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مجلس حقوق الإنسان

الدورة السابعة والخمسون

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البند 9 من جدول الأعمال

العنصرية والتمييز العنصري وكراهية الأجانب وما يتصل بذلك من أشكال التعصب: متابعة وتنفيذ إعلان وبرنامج عمل ديربان

زيارة إلى إيطاليا

تقرير الآلية الدولية للخبراء المستقلين المعنية بالنهوض بالعدالة والمساواة العرقيتين

في سياق إنفاذ القانون * * *

موجز

يتضمن هذا التقرير النتائج التي توصلت إليها الآلية الدولية للخبراء المستقلين المعنية بالنهوض بالعدالة والمساواة العرقيتين في سياق إنفاذ القانون بشأن الزيارة التي أجرتها إلى إيطاليا في الفترة من 2 إلى 10 أيار/مايو 2024، عملاً بقرار مجلس حقوق الإنسان 21/47. وقد ركزت الزيارة على كل من الممارسات الجيدة والتحديات التي تواجه إيطاليا في الوفاء بالتزاماتها في مجال حقوق الإنسان فيما يخص عدم التمييز في سياق إنفاذ القانون ونظام العدالة الجنائية، مع التركيز على الأفارقة والمنحدرين من أصل أفريقي.

واجتمعت الآلية بمسؤولين حكوميين وغيرهم من أصحاب المصلحة، بمن فيهم ممثلو وكالات إنفاذ القانون ونواب البرلمان ومنظمات المجتمع المدني، وزارت ثلاثة مقار محلية لإنفاذ القانون ومرفقين من مرافق الاحتجاز الجنائي وثلاثة مراكز للمهاجرين. واستمعت إلى شهادات من المتضررين من أفراد وجماعات ومن المحتجزين. ويهدف النهوض بالعدالة والمساواة العرقيتين في هذا السياق، تسلط الآلية في هذا التقرير الضوء على الشواغل الرئيسية وتقدم توصيات لمعالجتها.

* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعَمَّم باللغة التي قُدِّم بها فقط.

** قُدِّم هذا التقرير إلى خدمات المؤتمرات لتجهيزه بعد انقضاء الموعد النهائي بغية تضمينه أحدث المعلومات.



الرجاء إعادة الاستعمال

تقرير الآلية الدولية للخبراء المستقلين المعنية بالنهوض بالعدالة والمساواة العرقيتين في سياق إنفاذ القانون عن زيارتها إلى إيطاليا

I. Introduction

1. Pursuant to Human Rights Council resolution 47/21, and at the invitation of the Government of Italy, the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement undertook a visit to Italy from 2 to 10 May 2024, where it visited Rome, Milan, Catania and Naples.
2. The delegation comprised Akua Kuenyehia (Chair) and Tracie Keese and Juan Méndez (members).¹
3. During the visit, the Mechanism held meetings with government officials and other stakeholders, including representatives of law enforcement agencies, parliamentarians and civil society organizations. The Mechanism heard direct testimony from affected individuals and communities and from detainees during visits to detention centres.
4. The Mechanism thanks the Government of Italy for accepting its request to visit the country. It expresses appreciation for the genuine cooperation extended throughout the visit, including the numerous informative meetings with government officials, who generously answered questions and shared presentations, references, reports and other materials during and after the visit. The Mechanism expresses particular appreciation for the support of the Interministerial Committee for Human Rights in arranging the programme of work.
5. The Mechanism would also like to extend its deepest thanks to all the people it met during the country visit, especially victims, their relatives and all other affected communities and individuals who courageously shared their experiences and stories. The Mechanism expresses its deep appreciation for their bravery and generosity in coming forward to provide testimony. It also thanks all those who contributed written submissions.
6. In Rome, the Mechanism met with the Interministerial Committee for Human Rights, the National Office against Racial Discrimination, the Observatory for Security against Acts of Discrimination, the National Guarantor for the Rights of Persons Detained or Deprived of Liberty, the Department of Public Security of the Ministry of Interior, the Department of Juvenile Justice and the Department of Prison Administration of the Ministry of Justice. It met with the Senate's Extraordinary Commission against intolerance, racism, antisemitism and incitement to hatred and violence. It held meetings with judges, prosecutors, lawyers and representatives of the four main law enforcement agencies of Italy. It also visited the Ponte Galeria repatriation centre.
7. In Milan, the Mechanism visited the Cesare Beccaria Juvenile Detention Centre, the San Vittore Correctional Facility and the repatriation centre. The Mechanism regrets that, owing to an explicit refusal from the prison authorities, it was unable to have confidential and unsupervised contact with individuals deprived of their liberty at the San Vittore Correctional Facility.
8. In Catania, the Mechanism visited the reception centre for migrants at Via Forcile and the provincial headquarters command of the financial police.
9. In Naples, the Mechanism visited the provincial headquarters command of the Carabinieri and the local headquarters of the national police.
10. In line with the Mechanism's mandate, as outlined in Human Rights Council resolution 47/21, the visit was aimed at examining good practices and challenges faced by

¹ See <https://www.ohchr.org/en/hrc-subidiaries/expert-mechanism-racial-justice-law-enforcement/experts>.

Italy in fulfilling its human rights obligations regarding non-discrimination within the context of law enforcement and the criminal justice system, with a focus on Africans and people of African descent. With the purpose of promoting racial justice and equality in this context, the present report contains an outline of the Mechanism's findings and recommendations.

II. Background

11. Italy is a party to eight of the nine core international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.²

12. The legal framework in Italy includes several protections against racial discrimination. Article 3 of the Constitution guarantees equality for all citizens, regardless of race, religion or other personal conditions. Decrees No. 215/2003 and No. 216/2003 ensure non-discrimination in all sectors and Decree No. 286/1998 prohibits discrimination based on race, ethnicity or religion in immigration and treatment of foreign nationals. The Criminal Code also addresses racial discrimination, in particular through amendments made by the "Mancino Law"³ (Act No. 205/1993) and Act No. 85/2006.

13. Italy has a population of approximately 59 million people. There are currently no official statistics available on the ethnic composition of the population residing in Italy; however, the National Institute of Statistics indicates that, as of 2022, the total resident foreign population of Italy stood at 5,141,341, which represents approximately 8.7 per cent of the total population. Most foreign residents (47 per cent) come from Europe. Africans constitute the second largest group (22.4 per cent), with North Africa (13.4 per cent) and West Africa (7.8 per cent) being the most represented subregions.⁴

14. Italy is a parliamentary republic composed of 20 regions,⁵ five of which enjoy special autonomous status, granting them the authority to enact legislation on certain local issues. The regions are further divided into 107 provinces and metropolitan cities⁶ and encompass a total of 7,896 municipalities.⁷

15. Law enforcement in Italy is mainly centralized at the national level, composed of "officers with full powers" who come from the four main national forces: the national police, the Carabinieri, the penitentiary police and the financial police. In some provinces, a local provincial police force or municipal police force also operates.⁸

16. During the visit, the Mechanism was informed of different measures taken in recent years to address racism against Africans and people of African descent. Such measures include the development of a new national plan against racism, xenophobia and related intolerance; the amendment of the Criminal Code, introducing an "aggravating circumstance" when crimes are committed on the grounds of discrimination or ethnic, national, racial or religious hatred; the extension of the mandate of the Observatory for Security against Acts of Discrimination to include the management of inter-institutional relations, both nationally and internationally, on anti-discrimination and the promotion and protection of human rights; and the placement of local officers in various regions and metropolitan cities to report on and receive cases of racial discrimination, with a focus on combating underreporting. The Mechanism welcomes these initiatives, which are an initial step towards addressing racial

² See https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=85.

³ The Mancino Law brought into penal law the concept of "aggravating circumstances", which allows judges to increase a sentence by up to one half for offences committed with the purpose of discrimination or hatred based on ethnic, national, racial or religious grounds.

⁴ See <http://dati-censimentipermanenti.istat.it/?lang=en&SubSessionId=d84f93d3-07d5-41ee-a4c8-5c371d3a2aed#>.

⁵ See <https://www.tuttitalia.it/regioni/> (in Italian).

⁶ See <https://www.tuttitalia.it/province/> (in Italian).

⁷ See <https://www.tuttitalia.it/comuni/popolazione/> (in Italian).

⁸ See <https://www.interpol.int/en/Who-we-are/Member-countries/Europe/ITALY>.

discrimination and advancing racial justice and equality in the context of law enforcement and the criminal justice system in Italy.

III. Systemic racism

17. Systemic racism against Africans and people of African descent, including as it relates to structural and institutional racism, is understood to be the operation of a complex, interrelated system of laws, policies, practices and attitudes in State institutions, the private sector and societal structures that, combined, result in direct or indirect, intentional or unintentional, de jure or de facto discrimination, distinction, exclusion, restriction or preference on the basis of race, colour, descent or national or ethnic origin. Systemic racism often manifests itself in pervasive racial stereotypes, prejudice and bias and is frequently rooted in histories and legacies of enslavement, the transatlantic trade in enslaved Africans and colonialism.⁹

18. The Mechanism notes the information provided by the National Office against Racial Discrimination on the planned adoption of the new national plan against racism later in 2024. However, it remains concerned that systemic racism and racial discrimination persist as significant issues in Italy, manifesting in various aspects of society, including structural barriers that hinder equal access to employment, education, healthcare and housing for persons belonging to minorities, including Africans and people of African descent. Racism, racial discrimination, xenophobia and related intolerance against migrants, persons belonging to minorities, including Africans and people of African descent, and in general against persons perceived as “foreigners” based on their ethnic, religious or linguistic profile, are present.

19. Systemic racism in Italy has deeply affected the country’s democratic values and the overall living conditions of Africans and people of African descent. It undermines the core principles of democracy by marginalizing a significant portion of the population based on race, national or ethnic origin. This exclusion manifests in limited political representation, unequal access to public services and discriminatory practices within public institutions. The lack of adequate representation of people of African descent in political and administrative positions weakens the democratic process by restricting the diversity of perspectives necessary for inclusive governance.

20. Systemic racism in Italy is also compounded by other forms of discrimination based notably on gender, sexual orientation and migration and socioeconomic status. Women belonging to minorities, including Africans and women of African descent, for example, face additional barriers related to gender discrimination, including higher rates of gender-based violence. Moreover, LGBTQI+ persons encounter intersectional discrimination that affects their access to housing, healthcare and employment, often leading to increased social exclusion and vulnerability.¹⁰

21. The separation of families is of significant concern, in particular regarding migrant women of African descent, who are increasingly being separated from their children. During the visit, the Mechanism learned about allegations against the local authorities in the municipality of Bibbiano, Reggio Emilia Province, regarding the fabrication of reports to unjustly remove children from their families to place them in paid foster care. Allegations include severe abuses, such as using electrical impulses to manipulate children’s memories before court interviews.¹¹ The Mechanism was informed that some associations provided support to the women affected; however, the challenges they faced were compounded by systemic biases within law enforcement entities. The Mechanism was also informed that women who sought help from law enforcement entities often encountered discrimination. This situation is further exacerbated by difficulties in securing legal representation.

⁹ A/HRC/47/53, para. 9.

¹⁰ See https://fra.europa.eu/sites/default/files/fra_uploads/lgbti-survey-country-data_italy.pdf; and https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtiq-equality_en.pdf.

¹¹ See https://www.europarl.europa.eu/doceo/document/E-9-2019-002542_EN.html.

22. With regard to children, the Italian legal system for the protection and reception of unaccompanied foreign minors¹² is notably progressive and aligns with the principle of the best interests of the child.¹³ Despite this, the Mechanism received information indicating that foreign minors at the borders of Italy often faced various unlawful practices, such as unlawful detention and refoulement, allegedly leading to violations of their human rights.¹⁴ In Milan, for example, the reception of minors is reportedly uncertain and inconsistent, with an increasing lack of assistance, forcing many minors into homelessness and situations of poverty and exploitation.

23. Hate speech, including in sports and by State officials and politicians,¹⁵ is prevalent and contributes to the normalization of racist attitudes and behaviours. The rhetoric used by public figures often legitimizes discrimination and violence against migrants, including Africans and people of African descent, leading to an increase in racially motivated attacks and hate crimes. Despite a legal framework that includes various protections against racial discrimination and hate crimes, as well as specific aggravating circumstances related to race or national or ethnic origin, the Mechanism repeatedly heard concerns about a lack of accountability in handling cases of racial discrimination and hate crimes.

24. Systemic racism also hampers the effective functioning of public bodies, as discriminatory practices often result in biased decision-making and unequal enforcement of laws. Regarding discrimination and hate crimes, the Mechanism learned about the work of the Observatory for Security against Acts of Discrimination, including its training for law enforcement institutions. Various stakeholders met during the visit raised concerns about the Observatory's lack of impartiality and independence to follow up on investigations into hate crimes committed by police officers.

25. The Mechanism was informed that the Observatory for Security against Acts of Discrimination faced challenges given the underreporting and underrecording of cases, and its lack of sufficient personnel. It is constrained by an insufficient number of adequately trained personnel capable of identifying both the occurrence of hate crimes and the discriminatory nature of such crimes. The Observatory may have a mandate to identify violations of anti-discrimination norms but has no enforcement powers and its follow-up actions are of limited reach. In this regard, the Mechanism sees as a good practice the introduction in the Criminal Code of the "aggravating circumstance" when crimes are committed on grounds of discrimination or ethnic, national, racial or religious hatred. However, the Mechanism was informed that judges did not consistently consider that aggravating circumstance, depriving victims of rights established in law.

26. The Mechanism heard about the work undertaken by the National Office against Racial Discrimination, the national equality body, mandated to ensure equality among all people. While stakeholders highlighted many positive aspects of the Office's work, civil society acknowledged the limitations imposed by its lack of independence. The Office serves dual roles, functioning as both an equality body and the implementing body for national anti-discrimination strategies. The Mechanism welcomes the initiative of designating local officers against discrimination, who will be placed in different regions and metropolitan cities across the country. It also received information that the Office's lack of independence and, in some cases, lack of impartiality, hindered its effectiveness as an equality body, contributing to underreporting and discouraging engagement by victims and civil society.¹⁶

27. Similar to the Observatory for Security against Acts of Discrimination, the National Office against Racial Discrimination also lacks enforcement powers for the solutions it recommends. The Mechanism emphasizes that equality bodies need to be independent. The

¹² See Act No. 47/2017 of 7 April 2017 on measures for protection of unaccompanied foreign minors.

¹³ See https://www.asgi.it/wp-content/uploads/2021/07/ASGI_Unaccompanied-Minors_DEF.pdf.

¹⁴ In this regard, the Expert Mechanism is concerned about Act No. 132/2018 of 1 December 2018, on immigration and security, which introduces the provision of "safe country of origin" as a ground for declaring an application for international protection unfounded, and Act No. 50/2023 of 5 May 2023, which affects the proper safeguarding of migrants, asylum-seekers and refugees, making them more susceptible to human rights abuses.

¹⁵ See CERD/C/ITA/CO/21.

¹⁶ CERD/C/ITA/CO/21, paras. 11 and 12.

impartiality and independence of equality bodies, such as the National Office against Racial Discrimination and the Observatory for Security against Acts of Discrimination, are compromised by insufficient resources and political interference, limiting their ability to tackle systemic racism and racial discrimination effectively. This not only erodes public trust in these institutions but also perpetuates ongoing cycles of inequality and exclusion.

28. The Mechanism is concerned about the lack of a national human rights institution compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and dedicated to safeguarding and advancing all human rights.¹⁷ A national human rights institution can play a key role in combating racism and protecting groups subjected to particular vulnerabilities, marginalization or intersecting forms of discrimination, including in law enforcement and the criminal justice system.¹⁸ The lack thereof is a challenge to independent monitoring and implementation of international and regional human rights standards at the national level, as well as to civil society engagement.

29. Systemic racism, racial discrimination, xenophobia and related intolerance also permeate institutions, including law enforcement bodies. The legacies of enslavement and colonialism continue to influence law enforcement practices, contributing to systemic racial profiling and discrimination. Systemic racism in law enforcement manifests through institutional barriers and discriminatory practices. Affected individuals of African descent denounced the significant challenges they faced in accessing police services and municipal documents, with frequent instances of racial profiling and discrimination. Reporting abuse, especially when the perpetrator is a law enforcement officer, is daunting due to fears of retaliation and lack of trust. The Mechanism is deeply concerned about the pervasive presumption of criminality towards persons who are not Italian, in particular towards Africans and persons of African descent; that concern was repeatedly raised by most civil society groups with whom the Mechanism engaged. Italy must ensure that law enforcement agencies are free from racism and accessible to all residents and that the conduct of law enforcement officers aligns with international human rights standards.

30. The Mechanism observed serious gaps with respect to the collection of data on the ethnic composition of the population. In meetings with government officials, the Mechanism repeatedly heard that the collection of disaggregated data on the ethnic composition of the population was not possible under Italian law and that data were only collected on nationality or migration status. The Mechanism strongly emphasizes that the systematic collection of disaggregated data is necessary to assess levels of discrimination and progress, and to develop adequate policies.¹⁹ United Nations human rights bodies have repeatedly recommended that Italy improve data collection to address racism, racial discrimination and xenophobia, including by gathering disaggregated data on ethnicity, violations of anti-discrimination laws, penalties, remedies for victims and the representation of non-citizens in the justice system, with further breakdowns by migration status, age, gender and nationality.²⁰

31. Regarding hate speech, the Observatory for Security against Acts of Discrimination reported that, from 2010 to 2022, reports of crimes or hate speech related to race, ethnicity or nationality had fluctuated significantly, from 8 complaints in 2010 to 143 reports in 2013 and 252 reports in 2019. In 2022, the police recorded 1,105 crimes (79.3 per cent of all hate crimes reported) that were identified as racist or xenophobic in nature.²¹ This high percentage underscores a significant prevalence of racist or xenophobic hate-related offences within the

¹⁷ Ibid., paras. 8 and 9; CAT/C/ITA/CO/5-6, paras. 16 and 17; and Office of the United Nations High Commissioner for Human Rights (OHCHR), "Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination: 28 January–1 February 2019" (2019), available at

<https://www.ohchr.org/sites/default/files/Documents/Countries/IT/ItalyMissionReport.pdf>.

¹⁸ See Human Rights Council resolution 39/17.

¹⁹ See, in particular, A/70/335, which provides an overview of the normative framework, role, benefits and human rights safeguards in relation to collecting disaggregated data.

²⁰ CERD/C/ITA/CO/21, paras. 4, 5, 33 and 35; CEDAW/C/ITA/CO/7, paras. 28 and 29; and CRC/C/ITA/CO/3-4, paras. 16 and 25. See also A/HRC/35/10, para. 52; and OHCHR, "Report of mission to Italy on racial discrimination", para. 26.

²¹ See <https://hatecrime.osce.org/italy>.

overall crime statistics, highlighting a critical area of concern for law enforcement institutions and policymakers.

32. The Mechanism learned about the absence in school curricula of the country's history of colonialism and enslavement. This is particularly concerning given that the lingering effects of historical legacies continue to contribute to the disparities and inequities that Italy faces today, perpetuating racism and racial discrimination against Africans and people of African descent. This deficiency poses significant challenges in fostering a comprehensive understanding of the country's past, in particular in the context of its colonial endeavours and the implications thereof in the present, which are manifested in the form of racism, racial discrimination, xenophobia and related intolerance against migrants and persons belonging to minorities, including Africans and people of African descent.

33. The Mechanism acknowledges the efforts of Italian equality bodies to promote human rights and combat racial discrimination within schools, as well as the various initiatives undertaken by law enforcement officials to raise awareness about safeguarding and respecting human rights. For example, the Mechanism received input from the Observatory for Security against Acts of Discrimination regarding its campaigns in collaboration with the postal police, as part of which they visited middle schools to engage students on how to counteract racial discrimination.

IV. Law enforcement

A Human rights-based approach to policing: institutional culture change

34. A human rights-based approach to policing is a comprehensive, systematic and institutional approach to law enforcement that complies with international human rights standards and practices and promotes the analysis of policies and actions through the tripartite obligations to respect, protect and fulfil human rights. Law enforcement officers must be fully aware of all their human rights responsibilities, considering their work as duty bearers towards rights holders, namely the individuals and community they serve. Law enforcement agencies must ensure that policies and the actions of individual law enforcement officers reflect international human rights norms and standards without being influenced by considerations such as personal, social or political preferences, or by the same police culture in which they act.

35. During the visit, the Mechanism noted a deeply rooted lack of trust among people of African descent in law enforcement and the criminal justice system, mainly due to the historical and ongoing police violence suffered and the sense of systemic oppression and impunity for those violations. The Mechanism considers that a human rights-based approach to policing can contribute to reversing these deficits. This approach provides a framework for law enforcement institutions to build public trust and ensure confidence in the commitment of public officials to respecting and protecting the communities they serve. For example, a sound legal framework on the use of force establishes in clear and predictable terms modalities of oversight and a basis for accountability.

36. A human rights-based approach to policing also emphasizes the accountability of State institutions to respect, protect and fulfil human rights obligations as outlined in the key international treaties to which Italy is a party. By ensuring that policies are inclusive and participatory, and that they address the root causes of inequality, systemic racism and racial discrimination, Italy can advance its commitment to the Sustainable Development Goals, work towards creating a more just and equitable society where the rights and dignity of every person are upheld and build trust in society.

37. The Mechanism listened to the experiences of law enforcement officials of African descent who highlighted how diversity and inclusion inside the ranks fostered trust within the communities they served, which were predominantly composed of immigrants. The Mechanism learned of several innovations that signalled progress in law enforcement practices aimed at enhancing the institutional culture, including the panic button in the form of a smart watch given to victims of gender-based violence, an initiative led by the

Carabinieri, and Una casa per te (A house for you), an initiative of the headquarters of the national police in Naples for women and children who are victims of violence.

38. Despite the above, a significant challenge remains in shifting the deeply ingrained military culture within the police forces, which often perpetuates hierarchical and rigid approaches to policing. This culture, combined with unconscious bias and prejudices and the increasing political radicalization within law enforcement ranks, underscores the urgency of a comprehensive human rights-based approach to policing. Such an approach is essential to ensure that the principles of non-discrimination, equality and justice are embedded in all aspects of law enforcement, in particular in a diverse society.

39. Central to this cultural shift is the need for robust training on issues of racism, racial discrimination and racial profiling. During meetings held with law enforcement officers, the Mechanism observed that unconscious bias continued to influence policing practices, leading to disproportionate impacts on marginalized communities. While all the law enforcement agencies noted that training of law enforcement officials – including on human rights, international humanitarian law, hate speech, use of non-lethal weapons and de-escalation techniques – was a priority, the Mechanism was deeply concerned about the lack of specific training on anti-racial discrimination and on the history of policing of migrants and people of African descent. The Mechanism learned that, since 2010, the Observatory for Security against Acts of Discrimination had trained 60,579 law enforcement officers through in-person and online seminars. The training includes cascade programmes, in which trainers educate police school instructors. However, accounts from victims of racial profiling raised concerns about the effectiveness of such training.

B. Diversity and inclusion

40. Diversity and inclusion are crucial for upholding human rights in society, including in the workplace. The Mechanism acknowledges and expresses appreciation for the efforts of the law enforcement agencies that provided data on the national origin of their personnel. According to data from the financial police, out of 54,450 enlisted military personnel, 26 (0.05 per cent) were born on the African continent. Data provided by the Carabinieri indicate that it has a force of 112,964 military personnel, of whom 2,647 (2.34 per cent) are foreign-born, including 51 (0.05 per cent) who are of African origin. These data show a lack of representation of Africans and people of African descent in law enforcement agencies. The Mechanism heard from some communities about the importance they attached to having police officers who reflected the diversity of the society. In Italy, the composition of law enforcement agencies does not reflect the population's diversity as it does not match the proportion of the population of non-European origin. During the meetings with law enforcement entities, the Mechanism could not identify efforts to redress this imbalance; such efforts would improve community-police relations, civic trust and cooperation.

41. The Mechanism understands that recruits to law enforcement entities must be Italian citizens, but long paths to citizenship conspire against such integration. Diversity and inclusion in law enforcement ensure effective policing. Italy should make more efforts to encourage and empower women and persons from ethnic and racially diverse backgrounds to apply to join law enforcement agencies. Recruitment policies should proactively enable them to succeed, by ensuring equal access and opportunities in the selection process.

C. Use of force regulation

42. The Italian legal system integrates international and regional human rights principles, including those set forth in the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). Italian criminal law addresses the concepts of self-defence and necessity through specific provisions. Article 52 of the Criminal Code permits self-defence, while article 53 regulates the legitimate use of weapons, emphasizing that such use must be proportional to the threat faced. In addition, article 54 covers the state of necessity, which justifies actions taken to prevent greater harm,

while article 55 stipulates that even when these provisions apply, any actions exceeding the bounds of self-defence or lacking proportionality may result in criminal liability.²²

43. The Mechanism is deeply concerned about the lack of a unified legal framework specifically governing the use of force by police officers. The Consolidated Law on Public Security/Order of 1931 provides for the use of force by police to disperse unlawful assemblies and maintain public safety.²³ The Mechanism is also concerned that article 53 of the Criminal Code exempts public officers, and in some cases civilians, from penalties for using weapons or physical coercion to address violence, enforce authority or prevent severe crimes, leaving the specific conditions for such use to judicial interpretation, creating potential uncertainty. It is also concerned that article 582 of the Criminal Code exacerbates impunity for law enforcement officials who have used excessive force by requiring the filing of a complaint by the victim.²⁴

44. The Mechanism heard of some good law enforcement practices in relation to the use of force, including the prioritization of de-escalation and negotiation techniques and the use of restraint as a last resort. Training programmes with theoretical and practical components on the use of less-lethal weapons such as conducted electrical weapons (known as “tasers”) for law enforcement personnel were also highlighted. For example, it is emphasized in such programmes that officers should inform individuals of the taser’s presence, follow detailed protocols before deployment and comprehensively document its use.

45. The Mechanism is alarmed by frequent reports of use of excessive force by police and other law enforcement officials, in particular in the context of migrant identification procedures at certain “hotspots”. The Mechanism was informed about the use of tasers in police stations and juvenile detention centres, highlighting the need for more regulation and training on international standards on the use of force and firearms by law enforcement officials.²⁵

D. Racial profiling

46. Racial profiling is not only unlawful but also ineffective and counterproductive as a general law enforcement tool. Individuals and communities affected by racial profiling tend to have less general trust in law enforcement and, as a result, tend to be less willing to cooperate, eroding police-community relations and law enforcement effectiveness.²⁶ Racial profiling perpetuates a distorted view of society, where stereotyping, prejudice, bias and racial discrimination are not only tolerated but also, in some cases, encouraged. This practice has detrimental effects on its victims and their families and undermines the trust between law enforcement and the community. Racial profiling also has an intersectional dimension, for example when women are subjected to stop-and-search due to their perceived foreign origin or for wearing a headscarf.²⁷

47. Racial profiling by law enforcement officials in Italy against persons perceived as “foreigners”, including Africans and people of African descent, appears to continue to be practised in a systemic manner. This practice has had cumulative damaging effects on affected individuals and communities and must continue to be tackled. These effects must be acknowledged, prevented, attended to and repaired, and those responsible should be held accountable.

²² See

https://sherloc.unodc.org/cld/uploads/res/document/ita/1930/codice_penale_html/Codice_Penale_-_edizione_aprile_2022.pdf (in Italian).

²³ See <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:regio.decreto:1931-06-18;773> (in Italian).

²⁴ CCPR/C/ITA/CO/6, paras. 20 and 21.

²⁵ As underlined by the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.

²⁶ Committee on the Elimination of Racial Discrimination, general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, paras. 13–20 and 26.

²⁷ See <https://assembly.coe.int/LifeRay/EGA/Pdf/TextesProvisoires/2020/20201127-EthnicProfiling-EN.pdf>.

48. The Mechanism received repeated reports indicating that racial profiling was used as a basis for discriminatory identity checks, stop-and-search, arrests and related abuses and violence by law enforcement officers. The Mechanism heard testimonies of people of African descent, including students, being regularly subjected to racial profiling in their daily lives, affecting individuals and entire communities in many ways. A critical issue identified is the lack of comprehensive disaggregated data on these practices, making it difficult to assess the full extent of the problem. The Mechanism could also perceive a widespread fear of reporting such incidents, in particular when the perpetrator was a law enforcement officer. Individuals explained that approaching the police was intimidating and that requesting an explanation during a law enforcement check could escalate the situation, potentially leading to further repercussions. For example, one individual recounted an incident on a train where a routine document request escalated after the officers were accused of racial profiling, resulting in the arrest of the person.

49. During the visit, parliamentarians highlighted the urgency of combating the risk of racial profiling and face recognition, in particular with respect to the use of transferable algorithms. The Mechanism welcomes the interest of the Senate in addressing these issues and regulating the use of artificial intelligence in the conduct of law enforcement activities.

E. Organized crime and war on drugs

50. The Mechanism received information about the presence of organized criminal groups in different parts of the country.²⁸ The Mechanism recalls the importance of balancing immediate security concerns with respect for human rights. Without a human rights-centred approach, efforts to combat organized crime risk creating a climate of fear and contributing to the stigmatization of affected communities.

51. Drug possession is substantially criminalized in Italy. The Mechanism was informed that Italian legislation authorizes law enforcement officials to conduct searches without a judicial warrant if there is suspicion of illicit substance possession.²⁹ The distinction between possession for personal use and possession for trafficking is often unclear, resulting in frequent arrests and criminalization of persons who use drugs.³⁰ Consequently, a significant proportion of drug-related trials end in conviction.³¹

52. The punitive approach taken by Italy to drug enforcement raises significant human rights concerns and disproportionately affects Africans and people of African descent. The Mechanism has previously concluded that drug law enforcement disproportionately affects racial minorities and other vulnerable groups.³²

53. Moreover, in 2021, the Working Group on Arbitrary Detention noted that “in some States, migrants are disproportionately convicted for drug-related offences”. The significant number of foreign nationals detained for drug-related offences in Italy was highlighted as an illustration.³³ The Mechanism received information indicating that racial profiling in drug law enforcement was prevalent in Italy, as evidenced by several individual cases.³⁴

54. The Mechanism received information emphasizing how restrictive immigration laws had heightened the vulnerability of migrants to drug enforcement policies, often forcing them

²⁸ Based on information received by the Mechanism, the most prominent foreign criminal groups are from Albania, China and Nigeria. For more information on organized crime in Italy, see <https://ocindex.net/2023/country/italy>.

²⁹ See Presidential Decree No. 309 of 9 October 1990 (latest amendments published on 13 August 2024), available at <https://www.normattiva.it/uri-res/N2Ls?urn:nir:presidente.repubblica:decreto:1990-10-09;309> (in Italian).

³⁰ See [subm-s-ohchrs-report-csos-forum-droghe-101.pdf](#).

³¹ See <https://www.politicheantidroga.gov.it/media/ix0b0esf/relazione-al-parlamento-2023.pdf> (in Italian).

³² A/HRC/54/69, para. 33.

³³ A/HRC/47/40, para. 55. For recent statistics, see https://www.giustizia.it/giustizia/it/mg_1_14_1.page?contentId=SST1413109 (in Italian).

³⁴ For more information on the frequency of racial profiling by the police, see [subm-s-ohchrs-report-csos-forum-droghe-101.pdf](#).

into clandestinity. As a result, many migrants turn to illegal markets for survival, including drug trafficking.³⁵

F. Oversight

55. Accountability is crucial for upholding the integrity of law enforcement agencies and building public trust in institutions. Independent oversight plays an essential role in preventing and responding to police misconduct, including instances of torture, ill-treatment, racial discrimination and profiling. Specifically, independent, impartial, prompt, thorough, effective, credible and transparent investigations into allegations of human rights violations are essential for holding law enforcement officials accountable for their actions.

56. Internal and external oversight bodies play important and complementary roles in ensuring accountability, transparency and integrity within law enforcement agencies. One advantage of internal police oversight bodies is their in-depth understanding of institutional culture and internal regulations, as well as their capacity to conduct investigations. However, such mechanisms should operate with sufficient independence and impartiality to be effective in achieving their objectives.³⁶

57. The Mechanism regrets the absence of a non-judicial internal police oversight body in Italy to investigate complaints against law enforcement officials. According to information received, Italy is the only country in the European Union without such a mechanism. The Mechanism notes with concern that there is no independent civilian oversight body with a mandate to examine complaints against law enforcement officials. As a result, complainants are left with pursuing judicial avenues as their sole recourse. While the National Guarantor for the Rights of Persons Detained or Deprived of Liberty plays an important preventive role, its mandate remains limited to that of a national preventive mechanism established under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

58. The Mechanism received information indicating that it was not mandatory for law enforcement officers in Italy to wear visible individual identification badges or warrant numbers. Moreover, officers in uniform are not required to identify themselves or display their badges or identification upon request.³⁷ This lack of mandatory identification makes it challenging for individuals to identify and report officers involved in misconduct. Personal identification of law enforcement officials is crucial for enhancing accountability, transparency and public trust in law enforcement institutions. It also serves as a deterrent, as officers are aware that they can be easily identified and reported.³⁸ During meetings with parliamentarians, the Mechanism was informed that the approval of a bill introducing identification badges for law enforcement officers was expected.³⁹

59. Based on information received, police officers do not commonly use body-worn cameras, despite their being part of their equipment since 2022. Body-worn cameras are a valuable tool for promoting accountability and transparency, while also protecting officers who wear them from false accusations of misconduct. The Mechanism welcomes the Government's plan to generalize the use of body-worn cameras among law enforcement officers.⁴⁰

³⁵ Confidential submission.

³⁶ See also *Handbook on Police Accountability, Oversight and Integrity* (United Nations publication, 2011).

³⁷ OHCHR, "Report of mission to Italy on racial discrimination", para. 47.

³⁸ In the specific context of protests, see A/HRC/55/60, para. 51.

³⁹ However, the proposal to introduce identification badges has been met with resistance (see <https://www.ilpost.it/2024/07/26/governo-emendamento-bodycam-codici-identificativi/> (in Italian)).

⁴⁰ Ibid.

G. Lack of disaggregated data

60. The National Office against Racial Discrimination indicated that, in 2023, it had received a total of 1,978 reports, of which 948 (47.9 per cent) had been related to discrimination based on racial or ethnic origin.⁴¹ Those reports had been categorized across various areas, including public life, leisure and sports, provision of services (such as housing and work), public sector services, education, public transport, health, law enforcement and private transport. Specifically, 23 out of the 948 cases involved law enforcement agencies, 112 pertained to sports and 78 were related to housing. The National Office against Racial Discrimination noted that cases of racial discrimination were possibly underreported, hindering a full understanding of the discrimination occurring nationwide. From its side, the Observatory for Security against Acts of Discrimination informed the Mechanism that it had decided to focus on acts of antisemitism.

61. The Mechanism identified significant gaps in the collection of data disaggregated by race or ethnic origin, and by other factors, and in analysis concerning encounters between law enforcement officials and foreign citizens or individuals of non-European origin, including Africans and people of African descent. This lack of data was specifically highlighted by the National Office against Racial Discrimination and civil society organizations. The Mechanism was informed that law enforcement agencies centralized their data collection into one single database. The data collected were centred on offenders, with data disaggregated according to whether they were Italian nationals, European Union citizens, non-European Union citizens or stateless persons.

62. The compilation, analysis, publication and use of disaggregated data are crucial for revealing whether specific groups are disproportionately targeted for stops, searches or arrests. Understanding these patterns is essential for identifying issues related to racial discrimination, preventing them and developing effective policies and reforms to address them. More generally, the systematic collection of disaggregated data on race and ethnicity is necessary to hold public institutions accountable for their role in perpetuating inequalities and to foster diversity, inclusion and equitable representation across all sectors.⁴² It can also contribute to raising awareness among law enforcement officials, with the goal of enabling more conscientious decision-making.⁴³ Moreover, diversifying the types of data gathered beyond those data traditionally collected by law enforcement entities would provide a more robust picture of the interaction between Africans and people of African descent and the criminal justice sector.⁴⁴

H. Migrants and asylum-seekers

63. While acknowledging the challenges that Italy faces as a primary gateway for migrants and asylum-seekers entering Europe via the Mediterranean, the Mechanism is concerned about the difficulties they encounter in accessing international protection and refugee status determination procedures.⁴⁵ The Italian asylum system is characterized by heavy bureaucracy and lengthy processing times, leaving migrants in vulnerable and

⁴¹ The data collected by the National Office against Racial Discrimination are disaggregated based on the different grounds for discrimination listed in article 604 bis of the Criminal Code: race, ethnic origin, nationality and religious belief, as well as on disability, language minority, sexual orientation and gender identity.

⁴² See <https://www.ohchr.org/sites/default/files/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>.

⁴³ See [A/73/354](#).

⁴⁴ OHCHR, "Disaggregated data to advance the human rights of people of African descent: progress and challenges" (2023), p. 17.

⁴⁵ For data on migrants entering Italy via the Mediterranean, see <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/it/documentazione/statistica/cruscotto-statistico-giornaliero>.

uncertain positions throughout the process.⁴⁶ The Mechanism is concerned that immigration services are housed in police stations, instead of being provided by civilian authorities.

64. Testimonies received indicate that these challenges are further compounded by human rights violations committed by law enforcement officials at immigration offices inside police stations and reception centres.⁴⁷ Despite these concerns, the Mechanism also observed commendable practices during its visit to a reception centre in Catania, in particular in terms of cooperation with civil society and international organizations, the use of mediators and the provision of educational, cultural and sports activities. The Mechanism encourages the sharing and implementation of these good practices across reception centres nationwide.

65. Italian immigration law has become increasingly restrictive in recent years, making it more difficult for migrants to obtain legal status.⁴⁸ The Mechanism is deeply concerned about the extensive use of detention for migrants, refugees and asylum-seekers in hotspots, often for prolonged periods and without a clear legal basis. This practice may amount to de facto arbitrary detention and imposes disproportionate restrictions on the right to personal liberty.⁴⁹

66. The Mechanism received information suggesting that repatriation centres were being used as a form of punishment for those who stayed in Italy unlawfully. Data provided by the National Guarantor for the Rights of Persons Detained or Deprived of Liberty indicate that, in 2022, 6,383 persons (6,326 men and 57 women) were admitted to repatriation centres, the large majority of whom were Africans (5,492), primarily from North Africa.⁵⁰

67. While recognizing the efforts undertaken by various centres to provide basic services to migrants, including cultural and educational activities, the Mechanism remains concerned about poor detention conditions and the quality of services offered in these centres. According to the information received, some services provided in the centres, including healthcare, are outsourced to private companies and are not guaranteed.⁵¹ The Mechanism wishes to remind the State of its duty of due diligence towards individuals it deprives of liberty. During a visit to a repatriation centre in Milan, the Mechanism received allegations of ill-treatment, such as deprivation of food and water for long periods of time. It was also informed about the poor quality of the food provided and observed that a resident had untreated wounds.⁵² When visiting the Ponte Galeria repatriation centre in Rome, the Mechanism noticed that individuals in the male sector were clearly distressed.

68. The Mechanism is concerned by the reported lack of regulations and reporting procedures in repatriation centres in relation to the activities of law enforcement personnel, in particular concerning the use of force. When the State fails to implement use of force regulations in accordance with international standards, acts of excessive use of force are likely to remain unpunished. The Mechanism calls upon Italy to ensure that officials who work in direct contact with migrants receive proper training on international standards relating to the use of force and firearms and on de-escalation techniques.

⁴⁶ See <https://www.rescue.org/eu/report/wait-please-irc-italy-april-2024>.

⁴⁷ See CAT/C/ITA/CO/5-6; and OHCHR, "Report of mission to Italy on racial discrimination", para. 45.

⁴⁸ Act No. 50/2023 of 5 May 2023; Decree of 14 September 2023 of the Ministry of Interior; and Decree-Law No. 124/2023 of 19 September 2023. See also <https://integrazionemigranti.gov.it/it-it/Ricerca-news/Dettaglio-news/id/3202/DL-202023-DL-Cutro-ecco-come-stato-modificato-in-Parlamento> (in Italian).

⁴⁹ CERD/C/ITA/CO/19-20, paras. 19 and 20. Although Act No. 173/2020 introduced some legal basis for hotspot detention, the practice remains poorly regulated and not in line with international standards. See <https://asylumineurope.org/reports/country/italy/detention-asylum-seekers/legal-framework-detention/duration-detention/>. See also European Court of Human Rights, *J.A. and Others v. Italy*, Application No. 21329/18, Judgment, 30 March 2023.

⁵⁰ See the 2023 report of the National Guarantor for the Rights of Persons Detained or Deprived of Liberty to the Parliament, p. 193, available at <https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/24447d4bb0b3093d479d7da93ebcda98.pdf> (in Italian).

⁵¹ Some health services remain under the control of the National Health Service, for example to assess whether a person's health conditions are compatible with admission to the facility.

⁵² In particular, the Mechanism received information that the food provided was sometimes expired or contained worms. See <https://naga.it/2023/10/25/il-report-e-online-al-di-la-di-quella-porta> (in Italian).

69. The Mechanism is deeply concerned about the plan of Italy to establish detention centres in Albania for migrants rescued or intercepted at sea by Italian State vessels, including individuals seeking international protection.⁵³ This agreement, signed between the two countries in November 2023, could have serious implications for the human rights of migrants, refugees and asylum-seekers, potentially jeopardizing their right to life, to physical integrity, to liberty and security, to asylum, to non-refoulement, to defence and to effective remedies, as well as jeopardizing the proper identification of vulnerable persons requiring special care.⁵⁴ The Mechanism urges Italy to carefully consider these risks and reassess the compatibility of this agreement with its international human rights obligations.

70. During the visit, the Mechanism received reports detailing numerous challenges faced by human rights defenders, lawyers and humanitarian workers working on the human rights of migrants, refugees and asylum-seekers. The frequent obstacles, threats and harassment they encounter create a demotivating and chilling effect on those who support migrants at various levels. Of particular concern are the attacks against civil society organizations engaged in search-and-rescue operations in the Mediterranean Sea and the criminalization of their work.

71. The *Iuventa* case exemplifies this issue. In May 2022, the Trapani Prosecutor's Office charged 21 human rights defenders, including four members of the *Iuventa*, a vessel conducting search-and-rescue operations in the Mediterranean, with "aiding and abetting illegal immigration to Italy" and alleged collaboration with people smugglers. However, on 19 April 2024, a court in Trapani dismissed the charges and acquitted the defendants.⁵⁵

72. In January 2023, new legislation imposed additional restrictions on rescue vessels entering or transiting Italian territorial waters, further limiting the work of human rights defenders and civilians involved in search-and-rescue operations. Recognizing the invaluable role that these individuals play in upholding human rights and democratic values, the Mechanism calls upon Italy to ensure that human rights defenders, lawyers and humanitarian workers can perform their work freely and without threats or harassment.

I. Law enforcement well-being

73. During meetings with law enforcement entities, the Mechanism discussed the services available for supporting the mental health and well-being of law enforcement officers. The information received indicates that psychologists are available on a voluntary basis to those who seek their support. However, mandatory psychological support is limited to serious incidents, typically those involving the use of weapons. The Mechanism spoke with officers who expressed a need for more comprehensive support services for themselves and their families.

74. The lack of material and human resources adds significant strain to the mental health of officers. During visits to the Cesare Beccaria Juvenile Detention Centre and the San Vittore Correctional Facility, both in Milan, the management reported being understaffed. Moreover, during a visit to the San Vittore Correctional Facility, concerns were raised about the young age and inexperience of some penitentiary officers and calls were made for increased mentorship and support from senior staff to help them develop their skills, gain expertise and understand diverse cultural values.

75. The Mechanism recognizes the challenging and stressful nature of law enforcement work. The mental health and well-being of officers directly affect the way they perform their duty and their interactions with the communities that they are mandated to protect. Law enforcement agencies should foster a culture of respect and well-being, where officers feel

⁵³ See <https://ecre.org/mediterranean-italy-albania-deal-takes-another-step-forward-%E2%80%95-syrian-refugees-go-back-and-forth-between-cyprus-and-lebanon-despite-apparent-return-agreement-%E2%80%95-more-crossings-and-death/>.

⁵⁴ See <https://www.amnesty.org/en/wp-content/uploads/2024/01/EUR3075872024ENGLISH.pdf>.

⁵⁵ See <https://www.frontlinedefenders.org/en/case/italian-court-dropped-charges-against-migrant-human-rights-defenders-iuventa-case>.

valued, and implement comprehensive mental health and wellness programmes for the staff and their families.

V. Criminal justice system

A. Overrepresentation of Africans and people of African descent

76. As at 30 June 2024, the prison population in Italy totalled 61,480 individuals, including 2,682 women,⁵⁶ resulting in an incarceration rate of 105 per 100,000 inhabitants:⁵⁷ 31 per cent of all detainees were not Italian, with the majority (54 per cent) of that group originating from the African continent.⁵⁸ The Mechanism is particularly concerned about the disproportionate representation of people of foreign origin, in particular Africans and people of African descent, within the Italian criminal justice system. Based on information received, the overrepresentation of non-Italian prisoners is particularly pronounced in northern Italy. Data on remand prisoners reveal that the proportion of persons in pretrial detention who are not Italian is slightly higher than the overall proportion of them in criminal detention.⁵⁹ Information received by the Mechanism also suggests that, in the pretrial phase, persons who are not Italian often face more severe sanctions compared with Italian citizens.

77. The overrepresentation in the criminal justice system of persons who are not Italian is even more pronounced among juveniles. In 2023, nearly half of all young people admitted to juvenile detention facilities were foreign-born (48.8 per cent), of whom 75.9 per cent were of African origin. As at 31 December 2023, foreign-born children represented 60.8 per cent of all juvenile detainees aged from 14 to 17 years.⁶⁰

78. This overrepresentation can be attributed to various factors, including poverty, limited access to quality education, employment, healthcare and adequate housing and lack of social and family networks. These issues are exacerbated by racial profiling and the criminalization of individuals on the basis of their migration status, contributing to feeding the systemic racism affecting Africans and people of African descent. It is particularly concerning to observe that foreign-born minors often face more restrictive measures compared with their Italian counterparts, regardless of the severity of the offence they committed.

79. On 15 September 2023, the Italian Parliament approved Decree-Law No. 123/2023, commonly known as the “Caivano Decree”, which is aimed at combating juvenile crime.⁶¹ The decree covers, among other measures, stricter sanctions for drug-related offences and lowers the threshold for applying pretrial detention for minors.⁶² Its harmful effect on children in conflict with the law was emphasized by civil society organizations. Because of their overrepresentation in the criminal justice system, the decree is likely to have a disproportionate impact on minors of African descent.

80. The systemic challenges and marginalization that often lead children of foreign origin into the criminal justice system also hinder their successful reintegration into society. Reports from civil society organizations and penitentiary staff indicate an increase in psychiatric issues, psychological distress and substance abuse among juveniles in detention centres. Boys

⁵⁶ See https://www.giustizia.it/giustizia/it/mg_1_14_1.page?contentId=SST1410631 (in Italian).

⁵⁷ See <https://www.prisonstudies.org/country/italy>.

⁵⁸ The percentage of women detainees who are not Italian was 28 per cent; see https://www.giustizia.it/giustizia/it/mg_1_14_1.page?contentId=SST1410603 (in Italian).

⁵⁹ See https://www.giustizia.it/giustizia/it/mg_1_14_1.page?contentId=SST1410631 (in Italian).

⁶⁰ Penitentiary institutes for juveniles are primarily meant to accommodate children. However, they also host young adults (up to 24 years old) who committed an offence when they were minors. See https://www.giustizia.it/cmsresources/cms/documents/IPM_anno_2023.pdf (in Italian); and https://www.giustizia.it/cmsresources/cms/documents/Analisi_Servizi_minorili_30.04.2024_G.pdf (in Italian).

⁶¹ See <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2023-09-15;123> (in Italian).

⁶² See <https://www.ilpost.it/2024/02/29/carcere-minorile-detenuiti-rapporto-antigone/> (in Italian).

of foreign origin, including unaccompanied children, are particularly affected.⁶³ The Mechanism highlights the disproportionate impact of these issues on non-Italian children and underscores that deprivation of liberty for children in conflict with the law should be considered a measure of last resort.⁶⁴

B. Conditions of detention and overpopulation

81. As at 30 June 2024, the official prison occupancy rate in Italy was 120 per cent,⁶⁵ with some facilities reaching up to 130 per cent when accounting for unavailable space and others exceeding 150 per cent.⁶⁶ The detention facilities visited by the Mechanism also reported being understaffed, with significant shortages of penitentiary police officers and medical staff.⁶⁷ This issue was particularly pronounced in detention facilities for juveniles, where there were notable vacancies for penitentiary police, educators, mediators and psychiatrists. Although psychological support services are available, they often fall short for non-Italian detainees due to cultural barriers. The Mechanism reminds the State of its obligation to provide healthcare in prisons, including mental health services, and that prisoners are entitled to the same standards of healthcare as those available in the community.⁶⁸

82. The Mechanism has noted a troubling increase in incarceration rates in Italy, with the number of prisoners rising from 52,000 in 2020 to over 60,000 in 2024. Overcrowding significantly affects the conditions of detention and, by extension, the human rights of detainees.⁶⁹ Many detention facilities are outdated and not suitable for their intended use. The Mechanism is concerned about reports of inadequate water supply, excessive heat during summer and lack of hot water, in particular in winter, in several detention centres. The Mechanism would like to emphasize that overcrowding and substandard conditions of detention can constitute a severe form of ill-treatment, or even torture.⁷⁰ The Mechanism calls upon Italy to strengthen efforts to improve conditions of detention and reduce the overcrowding of detention facilities, in accordance with international human rights standards.

83. Information received indicates that a significant proportion of people detained in Italy, including foreign nationals, struggle with substance use. According to the management of the San Vittore Correctional Facility in Milan, over half of the residents are registered as certified substance users. However, harm reduction treatments and rehabilitation services for persons who use drugs in prison are often insufficient. This inadequacy is particularly evident due to the lack of continuity in treatment between external and internal services, as well as between different detention facilities.⁷¹

84. Based on the information received, the special needs of foreign detainees are frequently overlooked. The lack of sufficient interpreters and cultural mediators is particularly concerning, leading to communication barriers and inadequate access to essential information to navigate life in detention and, in the case of pretrial detainees, adequately prepare their defence. In addition, the Mechanism received information indicating a high level of distrust among prisoners towards the penitentiary police. This situation highlights

⁶³ This was the case at the Cesare Beccaria Juvenile Detention Centre visited by the Mechanism. See https://www.antigone.it/upload/Prospettive_minori_Antigone_Eng.pdf.

⁶⁴ See the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules); and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

⁶⁵ See <https://www.prisonstudies.org/country/italy>.

⁶⁶ See <https://www.antigone.it/news/3555-carceri-antigone-sovrappollamento-a-livelli-di-guardia-non-bastano-gli-interventi-minimali-no-alla-riapertura-degli-opg> (in Italian).

⁶⁷ A general ratio of one prison guard for 6 detainees was reported for 2023 in Italy (see <https://www.prison-insider.com/en/comparer/outil-de-comparaison?profiles=151108>).

⁶⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), rule 24.

⁶⁹ CAT/C/ITA/CO/4, para. 16; and CAT/C/ITA/CO/5-6, paras. 32 and 33. Italy also received recommendations on tackling overcrowding in prison during its universal periodic review in 2019 (see A/HRC/43/4).

⁷⁰ See A/HRC/30/19; and A/HRC/55/52, para. 7.

⁷¹ See [subm-s-ohchrs-report-csos-forum-droghe-101.pdf](#).

the need for a thorough examination of the penitentiary system's institutional culture, its rehabilitative goals and the critical role of penitentiary police officers in achieving these objectives.

85. The Mechanism is deeply troubled by reports of recurrent self-harm and suicides among inmates. According to the National Guarantor for the Rights of Persons Detained or Deprived of Liberty, there were 85 suicides in prison in 2022,⁷² 67 in 2023 and 44 as at 20 June 2024. Of the 44 detainees who committed suicide in 2024, 20 were foreign nationals, including 8 from Africa.⁷³

C. Torture in detention

86. The Mechanism is concerned by recent cases of torture and other ill-treatment in Italian prisons. During the visit, it received reports of specific instances of torture, ill-treatment and death in custody in various detention facilities across Italy. The Mechanism was alerted about the trial of over 105 police officers and other officials on charges including torture, bodily injuries, abuse of authority, falsification of official documents and complicity in the manslaughter of a 28-year-old Algerian man in relation to an incident at Santa Maria Capua Vetere Prison in Caserta in April 2020, at the outset of the coronavirus disease (COVID-19) pandemic. It represents one of the most significant allegations of torture involving penitentiary personnel in Italy.

87. The Mechanism was also informed of the conviction of five prison officers for torturing a Tunisian prisoner at San Gimignano Prison in 2018. Moreover, at Reggio Emilia Prison, at least 10 prison officers are currently on trial for the torture of another Tunisian man in 2023. At the Cesare Beccaria Juvenile Detention Centre in Milan, a facility visited by the Mechanism, 13 penitentiary police officers were arrested in April 2024 on charges of torture and ill-treatment and 8 others were suspended, with the investigation still ongoing.⁷⁴

88. Furthermore, the Mechanism received troubling reports regarding the death in custody of a Malian migrant in March 2024. According to the information received, the family received the death certificate and burial authorization stating that the cause of death was "under investigation". They allegedly received contradictory and unofficial reports suggesting that he had died from either starvation, a heart attack or suicide. The reasons for detention, the charges he faced and the circumstances of his death remain unclear.⁷⁵

89. The Mechanism acknowledges the actions taken by Italian judicial authorities to investigate incidents of torture and ill-treatment and prosecute those responsible. However, it calls upon the State to pursue its efforts to ensure that all allegations of torture and ill-treatment, as well as deaths in custody, are subject to independent, impartial, prompt, thorough, effective, credible and transparent investigations. The Mechanism emphasizes once again the importance of holding perpetrators accountable to uphold justice and human rights.

90. The Mechanism expresses profound concern regarding a proposal for legislation that seeks to abolish the specific crime of torture, as defined in articles 613 bis and 613 ter of the Criminal Code.⁷⁶ The proposal suggests replacing it with an aggravating circumstance that does not explicitly reference the term "torture". Removing torture as a distinct and particularly serious offence would undermine the obligations of Italy under international

⁷² See

<https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/e980579383af7d99bf7486793d75f1a0.pdf> (in Italian).

⁷³ See

<https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/ae5bcfb891a75b81929ede794548df04.pdf> (in Italian).

⁷⁴ In a meeting with the Mechanism, parliamentarians expressed their interest in investigating violent incidents in detention facilities for juveniles and their possible link with racial discrimination.

⁷⁵ During the visit, the Mechanism requested further information on this case. No information had been received at the time of drafting the present report.

⁷⁶ Draft law No. 341 of 16 November 2022, available at

<https://www.senato.it/leg/19/BGT/Schede/Ddliter/56113.htm> (in Italian).

human rights law to guarantee freedom from torture. Furthermore, it would jeopardize ongoing criminal proceedings relating to acts of torture, thereby fostering impunity for this grave crime.⁷⁷

91. The Mechanism underscores that the prohibition of torture is a peremptory norm, and that its use cannot be justified under any circumstances.⁷⁸ States parties to the Convention against Torture are required to criminalize torture in their domestic legislation and provide for appropriate penalties that reflect the severe nature of this crime.⁷⁹ Consequently, the Mechanism calls upon Italy to withdraw draft law No. 341 from consideration by Parliament and to retain the crime of torture in its Criminal Code to ensure compliance with international standards.

VI. Recommendations

92. The Mechanism acknowledges the efforts by Italy to address racial discrimination against Africans and people of African descent in the context of law enforcement and the criminal justice system. It also expresses satisfaction at the willingness to engage in dialogue and cooperate with the Mechanism to tackle these issues. The Mechanism looks forward to continuing to cooperate with Italy to implement its recommendations.

93. The Mechanism addresses the following recommendations to the Italian competent authorities:

(a) Fully implement the four-point agenda towards transformative change for racial justice and equality, containing 20 actionable recommendations to end systemic racism and human rights violations by law enforcement officers against Africans and people of African descent;⁸⁰

(b) Combat systemic racism and racial discrimination against Africans and people of African descent with a systemic human rights-based approach;

(c) Include in the anti-discrimination legal framework a clear definition of racial discrimination, making sure that all grounds specified in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination are explicitly included in such a definition and that it prohibits direct, indirect and intersecting forms of discrimination in both the public and the private spheres;

(d) Tackle poverty and lack of quality education, employment opportunities, healthcare, adequate housing and other human rights violations as a way to combat systemic racism against Africans and people of African descent;

(e) Adopt a human rights-based approach to policing;

(f) Adopt the new national plan against racism in a prompt manner, allocate sufficient financial and human resources for its implementation and establish a mechanism to assess and monitor its progress;

(g) Ensure that cases of hate speech are investigated and prosecuted consistently and impartially, identifying systemic issues and providing support to the victims and their families;

(h) Establish a national human rights institution to streamline ongoing implementation of existing recommendations, including those contained in the present report. This institution should comply with the Paris Principles and have a robust

⁷⁷ See <https://www.amnesty.org/en/documents/eur30/7322/2023/en/>.

⁷⁸ Convention against Torture, art. 2; and International Covenant on Civil and Political Rights, art. 4.

⁷⁹ Convention against Torture, art. 4.

⁸⁰ A/HRC/47/53, annex; see also conference room paper of the United Nations High Commissioner for Human Rights on the promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers, available at https://www.ohchr.org/sites/default/files/Documents/Issues/Racism/A_HRC_47_CRP_1.pdf.

mandate for dismantling systemic racism, including in law enforcement entities and the criminal justice system;

(i) Take the measures necessary to ensure the independence of the National Office against Racial Discrimination, in law and in practice, in order to enable it to effectively discharge its mandate as a national equality body, in particular its mandate to combat racial discrimination;

(j) Intensify efforts to ensure the comprehensive inclusion of the history of colonialism and enslavement in school curricula and raise public awareness of the importance of ethnic and cultural diversity, as well as combating racism and racial discrimination;

(k) Establish a comprehensive diversity and inclusion programme designed to increase representation and foster inclusivity within law enforcement agencies, including by adapting the police entry and examination strategy and requirements to effectively and efficiently increase diversity, including race and gender, within the ranks;

(l) Ensure that all laws, policies, procedures and practices to restrict the use of force comply with international standards on the use of force and firearms by law enforcement officials, in particular the principles of legality, precaution, necessity, proportionality, accountability and non-discrimination. Apply these principles, and the obligation to protect and respect the right to life, in all operations and use of force by all law enforcement agencies in Italy. Ensure that all use of force is strictly reviewed and that violations are punished. Ensure that data disaggregated by race, ethnic or national origin and by other factors are gathered on all encounters with law enforcement officers in which force is used, and that such data are analysed, published and used to inform policymaking and practice;

(m) Revise article 582 of the Criminal Code and ensure that allegations of torture, ill-treatment and excessive use of force are thoroughly investigated, even if the victim has not filed a complaint. Ensure that alleged perpetrators are prosecuted and, if convicted, punished with sanctions commensurate with the seriousness of the crime, and that victims obtain reparation;

(n) Eliminate all racial profiling. Ensure that racial profiling is clearly defined and prohibited by law. Discriminatory identity checks should be clearly prohibited. Establish clear guidelines to prevent and combat racial profiling during police checks and other police measures and regulate the use of artificial intelligence in the conduct of law enforcement activities. All allegations of racial profiling should be investigated, prosecuted and punished. Disaggregated data for all incidents, complaints and investigations on racial profiling should be collected, analysed and publicized by all law enforcement agencies, and used to inform policymaking and practice;

(o) Ensure that law enforcement officers receive specific training on fighting racial discrimination, racial bias and racial profiling, and ensure that the conduct of law enforcement officers is in line with international human rights standards;

(p) Adopt a human rights-based approach to drug policies. End the focus on small-time offenders in the “war on drugs” and decriminalize possession for personal use as well as retail-level trade in drugs;

(q) Establish by law a national independent civilian oversight body for law enforcement, with the mandate to investigate complaints against law enforcement officials. Ensure its total operational and hierarchical autonomy, with full financial and structural independence, and with all the other characteristics outlined in the 2024 annual report of the Mechanism;⁸¹

⁸¹ [A/HRC/57/71](#).

(r) **Introduce the personal identification of police officers as mandatory in legislation, including the display of identification numbers on uniforms. Ensure the use of body-worn cameras;**

(s) **Implement the recommendations of the Mechanism contained in its thematic reports, notably on data collection, policing and justice, and accountability and redress;**

(t) **Ensure by legislation the required capacity to collect, compile, analyse and publish data, disaggregated by race or ethnic origin and by other factors, on direct interactions of the population with law enforcement officers and the criminal justice system, including stop-and-search, arrests, racially motivated crimes, the use of force and related complaints, investigations, prosecutions and convictions;**

(u) **Ensure that refugee status determination and international protection procedures are purely administrative and processed without delay. Transfer those responsibilities to civilian State agents outside of police stations and within or near to affected communities;**

(v) **Cease readmissions, rejections and expulsions of foreign citizens who declare themselves to be minors at borders, in compliance with Italian law and the principle of non-refoulement;**

(w) **Adopt a human rights-based approach to migration and address racism within the ranks of immigration authorities, including structural and institutional factors. Ensure that the use of force by law enforcement officers operating in hotspots and repatriation centres and participating in forced-return operations is governed by clear regulations and reporting procedures in accordance with international standards. Take measures to ensure adequate living conditions in repatriation centres;**

(x) **Enhance legal support, police training and community assistance to prevent the separation of migrant families;**

(y) **Develop clear programmes to provide mental healthcare and wellness for law enforcement officials;**

(z) **Adopt a national strategy to reduce the overrepresentation of Africans and people of African descent in criminal detention. Pursue efforts to improve conditions of detention and alleviate the overcrowding of penitentiary institutions and other detention facilities, in line with the Nelson Mandela Rules and other relevant international standards. Privilege the application of alternatives to detention in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);**

(aa) **Review and reinforce strategies and programmes to prevent suicide and self-harm in penitentiary facilities and ensure they are adequately resourced. Ensure that healthcare services, including mental health services, are available in all penitentiary facilities;**

(bb) **Establish universally accessible drug rehabilitation services for detainees and ensure seamless continuity of care both within detention facilities and between detention facilities and the outside world;**

(cc) **Ensure that allegations of torture and other ill-treatment are investigated in an independent, impartial, prompt, thorough, effective, credible and transparent manner and that suspected perpetrators are duly prosecuted, tried and, if found guilty, punished in a manner that is commensurate with the gravity of their acts;**

(dd) **Maintain torture as a distinct and grave offence in the Criminal Code.**
