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Summary record of the 3346th meeting

Held at the Palais Wilson, Geneva, on Friday, 10 March 2017, at 10 a.m.

Chair: Ms. Waterval

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In the absence of Mr. Iwasawa (Chair), Ms. Waterval took the Chair.

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Sixth periodic report of Italy (continued) (CCPR/C/ITA/6 and Corr.1;
CCPR/C/ITA/Q/6 and Add.1)

1. *At the invitation of the Chair, the delegation of Italy took places at the Committee table.*

2. **Mr. Ferri** (Italy) said that the Government would renew its efforts to protect human rights and was grateful to the Committee for identifying a number of issues in need of additional attention. Major progress had been made in improving the functioning of the judiciary. For example, the number and average length of court cases had fallen. Italy sought to play a leading international role in the protection of human rights and was committed to the establishment of a fully independent national human rights institution.

3. The National Authority (Garante nazionale) for the Rights of Persons Detained or Deprived of Personal Liberty had recently been established. It was a fully independent body and worked to protect the rights of all detained persons and persons deprived of their liberty, including migrants held in detention centres. The National Authority had access to all sites at which persons were detained or deprived of their liberty and was responsible for monitoring the health of such persons.

4. The reform of the country's judicial system came at a turning point in history at which fundamental principles, including even the universality of human rights, were being called into question. At such a juncture, it was more important than ever to defend the principle of equality as the basis of democracy.

5. In 2016, Italy had passed legislation to ratify the European Convention on Mutual Assistance in Criminal Matters. In early 2017, the corresponding implementing legislation had been adopted. At the European Union level, Italy had pushed for the establishment of a European Public Prosecutor's Office. In 2016, a process of reform had been launched to improve the functioning of the Supreme Court. Law-Decree No. 168/2016 had increased the efficiency of the judiciary. Efforts were also being made to strengthen the human and material resources of the judicial system by promoting innovation and digitizing processes.

6. Measures had been taken to address the backlog of court cases and prison overcrowding. Over the previous three years, the backlog of cases and the "Pinto"-related debt had both been reduced significantly. Between June 2013 and December 2016, the number of pending civil cases had fallen from around 5,200,000 to around 3,800,000. International observers had acknowledged the positive transformation that had taken place. In 2016, a reform of the system of criminal penalties had been undertaken. One of the key objectives of the reform had been to ensure that pretrial detention was a measure of last resort. To that end, a call for tender had been issued for the provision of 1,000 electronic tagging devices. The Government was committed to the incorporation of the international crime of torture into the domestic legal framework.

7. The country's recent experience of immigration brought into focus the notions of European identity, reception and integration. Following recent mass migration flows, it had become necessary to reconceptualize the very idea of community on the basis of solidarity. Recently adopted legislation dealt with migration in all its aspects, establishing rules to deal with the illegal aspects of the phenomenon and streamlining procedures relating to international protection.

8. In its ruling on *Khlaifia and others v. Italy*, the European Court of Human Rights had given a positive assessment of the treatment of migrants at the Lampedusa immigration reception centre and the provisions for the return of Tunisian nationals under the bilateral agreement between Italy and Tunisia. Work was under way to improve the provision of assistance to unaccompanied minors, including methods of identification and age determination, in order to accelerate the appointment of guardians. It should be emphasized

that the country's immigration policy was based on the principles of legality and equality. Italian and foreign nationals were treated equally before the law.

9. The proportion of convicted persons who received custodial sentences had decreased, and the cells used to detain persons in Italy were larger than the European average. It was necessary, however, to make further improvements to the physical infrastructure of prisons on the basis of the latest research. It should be noted that NGOs served an important function in conducting monitoring visits to prisons. The risk of radicalization in prisons called for an integrated approach, and prisoners convicted of the offence of international terrorism or detained on related charges were held separately from others.

10. He wished to note that the remaining two judicial psychiatric hospitals had recently been closed, which represented a positive step for the development of human rights. Their former patients were currently undergoing treatment at residential health-care facilities.

11. **Mr. Shany** said that he would appreciate a reply to his questions regarding the allegations contained in the report submitted by Amnesty International, as well as clarification regarding the availability of legal aid at hotspots. In addition, he wished to note that the use of human rights language in the bilateral agreements that the State party had signed with other countries was not in itself sufficient to guarantee the protection of human rights.

12. Information would be welcome on the capacity of detention centres to accommodate persons with disabilities and the length of stay of migrants at temporary reception centres. It was unclear whether the poor conditions at the Bisconte temporary reception centre had been acknowledged and, if they had, what was being done to improve them. In addition, it would be helpful if the delegation could respond to reports that persons held in detention centres had limited opportunities and facilities for recreation and that those who were no longer eligible to remain in such facilities were left without suitable accommodation solutions.

13. The Committee would appreciate explanations of the reported delays in the first processing of unaccompanied minors at registration and reception centres and in the appointment of guardians for such children. In addition, he wished to know whether the State party was aware of the problem of the disappearance of unaccompanied minors from detention centres and, if so, what was being done to monitor and address it. The use of wrist X-rays to determine the age of migrants called for clarification, as it was reported to be an unreliable method of age determination. Had consideration been given to the use of other methods?

14. He wished to know whether the State party would abolish the offence of irregular entry and stay, and whether it was correct that the rejection rate for asylum applications had increased over the previous few years and, if so, why it had increased. In addition, the Committee was concerned that the necessary measures had not been taken to protect the non-refoulement rights of genuine asylum seekers. It would be helpful if the delegation could comment on the accuracy of reports that migrants were required to produce financial statements from their home countries to prove their eligibility for free legal aid. The asylum procedure was lengthy, but it was unclear what support was available to applicants who were awaiting a decision.

15. With regard to data protection, he would be grateful for further information on the Supreme Court ruling of 1 July 2016 regarding the applicability of article 266 of the Code of Criminal Procedure, as it appeared to grant the Government disproportionate powers, and on the compatibility with the provisions of the Covenant of the State party's data retention policies. Lastly, he asked whether the Government sought to regulate the sale of surveillance equipment by Italian private companies, including to foreign governments, with a view to reducing the risk of human rights violations around the world.

16. **Mr. Muhumuza** asked what steps had been taken to establish a national structure uniting all public bodies and NGOs active in the prevention of trafficking in persons, what efforts had been made to formalize victim identification and referral procedures, and what was being done to identify and prosecute the various intermediaries who facilitated trafficking in persons.

17. **Ms. Cleveland** said that, in the light of reports that the hundreds of thousands of migrant workers in the State party were at risk of exploitation, that labour and social support violations continued to occur and that the provisions of Legislative Decree No. 109 of 16 July 2012 (the so-called “Rosarno Law”) were insufficient, further information would be welcome concerning the mechanisms in place to enable migrant workers in an irregular situation to file complaints without fear of reprisal, the measures taken to inform such workers of the availability of those mechanisms and the number of complaints that had been received. The Committee reiterated its request for information on child labour. With regard to the statistics on the prevalence of labour exploitation given in paragraph 54 of the State party’s replies to the list of issues (CCPR/C/ITA/Q/6/Add.1), clarification was needed regarding the number of cases that had come to court, the number of convictions secured and the types of sanction imposed.

18. She would be grateful for more information on the implementation of the legislation adopted the previous year on labour exploitation, including information on cases brought against employers, any convictions secured and the compensation awarded to victims. She wished to know what measures had been taken to address the precarious and substandard living conditions of migrant workers, in particular in the agricultural sector, to strengthen labour inspections and to ensure that those workers had access to health care and other social services. With regard to the situation of migrant workers in the Calabria region in particular, the Committee would be grateful for an update on the implementation of the operational protocol for the reception and integration of migrants in the plain of Gioia Tauro signed in February 2016. Would similar protocols be adopted for other regions?

19. She invited the delegation to respond to reports that, although the specific offence of insult had been abolished, similar offences remained on the statute books. With regard to defamation, the Committee was concerned that, as reported by the Organization for Security and Cooperation in Europe, 475 journalists had been convicted of libel in 2015. The Committee would be grateful for statistics on the enforcement of the various provisions relating to defamation. How many persons had been prosecuted and convicted under those provisions, and what sanctions had been imposed? She asked what efforts were being made to revise existing laws criminalizing forms of speech and expression and to ensure that prosecutors did not seek criminal penalties that improperly infringed on the freedom of expression. Lastly, given that, under the 2016 Freedom of Information Act, it was necessary to go through the courts to challenge the non-disclosure of information by the Government, it would be helpful to know what steps were being taken to develop a more effective mechanism.

20. **Ms. Seibert-Fohr** said that, despite some improvements in recent years, prison overcrowding remained a problem. In that connection, it would be helpful to know the success rate and average length of proceedings for complaints filed under Act No. 117/2014. Furthermore, she invited the delegation to respond, ideally with the help of relevant statistics, to reports that foreign nationals were more likely to be detained for minor offences and on average received harsher sentences than Italian nationals. Did those two groups benefit equally from non-custodial measures? With regard to prison conditions, she asked whether the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to draw up a comprehensive renovation plan for Ucciardone prison in Palermo had been implemented and whether the health-care provision in prisons was adequate. In addition, she wished to know what measures had been taken to strengthen and expedite judicial review for orders imposed under article 41 bis of the penitentiary system law. What action had been taken in response to reports that such orders were sometimes imposed inappropriately?

21. It would be helpful to learn whether all judicial psychiatric hospitals had been closed. In addition, she would be grateful for a response to reports that the progressive closure of such hospitals, had been complicated by a lack of substitute places in some regions, that residential health-care facilities were organized as penal institutions and not as hospitals, that a pending legislative amendment would establish a system similar to the old system of judicial psychiatric hospitals, and that the psychiatric sections set up in many prisons were sometimes used inappropriately.

22. She would be grateful for further information on the various measures taken to reduce the average length of court proceedings in civil, criminal and administrative cases, as it remained excessive, and the action taken in response to the Committee's previous recommendation that the provisions of article 104 (3) and (4) of the Code of Criminal Procedure should be amended. Lastly, she wished to know whether it was correct that only persons with an annual income below €11,369.24 were entitled to free legal aid. Had the same threshold been set for criminal proceedings?

23. **Mr. Fathalla** said that the Committee would appreciate information on the efforts made to put an end to political interference in the media, the measures taken or planned to require all media organizations to disclose information on their ownership structure, the composition of their governing bodies and their sources of revenue, and the sanctions imposed on persons found guilty of intimidating, threatening or attacking journalists.

24. **Ms. Kran** said that the Committee would be grateful for further information on the implementation of the national action plan against trafficking in persons, the steps taken to raise awareness of its provisions among the public and the measures taken to ensure that migrants and asylum seekers were aware of their rights, including their rights under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol). In addition, it would be helpful to learn: whether a strategy for the implementation of the national action plan had been drafted; whether assessments of its implementation would be conducted and, if so, which body would be responsible for conducting them; whether training had been organized for officials to support the implementation of the action plan; and what proportion of the budget allocated for its implementation had been earmarked for sex trafficking and labour trafficking. In addition, information would be welcome on any investigations or prosecutions of public officials for trafficking in persons, including information on the progress of such investigations or prosecutions and the provisions under which the officials in question were being prosecuted. Lastly, she would be grateful if the delegation could comment on the fact that, while the number of victims of trafficking had increased significantly since 2015, there appeared to have been no corresponding increase in the number of relevant prosecutions. Further information was needed on the progress made towards the establishment of a national referral mechanism for the identification of and assistance to victims of trafficking under the national action plan. Had funding been earmarked for the mechanism? When was it expected to be established? Did the Government plan to consult civil society in preparation for the implementation of the national referral mechanism?

25. **Mr. Heyns** said that he would be grateful for more information on the incorporation of the crime of torture into domestic law. What were the obstacles to its incorporation? Would the definition set out in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment be taken into account?

26. **Ms. Brands Kehris** said that she wished to know whether the National Office Against Racial Discrimination (UNAR) received any State funding and whether the Special Solidarity Fund for the Victims of Discrimination was funded by the State. Further information would be welcome on: the role of UNAR in processing complaints; the work done by the Government to support victims; the outcomes of the 35 strategic litigation cases mentioned in the replies to the list of issues (CCPR/C/ITA/Q/6/Add.1, para. 6); the role of the central Government in the implementation of the integration strategy for Roma, Sinti and *Caminanti*; and the implementation of executive decision No. 4077, pursuant to which the Municipality of Rome had issued a notice that seemed further to entrench the segregation of Roma.

27. **Mr. Santos Pais** said that he would be grateful for further information on the prevalence of domestic violence against children and persons with disabilities. Was the data that the State party collected on the prevalence of domestic violence disaggregated by category of victim? Were the public services engaged in combating domestic violence alert to the specificities of cases involving children and persons with disabilities?

The meeting was suspended at 11.25 a.m. and resumed at 11.40 a.m.

28. **Mr. Petri** (Italy) said that his delegation would submit written responses to questions, including those relating to the status of Roma, religious freedom and torture.

29. **Ms. Arata Farris** (Italy) said that, since 2012, the Government had implemented a comprehensive overhaul of the reception system, in response to increasing demand and rapidly growing migratory flows. By the end of 2016, just over 180,000 new migrants had landed in Italy. There were times when the main ports on the southern coast of Italy had struggled to cope with thousands of new arrivals; the scale of the challenge was overwhelming.

30. Under Italian legislation, as soon as migrants expressed their intention to apply for asylum, they were entitled to assistance and support, even before they made a formal application. The very successful Protection System for Asylum Seekers and Refugees consisted of a network of local institutions that provided support to migrants, who were divided up into small groups, while special projects existed to protect unaccompanied minors and vulnerable persons. Under the new reception model introduced in October 2016, migrants were billeted to centres throughout Italy, on the basis of quotas and sustainability criteria, in order to ensure balanced distribution at regional and municipal level. It was hoped that the system would soon expand to include more of the country's 8,000 or more municipalities. Migrant reception services were run by qualified staff, and aimed to facilitate integration.

31. The number of unaccompanied minors arriving in Italy had more than doubled from 2015 to 2016. In order to deal with that challenge, a new reception system for unaccompanied minors was currently being developed. A special team within the department of civil liberties and immigration at the Ministry of the Interior had been set up to coordinate the implementation of a comprehensive reception system, and efforts had been made to enhance the existing system. The management of the national fund for unaccompanied minors had been transferred from the Ministry of Labour to the Ministry of the Interior. In 2016, the fund amounted to 90 million euros, with a similar sum set aside for 2017.

32. New legislation permitted the establishment of temporary reception centres to deal with large migrations flows, should municipalities be unable to provide reception services to minors. That legislation also covered the procedures implemented and services provided in both temporary and government centres. For example, the food provided needed to take into account both medical and dietary needs, and programmes offered included linguistic mediation and cultural activities. Other services included measures to identify and assess the age of migrants, guiding migrants through the asylum application process and family tracing programmes. Medical assessments, including for the purpose of diagnosing trauma, were also offered and all migrants had access to the national health-care system.

33. **Ms. Bocchino** (Italy) said that, although the reception and identification system had been enhanced, much remained to be done, particularly in terms of improving the emergency response. The Government worked together with humanitarian organizations and other civil society entities, granting them unrestricted access to reception centres to monitor conditions and identify shortcomings.

34. The Government was taking measures to address delays in the appointment of guardians for unaccompanied minors. The fingerprinting of migrants was not principally intended to identify personal details; it was chiefly a requirement under European Union data regulations. Identifying migrants was a difficult task, as the authorities in their presumed countries of origin were often unwilling to cooperate. Efforts were being made to establish a dialogue with those countries. For minors who planned to seek international protection, the asylum procedure would apply, with the cooperation of the relevant authorities.

35. The phenomenon of children absconding from reception centres had recently grown in scale. In some cases, the children in question did not wish to remain in Italy. Moreover, even though more children were absconding from centres, they were not necessarily falling prey to trafficking gangs. Nevertheless, the authorities were investigating the problem and, together with non-governmental organizations, were taking measures to find a solution. He drew attention to the fact that Italy was not a country where trafficking took place within its

borders. Human trafficking was a cross-border problem. Provisions on human trafficking and related offences, including slavery and exploitation, were fully compliant with the European Convention on Human Rights. It was difficult, however, to investigate trafficking cases in countries where no counterparts for dialogue existed. In recent months, perhaps as a result of awareness-raising campaigns, the problem of trafficking had become more visible, and larger numbers of victims had begun to come forward, often accompanied by representatives of non-governmental organizations, to report cases of human trafficking. That information then allowed the authorities to better monitor the situation, especially as trafficking was closely linked to international organized crime.

36. National plans existed to combat gender-based violence and human trafficking, implemented with the cooperation of a network of institutions and civil society organizations. The authorities were carrying out an analysis of the situation in order to draw up plans of action, and to raise public awareness. The Government was taking steps to improve the procedure for appointing guardians for unaccompanied minors, working with the Ministry of Justice and social services to speed up the process and coordinate resources and activities at local level.

37. **Mr. Petri** (Italy) said that the delegation would submit information on data protection in writing.

38. **Ms. Di Fiandra** (Italy) said that a decree adopted in 2016 defined the procedures used to identify the age of a minor, beginning with the least invasive procedures possible, such as interviews, assessment of the child's life experience and reports from psychiatrists and child psychologists.

39. **Mr. Villani** (Italy) said that national legislation restricted the use of surveillance, including viruses or malware, in private dwellings. The current trend was to limit the use of those kinds of surveillance to mafia or terrorism cases. In all other cases, surveillance in private dwellings was restricted unless there was, for example, an immediate threat or a suspected conspiracy. Evidence collected using those means was admissible in court and could result in convictions being overturned.

40. **Mr. Petri** (Italy) said that further information on surveillance would be submitted in writing.

41. **Ms. Di Fiandra** (Italy) said that, in line with European Union directives, Italy had a comprehensive protection system. Its socially oriented approach included a toll-free hotline, working groups on issues such as victim assistance, cooperation with countries of origin, and the earmarking of nearly 15 million euros to support victims. Special care was provided to minors who had fallen prey to human traffickers, and there was coordination among all the relevant authorities and bodies. A national referral mechanism had been established and, over the previous five years, nearly 50 million euros had been spent on support and rehabilitation programmes targeting victims of trafficking. The humanitarian approach adopted by the Italian authorities had led to improvements in the shelter, care and assistance provided to victims, as well as the training offered to staff in shelters, interpreters, lawyers and police officers.

42. **Mr. Petri** (Italy) said that a legislative bill had been tabled to reform the adoption system that included provisions concerning same-sex couples and single persons. Irregular migrant workers could contact the relevant authorities to claim salary payments and social security contributions; in cases involving illegal recruitment, the courts could order employers to cover the workers' repatriation costs. If irregular workers cooperated with the courts and testified against their employers, they could be awarded a temporary humanitarian permit, which also entitled them to work in Italy. Such permits were awarded for six months, and could be extended for a further six-month period. In line with existing legislative provisions, funding was available to provide assistance to victims. He confirmed that the number of unaccompanied child migrants in Italy had indeed risen significantly, and noted that employers involved in the recruitment of illegal child labour faced administrative sanctions.

43. **Ms. Bocchino** (Italy) said that legislation to combat "gangmasters" had recently been updated to cover the offence of trafficking for labour exploitation, and listed the

criteria used to demonstrate evidence of worker exploitation. The amended legislative provisions focused more on the victims of labour exploitation. In recent years, there had been an increase in the number of cases of labour exploitation reported to the police. In cases where labour exploitation was linked to trafficking, more severe penalties would apply; specific measures existed to rehabilitate victims and reintegrate them into society.

44. **Mr. Forlani** (Italy) said that the offence of “insulting a public official”, which had been removed from the Criminal Code in 1999, had later been reintroduced, with certain modifications and covering different rights and situations.

45. **Mr. Palma** (Italy) said that his office was investigating the allegations made by Amnesty International, and that meetings had been held with their representatives from the United Kingdom. The prison system was becoming less overcrowded, and recent changes to the system provided opportunities for further progress.

46. **Mr. Villani** (Italy) said that certain steps had been taken to reduce overcrowding, including legislative measures to reduce the number of people entering the prison system and to expedite the release of prisoners, restrictions on the use of pretrial detention and the introduction of alternative sentencing measures, including home detention. Indeed, the prison population had recently fallen by more than 10,000. With regard to overcrowding and prison capacity, he drew attention to the fact that although Italian prisons were moderately overcrowded, conditions did not constitute a breach of inmates’ human rights, as each prisoner had a minimum of three square metres of cell space. Prison conditions were regularly monitored using specialist software, and prisoners were redistributed if overcrowding was detected.

47. The issue of foreign prisoners was complicated. Most were serving time for minor offences, but the lack of a registered domicile prevented the authorities from handing down alternative sentences or home detention. Although agreements existed with third countries regarding the repatriation of prisoners, in the majority of cases the crimes were too minor to qualify for that scheme. The special prison regimen for dangerous prisoners was considered to be compatible with the European Convention on Human Rights and was applied mainly in the case of incarcerated mafia bosses. It aimed to prevent prisoners from contacting criminal organizations, and was designed as a preventive measure. Italy had a history of mafia forming in the prison system.

48. **Mr. Del Maestro** (Italy) said that the Italian communications regulatory authority (AGCOM/Autorità per le Garanzie nelle Comunicazioni) provided information to the public and collected data on all media companies operating in Italy, including on their ownership structure and revenues. Unless the data was confidential, the public could access information on listed companies, while partial disclosure applied to non-listed companies. Additional information could be obtained for a fee from chambers of commerce. The regulatory authority also published monthly market reports and annual reports on news consumption. His delegation would provide written information on market developments and the diversification of the communications market.

49. **Mr. Butta** (Italy) said that the National Anti-Trust Authority monitored the media landscape and had recently completed its investigation into the impact of digitization on the development of the communications market. The dramatic increase in transmission capacity since 2003 had opened up the market, reducing the individual share of market leaders by 20 per cent. It was now easier for new providers to access the market and the sector was gradually becoming more competitive.

50. **Mr. Petri** (Italy) said that written information would be provided on the relationship between the media and politics.

51. **Mr. Villani** (Italy) said that the crime of stalking had been added to the Criminal Code in 2009, and carried a prison term of up to 4 years. The administrative authorities were responsible for implementing protection measures, even if the victim did not press charges. Amendments to legislation on domestic violence provided for protective measures and defined aggravating circumstances in such cases.

52. **Mr. Petri** (Italy) said that combating violence against women was a priority for the Government.

53. **Ms. Marini** (Italy) said that the legislation adopted to establish the National Office against Racial Discrimination (UNAR) ensured that it enjoyed full autonomy and remained impartial. Its director general had the freedom to decide on all projects and strategies implemented by the National Office, which was funded from European Union resources.

54. **Ms. De Rosa** (Italy) said that cases involving domestic violence against children with disabilities were prosecuted *ex officio*. Prison overcrowding was indeed a problem. Noting that just over 30 per cent of prisoners were foreign nationals, she stressed that negotiations with the countries of origin of those inmates were difficult. A prison renovation programme included work on Ucciardone prison, and efforts were made to ensure that prisoners received quality care and had access to leisure and other activities, including employment. Legislation adopted in 2015 provided for compensation payments to current or former inmates living in inadequate detention conditions, involving either a reduction of their sentence or daily remuneration.

55. **Ms. Moressi** (Italy) said that the delivery of health-care services in prisons was managed by regional authorities. At central level, efforts were being made to improve quality, including by collecting and collating data from regions, in order to provide a snapshot of the situation with a view to planning more effective activities. Programmes included addressing the issue of migrants and foreign nationals in prisons, providing vaccination services, and tackling pain management in prisons. The delegation would provide additional statistics on the treatment of mental problems and programmes to reintegrate released convicts into the community.

56. **Mr. Petri** (Italy) said in conclusion that the Italian delegation had demonstrated the Government's will to improve the human rights situation in Italy. Efforts would be made to provide additional information in writing. He hoped that a good relationship could be maintained with the Committee and expressed the wish to invite members of the Committee to human rights events in Italy in the future.

57. **The Chair** stated that recent improvements and outstanding concerns would be reflected in the Committee's concluding observations.

The meeting rose at 1.05 p.m.