



**International covenant
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HUMAN RIGHTS COMMITTEE

Eighty-fifth session

SUMMARY RECORD OF THE 2317th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 20 October 2005, at 3 p.m.

Chairperson: Ms. CHANET

later: Mr. GLÈLÈ AHANHANZO
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS (agenda item 6)
(continued)

Fifth periodic report of Italy (CCPR/C/ITA/2004/5; CCPR/C/84/L/ITA;
CCPR/C/79/Add.94)

1. At the invitation of the Chairperson, the members of the delegation of Italy took places at the Committee table.
2. Mr. D'ALIA (Italy), introducing the fifth periodic report of Italy (CCPR/C/ITA/2004/5), said that since the last time his delegation had come before the Committee, considerable changes had taken place across the world, with serious repercussions on the protection of human rights and fundamental freedoms. Italy took particular interest in the proposed reforms of the United Nations human rights sector. In the spirit of international commitment, Italy had deployed 9,000 troops abroad in order to contribute to worldwide peace and security. Efforts must be made to adapt human rights protection to the changing global situation, and in that regard Italy used the European Union (EU) as its primary point of reference. Human rights were parameters for evaluation in relations between States, and must be reflected in all political, economic and social development programmes at both the national and international levels.
3. Italy was committed to guaranteeing the fundamental rights of all persons resident in its territory, and to cooperating at the international level to promote freedom, democracy and the enjoyment of basic human rights. All Covenant rights were protected by the Italian Constitution, and served as a basis for Italy's domestic and foreign policies. The principle of non-discrimination was observed at all levels.
4. The increasing influx of illegal immigrants was of particular concern to his Government, and it was therefore implementing a comprehensive law on political asylum, which took account of the EU's aims concerning freedom of movement and asylum. All attempts to counter illegal immigration were based on the principle of reducing suffering and human rights violations. Owing to its geographical position, Italy was often used as a transit country by illegal migrants and persons trafficking in human beings. The Government had therefore launched a series of initiatives at the national and international levels aimed at preventing, combating and suppressing those phenomena.
5. Terrorism represented a serious threat to all liberal and tolerant societies. Western legal systems must be adapted to prevent and suppress terrorism, with full respect for constitutional values and without restricting the rights and freedoms of citizens. His delegation had submitted written replies to the Committee's list of issues (CCPR/C/84/L/ITA) in a document without a symbol, which had been distributed to members.
6. Mr. NEBBIOSO (Italy) said that fundamental rights were guaranteed by the Italian Constitution, whose observance was monitored by the Constitutional Court. Although the term "torture" was not explicitly used in the Criminal Code, acts that constituted torture were

punished severely. However, such acts were not common in Italy. If the Government decided to insert a definition of torture in the Criminal Code, the substance of the Code would not change. The Government had carried out an in-depth study with a view to improving the efficiency of the Italian justice system and was making efforts to that end. In so doing it was endeavouring to enlarge the sphere of human rights and freedoms rather than restrict it. The principle of due process of law was enshrined in the Constitution. A plan for the construction of new prisons was under way in order to reduce overcrowding. There were a large number of non-EU nationals in Italian prisons, many of them illegal immigrants who had engaged in criminal activities. It was difficult to apply alternative measures, such as house arrest, to such persons owing to their social situation, and their immediate expulsion was not always possible. The practice of repatriating convicted non-EU nationals who had received sentences of up to two years' imprisonment would be extended to those with sentences of up to three years. Bilateral agreements had been concluded between Italy and some other countries to ensure that foreigners convicted in Italy could serve their sentences in their country of origin.

7. Under Italian legislation, any foreign national, even if not legally resident in Italy, could be granted legal aid at State expense in order to ensure equal rights to adequate legal defence. The Italian legal system was based on the principle that punishment must be proportionate to the offence committed, irrespective of the nationality of the perpetrator. Prison privileges were decided by judges, without discrimination on grounds of nationality or ethnicity. The utmost importance was attached to the principle of non-discrimination, and equal rights were therefore granted to all Italian and foreign detainees. Efforts were being made to speed up legal proceedings, since the traditional appeal system often resulted in protracted delay; at the same time maximum protection of the rights of those involved was maintained.

8. Mr. CITARELLA (Italy) said that his country was particularly committed to the promotion and protection of human rights, particularly those enshrined in the Covenant. In May 2005, Italy had begun to review the status of its reservations to the Covenant, and was in a position to withdraw its reservations to article 9, paragraph 5, article 12, paragraph 4, and article 14, paragraph 5. That would be done by note verbale.

9. Mr. D'ALIA (Italy) said that efforts were being made to broaden legislation on gender equality, and in the area of participation in public life, measures would be taken to introduce positive discrimination in favour of women. Article 51 of the Constitution had been amended to that end. Several measures had been taken to prevent discrimination, including the establishment of a government office to address discrimination questions.

10. The issue of racist and xenophobic propaganda (list of issues, question 7) was complex; in Italy, any form of incitement to hatred was punishable under the Criminal Code. Italy did its best to respect the specific characteristics of the Roma population and its culture (question 8), but did not consider the Roma to be a minority since the concept of a minority applied to persons residing in a particular territory; the State tried to take due account of the way of life chosen by the Roma, which was to travel from one place to another. He offered to describe some of the social measures in place for the benefit of the Roma population, noting that the Roma were Italian nationals.

11. He could confirm that the Government was considering introducing the term “torture” into the Criminal Code in order to bring it into line with international standards (question 9). However, the introduction of a new term would have no impact on the content of the law, since acts that equated to torture were already prohibited.

12. As to the events in Naples and Genoa referred to in question 11, he emphasized that the Government could not take action on matters that were before the courts. The information requested by the Committee in question 12 regarding measures to improve the human rights training provided for State agents could be found in the written replies submitted by his delegation. He found it difficult to reply in general terms to question 13 since any abuse by a member of the law enforcement agencies would constitute an assault against the physical integrity of the victim, regardless of the ethnic group to which he or she belonged; he asked the Committee to provide details of specific cases, so that his delegation could provide the relevant information. He also asked the Committee to provide specific examples of the complaints lodged against members of the Carabinieri and police officers referred to in question 14.

13. Where airport security checks were outsourced to private bodies (question 15), final responsibility nonetheless remained with the State, and more specifically with the Carabinieri. The reports of boats heading for Italy being intercepted (question 16) had received exaggerated media attention; the Government had tried to answer the Committee’s concerns fully in its written replies. With regard to question 17, he said that Italy considered itself to be at the forefront of the fight against trafficking in having adopted legislation that provided for assistance to victims of trafficking and also punishment of the perpetrators. Such assistance did require cooperation on the part of the victims, since they must be willing to enter the welfare system in order to subsequently be able to find employment. The problems of prostitution and trafficking (question 18) were closely linked, and must be tackled in a broad framework that took account of cultural realities and the difficulties that persons forced into prostitution often experienced in integrating into Italian life.

14. Mr. AMOR said it was a pity that Italy’s fifth periodic report had not addressed all the provisions of the Covenant. He asked the delegation to clarify whether the Government’s statement that it was “in a position” to withdraw some of Italy’s reservations to the Covenant meant that it intended to do so. He congratulated the Government on the adoption of the amendments to articles 51, 55 and 56 of the Constitution, and asked whether a bill was under preparation concerning the legislative consequences of those amendments and whether the relevant law could be expected to be enacted before the next elections.

15. Although the image that Italy presented of itself was of a tolerant and open society, it was sometimes tarnished by the racist or xenophobic conduct or statements of Italian nationals or other persons on Italian territory, and by the fact that such statements appeared to go unpunished. Having cited specific examples, he asked whether the Italian judicial authorities had taken steps to ensure that statements amounting to incitement to hatred were appropriately punished.

16. He wished to know the procedures for outsourcing airport security checks to private bodies and the extent of training received by the persons to whom checks were delegated. He also wished to know who bore responsibility in the event that an error was made.

17. Mr. KÄLIN said he had been pleased to read in the delegation's written replies that Italy accepted that the Covenant applied to persons under its jurisdiction in cases where Italian troops or police officers were stationed abroad (question 2). He thought that amending the Penal Military Code of War had been an appropriate way of bringing about the necessary changes, but had been puzzled by the written reply that the motive for strengthening the provisions on war crimes had been to protect the Italian armed forces. As he saw it, the main reason for strengthening the law on war crimes was to provide better protection for civilians and enemy forces. He noted that the new wording of article 165 of the Penal Military Code of War provided for the application of war crimes provisions only in situations of armed conflict; he therefore wished to know how it was ensured that Italy honoured its obligations when Italian troops were stationed abroad other than in situations of armed conflict. He asked whether Italy accepted the applicability of the Covenant in situations such as had occurred in Goose Bay, Canada, where low-level training flights by the Italian air force had been affecting wildlife, thus jeopardizing the rights of the Innu people.

18. He wished to know what legal provisions were in place to ensure that prisoners were not handed over to States where there was a risk that they would be tortured and how Italy ensured that the provisions of the Covenant were applied in respect of migrants on board vessels which Italy was reported to have intercepted within or outside Italian territorial waters. Some of those individuals might be at risk of torture on their return to their port of departure. He was pleased that final responsibility for airport security checks outsourced to private companies remained with the police and Carabinieri, but wished to know how, in terms of the training provided and supervision of their work, it was ensured that the companies concerned complied with all the relevant obligations.

19. Mr. SOLARI YRIGOYEN said that it would have been useful if the delegation could have submitted its written replies earlier, in order to give members of the Committee time to absorb the information they contained. He would have appreciated it if the replies could have been made available in more than one language. The list of issues contained specific questions that required specific answers. He asked whether the equality counsellors referred to in paragraph 460 of the periodic report had the power to initiate legal proceedings and requested further information about the work such counsellors did and the results achieved. He requested more detailed information about the powers of the judiciary to end discriminatory conduct and about the fast-track procedures referred to in paragraph 484 of the report. What did those procedures entail, how were they implemented and what results had they produced?

20. He expressed concern at the fact that the majority of the Roma population in Italy lived in camps. Such segregation invariably led to social exclusion, and he would welcome information on problems relating to access to housing, health care and education arising from that situation. The Committee had received numerous reports of poor hygienic conditions in camps; high dropout rates among Roma children; difficulties for Roma people in finding work; and hostile attitudes among some officials towards members of the Roma community. Measures must be taken to address those problems. The delegation had repeatedly referred to the Roma as "nomads", implying that their nomadic lifestyle was part and parcel of Roma culture. In his experience, most human beings were nomads not by choice but by necessity.

21. He was pleased to learn that Italy was considering instituting the offence of torture as defined in international law in order to bring domestic legislation into line with international instruments.

22. Sir Nigel RODLEY said that, while he welcomed the comprehensive overview contained in the State party's written replies of the evolution of legislation to counter domestic violence, in the absence of specific information on action taken in relation to such acts it was difficult to see how those provisions were implemented in practice.

23. In connection with question 11, he asked the delegation to explain the reasons for the dismissal of charges against law enforcement officials in relation to the events during the Global Forum held in March 2001 in Naples.

24. The written replies failed to respond to the first part of question 12 and he invited the delegation to comment on the Government's position vis-à-vis reports of maltreatment by State agents of anti-war protesters.

25. The scant information provided in reply to question 13 was somewhat surprising. The issue of reported abuse by law enforcement officials against certain vulnerable groups had already been raised by the European Committee on Racism and Racial Intolerance (ECRI). In its report, ECRI had mentioned alleged misconduct on the part of some law enforcement officials, such as discriminatory checks, insulting and abusive language, ill-treatment and violence targeting, in particular, Roma, foreigners and Italian citizens of foreign background. Other reports alleged police brutality and abusive behaviour during the eviction of Roma families from unauthorized camps, and one Roma organization had provided comprehensive information on specific cases of abuse. He requested the delegation to comment on such reports.

26. He would also welcome information on follow-up to the complaints lodged against members of the Carabinieri and prison officers. Information on specific problems and cases was crucial to a constructive dialogue and he encouraged the delegation to be more forthcoming in that respect.

27. Mr. GLÈLÈ AHANHANZO said that he, too, objected to the reference to Roma people as "nomads"; many members of that community led a sedentary life. It would be useful to learn of measures taken to ensure the realization of their human rights. He wished to know what criteria and procedures were applied to distinguish between illegal immigrants and asylum-seekers prior to refoulement, and whether the situation in their countries of origin was taken into account when deciding on their expulsion.

28. Mr. RIVAS POSADA said that he regretted the late submission of the written replies. In relation to question 17 of the list of issues, he asked how the authorities proceeded in cases where victims of trafficking failed to cooperate. Did that lack of cooperation affect their eligibility for assisted repatriation? He also wished to know whether the expulsion of non-European citizens illegally residing in Italy applied to both victims of trafficking and traffickers.

29. Mr. O'FLAHERTY asked to what extent Italian NGOs were involved in the reporting process. The delegation should explain how the Government intended to disseminate the contents of the Committee's concluding observations and promote knowledge of the Covenant in general.
30. The fact that, in Italy, responsibility for addressing the needs of the Roma lay with local governments did not exempt the central Government from its obligations under the Covenant. He asked whether any national policies existed to address the needs of that community and, if so, in what way they addressed human rights issues.
31. The dissemination of racist propaganda by certain politicians also gave cause for concern and he asked to what extent such acts were investigated and, where appropriate, prosecuted.
32. Mr. D'ALIA (Italy) said that his Government was in the process of preparing to withdraw some of its reservations to the Covenant, but had not yet done so.
33. Mr. SERGIO (Italy) said that the Italian State was legally bound to adopt measures to facilitate the participation of men and women in public life. Measures taken thus far included the promulgation of a law stipulating that the proportion of candidates of either sex on electoral lists must not exceed two thirds. Parties failing to observe that rule were liable to punishment. The provisions had been implemented for the first time in elections to the European Parliament and had resulted in an increase in the number of Italian women parliamentarians.
34. Equality counsellors had the responsibility of promoting equal opportunities and monitoring the implementation of relevant legislation, inter alia by receiving complaints of gender-based discrimination. They were also authorized to lodge appeals in respect of such complaints with the courts. Their mandate had been broadened recently, enabling them to bring actions in cases of collective discrimination of national relevance. Amendments had also been made to provide for urgent procedures in relation to complaints. Victims of discrimination were eligible for compensation.
35. The protection of victims of trafficking and the prosecution of traffickers were unrelated to their legal status in Italy, nationality or personal circumstances. Victims were issued residence permits to enable them to access rehabilitation programmes and testify against traffickers. Failure to cooperate did not affect the protection afforded to victims or their eligibility for benefits provided under article 18 of the Consolidated Act on immigration and related provisions.
36. In Italy, incitement to racial hatred was punishable by law. However, it was often difficult to draw the line between material published in exercise of the right to freedom of expression and racist propaganda.
37. Mr. IANNINI (Italy) said that Italian legislation was in conformity with the Durban Declaration and Programme of Action. Accordingly, incitement to racial hatred and membership of organizations propagating racism and xenophobia were punishable by imprisonment.

Pursuant to the so-called “Mancino Act”, discriminatory or racist attitudes underlying the commission of a crime were considered aggravating circumstances. Anti-discrimination legislation also applied if the victim was a foreigner. In the past five years, there had been virtually no convictions for racist crimes, which showed that such acts were extremely rare.

38. Mr. CAZZELLA (Italy) said that all private companies providing security services in airports had to meet certain requirements in order to be granted a licence by the Ministry of the Interior, the Ministry of Transport and the relevant prefecture. Customs and immigration officials and the police cooperated in training private security staff. Passengers could only be stopped for questioning or be searched in airports at the behest of the police; private security guards could assist in such operations, but did not have the right to initiate them. There had been no reports of human rights abuses by private security staff.

39. Mr. PIERMARINI (Italy) said that the Penal Military Code of War had been amended to ensure that members of the armed forces and police officers who participated in international operations were aware of the local populations’ rights under the Covenant. Details of the amended legislation had been provided in the written replies to the list of issues. Further amendments of the Penal Military Code, bringing it fully into line with international humanitarian and human rights law, were currently under consideration by Parliament. The Ministry of Defence had issued detailed guidelines on the procedures to be followed by members of the armed forces in situations not regulated by the Penal Military Code. The guidelines set out the rules of engagement, in order to prevent any abuse of human rights. All personnel involved in international operations received full training.

40. The Ministry of Defence informed Parliament about its international operations on a regular basis. It adopted a policy of transparency regarding all such operations and was willing to update its practices whenever necessary.

41. Under the G-8 Africa Action Plan, Italy had established the Centre of Excellence for Stability Police Units in Vincenzo, and had funded two training courses on conflict prevention, human rights and peacekeeping for officers from 35 African countries.

42. Mr. PANSA (Italy) said that Italy had not denied any migrants the right to apply for asylum. Italian coastguard vessels had indeed intercepted boats carrying illegal immigrants heading for the island of Lampedusa. In all cases, those had been rescue operations, performed in international waters, and no vessels had been sent back to their port of origin. The 5,000 people rescued during summer 2005 would have risked death but for the action of the Italian coastguards. From 1999 to date, there had been a steady increase in the flow of migrants.

43. In October 2004 and March 2005, large groups of illegal immigrants had arrived on Lampedusa. They had all received medical and other assistance, and been given the opportunity to apply for asylum, with the help of interpreters and experienced immigration personnel. Powerful criminal organizations in Libya, from where most of the migrants had sailed, had accused the Italian authorities of violating the rights of those migrants. All the measures taken,

however, had been in full compliance with Italian and international law, and none of the accusations was true. Many of the migrants had been transferred to holding centres in other provinces in order to lodge their asylum applications. A number of them had escaped from the centre on Lampedusa, assaulting and injuring Italian guards in the process. Italy had funded and administered the refoulement of those who had been refused asylum. No migrants had been harmed in any way.

The meeting rose at 6 p.m.