

STATEMENT

UPR Pre-session on Italy

Geneva, 11 October 2019

Delivered by the Italian Coalition for Civil Liberties and Rights (CILD)

1. Presentation of the Organisation

Founded in 2014, the Italian Coalition for Civil Liberties and Rights (CILD) is a network of 39 civil society organizations. It defends and promotes the civil liberties and rights guaranteed by the Italian Constitution and by international law, through a combination of advocacy, public education and legal action. Within the 3rd cycle we have engaged with the UPR process by drafting a [Joint Submission](#) that gathers the contributions of members of the Coalition and one external organization.

2. National consultations for the drafting of the national report

A national consultation for the drafting of Italy's report took place on July 10, 2019 at the Ministry of Foreign Affairs. CILD and other civil society organizations were invited to participate by the Interministerial Committee for Human Rights. A member of the Coalition, Associazione Antigone, took part in the consultation.

3. Plan of the Statement

This statement will address the rights of migrants, asylum seekers and refugees, focusing in particular on trafficking in human beings, citizenship rights and immigration detention.

I. Migrants

A. Follow-up to the last review

During the 2nd cycle of the UPR, 47 of the 199 recommendations that Italy received (*i.e.* 23,62%) concerned migrants. Although Italy supported 34 of those recommendations, it continues to implement policies that lead to violations of the human rights of migrants. Supported recommendations that are yet to be implemented include:

- Fully align its migration and asylum policy in accordance with international law (Kenya);
- Develop a comprehensive national system of data collection, analysis and dissemination regarding immigration policies and practices to be used as a foundation for rights-based policymaking on migration (Israel);
- Intensify efforts to combat discrimination and intolerance, especially towards Muslims, migrants and people of African descent and encourage senior State officials and politicians to take clear positions against racist and xenophobic political discourse (Tunisia).

Recommending States during the last UPR cycle paid particular attention to migrants at risk of trafficking in human beings. We welcome that Italy has adopted measures to implement those recommendations,¹ but several gaps remain in identifying and protecting victims of trafficking in human beings. In addition, a National Action Plan to combat trafficking in human beings has not been adopted yet for the period 2019–2021.

Italy also noted 11 recommendations to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and has not proceeded to ratify this fundamental instrument so far.

B. New developments since the last review

Italy has failed to adopt a long-term approach on migration, implementing instead short-term measures that do not guarantee consistent, adequate standards of treatment, conditions, and access to asylum.

Italy passed Law no. 132/2018 that provided, *inter alia*, for the abolition of humanitarian protection, thus restricting the possibility for migrants to obtain protection in our country.² Most likely this will cause an exponential increase in the number of irregular immigrants, leading around 130,000 foreigners to lose their permits by 2020. This adds to the fact that irregular entry and stay is still labelled as a crime,³ which results in discrimination against migrants in the access to justice and increase their vulnerability.

Migrants living in Italy still face obstacles in acquiring Italian citizenship, as legislation currently in force (Law no. 91/1992) is based on the *ius sanguinis* principle. A draft law to introduce the possibility of acquiring citizenship through *ius soli* and *ius culturae* is currently under discussion.

C. Recommendations

- Repeal the provisions included in Law no. 132/2018 that undermine fundamental rights and narrow basic guarantees established in national, European and international law, in particular those concerning the abolition of humanitarian protection, border procedures, the internal flight alternative and the withdrawal of international protection;
- Abolish the criminal offence of irregular entry and stay on the Italian territory;
- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW);
- Improve identification of victims of trafficking in human beings, paying particular attention to victims of trafficking for labour exploitation;
- Amend legislation to allow for citizenship on the principle of *ius soli* and/or *ius culturae*.

D. Questions

- What further measures will the Government of Italy put in place to protect victims of trafficking in human beings?
- When will the Government of Italy adopt a National Action Plan against Trafficking and Serious Exploitation for the period 2019–2021?

¹ This includes Law no. 199/2016 and the National Action Plan against Trafficking and Serious Exploitation 2016-2018.

² Claudia Torrisi, *The Italian government has approved a new bill targeting migrants*, 2018, available at: <https://openmigration.org/en/analyses/the-italian-government-has-approved-a-new-bill-targeting-%20migrants/>

³ Legislative Decree no. 286/1998, Article 10bis.

II. Asylum seekers and refugees

A. Follow-up to the last review

Reception of asylum seekers and refugees is placed in a political, social and media climate that has further worsened compared to 2014, continuing to rely on an emergency-led approach. Italy failed to implement supported recommendations, including:

- Improve the facilities in the reception centres (Sudan);
- Ensure that every child, particularly unaccompanied minors, whether on the high seas or on its territory, who seeks to enter Italy, has the right to an individual consideration of his/her circumstances and is provided access to a proper age determination process, a guardian, and a best interests determination (Brazil).

B. New developments since the last review

Since 2014, the conditions of asylum seekers in Italy have worsened, most recently when Law no. 132/2018 significantly limited access to reception facilities by dismantling the Protection System for Asylum Seekers and Refugees (SPRAR). Under the new law, only foreign unaccompanied minors, beneficiaries of international protection and those in possession of “special” residence permits will have access to the new SIPROIMI network, while asylum seekers with pending applications have been cut out of the system.

C. Recommendations

- Plan and put in place a centralized, non emergency-driven reception system;
- Amend Law no. 132/2018 so as to allow asylum seekers to access the SIPROIMI network;
- Adopt common standards on procedures and reception in order to avoid uneven practices throughout Italy, ensuring adequate conditions, access to legal counsel, mental and physical healthcare, gender-appropriate camp design and with specific safeguarded sections for families and unaccompanied minors in reception facilities;
- Establish a comprehensive monitoring system over management and reception conditions in all centres as well as a coherent data collection and divulgation mechanism.

Focus on immigration detention

Foreigners keep being subject to administrative detention, which has never proven effective in terms of repatriation and thus appears as merely punitive measure for irregular migrants.

Law no. 132/2018 extended the previous 90-day limit for immigration detention to a maximum of 180 days. The law also amended Law no. 142/2015 to include the possibility of restraining asylum seekers' freedom of movement in hotspots for 30 days in order to ascertain their identity and citizenship. If this is not achieved, asylum seekers may also be detained in immigration detention centres for up to additional 180 days.

Recommendations

- Ensure that only persons with a reasonable prospect of expulsion are detained, and that any such detentions should only be a measure of last resort and for the shortest amount of time reasonable to achieve the purpose of expulsion;
- Enhance the use of alternatives to immigration detention with a particular focus on developing non-custodial, community-based alternatives;
- Reform Law no. 142/2015, in particular as regard to detention of asylum seekers for identity and nationality controls.

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