting human rights around the world through bilateral and multilateral initiatives, both at the global and at the regional level.⁹³ The country has a strong legislative framework for the protection of human rights and has established several bodies for the protection of human rights⁹⁴ to which it has provided considerable financial and human resources⁹⁵. That said, Italy is one of the few Council of Europe member States that still have no independent national human rights institution despite the repeated pledges to establish one issued by the Italian authorities.⁹⁶ I was therefore pleased to learn that the Chamber of Deputies was about to begin, in November 2018, the examination of several bills aimed at establishing a National Commission for the Promotion and Protection of Fundamental Human Rights, which should be in line with the Paris Principles. Italy also does not have a national Ombudsperson institution.⁹⁷ While it has adopted a number of specific thematic Strategies and Action Plans it has not yet adopted a global and comprehensive human rights action plan.

41. In 2017, the European Court of Human Rights has dealt with 2 106 applications concerning Italy, of which 1 973 applications were declared inadmissible or were struck out.⁹⁸ It delivered 31 judgments (concerning 133 applications), 28 of which found at least one violation of the European Convention on Human Rights. Most violations concerned the right to respect for private and family life (seven judgments), the lack of effective investigation (six judgments), the right to a fair trial (six judgments), and the protection of property (six judgments).⁹⁹ Noteworthy judgments in recent years concerned the issues of right to life; torture and inhuman or degrading treatment by State officials (including one pilot judgment related to prison overcrowding); impunity for extraordinary renditions; lawfulness of detention; fair trial rights (including one pilot judgment); private and family life (including protection of embryos and children born from a gestational surrogacy arrangement, and legal recognition of same-sex relationships) and lack of access to the asylum procedure and collective expulsion of aliens.

92. *Ibid.*, paragraphs 4-6 of Recommendation 404 (2017).

93. On 12 October 2018, Italy was elected for a three-year term in the United Nations Human Rights Council starting on 1 January 2019. AS/Mon (2018) 22.

94. Such as the Sub-Committee on Human Rights of the Foreign and European Affairs Committee of the Chamber of Deputies, the Senate's Special Committee for the Protection and Promotion of Human Rights, the Inter-ministerial Committee for Human Rights (CIDU), the National Office against Racial Discrimination (UNAR), the Observatory for Security against Acts of Discrimination (OSCAD) and the National Guarantor of the rights of persons detained or deprived of personal liberty. AS/Mon (2018) 22.

95. United Nations, Human Rights Council, Working Group on the Universal Periodic Review, [National report – Italy](#), 21 July 2014.

96. A number of draft laws presented in parliament never passed the initial stages, the argument being that the Italian legal system would sufficiently guarantee all fundamental rights. See Committee for the Promotion and Protection of Human Rights, [Briefing on Italy for the Committee on Economic, Social and Cultural Rights](#), March 2015. Existing bodies include the Inter-ministerial Committee for Human Rights at the Ministry of Foreign Affairs, the Senate's Human Rights Committee and ad hoc parliamentary commissions and commissioners that are often established to supervise specific human rights-related topics, but they all do not act as independent institutions.

97. There is an associative body at national level which is responsible for the co-ordination of the ombudsmen operating in most of the Italian regions: the National Coordination Body of Regional and Autonomous Provinces Ombudsmen. However, in some regions, the regional ombudsman has not been appointed (Calabria). In Sicily, the regional system does not provide for its establishment; and in Puglia the implementing law foreseen in the regional statute has not been adopted. Friuli – Venezia Giulia has established a regional guarantor for the rights of the person through regional law 9/2014, comprising three members (presided by Fabia Mellina Bares); Campania has established a regional ombudsman – currently Giuseppe Fortunato – with regional law 23/1978 as well as a Guarantor for childhood and adolescence, a Guarantor for detainees, and a Regional Guarantor for the rights of persons with disabilities.

98. European Court of Human Rights, [Analysis of Statistics 2017](#), January 2018.

99. European Court of Human Rights, [Violations by Article and by State 2017](#), January 2018.

42. As at 31 December 2017, a total of 4 665 applications concerning Italy (8.3%) were pending before the European Court of Human Rights; the country thus remains within the “top five”, despite the very positive trend in recent years.¹⁰⁰ According to the Court, around 4 400 cases concern delays in payment of the “Pinto” compensation for lengthy proceedings (see also below); other cases relate to the special high-security prison regime, imprisonment for defamation, and detention of unaccompanied minors.¹⁰¹

43. Italy has made significant progress in terms of judgments pending execution before the Committee of Ministers. Having long been the country with the highest number of cases pending execution (i.e. 2 350 cases or more than one fifth of the total number of pending cases at the end of 2016), over 1 700 cases concerning excessive length of civil and bankruptcy proceedings were closed by final resolution in December 2017.¹⁰² By the end of December 2017, only 380 cases were pending execution, 250 of which were imposed under the enhanced procedure, highlighting the continued existence of structural deficiencies that remain to be addressed by the authorities.¹⁰³ The amount of compensation paid by Italy topped the 15 million euro mark in 2016, making the country the third Council of Europe member State in this category; payments are, however, often delayed.¹⁰⁴

3.2. Prevention of torture and other forms of ill-treatment

44. In 2015, the Court highlighted the inadequate criminal legislation to prevent and punish torture and other ill-treatment as well as the application of a statute of limitations for such crimes, which had resulted in a *de facto* climate of impunity.¹⁰⁵ In July 2017, after considerable delay, Italy introduced the crime of torture into the Italian Criminal Code, filling an important gap in its human rights protection system.¹⁰⁶ Despite this positive development, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in its 2016 visit report, heavily criticised the draft bill, which was similar to the finally adopted text, for its overly narrow definition of torture, as a result of which many acts of serious ill-treatment may fall outside the scope of the law. Moreover, the law does not consider an act of torture inflicted by a public official as an autonomous offence but rather as an aggravating factor and the offence is subject to a statute of limitations.¹⁰⁷ The CPT therefore considered that the law does not adequately address the issues raised by the Court.¹⁰⁸ This is all the more important, as ill-treatment by law-enforcement and prison staff remains a persistent problem in Italy¹⁰⁹ for which it has been repeatedly condemned by the Court.¹¹⁰

100. European Court of Human Rights, [Analysis of Statistics 2017](#), January 2018; and [Pending cases](#), January 2018.

101. European Court of Human Rights, [Country profile Italy](#), January 2018.

102. Section 4.1, Independence and effectiveness of the judiciary; Assembly report on “The implementation of judgments of the European Court of Human Rights”, [Doc. 14340](#), 12 June 2017, paragraph 9 and Appendix.

103. Council of Europe, Department for the Execution of Judgments of the European Court of Human Rights, HUDOC EXEC, [Pending cases against Italy](#), consulted on 31 December 2017; and [Country Factsheet Italy](#), October 2017.

104. Council of Europe, Committee of Ministers, [10th Annual Report on the Supervision of the Execution of Judgments and Decisions of the European Court of Human Rights](#), 2016, March 2017, pp. 58, 61, 68, 73 and 75.

105. European Court of Human Rights, [Cestaro v. Italy](#), Application No. 6884/11, judgment of 7 April 2015. The case concerned inhuman and degrading treatment by police forces against demonstrators during the G8 summit in Genoa in 2001 and the ineffectiveness of the related investigation and court proceedings. See also Council of Europe, Department for the Execution of Judgments of the European Court of Human Rights, [Status of execution, Cestaro v. Italy](#). As regards impunity, see also European Court of Human Rights, [Nasr and Ghali v. Italy](#), Application No. 44883/09, judgment of 23 February 2016, which concerned the abduction of the Egyptian imam Abu Omar and his subsequent transfer to and ill-treatment in Egypt, by means of a CIA “extraordinary rendition” operation, with the co-operation of Italian officials. In the Court’s view, the Italian officials involved had ultimately been granted impunity, following the Italian Government’s decision to apply the State secrecy.

106. [Law No. 110/2017](#).

107. CPT, [Report on the April 2016 visit to Italy](#), 8 September 2017, paragraph 7.

108. Ibid. The Commissioner for Human Rights, in his [letter](#) of 16 June 2017, also expressed concern about the Draft Bill – namely the definition of torture and the statute of limitations – which might “create potential loopholes for impunity”, and urged the Italian Parliament to adopt a law on torture that fully complies with international human rights standards.

109. In the course of its 2012 visit, the CPT had received a number of allegations of physical ill-treatment by State Police and *Carabinieri* officers, in particular in the Milan area and mostly concerning foreign nationals, as well as a number of allegations of physical ill-treatment (kicks and punches) and/or excessive use of force by prison staff at Vicenza Prison. See CPT, [Report on the May 2012 visit to Italy](#), 19 November 2013, paragraphs 9 and 46.

110. See notably the recent judgments of the European Court of Human Rights in the cases of [Bartesaghi Gallo and Others v. Italy](#) (Applications Nos. 12131/13 and 43390/13, judgment of 22 June 2017); [Blair and Others v. Italy](#) and [Azzolina and Others v. Italy](#) (Applications Nos. 1442/14, 21319/14 and 21911/14 as well as 28923/09 and 67599/10, judgments of 26 October 2017); and [Cirino and Renne v. Italy](#) (Applications Nos. 2539/13 and 4705/13, judgment of 26 October 2017). In all four cases, the Court found that the ill-treatment to which the applicants had been subjected amounted to torture and that the investigations were flawed, as none of the persons found to be responsible had received appropriate punishment.

45. The CPT also examined the impact of the prison reform¹¹¹ undertaken by the Italian authorities to reduce prison overcrowding, as required by the 2013 pilot judgment by the Court in *Torregiani v. Italy*.¹¹² Significant progress was noted with a decrease of the prison population of 11 000 inmates by 2016, while the prison capacity was increased by 2 500 places. This progress allowed the Committee of Ministers to close this group of cases. However, it should be noted that the prison population has again increased since 2016 and prison overcrowding continues to be a problem.¹¹³

46. In its 2016 visit report the CPT also expressed concern about the deficient material conditions at a number of State police and *Carabinieri* establishments. Regarding prisons, the CPT denounced a poor regime, extensive restrictions imposed on inmates subjected to the “41-bis” regime,¹¹⁴ prolonged isolation and solitary confinement, and detention conditions of mothers with children.

47. In a welcome development, following Italy's ratification of the Optional Protocol to the United Nations Convention against Torture (OPCAT) in 2013, the authorities created a new institution to perform the task of National Preventive Mechanism (NPM) under OPCAT. This National Guarantor of the rights of persons deprived of their liberty (*Garante nazionale*),¹¹⁵ which had started operating in early 2016, is a mechanism to monitor the situation of persons deprived of their liberty.¹¹⁶

3.3. Rights of refugees and migrants

48. Sea crossings from North Africa (mostly from Libya) to Italy via the central Mediterranean route surged from 56 000 in 2011, to an unprecedented level of more than 181 000 new arrivals in 2016. Refugees and migrants often used unseaworthy vessels, without life vests and sufficient fuel and food, making this route the deadliest in the world with over 4 500 deaths at sea in 2016.¹¹⁷ According to data published by the International Organization for Migration (IOM), there were 2 172 victims in 2017. Almost one thousand migrants and refugees died in the Mediterranean in the first semester 2018; 653 of them died along the central Mediterranean route between north Africa and Italy.¹¹⁸

49. The Italian authorities reacted by increasing their search and rescue capacities and by establishing a National Plan for the reception of refugees and migrants.¹¹⁹ As a result of current EU asylum rules and pressure from other EU member States to stop onward movements, Italy was required to absorb an ever increasing number of arrivals. The Assembly has repeatedly stressed that all Council of Europe member States and the European Union should show more solidarity¹²⁰ with Italy and other European front-line countries faced with large-scale migratory arrivals underscoring that only a common European response can address the present refugee and migratory inflow.¹²¹

111. Council of Europe Annual Penal Statistics, [SPACE I 2015 report](#), Table 1.5, p. 52. The reform comprised *inter alia* the increased use of electronic monitoring, house arrest and other alternatives to imprisonment, notably by removing prison sentences for minor offences and by providing more lenient penalties for minor drug-related offences as well as additional early release measures.

112. European Court of Human Rights, *Torregiani and Others v. Italy*, Application No. 43517/09 *et al.*, judgment of 8 January 2013, in which the Court found that the severe lack of personal living space (3 m²), to which the seven applicants had been subjected for prolonged periods, exacerbated by other conditions, amounted to inhuman treatment and called on Italy to resolve the systemic nature of prison overcrowding and provide an effective remedy against poor detention conditions.

113. Italy is, for example, the country with the highest percentage of prisoners serving sentences for drug offences. See Council of Europe Annual Penal Statistics, [SPACE I 2015 report](#), Table 6.1, p. 82.

114. The special detention regime under Article “41-bis” of the Penitentiary Law applies exclusively to prisoners who have been convicted of or are suspected of having committed a Mafia- or terrorist-related offence.

115. [Garante nazionale dei diritti delle persone detenute o private della libertà personale](#).

116. CPT, [Report on the April 2016 visit to Italy](#), 8 September 2017, paragraph 8.

117. UNHCR, [Desperate Journeys](#), February 2017, pp. 6-7. See also Parliamentary Assembly, [Resolution 1999 \(2014\)](#), “The ‘left-to-die boat’: actions and reactions”, 24 June 2014.

118. Figures provided by the Italian delegation, AS/Mon (2018) 22.

119. Parliamentary Assembly press release, [Italy: President praises efforts to save migrants in distress at sea](#), 11 October 2013. From October 2013 to October 2014, the Italian Navy carried out a major rescue operation in the Mediterranean Sea (up to the Libyan coasts), called Mare Nostrum, aimed at “safeguarding human lives at sea and bringing to justice human traffickers and migrant smugglers”. This mission involved air and naval military forces. It reportedly saved more than 150 000 people, saw the arrest of 351 smugglers, and cost 9 million euros per month. This operation was later replaced by the Triton Operation co-ordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex). The [Italian Roadmap](#) of September 2015 provided a number of measures to manage the influx of foreign nationals.

50. While arrivals remained high in the first seven months of 2017 (about 100 000 people), they have significantly decreased since. In 2017, the number of new arrivals fell significantly with a total of 119 000 sea arrivals recorded in 2017.¹²² This is the result of Italy significantly downsizing search and rescue operations undertaken by non-governmental organisations¹²³ and stepping up bilateral co-operation on migration control with its former colony Libya, measures which were endorsed by EU member States,¹²⁴ despite public outcry on and claims of European complicity in exposing migrants to systematic human rights abuses in Libya.¹²⁵ The Commissioner for Human Rights urged Italy to clarify its maritime operations in Libyan territorial waters aimed at managing migration flows.¹²⁶ The Italian delegation indicated that migrants' rescue operations at sea on the part of NGOs were subsequently regulated by a Code of Conduct issued by the Italian Ministry of the Interior in agreement with the European Union, and signed by all NGOs, except *Médecins Sans Frontières* and the German network *Jugend Rettet*. The code introduces several principles aiming to improve security, loosening the ban on transfers to other vessels and calling for NGOs not to enter Libyan territorial waters "except in situations of grave and imminent danger requiring immediate assistance" and provided they do not obstruct "Search and Rescue on the part of the Libyan Coast Guard".¹²⁷

51. In recent months, the Minister of the interior has toughened his migration policy. The authorities have banned rescue vessels from disembarking in Italian ports unless deals can be reached with other European countries. In July 2018, only the intervention of the Italian President Sergio Mattarella enabled the Italian coastguard ship Diciotti to disembark 67 migrants in Trapani.¹²⁸ On 25 August 2018, however, the Diciotti was prevented from disembarking 177 rescued migrants for several days until an agreement was reached with Ireland, Albania and the Italian Catholic Church to accept migrants.¹²⁹ Following this event, the prosecutors opened an investigation against the Minister of the Interior Matteo Salvini and his chief of staff Matteo Piantedosi for illegal detention, abuse of office and "kidnapping in order to coerce". All charges were subsequently dropped.¹³⁰ The authorities have also hampered, if not rendered impossible, the work of NGOs rescuing migrants:¹³¹ the registration of the Aquarius vessel – operated by SOS Méditerranée and Médecins Sans Frontières and which reportedly rescued 30 000 people¹³² – was revoked on 24 September 2018 by

120. Two years after the relevant Council Decisions on relocation within the European Union, only 8 451 (24%) of the legally foreseen 34 953 people in need of international protection have effectively been relocated from Italy to other EU member States. See European Commission, [Fifteenth report on relocation and resettlement](#), 6 September 2017.

121. Parliamentary Assembly, [Resolution 1820 \(2011\)](#) "Asylum seekers and refugees: sharing responsibility in Europe", 21 June 2011; [Resolution 2000 \(2014\)](#) on the large-scale arrival of mixed migratory flows on Italian shores, 24 June 2014; and [Resolution 2088 \(2016\)](#) "The Mediterranean Sea: a front door to irregular migration", 27 January 2016. The Assembly particularly criticised the dysfunctional Dublin system and stressed the urgent need for far-reaching reform. See [Resolution 2072 \(2015\)](#) "After Dublin – the urgent need for a real European asylum system", 29 September 2015.

122. UNHCR, Operational Portal Refugee Situations, [Mediterranean Situation, Italy](#).

123. They were accused of facilitating migrant smuggling and acting as a pull factor – claims that they rejected categorically – and had to sign up to a Code of Conduct. See [The Guardian, Italian plan to curb Mediterranean rescue boat charities "threatens lives"](#), 3 July 2017; and [Aid groups snub Italian code of conduct on Mediterranean rescues](#), 31 July 2017.

124. European Council, [Malta Declaration on the external aspects of migration: addressing the Central Mediterranean route](#), 3 February 2017; and [European Council meeting \(19 October 2017\) – Conclusions](#), 19 October 2017.

125. These notably include torture and other ill-treatment, including rape, and arbitrary detention in inhuman conditions in Libya's migrant camps, and impunity therefore; slavery, forced labour and exploitation within the country; ill-treatment by the Libyan Coast Guard; and *refoulement* of refugees to their countries.; United Nation's Support Mission in Libya, ["Detained and Dehumanised", Report on Human Rights Abuses against Migrants in Libya](#), 13 December 2016.

126. He notably recalled that people intercepted or rescued by Italian vessels should not subsequently face a situation contrary to Article 3 of the European Convention on Human Rights. See Commissioner for Human Rights, [Letter to the Minister of the Interior of Italy](#), 28 September 2017.

127. AS/Mon (2018) 22. The Italian delegation also provided extensive information on the action undertaken by the Italian embassy in Libya, the presence of an Italian military hospital in Misrata, the contribution of the Italian Agency for Development Co-operation mediation provided by Italy to facilitate the work of UNHCR and the OIM.

128. www.theguardian.com/world/2018/aug/21/italy-refugees-salvini-refuses-coastguard-ship-docks-diciotti.

129. The ship was finally authorised to disembark. Children and 13 migrants in need of urgent medical treatment had been authorised to leave the ship earlier.

130. On 1 November 2018, the Catania public prosecutor, Carmelo Zuccaro, requested that charges be dropped with respect to investigations on the Minister of the Interior, as it was a matter of "political choice – unreviewable by criminal court judges on the basis of the principle of separation of powers – to ask the European Union for the distribution of migrants in a case in which according to the International SAR Convention, Malta was responsible for indicating a safe port of call". AS/Mon (2018) 22.

131. The authorities argued that these measures have been taken to put "limits on the work of NGOs so as to prevent overlapping with operations carried out by authorities and coast guards in respective sea areas aimed at rescuing migrants, also preventing rescued people from being transported to Italy instead of the closest available ports". AS/Mon (2018) 22.

Panama following pressure brought to bear by the Italian Government. A number of Italian municipalities, including the City of Riace in Calabria, have launched integration policy to accommodate newly arrived migrants and refugees. In October 2018, however, the Mayor of Riace, Domenico Lucano, was prosecuted for allegedly encouraging illegal immigration “through unlawful acts punishable under criminal law, including the organisation of fake weddings”¹³³ and placed under house arrest. Hundreds of refugees were also ordered by the Ministry of the Interior to be moved out of Riace to other reception facilities. These are extremely worrying developments.¹³⁴

52. Despite Italy's efforts and goodwill in addressing the immense challenges, large-scale arrivals of refugees and migrants have overwhelmed the country's reception system. While the hotspot approach¹³⁵ has allowed for the proper registration and identification of most arrivals, the number of places to host them is insufficient compared to the needs.¹³⁶ The lack of harmonised standards and rules, combined with the inadequate monitoring of private operators and fuelled by incentives for corruption in the context of procurement,¹³⁷ have resulted in substantially diverging living conditions from one place to another, in some cases creating living conditions at variance with Articles 3 and 5 of the European Convention on Human Rights.¹³⁸

53. The situation was further exacerbated by delays in accessing the asylum procedure and the slow pace of these proceedings, particularly at the level of appeals.¹³⁹ The authorities informed the committee that the Decree-Law No. 113 adopted in 2018 (see below) aimed to speed up the processing times for international protection applications by introducing a series of changes to existing legislation and increase the number of commissions in charge of examining applications.¹⁴⁰ In early 2017, a substantial reform of the asylum procedure considerably reduced the processing times of asylum applications but at the cost of reducing procedural safeguards for asylum seekers.¹⁴¹ In respect of these procedures, the Group of Experts on Action against Trafficking in Human Beings (GRETA) noted that they did not guarantee the effective identification of vulnerable persons, such as trafficking or torture victims.¹⁴² There are similar gaps in the protection of unaccompanied migrant children. Their high number has led to the partial breakdown of the reception and guardianship system.¹⁴³ GRETA urged the Italian authorities to increase efforts to identify child victims of trafficking and address the problem of disappearance of unaccompanied children by providing enhanced

132. www.amnesty.org/en/latest/news/2018/09/italy-a-new-underhand-tactic-for-ending-work-of-ngo-rescue-ship-will-cost-lives/.

133. AS/Mon (2018) 22.

134. www.theguardian.com/world/2018/oct/14/matteo-salvini-orders-removal-of-refugees-from-riace.

135. The hotspot approach to managing migration, agreed upon by the European Union member States and institutions in 2015, aims at swiftly registering, identifying, and properly processing new arrivals in designated centres at key arrival points, as well as swiftly returning irregular migrants. It is currently being implemented in Italy and Greece. See European Parliament, [On the frontline: the hotspot approach to managing migration](#), 2016.

136. The total reception capacity was estimated at about 200 000 places. Parliamentary Assembly, report on “Human rights implications of the European response to transit migration across the Mediterranean”, [Doc. 14341](#), 28 June 2017, paragraphs 48-58. See also [Resolution 2000 \(2014\)](#) on the large-scale arrival of mixed migratory flows on Italian shores.

137. For the involvement of organised crime groups in labour exploitation of irregular migrants and corruption linked with the reception of asylum seekers, see Parliamentary Assembly, report on “Organised crime and migrants”, [Doc. 13941](#), 8 January 2016, paragraphs 5, 13, 15, 26 and 34.

138. For the time being, the European Court of Human Rights has declined to find that reception conditions in Italy, in general, give rise to a violation of Article 3 of the Convention. However, the Court found a violation in the specific circumstances of the case [Tarakhel v. Switzerland](#), Application No. 29217/12, judgment of 4 November 2014 (Grand Chamber), concerning a Dublin II transfer of an asylum-seeker family with six minor children to Italy. As regards Article 5 of the Convention, deprivation of liberty in the hotspots is not adequately regulated by law, despite the fact that hotspots operate, in principle, as closed facilities. See European Court of Human Rights, [Khlaifia and Others v. Italy](#), Application No. 16483/12, judgment of 15 December 2016 (Grand Chamber), in which the Court held that the applicants' detention without a legal basis did not satisfy the general principle of legal certainty.

139. [Doc. 14341](#), *op. cit.*, paragraph 59.

140. AS/Mon (2018) 22.

141. In particular, the new law created 26 specialised appeal sections within first instance courts and removed the possibility of a second judicial review at second instance, a measure that was heavily criticised as curtailing the right of access to a court and to an effective remedy. See [Law-Decree No. 13/2017](#), converted into law by [Law No. 46/2017](#); and Open Migration, [Why the new Italian law on immigration and asylum is not good news at all](#), 28 April 2017.

142. GRETA, [Urgent Procedure Report on Italy](#), 30 January 2017, paragraphs 28, 35, 40, 45 and 72. See also GRETA, [First evaluation round Report on Italy](#), 22 September 2014, paragraphs 122-135.

143. Prior to April 2017, unaccompanied children were under the responsibility of the mayor of the place of arrival who had to ensure the appointment of temporary legal guardians. These were not able to deal with the high numbers and appointments were often delayed for months, leading to a vacuum in terms of the child's protection. See Special Representative, [Report on the fact-finding mission to Italy](#), 16-21 October 2016, 2 March 2017.

safeguards and by swiftly assigning a legal guardian.¹⁴⁴ The authorities also indicated that a new legislation passed in 2017 aimed to strengthen protection measures for unaccompanied children, assure their uniform application nationwide, increase the resources allocated to reception facilities specifically for minors and give access for all unaccompanied minors to services funded via the National Fund for Asylum Policies and Services.¹⁴⁵ That being said, further efforts are still required, in particular increasing the number of places in specialised shelters.

54. As regards possible forced returns, summary identification procedures and gaps in providing adequate information on rights entail a certain risk of *refoulement* of persons in need of international protection, especially as returns of persons to countries with which Italy has concluded readmission agreements can be carried out swiftly.¹⁴⁶ Concerns have been expressed, including by the Commissioner for Human Rights, that persons crossing from Egypt, Tunisia or Greece are routinely sent back under these agreements without proper screening and procedural safeguards, despite indications that some came with the intention to seek asylum.¹⁴⁷ Following the Court's landmark judgment in the case *Hirsi Jamaa* in 2012,¹⁴⁸ Italy declared that the so-called "push-back" policy¹⁴⁹ of refugees and migrants intercepted in international waters is no longer being pursued.¹⁵⁰ Recent changes in the migrant reception system and the asylum procedure (including during rescue at sea) as well as in the domestic jurisprudence are positive developments.¹⁵¹

55. The system of forced return of irregular migrants and failed asylum seekers to countries with which Italy has not concluded readmission agreements has been pointed out as being "a total failure",¹⁵² notably due to the lack of co-operation on behalf of these countries. Irregular migrants generally lack support and reception services, which are provided only to asylum seekers and refugees who are enrolled in the reception system. The authorities however stressed that upon their irregular entry into Italy, migrants receive first aid assistance in so-called hotspots, have access to emergency hospital and outpatient care in public accredited facilities, and have access to preventive medicine programmes to safeguard individual and collective health. Finally, the judgments issued by the Constitutional Court have highlighted that public interventions concerning foreign citizens cannot be limited to mere controls over their entry and stay on Italian soil, but must necessarily include other aspects – such as social assistance, education, health care and housing – that involve multiple legislative spheres.¹⁵³ While the criminal offence of irregular stay was abolished in 2014,¹⁵⁴ increasing numbers of migrants find themselves in transit living in informal settlements and in inadequate conditions, or even being homeless.¹⁵⁵ Both the European Commission against Racism and Intolerance (ECRI) and the Commissioner for Human Rights regretted the lack of integration policies for this group, and called on the authorities to remedy this situation.¹⁵⁶ The launch in September 2017 of the first National Integration Plan, which includes objectives with regard to language learning, housing, employment and health care, is a positive step in this respect.¹⁵⁷

144. GRETA, [Urgent Procedure Report on Italy](#), 30 January 2017, paragraphs 51-54 and 73-74.

145. [Law No. 47/2017](#).

146. Italy has concluded readmission agreements with a number of African countries, including Egypt, Gambia, Morocco, Nigeria and Tunisia. It has also concluded an agreement with Pakistan.

147. Commissioner for Human Rights, [Report following his 2012 visit to Italy](#), 18 September 2012 (hereafter "2012 report of the Commissioner for Human Rights") paragraphs 130-131.

148. European Court of Human Rights, *Hirsi Jamaa and Others v. Italy*, Application No. 27765/09, judgment of 23 February 2012 (Grand Chamber), in which the Court held that Italy had violated the Convention by collectively returning migrants and refugees to Libya without examining their individual case, and hence exposing them to a risk of being subjected to ill-treatment in Libya.

149. CPT, [Report on the July 2009 visit to Italy](#), 28 April 2010.

150. Committee of Ministers, [CM/ResDH\(2016\)221](#), final resolution on the execution of the judgment *Hirsi Jamaa and Others v. Italy*, adopted on 14 September 2016. In particular, the Committee of Ministers noted that guarantees contained in Italian laws and regulations as regards the treatment of refugees and asylum seekers, notably concerning the latter's access to relevant domestic procedures, were consistently applied in all circumstances, including on the high seas.

151. Committee of Ministers, [CM/ResDR\(2015\)204](#), final resolution on the execution in four cases against Italy, adopted on 17 November 2015. The Italian delegation also added that, according to the latest available data, in 2017, out of the 36 240 irregular foreign nationals who were enjoined to leave the country, 7 045 were returned to a third country, with a rate of repatriation of nearly 20%. The average rate of repatriation for the 28 EU countries over the same timeframe was 36.6% (European Commission, [Appendix](#) to the Progress Report on the Implementation of the European Agenda on Migration, 16 May 2018). AS/Mon (2018) 22

152. [Doc. 14341](#), *op. cit.*, paragraph 60.

153. Judgment 299/2010 of the Constitutional Court. AS/Mon (2018) 22.

154. [Law No. 67/2014](#).

155. *New York Times*, [Palace of Squatters Is a Symbol of Refugee Crisis](#), 14 June 2014.

156. ECRI, [Fifth monitoring cycle report on Italy](#), 7 June 2016, paragraph 65; and 2012 report of the Commissioner for Human Rights, *op. cit.*, paragraphs 165-167; and [Letter to the Mayor of Rome, Mr Ignazio Marino](#), 11 December 2013.

157. *The Local*, [Italy launches first official migrant integration plan: Five things you need to know](#), 27 September 2017.

56. Migrants and refugees are particularly vulnerable to forced labour, exploitation and abusive working conditions, due to their precarious situation and discrimination in the labour market¹⁵⁸ and the legal framework to protect them from this is inadequate. Undeclared work among migrants continues to be a common feature of the Italian labour market, especially in the south and in the agricultural sector. In this respect, GRETA urged the Italian authorities to strengthen their action to combat trafficking in human beings for the purpose of labour exploitation, including by reinforcing labour inspections.¹⁵⁹ The adoption of the 2016 Law 199 containing provisions to “counter the phenomena of undeclared employment, of exploitative labour in agriculture and the realignment of wages in the agricultural sector”, which stiffens penalties for those who commit such offences, is to be welcomed.¹⁶⁰

57. New legislation was recently adopted concerning migrants and refugees. Decree-Law No. 113 on “security and migration” was signed by President Mattarella on 4 October 2018¹⁶¹ and adopted by parliament on 28 November 2018. This decree-law introduces restrictions to the Italian asylum system and abolishes the status of humanitarian protection.¹⁶² The authorities explained that residence permits issued for humanitarian reasons will be replaced with “special” residence permits issued only in cases of exceptionally serious health conditions, temporary situations of disaster in the country of origin, or acts of high civil value. It also includes a series of measures aimed at speeding up the processing of asylum applications, such as fast-track procedures for asylum seekers being subject to criminal proceedings or convicted of a serious crime, and the possibility of drafting a list of safe countries of origin. Some measures have been adopted in order to fight illegal immigration, including lengthening the maximum period of detention for foreign citizens housed in Repatriation Centres and extending the ban on re-entry for foreigners who have been expelled to the entire Schengen area. The decree also includes revocation of citizenship (acquired through marriage or naturalisation or else granted to foreign citizens born in Italy and residing there until 18 years of age) in case of definitive conviction for crimes of terrorism or subversion. Civil society organisations and NGOs have expressed their serious concerns about this new decree-law and claimed that it is incompatible with constitutional principles and international law.¹⁶³ The rapporteur expects the Italian authorities to ensure that this new legislation and its implementation complies with international standards.

3.4. Fight against racism, intolerance and discrimination

58. The Italian Constitution guarantees the equality of all citizens (Article 3). As regards the institutional framework for combating racism and intolerance, both the Advisory Committee on the Framework Convention for the Protection of National Minorities (FCPNM) and ECRI are of the view that the mandate and status of the National Office against Racial Discrimination (UNAR), which was established in 2013 and which is responsible for the protection against all forms of discrimination, do not guarantee its independence and should be reviewed. Moreover, they consider that the necessary resources needed for it to operate effectively are lacking and must be made available.¹⁶⁴ In a positive development, an Observatory for Protection against Discriminatory Acts (OSCAD) has been created and Italy adopted in 2015 an Action Plan against racism, xenophobia and intolerance, which was developed by UNAR after a broad consultation process.

59. Italian society has seen an increase in racist attitudes, xenophobia and anti-Gypsyism in public discourse, notably in the media and on the internet. Between September 2010 and November 2014, OSCAD received almost 1 200 reports of hate speech and hate-related offences, half of which constituted criminal offences.¹⁶⁵ The economic crisis and austerity, and, as the Italian delegation pointed out, the overwhelming number of asylum seekers Italy had to face and provide for, have further fuelled discontent; certain political parties have capitalised on anti-immigrant sentiments. The Commissioner for Human Rights, ECRI and the Advisory Committee on the Framework Convention have voiced concerns with regard to hate speech by

158. The high incidence of low-quality jobs among migrant workers exposes them to a greater risk of poverty.

159. GRETA, [First evaluation round Report on Italy](#), 22 September 2014, paragraphs 61-62, 68 and 110.

160. Law 199 of 29 October 2016, AS/Mon (2018) 22.

161. On that same day, the President sent a letter to Prime Minister Conte recalling that “constitutional and international State obligations” would remain. www.ansa.it/english/news/politics/2018/10/04/mattarella-signs-security-decree_f714f111-8d74-4131-8474-a43036e71639.html.

162. Humanitarian protection is the main form of protection granted by Italy; 16 616 people obtained this status in the first eight months of 2018. www.asylumineurope.org/news/26-09-2018/italy-latest-immigration-decree-drops-protection-standards.

163. “Decreto sicurezza è legge, Tavolo Asilo Nazionale: ‘Aumenterà ingiustizie e razzismo’”, 29 November 2018, www.amnesty.it/legge-sicurezza-immigrazione-preoccupazione-tavolo-asilo-nazionale/.

164. ECRI, [Fifth monitoring cycle report on Italy](#), 7 June 2016, paragraphs 24-29; and FCPNM, [Fourth Opinion on Italy](#), 12 July 2016, paragraphs 14 and 32-36.

165. Speech inciting violence based on racial, ethnic, national, or religious discrimination constitutes a crime punishable by up to 18 months in prison.

politicians, which targeted migrants, Roma, Muslims, and lesbian, gay, bisexual, transgender and intersex (LGBTI) people.¹⁶⁶ The European Committee of Social Rights found that the use of xenophobic political rhetoric or discourse against Roma and Sinti amounted to a violation of the provisions of the European Social Charter (revised) (ETS No. 163).¹⁶⁷ Moreover, despite ECRI's recommendation to make Holocaust denial a separate criminal offence, legislation adopted in July 2016 made this offence only an aggravating circumstance.¹⁶⁸

60. According to the OSCE/ODIHR, a total of 803 hate crime offences were recorded by the police in 2016, comprising 286 racist and xenophobic offences, 204 against people with disabilities, 52 against Roma and Sinti, and 38 based on the victim's sexual orientation or gender identity. A number of verbal and violent physical attacks against centres for asylum seekers have been recorded. There are still no official statistics on prosecutions and convictions of authors of hate crimes, but their number is reported to be small compared to the high number of hate crimes and violence reported.¹⁶⁹ The 2015 Action Plan proposed concrete measures to combat hate speech and racist, homophobic and transphobic violence, in line with ECRI's recommendations, but these measures now need to be implemented in practice. The Advisory Committee on the Framework Convention strongly urged the Italian authorities to effectively combat all manifestations of racism, intolerance and xenophobia, particularly by preventing, investigating and prosecuting all racially motivated offences.¹⁷⁰ The newly elected United Nations Commissioner for Human Rights, Michelle Bachelet, announced on 10 September 2018 that her office would assess the "reported sharp increase in acts of violence and racism against migrants, persons of African descent and Roma".¹⁷¹

61. The situation of the Roma population, which includes Roma, Sinti and Travellers (*Caminanti*), remains topical. Until 2011, the Italian authorities declared a "state of emergency in relation to nomad settlements"¹⁷² in several regions, which allowed for the systematic forced eviction and resettlement of Roma in large-scale "authorised" and segregated camps. This policy and all related administrative acts were subsequently declared unlawful and discriminatory by the Council of State.¹⁷³ Prejudice and stigmatisation against Roma remain deep-rooted and widespread; 85% of the Italian population hold unfavourable views on Roma.¹⁷⁴ Roma continue to face marginalisation and social exclusion as well as poverty and extreme hardship. Discrimination in access to education, health care, housing and employment still constitute structural barriers preventing their full participation in society. According to a 2014 survey, 97% of Roma households lived below the poverty threshold, 69% of young Roma were excluded from employment and education, and 66% felt discriminated against when looking for employment.¹⁷⁵ It is also estimated that the average life expectancy of Roma is ten years below that of the general population and the infant mortality rate for Roma children is at least twice as high as the national average.¹⁷⁶

62. Since 2012, Italy has undertaken a noteworthy policy shift aimed at the social inclusion of Roma,¹⁷⁷ which was formalised by the National Roma Integration Strategy (2012-2020) with focus on four priorities: work, housing, health and education.¹⁷⁸ Regrettably, this strategy has still not achieved any significant progress towards its stated goals, notably due to delays in its implementation and the lack of quantifiable targets and dedicated funding.

166. 2012 report of the Commissioner for Human Rights, op. cit., paragraphs 98-101; ECRI, [Fifth monitoring cycle report on Italy](#), 7 June 2016, paragraphs 35-37; and Advisory Committee on the FCPNM, [Fourth Opinion on Italy](#), 12 July 2016, paragraphs 10 and 58-59. A widely mediated case concerned the racist insults of Cecile Kyenge, then Minister for Integration of Italy, including by fellow politicians, in 2013. This prompted 17 European Union Ministers to sign a declaration against racism, during a meeting in Rome.

167. European Committee of Social Rights, *Centre on Housing Rights and Evictions (COHRE) v. Italy*, Collective Complaint No. 58/2009, [Decision on the merits](#), 25 June 2010.

168. ECRI, [Fifth monitoring cycle report on Italy](#), 7 June 2016, paragraphs 15-17.

169. 2012 report of the Commissioner for Human Rights, op. cit., paragraphs 108-109.

170. Advisory Committee on the Framework Convention, [Fourth Opinion on Italy](#), 12 July 2016, paragraphs 62-63.

171. Opening Statement by United Nations High Commissioner for Human Rights, Michelle Bachelet, 39th session of the Human Rights Council, 10 September 2018.

www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23518&LangID=E.

172. The term "nomads" continues to be used when referring to the between 110 000 and 170 000 Roma, Sinti and Travellers in Italy, perpetuating the outdated, inaccurate and discriminatory concept.

173. 2012 report of the Commissioner for Human Rights, op. cit., paragraphs 80-88.

174. Pew Research Centre, [2014 Global Attitude Survey](#), 12 May 2014.

175. It is also estimated that only one in ten Roma aged 20 to 64 has paid employment and that the unemployment rate among Roma women is even higher. European Union Agency for Fundamental Rights (FRA), [Poverty and employment: the situation of Roma in 11 EU Member States, October 2014](#), pp. 18, 21, 28 and 35.

176. European Commission, [Roma Health Report](#), 2014, p. 100. The Italian delegation provided extensive data on the need to improve the collection of information on Roma, Sinti and Travellers (*Caminanti*) and the situation in municipalities. See AS/Mon (2018) 22.

63. A complex and unresolved issue is the legal status of an estimated 15 000 Roma from the countries of the former Yugoslavia and their children born in Italy. Due to the lack of personal identity documents, they face problems in accessing employment, housing, education or health care, and are not allowed to register the birth of their children, thus becoming *de facto* stateless.¹⁷⁹ Draft legislation, which would allow migrant children born in Italy to acquire Italian citizenship, under certain conditions, remains stalled before the Senate.¹⁸⁰

64. Parts of public opinion are still hostile towards LGBTI people. LGBTI people face discrimination, including in access to employment, as well as being subjected to violence. The Italian Government adopted a National LGBT Strategy in 2013. Following a 2015 judgment of the European Court of Human Rights, in which the Court found that Italy was breaching the Convention because it was impossible for same-sex couples to have their relationship acknowledged by law,¹⁸¹ the Italian authorities adopted, in May 2016, a specific legislative framework allowing for the recognition and protection, in the form of a civil union, of same-sex partnerships.¹⁸² This development should be welcomed. It should also be noted that, despite the lack of specific legislation, the possibility of adopting the child of one's partner, including same-sex partners (so-called "stepchild adoption"), has been recognised on numerous occasions by courts, and most recently by the Court of Cassation.¹⁸³

4. Rule of law

4.1. Independence of the judiciary and administration of justice

65. Italy spends 1.3% of total public expenditure on its judicial system.¹⁸⁴ While this may seem low, the budget for the judicial system per inhabitant is higher than the Council of Europe average. Between 2012 and 2014, the budget for the judicial system decreased by 3.4%, mostly due to budget cuts related to the courts¹⁸⁵ resulting from a structural re-organisation and concentration of its judicial system. In this re-organisation, 31 first instance courts and 667 offices of justice of the peace¹⁸⁶ were abolished, in an effort to enhance efficiency.¹⁸⁷ This change did not entail a reduction in the number of judges and staff but their concentration into a restricted number of large courts. This concentration was accompanied by a stronger specialisation of the court system.

66. The Italian judiciary is governed by a solid legislative framework and enjoys special constitutional protection, which guarantees its autonomy and independence from all other branches of power.¹⁸⁸ The judiciary is headed by the High Council of the Judiciary, a self-governing body composed predominantly of magistrates elected by their colleagues.¹⁸⁹ Together with the local judicial councils, it plays a central role in governing the judiciary and protects it from outside influence.¹⁹⁰

177. Italy has been participating in the Dosta! Campaign, aimed at combating prejudices against Roma, which has been turned into a permanent activity and which was extended to the entire territory as from 2013, as well as in the ROMACT and ROMED2 projects, aimed at improving the inclusion of Roma people.

178. UNAR, [National Strategy for the inclusion of Roma, Sinti and Caminanti communities](#), 28 February 2012.

179. CAHROM, [Summary conclusions of the thematic report on solving the legal status of Roma from ex-Yugoslavia and their lack of personal identity documents](#), 30 October 2014.

180. *The Local*, Italy "still committed" to bill on citizenship rights for migrant children, 15 September 2017.

181. European Court of Human Rights, *Oliari and Others v. Italy*, Applications Nos. 18766/11 and 36030/11, judgment of 21 July 2015.

182. See also Committee of Ministers, [CM/ResDH\(2017\)182](#), (final) Resolution on the execution of the European Court of Human Rights judgment in *Oliari and Others v. Italy*, adopted on 7 June 2017.

183. Ruling No. 14007 of 31 May 2018, AS/Mon (2018) 22.

184. For details on Italy's judicial system, see GRECO, [Fourth evaluation report on Italy](#), 19 January 2017, paragraphs 83-106.

185. European Commission for the Efficiency of Justice (CEPEJ), [European Judicial Systems: Efficiency and Quality of Justice](#), 6 October 2016 (2014 data), pp. 17-51.

186. Justices of the peace (*giudici di pace*) are lay judges who hear less serious civil and criminal matters.

187. GRECO, [Fourth evaluation report on Italy](#), 19 January 2017, paragraph 89.

188. The Italian Constitution provides that the judiciary is independent and autonomous from the executive and legislative powers and that "judges are only subject to the law" when performing judicial functions (Articles 101 and 104).

189. The [High Council of the Judiciary](#) (*Consiglio Superiore della Magistratura*) is composed of 27 members, including the President of the Republic, the first President and the Prosecutor General of the Supreme Court of Cassation, all three being *ex officio* members, as well as 16 members who are elected by the ordinary magistrates and eight lay members who are elected by the two houses of the parliament in joint session; these 24 members serve for a four-year term.

67. The Minister of Justice, who is formally responsible for the organisation and functioning of the judiciary, in practice only plays a limited role in decisions concerning the status of prosecutors and judges, who both belong to the same professional order of magistrates.¹⁹¹ While he can initiate disciplinary action, the High Council of the Judiciary is the only body competent to decide on appointments, transfers, promotions, salaries and discipline.¹⁹² Once appointed, on the basis of a competitive examination, magistrates have security of tenure and serve for life. Magistrates receive attractive salaries (particularly at the end of their career), and pensions and retirement bonuses that are by far the highest in Italy's public service.¹⁹³ Any influence or instructions from outside bodies on judges, while performing their duties, is prohibited.

68. In Italy, salaries and promotions of magistrates depend on seniority of service, which includes the performance of non-judicial functions in the public sector. This has greatly facilitated the temporary employment of magistrates in extra-judicial and political activities.¹⁹⁴ Magistrates regularly stand for national, local and European elections or assume positions of responsibility in a national or local administration or government. Due to the lack of clear conflict of interest policies for extra-judicial activities, a number of magistrates temporarily serve within the executive or legislative branches, cultivating relations with political parties or party leaders, before returning to their judicial functions at the end of their political careers.¹⁹⁵ Legal loopholes also allow, for example, a magistrate to perform political activities at the local level while continuing to carry out judicial functions, with the only limit being that of territorial ineligibility.¹⁹⁶ This undermines the public perception of, and ultimately their trust in, the judiciary, and as a result the very independence and impartiality of the judiciary is at stake. GRECO therefore recommended that the simultaneous exercise of judicial and local government functions be restricted in law and that the issue of political activity of magistrates be reviewed by the legislator.¹⁹⁷ The High Council of the Judiciary has adopted criteria to prevent members of the judiciary who have previously stood for election, even if unelected, from returning to exercise their functions in the district where they ran for office, which is welcome, as is the call made by the Minister of Justice to the Justice Committee of the Chamber of Deputies on 11 July 2018 to “move past the revolving-door mechanism between politics and the judiciary, between Parliament and the halls of justice”.¹⁹⁸

69. One of Italy's main challenges remains the structural problem of delayed (and therefore often denied) justice. This problem is compounded by the excessive use and length of pretrial detention. The Italian judicial system has persistently been criticised, including by the Commissioner for Human Rights, for its slow-paced judicial processes and inefficient performance of its courts and prosecutors' offices.¹⁹⁹ Although the Italian Constitution guarantees the principle of reasonable length of proceedings (Article 111), the significant workload of the courts of all instances has resulted in excessively long proceedings and procedural delays. Italy is among the Council of Europe member States with the highest number of condemnations by the European Court of Human Rights in cases regarding delayed justice. Since 2001, national law provides for a legal remedy to enforce the right to a speedy trial, by claiming fair compensation from the State (the so-called “Pinto” Law).²⁰⁰

70. The Italian delegation provided additional information on the efforts undertaken to achieve speedier and more effective trials, such as the recruitment of over 5 000 staff members over three years and digitalisation of civil and criminal proceedings, which led to the reduction of the duration of first instance trials, as highlighted by European Commission for the Efficiency of Justice (CEPEJ).²⁰¹ Appeal procedures remain problematic,

190. High Council of the Judiciary, [About the Council](#). Since its creation, the High Council has progressively expanded its powers. It has notably been criticised for intervening in the political sphere by issuing statements to defend magistrates who had been criticised for their judicial activities and on its own initiative has presented opinions on draft laws and individual amendments relating to the functioning of the judiciary. See Guiseppe Di Federico, *Judicial Independence in Italy*, *Judicial Independence in Transition*, Springer, 2012, pp. 357-401.

191. Italy is the only democratic country where public prosecutors enjoy the same guarantees of independence as judges.

192. Guiseppe Di Federico, *Judicial Independence in Italy*, op. cit.

193. GRECO, [Fourth evaluation report on Italy](#), 19 January 2017, paragraph 118.

194. In principle, judges and prosecutors cannot hold another public office or perform other paid activities. Temporary non-judicial activities are regulated and must be authorised by the High Council. For instance, membership in a political party and the continuous and systematic participation in party activities is a disciplinary offence. The law also regulates cases of ineligibility concerning magistrates. See GRECO, [Fourth evaluation report on Italy](#), 19 January 2017, paragraph 141 ff.

195. Guiseppe Di Federico, *Judicial Independence in Italy*, op. cit.

196. Article 60 No. 6 of [Legislative Decree No. 267/2000](#).

197. GRECO, [Fourth evaluation report on Italy](#), 19 January 2017, paragraph 153.

198. AS/Mon (2018) 22.

199. The Commissioner notably expressed concern about the complexity and magnitude of this problem, which was such that Italy required “nothing short of a holistic rethinking of its judicial and procedural system, as well as a shift in judicial culture”. See 2012 report of the Commissioner for Human Rights, op. cit., paragraph 49.

200. [Law No. 89/2001](#).

even though the Court of Cassation, in spite of a significant backlog of civil cases, has managed, to reduce the length of procedures for criminal proceedings. Within a few years, the number of pending appeals against Italy has fallen from over 17 000 in October 2014 to 4 665 as at 31 December 2017. The implementation of major action plans involving hundreds of cases is also expected to have an additional positive impact on reducing backlog, according to the authorities.²⁰²

71. That notwithstanding, and despite a slight decrease in incoming cases in recent years, the country has difficulty in coping with its excessive backlog of cases. In 2016, a total of more than 3.8 million civil and over 1.5 million criminal cases were pending before the Italian courts.²⁰³ In 2015, the average duration of proceedings before a first instance court was 427 days in civil cases and 389 days in criminal cases. Before second instance courts, the average length of proceedings was 819 days and before the Court of Cassation 1 427 days.²⁰⁴ In 60% of all Italian courts, one in five cases has been pending for more than three years, thus exceeding the “reasonable time” envisaged by the “Pinto” Law.²⁰⁵ The Italian authorities stressed that the number of proceedings “at risk based on the Pinto Law” diminished between 2013 and 2018.²⁰⁶

72. A serious consequence of the substantive delays is that, over the past ten years, an estimated 1.5 million cases, including corruption cases, were terminated before the trials could be concluded, as a result of the time limits specified in the statutes of limitation. Over 132 000 criminal proceedings became time-barred in 2014 alone.²⁰⁷ From 2015 to 2017, the number of time-barred criminal proceedings was respectively 130 208, 136 888 and 125 624, and amounted to 63 177 in the first semester of 2018.²⁰⁸ This has contributed to a further increase in public mistrust of the judiciary and the administration of justice. In addition, the excessive length of proceedings and judicial uncertainty affect the business environment. According to the President of the European Central Bank, Mario Draghi, the cost of Italy’s slow judicial system accounts for over 1% of its GDP.²⁰⁹

73. The underlying reasons for this problem are diverse and include the excessive case-load of courts, complex procedures, problems relating to court management and organisation, judicial culture, and the shortage of material and human resources.²¹⁰ In particular, Italy has one of the lowest numbers of judges *per capita* in Europe and in 2016 there were almost 1 100 vacancies for posts of magistrates to be filled. Two decades of inertia in terms of human resources have led to an increased reliance on lay judges and a significant decrease in the number of clerical staff. It is of critical importance for the independence and efficiency of the judiciary that sufficient financial and human resources be allocated.²¹¹ The Italian delegation explained that, in recent years, efforts have been undertaken to ensure the recruitment of new magistrates in annual budget laws.²¹²

201. <https://rm.coe.int/overview-avec-couv-18-09-2018-fr/16808def7b>. CEPEJ noted that Italy has steadily increased its Disposition time and Clearance rate.

202. AS/Mon (2018) 22.

203. Secretariat of the Committee of Ministers, [Communication from the authorities in Ceteroni v. Italy \(Application No. 22461/93\)](#), 20 October 2017; and Ministry of Justice, [Monitoraggio della giustizia penale – anno 2017](#), 25 September 2017.

204. GRECO, [Fourth evaluation report on Italy](#), 19 January 2017, paragraph 126. See also CEPEJ, [Study on Council of Europe Member States Appeal and Supreme Courts’ Lengths of Proceedings Edition 2015](#), 7 September 2015 (2006-2012 data).

205. OECD Ecoscope, [Italy’s justice system has quite a long road ahead but already scores better – The Italian view](#), 9 October 2017. In 2010, the European Court of Human Rights found again violations of the Convention, due to the malfunctioning of the “Pinto” remedy. See [Gaglione and Others v. Italy](#), Application No. 45867/07, judgment of 21 December 2010. See also 2012 report of the Commissioner for Human Rights, *op. cit.*, paragraphs 14-17.

206. According to the Ministry of Justice, pending cases before the Court of Appeal have dropped from almost 200 000 to 115 662. Additionally, in the civil sphere pending lawsuits have dropped from 5.7 million in 2009 to 3.4 million in the first semester of 2018. AS/Mon (2018) 22.

207. GRECO, [Fourth evaluation report on Italy](#), 19 January 2017, paragraph 128. Uniquely, Italy’s statute of limitations starts from the moment an alleged crime is committed rather than from the point it is discovered; the time limit is not extended when a defendant is indicted or sentenced. The high chance of having criminal prosecutions time-barred has, in turn, increased the number of appeals to superior courts, which are already overstretched, and has discouraging alternative resolution means, such as plea bargaining.

208. AS/Mon (2018) 22, based on data provided by the government during the parliamentary consideration of the Anti-Corruption Decree-Law, approved by the Chamber of Deputies on 22 November 2018.

209. OECD Ecoscope, [Italy’s justice system has quite a long road ahead but already scores better](#), 9 October 2017.

210. 2012 report of the Commissioner for Human Rights, *op. cit.*, paragraphs 18-34.

211. GRECO, [Fourth evaluation report on Italy](#), 19 January 2017, paragraph 130.

212. The Italian delegation stressed that the 2019 budget law allocates funds for the hiring of 360 new magistrates and 3 000 additional non-executive administrative staff, and staff will be increased by an additional 600 new recruitments from 2020-2022. AS/Mon (2018) 22.

74. In recent years, Italy has adopted a number of legislative reforms, including a major civil procedure reform in 2014 and a reform of the Criminal and the Criminal Procedure Codes in June 2017, aimed at rationalising and decreasing the length of civil and criminal proceedings. These reforms provided for the introduction of mandatory mediation and a “filter” system for appeals in civil cases, the increased use of summary proceedings and alternative, non-judicial dispute resolution mechanisms. The reorganisation of the Italian judicial system, accompanied by further specialisation, as well as the appointment of auxiliary judges and the recruitment of over 3 000 administrative positions in courts has led to increased efficiency. Recent criminal justice reforms have, *inter alia*, extended the statute of limitations²¹³ and amended the appeals system before courts of appeal and the Court of Cassation.²¹⁴ With respect to the fight against corruption, GRECO welcomed the efforts made by the authorities to address the problem of the statute of limitations – seen as the “Achilles’ heel of justice in Italy” – with key changes made in relation to corruption offences, notably by increasing limitation periods and by providing for additional grounds for suspension of the statute of limitations.²¹⁵

75. As mentioned, excessive length of detention on remand in the context of trial delays are of concern. Italy is among the European countries with the highest number of people in pretrial detention.²¹⁶ Although pretrial detention cannot be applied for crimes that can be punished with a maximum sentence of less than five years, the maximum length of pretrial detention allowed by law is two to six years, depending on the severity of the alleged crime.²¹⁷ The European Court of Human Rights has issued numerous judgments against Italy finding violations with regard to the excessive length of pretrial detention and insufficient safeguards of the defendant’s fair trial rights, but also for arbitrary imprisonment in pretrial detention.²¹⁸ The Italian authorities have adopted legislative amendments that limit the offences for which pretrial detention can be requested and introduced alternative measures, but this has not yet led to a marked reduction in the use of pretrial detention.²¹⁹ In particular, alternative measures are underused and Italian law does also not require a regular review of pretrial detention.²²⁰ The news that recourse to pretrial detention is diminishing is welcome.²²¹ Meanwhile, alternative measures were also used more often by judges; in September 2018, the number of these measures had increased by 4 000 compared to 2017.²²² The authorities are urged to further address these points.

4.2. Fight against corruption, money laundering and organised crime

76. Regrettably, corruption in Italy remains a pervasive phenomenon that is deeply rooted and that affects society as a whole, including public administration and the private sector.²²³ In 2015, 3 000 cases of corruption were reported, 177 persons were arrested for corruption charges and another 700 investigated. Police have reported irregularities with respect to almost 30% of audited public contracts.²²⁴ According to a 2017 Eurobarometer survey, 89% of Italians consider corruption to be widespread and 87% believe that public institutions are infiltrated by corruption.²²⁵ Italy ranks 8th out of 27 European countries in terms of “direct or

213. Following the reform, the statute of limitations will now be suspended for 18 months between an initial conviction and the start of a first appeal, and suspended for another 18 months after a second conviction before the final appeal begins.

214. *Voa News*, [Italian Parliament Approves Long-delayed Justice Reform](#), 14 June 2017.

215. Third evaluation round: addendum to the second compliance report on Italy: “Incriminations (ETS Nos. 173 and 191, GPC 2)”, “Transparency of party funding”, adopted by GRECO at its 80th plenary meeting, Strasbourg, 18-22 June 2018, published in June 2018, [GrecoRC3\(2018\)8](#).

216. Council of Europe Annual Penal Statistics, [SPACE I 2015 report](#), p. 66. According to more recent Ministry of Justice data, over 34% of prisoners in Italy were waiting for a final sentence and 17% were waiting for the first sentence in 2015. See Antigone, [The practice of pre-trial detention in Italy](#), September 2015, p. 9.

217. Sections 272-279 and 285 of the Criminal Procedure Code.

218. See, for instance the cases of [Gallardo Sanchez v. Italy](#) (arbitrary detention in pretrial detention), Application No. 11620/07, judgment of 24 March 2015; [Labita v. Italy](#) (excessive length of pretrial detention), Application No. 26772/95, judgment of 6 April 2001 (Grand Chamber); and [Picaro v. Italy](#) (excessive length of proceedings), Application No. 42644/02, judgment of 9 June 2005. According to the civil society organisation Antigone, pretrial detention decision-making still falls short of the Court’s standards in a number of areas. See Antigone, [The practice of pre-trial detention in Italy](#), September 2015, pp. 4-5.

219. [Law No. 17/2014](#) and [Law No. 47/2015](#).

220. Antigone, [The practice of pre-trial detention in Italy](#), September 2015, pp. 50-51.

221. In 2017, there were 10 181 detainees awaiting final judgment, including detainees who have been tried in a court of first instance and court of second instance, compared to 13 616 in 2011 and 15 165 in 2008.

222. AS/Mon (2018) 22, data from the General Directorate for Statistics, Ministry of Justice.

223. The payment of bribes long appeared to be common practice to obtain licenses and permits, public and private contracts and financial deals, particularly in the areas of urban planning and construction, environment and waste management, and public procurement, but also in the health sector.

224. United States Department of State, [Italy 2016 Human Rights Report](#), 2017.

indirect experience of episodes of corruption in the last twelve months”.²²⁶ Corruption, patronage and nepotism were also identified, in 2017, as a very serious obstacle when engaging in business in Italy.²²⁷ In 2018, Transparency International noted some progress following the recent adoption of four relevant laws on whistle-blowing, transparency, undue influence and anti-money laundering, and ranked Italy 54th (compared to 60th in 2017) out of 176 countries in perceived levels of public corruption.²²⁸ As mentioned in the 2018 Eurobarometer on corruption, political parties (66%) and local, regional and national elected representatives (60%) were perceived by the public as being the most corrupt groups (compared to, respectively, 89% and 77% in 2013).²²⁹ The cost of corruption in Italy has been estimated by the Court of Auditors at around 60 billion euros annually or 4% of the country's GDP.²³⁰

77. In recent years, Italy has introduced a number of anti-corruption measures and, in 2013, it ratified the relevant Council of Europe conventions on corruption. The adoption of an anti-corruption package in 2012, updated in 2015, marked a shift from a punitive to a preventive approach. In particular, a new National Anti-Corruption Authority (ANAC) was created and a national Anti-Corruption Plan adopted.²³¹ In addition, major anti-corruption legislative reforms were enacted.²³² The so-called “Whistle-blowing Law” (Law No. 179) adopted in 2017 introduces wide-ranging measures to protect public or private employees who report to the relevant authorities unlawful conduct or abuses which they have witnessed on the basis of their employment relationship.²³³

78. In 2013, GRECO concluded that Italy had implemented satisfactorily or dealt in a satisfactory manner with 17 of the 22 recommendations contained in the joint first and second round evaluation report.²³⁴ However, the country has still to satisfactorily implement eight of the 16 recommendations made in the third round evaluation report. GRECO noted that criminal penalties for corruption by officials are adequate and usually effectively implemented in practice. The authorities were invited to adopt the legislation required for the country to withdraw – or not renew – its reservations to the Criminal Law Convention on Corruption (ETS No. 173).²³⁵ As regards political party financing, GRECO noted the significant progress achieved,²³⁶ including with regard to transparency of donations, but underscored that more efforts are required concerning the monitoring of party and campaign financing.²³⁷ In June 2018, GRECO confirmed that the new legal framework – that abolished, in 2017, direct public funding in favour of a voluntary system of private funding – presented several positive features, concluded that Italy had partially implemented another seven recommendations and invited the authorities to make more efforts to enhance transparency and oversight (such as the publication of campaign finances) to further prevent corruption.²³⁸

79. In its fourth round evaluation report on Italy, which deals with the prevention of corruption in respect of members of parliament, judges and prosecutors, GRECO commended the decisive steps taken to tackle corruption and acknowledged the proactive role of the Anti-Corruption Authority. In respect of members of parliament, it recommended strengthening the integrity framework and urged the country to overhaul the current system on conflicts of interest, including by consolidating the regulatory framework and by establishing more efficient mechanisms of control and accountability.²³⁹ While welcoming the recent adoption of a Code of Conduct and Rules on Lobbying by the Chamber of Deputies, GRECO recommended that these rules be further developed in order to ensure full compliance with GRECO provisions. A similar development is still

225. European Commission, Eurobarometer, [Special Eurobarometer 470](#), Corruption, December 2017.

226. AS/Mon (2018) 22. The authorities noted that, according to Eurobarometer data, in 2017 Italy had the same rate of “episodes of direct and indirect corruption” as France, involving 5% of the population, and ranks higher than countries such as Belgium or the Netherlands, with 7% of people involved or witnessing corruption.

227. European Commission, Eurobarometer, [Special Eurobarometer 470](#), Corruption, December 2017.

228. Transparency International, [Corruption Perception Index 2017](#), 21 February 2018.

229. European Commission, Eurobarometer, [Special Eurobarometer 470](#), Corruption, 20 February 2018 (2017 data).

230. GRECO, [Fourth evaluation report on Italy](#), 19 January 2017, paragraph 21.

231. The current Anti-Corruption Plan covers the period 2017-2019 and comprises multifaceted measures, such as publication of administrative information, rotation of personnel, strengthened control of conflicts of interest, monitoring of privatisation and externalisation of public services.

232. [Law No. 190/2012](#), [Law No. 114/2014](#) and [Law No. 69/2015](#).

233. AS/Mon (2018) 22.

234. GRECO, Joint first and second evaluation round, [Addendum to the compliance report on Italy](#), adopted on 21 June 2013, paragraphs 74-76.

235. The reservations relate to Articles 4-8 and 12 of the Convention relating to bribery, including of members of domestic public assemblies, foreign bribery, and active and passive bribery in the private sector, as well as trading in influence.

236. Italy plans to gradually move away from direct public funding of political parties into a voluntary funding system based on voluntary contributions from the citizens.

237. GRECO, Third evaluation round, [Second compliance report on Italy](#), adopted on 2 December 2016, paragraphs 73-78.

238. GRECO, Third evaluation round: addendum to the second compliance report on Italy, op. cit.

outstanding in the Senate. As underscored repeatedly by GRECO in its reports on Italy, “combating corruption must become a matter of culture and not only rules”, requiring a long-term approach, continuing education throughout all sectors of society, as well as a sustained political commitment and a zero-tolerance approach to corrupt behaviours.²⁴⁰ In a recent report, GRECO regretted the lack of progress regarding the criminalisation of active and passive bribery of foreign arbitrators and jurors and the “outstanding legislative gaps in the criminalisation of trading in influence”. Regrettably, there was no tangible progress regarding the process of ratification of the Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191).²⁴¹

80. A new bill (also known as the “sweep corruption away” bill sponsored by the Five Star Movement) was approved by the Council of Ministers on 6 September 2018 and submitted to the parliament. According to this bill, anyone convicted of corruption and sentenced to more than two years in prison would never be able to hold public office or seek a State contract again. It would also allow, for the first time, undercover agents to work on corruption investigations and require full transparency on private and corporate contributions to political parties and foundations. The strengthening of anti-corruption measures and policies is to be welcomed, and will have to be in line with the case law of the European Court of Human Rights on these issues.

81. Italy is not a member of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), but it joined the Financial Action Task Force (FATF) in 1990. The latest mutual evaluation report, adopted in February 2016, noted Italy’s well developed legal and institutional framework to fight money laundering and terrorist financing. At the same time, it noted a number of areas where improvements are required, such as with regard to investigation and prosecution of standalone money-laundering cases and the misuse of legal persons.²⁴²

82. A particular feature of the Italian situation is the intertwinement of corruption, money laundering and mafia-type organised crime. Organised crime and criminal organisations have been present in Italy for more than two centuries. They are heavily concentrated in four regions of southern Italy, namely Sicily, Calabria, Campania and Apulia, where they have infiltrated politics, the economy and society. The Mafia is primarily involved in drug trafficking – which remains the principal transnational activity and the main source of income – but has expanded into assassinations, and trafficking of weapons, and waste/toxic waste and in human beings, cigarette smuggling, counterfeiting, racketeering and extortions, falsifying public tenders and loan sharking.²⁴³ To conceal their criminal activities, Italian organised crime groups have set up well developed money-laundering and high-level corruption networks. According to the Minister of Justice, annual Mafia proceeds account for between 18 and 34 billion euros or at least 1.7% of the GDP.²⁴⁴

83. Organised crime has a tight grip on Italian politics, particularly at the local level, influencing the allocation of public resources and tax collection. These groups control large amounts of votes in their areas of influence, which could determine the outcome of local elections. As a result, many law-enforcement officials, judges and prosecutors reportedly have collaborated with Mafia-type organisations.²⁴⁵

84. Since the Maxi-Trial in 1986-1987, during which a number of Mafia bosses were sentenced to long prison sentences,²⁴⁶ and after a series of assassinations of major political and institutional figures,²⁴⁷ public opinion started revolting against the Mafia phenomenon. The Italian authorities began to evolve a strategy for

239. In this respect, a recent Assembly report also highlighted a gap in the current monitoring system, which is not equipped to monitor private organisations, parliamentarians, judges and extraordinary commissioners. See [Doc. 14344](#), Promoting integrity in governance to tackle political corruption, 16 June 2017, paragraph 96.

240. GRECO, [Fourth evaluation report on Italy](#), 19 January 2017, paragraphs 24 and 198.

241. [GrecoRC3\(2018\)8](#).

242. FATF, [Anti-money laundering and counter-terrorist financing measures – Italy](#), Fourth Round Mutual Evaluation Report, February 2016.

243. A typical example of the power exerted by the Mafia is the so-called “pizzo”, whereby legitimate business owners are forced to pay a part of their earnings to guarantee “protection”. See Europol, [Threat Assessment – Italian Organised Crime](#), June 2013, pp. 14-15. Only recently did victims start refusing payments and breaking the law of silence.

244. [Il Sole 24 Ore](#), [Orlando: i ricavi delle mafie pari all'1,7% del Pil. Emergenza carceri verso la soluzione, detenuti a quota 55 mila entro l'anno](#), 19 June 2014. Previous reports had estimated that organised crime accounts for a much higher proportion, ranging from 6% to 9% of Italy's GDP. See reports quoted in Global Security, [Italian Organised Crime](#).

245. London School of Economics, [Organised Crime within Politics: Evidence from Southern Italy](#), 20 September 2016.

246. The Maxi Trial, a criminal trial against the Sicilian *Cosa Nostra* led by anti-Mafia prosecutor Giovanni Falcone and based on the evidence provided by two former Mafia bosses turned informants, known as *pentiti*, led to 360 convictions of *mafiosi*, including 119 *in absentia*, most convicted to life imprisonment. The convictions were upheld in 1992.

247. These included notably prefect-general Carlo Alberto Dalla Chiesa (and his wife) in 1982 and anti-Mafia prosecutors Giovanni Falcone and Paolo Borsellino (killed together with nine bodyguards and relatives in car bomb attacks) in 1992.

combating organised crime and passed strong anti-Mafia legislation in the early 1990s.²⁴⁸ In 2008, the authorities reformed the work of the parliamentary Anti-Mafia Commission which was tasked with investigating “the Mafia phenomenon” and other criminal organisations.²⁴⁹ Anti-Mafia District Prosecution Offices, which have special jurisdiction with respect to serious organised crime and terrorism-related offences, are co-ordinated by the anti-Mafia National Directorate. Recently, co-operation at European and international level to counter transnational organised crime groups has been reinforced. Following the most recent amendments which entered into force in November 2017, the Anti-Mafia Code now extends to the confiscation of assets.²⁵⁰

5. Conclusions and recommendations

85. While Italy, a founding member of the Council of Europe, is generally honouring its membership obligations to the Council of Europe, a number of concerns exist. The political landscape remains characterised by a fragmented party system and political instability. Both parliamentary chambers are able to initiate no-confidence votes. The December 2017 referendum, which aimed at reforming the political system and making it more efficient and stable, failed. A decade-long, severe economic crisis and increased mistrust in political and judicial institutions have contributed to boosting the popularity of, notably, a far-right party (the Lega) and an anti-establishment party (the Five Star Movement). In June 2018, these ideologically different political parties joined forces to form a governmental coalition following political bargaining and institutional tensions with the President of the Republic.

86. Concerning the functioning of democratic institutions at local and regional level, the rapporteur calls for the implementation of the 2017 recommendations of the Congress of local and regional authorities, in particular the reconsideration of budget cuts, the lifting of financial constraints imposed on local authorities, and greater fiscal autonomy for the regions with ordinary status in order to reduce the gap between them and regions with special autonomous status. The Italian authorities are also invited to sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

87. Concerning migration inflow management, the rapporteur reiterates the Assembly’s position calling on all member States to show solidarity to address the large-scale arrivals of refugees and migrants in Europe, which has disproportionately affected Italy. In this context, the rapporteur welcomes the shortening of delays in accessing the asylum procedure achieved in 2017. The efforts made to put an end to the so-called “push-back” policy – resulting in forced return of irregular migrants and failed asylum seekers – are to be welcomed, as is the adoption of a National Integration Plan launched in 2017. The Italian authorities are encouraged to implement integration policies for those migrants in transit, and to strengthen their action to combat trafficking in human beings for the purpose of labour exploitation, in line with the recommendations made by GRETA. The fate of child victims of trafficking and the disappearance of unaccompanied children deserves due attention.

88. The rapporteur also notes that the new government has vowed to implement harsher migration policies. The rapporteur is deeply worried by the stance taken by the newly elected authorities to criminalise local authorities implementing integration policies for migrants; to hamper the work of NGOs rescuing migrants; and to ban disembarkation of migrants rescued at sea in Italian ports, which put the lives of people at jeopardy and violates basic humanitarian standards. While the international community as a whole is expected to provide a common response to the migration inflow, the rapporteur urges the Italian lawmakers to ensure that legislation on migrants and refugees complies with Italy’s European and international obligations and guarantees the respect of fundamental freedoms.

89. The rapporteur expects the Italian authorities to remain strongly committed to the protection and the promotion of human rights. The rapporteur notes that Italy has a well-developed legal framework for that purpose. A number of important treaties still await ratification. While acknowledging the transposition, in 1999, of the principles of the European Charter for Regional or Minority Languages in the legal system, the rapporteur continues to encourage Italy to ratify the Charter. The Italian authorities are also encouraged to take the necessary steps to ratify Protocol No. 12 to the European Convention on Human Rights and the

248. According to the anti-Mafia legislation in place, participation in organised crime is both an aggravating circumstance, when dealing with Mafia-type organisations, and a separate conspiracy offence under the provisions of the Criminal Code. Participation in a criminal organisation can be punished with three to seven years’ imprisonment. The punishment is more severe when the criminal organisation is of a Mafia-type and may reach up to 12 years’ imprisonment.

249. The first Anti-Mafia Commission was established in 1963. It is now composed of 25 deputies and 25 senators and works under conditions of confidentiality. See [Law No. 132/2008](#).

250. [Law No. 161/2017](#).

European Convention on Nationality. The rapporteur welcomes the recent introduction of a parliamentary bill on the ratification of Protocols Nos. 15 and 16 to the European Convention on Human Rights and invites the parliament to ratify them at its earliest convenience.

90. The ratification of the Optional Protocol to the United Nations Convention against Torture (OPCAT) in 2013 and the creation of a National Preventive Mechanism institution (*Garante nazionale*) are to the credit of the Italian authorities. The rapporteur welcomes the steps taken by the parliament to establish a National Commission for the Promotion and Protection of Fundamental Human Rights which should act as Italy's independent National Human Rights Institution in line with the Paris Principles. While the introduction of torture as a separate offence in the Criminal Code is to be welcomed, the overly narrow definition of torture fails however to address all concerns raised by the CPT and the European Court of Human Rights. The criminal legislation remains inadequate to prevent and punish torture and other ill-treatment. That and the statute of limitations result in a *de facto* climate of impunity for such crimes. The rapporteur notes the significant progress made in terms of judgments pending execution before the Committee of Ministers and encourages the Italian authorities to pursue their efforts to reduce the number of applications lodged with the European Court of Human Rights.

91. The rapporteur remains very concerned about the increase in racist attitudes, xenophobia and anti-Gypsyism in public discourse, notably in the media and on the internet and rising hate speech by politicians, as highlighted by the Commissioner for Human Rights, ECRI and the Advisory Committee of the Framework Convention for the Protection of National Minorities. It calls on the authorities to strengthen the independence of the National Office against Racial Discrimination, and to effectively combat all manifestations of racism, intolerance and xenophobia, particularly by preventing, investigating and prosecuting all racially motivated offences.

92. The rapporteur also calls on the Italian authorities to pay due attention to the situation of Roma people who are subject to prejudice and stigmatisation. This is particularly true for an estimated 15 000 undocumented Roma people from former Yugoslavia who face problems in accessing housing, education and health care; they are unable to register their children who are therefore, *de facto*, stateless. This situation should be addressed by adequate legislation.

93. In the field of media, the rapporteur welcomes the efforts undertaken in relation to the allocation of broadcasting licenses and the reform of the public broadcaster with a view to improving its independence, efficiency and sustainability. It notes however that, despite the introduction of new regulations, media ownership concentration remains an issue in Italy. Regrettably, defamation is still a criminal offence, with prison sentences being handed down. This has a chilling effect on media freedom. The rapporteur urges the Italian authorities to amend the criminal law in order to ensure the principle of proportionality of sanctions, in line with the recommendations of the Venice Commission.

94. Concerning the rule of law, the Italian judiciary is governed by a solid legislative framework and enjoys special constitutional protection. The rapporteur welcomes recent criminal justice reforms which have, *inter alia*, extended the statute of limitations, including in corruption cases, and amended the appeals system. He calls on the Italian authorities to further address the issues of excessive use of pretrial detention, underuse of alternative measures, delayed justice and court cases backlogs.

95. Corruption remains a pervasive and deeply rooted phenomenon. The rapporteur acknowledges the efforts undertaken by the Italian authorities to combat corruption. The creation of the National Anti-Corruption Authorities, the adoption of a National Anti-Corruption plan and the adoption of the 2017 Whistleblowing Law are to be welcomed, as well as the significant progress achieved in the framework governing political party funding. The new system of party and election campaign funding, which will rely on private donations, requires however due transparency and oversight to prevent corruption, through an efficient mechanism of control of accountability. In this respect, the rapporteur welcomes the adoption of a Code of Conduct and Rules on Lobbying by the Chamber of Deputies, which need to be upgraded to comply with the recommendations of GRECO; it expects the Senate to take similar steps.

96. The rapporteur welcomes the measures envisaged by the Italian authorities to strengthen the fight against corruption, which will need to comply with the case law of the European Court of Human Rights. He also encourages the Italian authorities to implement the remaining GRECO recommendations, consider lifting the reservation made in 2013 to the Criminal Law Convention on Corruption and consider ratifying its Additional Protocol.

97. Finally, the rapporteur is concerned about the persistent intertwinement of corruption, money laundering and mafia-type organised crime, especially in southern Italy, and by the tight grip of organised crime on Italian politics, particularly at the local level. These are issues that need continuous attention by the authorities. Clarifying the notion of conflict of interests for magistrates exercising extra-judicial activities, in line with the GRECO recommendations, could also help to strengthen the trust of people in the judiciary in that respect.

Appendix

1. Council of Europe conventions signed and/or ratified by Italy between 1 October 2013 and 3 December 2018

No.	Title		
071	European Convention on the Repatriation of Minors		
	Signature: 04/02/1971	Ratification: 27/02/1995	Entry into Force: 28/07/2015
143	European Convention on the Protection of the Archaeological Heritage (Revised)		
	Signature: 16/01/1992	Ratification: 30/06/2015	Entry into Force: 31/12/2015
173	Criminal Law Convention on Corruption		
	Signature: 27/01/1999	Ratification: 13/06/2013	Entry into Force: 01/10/2013
174	Civil Law Convention on Corruption		
	Signature: 04/11/1999	Ratification: 13/06/2013	Entry into Force: 01/10/2013
190	Protocol amending the European Convention on the Suppression of Terrorism		
	Signature: 15/05/2003	Ratification: 21/02/2017	
196	Council of Europe Convention on the Prevention of Terrorism		
	Signature: 08/06/2005	Ratification: 21/02/2017	Entry into Force: 01/06/2017
198	Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism		
	Signature: 08/06/2005	Ratification: 21/02/2017	Entry into Force: 01/06/2017
210	Council of Europe Convention on preventing and combating violence against women and domestic violence		
	Signature: 27/09/2012	Ratification: 10/09/2013	Entry into Force: 01/08/2014
214	Protocol No. 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms		
	Signature: 02/10/2013		
215	Council of Europe Convention on the Manipulation of Sports Competitions		
	Signature: 07/04/2016		
216	Council of Europe Convention against Trafficking in Human Organs		
	Signature: 25/03/2015		
217	Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism		
	Signature: 22/10/2015	Ratification: 21/02/2017	Entry into Force: 01/07/2017
218	Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events		
	Signature: 02/09/2016		
219	Protocol amending the European Landscape Convention		
		Ratification: 01/08/2018	
220	Council of Europe Convention on Cinematographic Co-Production (revised)		
	Signature: 30/01/2017		
221	Council of Europe Convention on Offences relating to Cultural Property		
	Signature: 24/10/2017		
222	Protocol amending the Additional Protocol to the Convention on the Transfer of Sentenced Persons		
	Signature: 20/02/2018		

2. Recent findings of Council of Europe monitoring mechanisms and other bodies as at 3 December 2018

European Court of Human Rights	European Convention on Human Rights (ETS No. 005) ratified in 1955 Protocol No. 1 (ETS No. 009) ratified in 1955 Protocol No. 2 (ETS No. 044) ratified in 1967 Protocol No. 6 (ETS No. 114) ratified in 1988 Protocol No. 12 (ETS No. 177) signed in 2000 Protocol No. 13 (ETS No. 187) ratified in 2009 Protocol No. 14 (CETS No. 194) ratified in 2006 Out of a total of 56,250 applications pending before a judicial formation on 31 December 2017, 4,665 concerned Italy. Resolutions adopted by the Committee of Ministers: 4 in 2013, 5 in 2014, 3 in 2015, 16 in 2016, 17 in 2017 and 9 in 2018. See Press country profile Italy
Congress of Local and Regional Authorities	European Charter on Local Self-Government (ETS No. 122) ratified in 1990 Report and Recommendation on local and regional democracy in Italy adopted in October 2017: CG33(2017)17final and Recommendation 404 (2017)
Group of States against Corruption (GRECO)	Civil Law Convention on Corruption (ETS No. 174) ratified in 2013 Criminal Law Convention on Corruption (ETS No. 173) ratified in 2013, Additional Protocol (ETS No. 191) signed in 2003 but not ratified <i>Third evaluation round: compliance report on Italy: "Incriminations (ETS 173 and 191, GPC 2)", "Transparency of party funding",</i> adopted by GRECO at its 64th plenary meeting, Strasbourg, 16-20 June 2014, published in June 2014, GrecoRC-III(2014)9E <i>Third evaluation round: second compliance report on Italy: "Incriminations (ETS 173 and 191, GPC 2)", "Transparency of party funding",</i> adopted by GRECO at its 74th plenary meeting, Strasbourg, 28 November – 2 December 2016, published in December 2016, GrecoRC3(2016)13 <i>Third evaluation round: addendum to the second compliance report on Italy: "Incriminations (ETS 173 and 191, GPC 2)", "Transparency of party funding",</i> adopted by GRECO at its 80th plenary meeting, Strasbourg, 18-22 June 2018, published in June 2018, GrecoRC3(2018)8 <i>Fourth evaluation round: corruption prevention in respect of members of parliament, judges and prosecutors: evaluation report: Italy,</i> adopted by GRECO at its 73rd plenary meeting, Strasbourg, 17-21 October 2016, published in January 2017, GrecoEval4Rep(2016)2
Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)	Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) ratified in 1994 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) ratified in 2017 Italy is not a member of MONEYVAL
Commissioner for Human Rights	<i>Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 3 to 6 July 2012,</i> CommDH(2012)26 <i>Letter from the Council of Europe Commissioner for Human Rights, Nils Muižnieks, to Mr Ignazio Marino, Mayor of Rome, on the right to housing of Roma and Sinti and integration of beneficiaries of international protection</i> (12 November 2013) and <i>response of the Municipal Counsellor for Social Affairs of the City of Rome</i> (4 December 2013, in Italian only) <i>Letter to the Prime Minister of Italy</i> (26 January 2016) and <i>reply from the Italian authorities</i> (10 February 2016) <i>Letter to the President of the Italian Senate</i> (9 May 2017) <i>Letter addressed to the Italian Parliament</i> (16 June 2017) <i>Commissioner's letter addressed to the Minister of Interior of Italy</i> (28 September 2017) and <i>reply of the Minister of Interior of Italy</i> (12 October 2017)

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)	Convention (ETS No. 126) ratified in 1988, Protocols No. 1 (ETS No. 151) and No. 2 (ETS No. 152) ratified in 1999 Ad hoc visit in June 2010, reports in November 2013, CPT/Inf(2013)30[Part 1] and CPT/Inf(2013)30[Part 2] Periodic visit in May 2012, report in November 2013, CPT/Inf(2013)32 Ad hoc visit in December 2015, report in December 2016, CPT/Inf(2016)33 Periodic visit in April 2016, report in September 2017, CPT/Inf(2017)23 Ad hoc visit in June 2017, report in April 2018, CPT/Inf(2018)13
Group of Experts on Action against Trafficking in Human Beings (GRETA) and Committee of the Parties	Convention (CETS No. 197) ratified in 2010 1st Evaluation Round: . GRETA's Report and Government's Comments published in September 2014, GRETA(2014)18 . Recommendation CP(2014)16 of the Committee of the Parties adopted in December 2014 . Government's Reply to GRETA's Questionnaire published in January 2014, GRETA(2014)2 . Government's Reply to the Committee of the Parties' Recommendation received in December 2016, CP(2017)7 Urgent Procedure: . GRETA's Report and Government's Comments published in January 2017, GRETA(2016)29 2nd Evaluation Round: . Government's Reply to GRETA's Questionnaire published in November 2017, GRETA(2017)33 and Annexe
Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and Committee of the Parties	Convention on preventing and combating violence against women and domestic violence (CETS No. 210) ratified in 2013 1st (baseline) Evaluation: . State report received in October 2018, GREVIO/Inf(2018)14
European Commission against Racism and Intolerance (ECRI)	Conclusions on Italy adopted in December 2014, published in February 2015, CRI(2015)4 5th report on Italy adopted in March 2016, published in June 2016, CRI(2016)19
Venice Commission	<i>Opinion on the Legislation on Defamation in Italy</i>, adopted by the Venice Commission at its 97th Plenary Session, Venice, 6-7 December 2013, CDL-AD(2013)038 <i>Opinion on the Citizens' bill on the regulation of public participation, citizens' bills, referendums and popular initiatives and amendments to the Provincial Electoral Law of the Autonomous Province of Trento (Italy)</i>, adopted by the Venice Commission at its 103rd Plenary Session, Venice, 19-20 June 2015, CDL-AD(2015)009 <i>Amicus curiae brief for the European Court of Human Rights in the case of Berlusconi v. Italy</i>, adopted by the Venice Commission at its 112th Plenary Session (Venice, 6-7 October 2017), CDL-AD(2017)025

3. Other Treaties

Framework Convention for the Protection of National Minorities	Convention (ETS No. 157) ratified in 1997 4th Cycle: . 4th State Report received in March 2014, ACFC/SR/IV(2014)005. . Advisory Committee delegation visit in June-July 2015 . Opinion adopted in November 2015, published in July 2016, ACFC/OP/IV(2015)006 . Government comments received in July 2016, GVT/COM/IV(2016)002 . Resolution adopted in July 2017, CM/ResCMN(2017)4
European Charter for Regional or Minority Languages	Convention (ETS No. 148) signed in 2000 but not ratified

European Social Charter	European Social Charter of 1961 (ETS No. 35) ratified in 1965 Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) ratified in 1997 European Social Charter (revised) (ETS No. 163) ratified in 1999 See Country factsheet Italy
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