

# Italian Yearbook of Human Rights 2016



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# **Italian Yearbook of Human Rights 2016**

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**PACE DIRITTI UMANI**  
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## Italian Agenda of Human Rights 2016

For the fifth consecutive year, the research and editorial committee of the *Italian Yearbook of Human Rights*, based at the Human Rights Centre of the University of Padova, has compiled an *Italian Agenda of Human Rights*, drawing on the analysis of the recommendations made to Italy at the international level and the most critical issues identified in the successive editions of the Yearbook itself. The Agenda can constitute an updated instrument for choosing the main initiatives to be undertaken on the legislative, infrastructural and policy-making fronts in order to strengthen the Italian system for promoting and protecting human rights (information on the previous editions of the Agenda is available online at [www.italianhumanrightscopyearbook.eu](http://www.italianhumanrightscopyearbook.eu)).

The research and editorial committee found that in 2015 (and in the first two months of 2016), there were nine items and sub-items on the 2015 Agenda (see *2015 Yearbook*, pp. 29-34) on which Italy made clear progress over the year considered. Three of these were on the normative level: Italy deposited the respective ratification instruments for the International Convention for the Protection of All Persons from Enforced Disappearance (8 October 2015), the United Nations Convention on the Reduction of Statelessness (1 December 2015) and the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (4 February 2016).

The fourth and fifth items concern the infrastructural level. A decree dated 11 March 2015 established the Office of the National Ombudsperson for the Rights of Detainees and Persons Deprived of their Liberty as a collegiate body, and its members were finally appointed as of 6 February 2016. The first President of this supervisory body was found in the person of Mauro Palma, former President of the Council of Europe Committee for the Prevention of Torture; the other two members are the lawyer Emilia Rossi and the journalist Daniela de Robert. The Ombudsperson's Office will also serve as the National Preventive Mechanism (NPM) prescribed by the Optional Protocol to the United Nations Convention against Torture (OPCAT), ratified by Italy in 2013.

The sixth point removed, as compared to the 2015 Agenda, concerns the implementation of international obligations and commitments. Having submitted its VI Report to the United Nations Human Rights Committee

(overdue since October 2009) in October 2015, Italy is no longer behind in compiling the various reports required by the international monitoring bodies.

The last three items concern the strategic and systematic planning of human rights policies. Specifically, Italy has adopted two long-awaited national action plans: the Extraordinary Action Plan against sexual and gender-based violence (5 July 2015), the National Plan against racism, xenophobia and intolerance for the three-year period 2013-2015 (19 August 2015), and the National Action Plan against trafficking of human beings (26 February 2016).

On the remaining items and sub-items, a distinction should be made between two groups. On certain issues, some improvements have been noticed, but a longer timeframe is considered necessary to evaluate whether Italy has fully met its commitments in these areas. This group includes, for example, the efforts made by the Italian Government to resolve some structural problems of the Country, such as that of prison overcrowding (point 22), and that of the excessive duration of legal proceedings (point 16). Consequently, these points are reformulated based on the developments observed and appear again in the *2016 Agenda*, to allow for a longitudinal assessment of their implementation and to keep the research and editorial committee's focus on the relative issues. Other points have not been the object of any specific initiative by the Italian authorities and are therefore confirmed, in the same words as last year, in the *2016 Agenda*.

### **Italian Agenda of Human Rights 2016**

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| <b>Normative Level</b> | 1) Ratify the following legal instruments at the United Nations and the Council of Europe:<br>a. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;<br>b. Protocol XII to the Convention for the Protection of Human Rights and Fundamental Freedoms;<br>c. Protocol XV to the Convention for the Protection of Human Rights and Fundamental Freedoms;<br>d. Protocol XVI to the Convention for the Protection of Human Rights and Fundamental Freedoms;<br>e. European Convention on Nationality;<br>f. Additional Protocol to the Criminal Law Convention on Corruption. |
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|                              | <p>2) Deposit the instruments of ratification for the following legal instruments for which Parliament has already adopted the relative ratification and implementation laws:</p> <ul style="list-style-type: none"> <li>a. Convention on Human Rights and Biomedicine (Oviedo Convention);</li> <li>b. Additional Protocol to the Convention on Human Rights and Biomedicine Concerning Transplantation of Organs and Tissues of Human Origin.</li> </ul> |
|                              | <p>3) Support the adoption of the Declaration on the Right to Peace adopted by the Human Rights Council on 1 July 2016 before the UN General Assembly.</p>   |
|                              | <p>4) Accept article 25 of the European Social Charter (revised), on the right of workers to protection of their claims in the event of insolvency of their employer.</p>  |
|                              | <p>5) Withdraw the declaration that excludes the application for Italy of Chapter C of the European Convention on the Participation of Foreigners in Public Life at Local Level and, accordingly, provide for the introduction of active and passive voting rights in local elections for foreigners who have been residing in Italy for a certain number of years.</p>  |
|                              | <p>6) Include hate motivation as an aggravating circumstance in article 61 of the Italian criminal code.</p>   |
|                              | <p>7) Include the crime of torture in domestic legislation.</p>  |
|                              | <p>8) Expressly recognise representative non-governmental organisations within Italian jurisdiction having particular competence in issues regulated by the European Social Charter (revised) the right to present collective complaints pursuant to the 1995 Protocol.</p>  |
|                              | <p>9) Complete the adoption process of parliamentary bill No. 925 on defamation in light of the of United Nations, Council of Europe and OSCE standards.</p>   |
|                              | <p>10) Continue efforts to reform the system for the prevention and repression of corruption in both the public and private sector, with special reference to the most recent recommendations made by GRECO.</p>   |
| <b>Infrastructural Level</b> | <p>11) Complete the system of independent national human rights institutions in line with the Paris principles adopted by the United Nations:</p> <ul style="list-style-type: none"> <li>a. establish the National Human Rights Commission;</li> <li>b. establish the National Ombudsperson.</li> </ul>  |
|                              | <p>12) Ensure the existence of a permanent parliamentary Human Rights Commission, in one or both Chambers.</p>   |
|                              | <p>13) Assign all Ministries an ad hoc human rights office.</p>  |

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| <b>Implementation of International Obligations and Commitments</b> | 14) Complete the legislative process for the implementation of the Statute of the International Criminal Court as concerns substantive law.   |
|  | 15) Increase the timeliness and full execution of European Court of Human Rights rulings, including paying out compensation awarded, and improve Italy's capacity to conform to the standards defined by the same Court.  |
|  | 16) Address as a matter of urgency the issue of the excessive duration of legal proceedings, including those initiated to seek remedy for their excessive duration.   |
| <b>Adoption of policies</b>  | 17) Hold an annual debate on human rights in Parliament.  |
|  | 18) Adopt the following national action plans, providing them with suitable tools for monitoring and assessment: <ul style="list-style-type: none"> <li>a. National Action Plan on the human rights situation within detention structures;</li> <li>b. National Programme on education for democratic citizenship and education and training on human rights;</li> <li>c. Fourth National Action Plan for the protection of the rights and of the development of children and adolescents.</li> </ul>   |
| <b>Adoption of policies</b>  | 19) Provide information on the impact of the following national action plans: <ul style="list-style-type: none"> <li>a. National Strategy for the inclusion of Roma, Sinti and Travellers – 2012-2020;</li> <li>b. National Strategy for preventing and combating discrimination on grounds of sexual orientation or gender identity;</li> <li>c. Two-year Action Plan for the promotion of rights and the integration of persons with disabilities;</li> <li>d. National Plan against racism, xenophobia and intolerance for the three-year period 2013-2015.</li> </ul> |
|  | 20) Formally extend the remit of UNAR to include all forms of discrimination, including those based on language, religion, nation of origin, disabilities, sexual orientation and gender identity.  |
|  | 21) Allocate sufficient public social spending in the various categories (illness, disability, family support, unemployment, social housing and combating social exclusion).  |
|  | 22) Continue with efforts to resolve the problem of overcrowding in prisons, making further progress on the structural measures and deflation mechanisms introduced.  |

| <i>Initiatives in specific areas</i> |   |
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| <b>Women's Rights</b>                | 23) Promote actual equality between men and women in all aspects of public and private life, specifically through the adoption of policies and actions directed at: <ol style="list-style-type: none"> <li>a. reducing the deficit in the number of women represented in the highest decision-making roles in political bodies, including Parliament and Regional Councils, public administration including the Diplomatic Service and in the private sector;</li> <li>b. reducing the salary gap between men and women;</li> <li>c. fostering a more balanced sharing of family duties between men and women, both in running the home and in care-giving duties;</li> <li>d. eliminating stereotypical attitudes on the roles and responsibilities of women and men in the family, in society and in the workplace;</li> <li>e. encouraging plans for the integration of foreign women;</li> <li>f. tackling and resolving the phenomenon of resignations without a justified reason ("blank resignation letters") for pregnant women and working mothers.</li> </ol> |
|                                      | 24) Fully implement the course of action and interventions contemplated in the Extraordinary Action Plan against sexual and gender-related violence, adopted on 5 July 2015.  |
| <b>Children's Rights</b>             | 25) Adopt a general legislative measure which enshrines the right of children to be listened to in court, in administrative bodies, in the institutions, at school and in the family on every issue which concerns them directly and establish suitable mechanisms and procedures to this end, to ensure that the participation of children really takes place.   |
|                                      | 26) Amend the criminal code so as to explicitly forbid and criminalise the recruitment and the deployment, by either the armed forces or armed groups, of young people under the age of 18 in the course of armed conflicts.  |
|                                      | 27) Adopt legislation prohibiting and criminalising the sale of light and small calibre arms to Countries which deploy child soldiers.  |
|                                      | 28) Amend legislation so as to prohibit the expulsion of children, even on public order or State security grounds, when there are substantiated reasons to believe there is a real risk of irreparable damage to the child.   |

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| <b>Rights of Migrants, Refugees and Asylum Seekers</b> | 29) Address migratory flows as a structural phenomenon, the systematic planning for which must be assigned to instruments of an ordinary nature (rather than to emergency measures linked to a purely security-oriented viewpoint) and to multi-level governance with the involvement of the relevant Ministries, Regions, local administrations and civil society.   |
|  | 30) Respect the principle of <i>non-refoulement</i> , the right of asylum seekers to an individual examination of their case, as well as immediate access to asylum procedures and other forms of national and international protection, including where there are bilateral agreements for return or for cooperation in management of migratory flows.   |
|  | 31) Support the activities of the “Roundtable on the Legal Status of Roma”, established on 30 January 2013 as part of the National Strategy for Inclusion of the members of these communities, with the objective of finding solutions to the situation of statelessness of large numbers of Roma and Sinti originally from the former Yugoslavia, and of their children born in Italy (the so-called “de facto stateless people”). |
|  | 32) Develop a more expeditious identification system, in order to reduce as far as possible the period that migrants are detained while waiting for the identification procedures to be completed.  |
|  | 33) Re-examine laws on citizenship in the light of the principle of <i>ius humanae dignitatis</i> , continuing in the direction taken by the simplification of the process for acquiring citizenship status pursuant to art. 33 of l.d. 21 June 2013, No. 69.   |