

ITALY



*Ministero degli Affari Esteri
e della Cooperazione Internazionale*

*Inter-ministerial Committee for Human Rights
Comitato Interministeriale per i Diritti Umani*

**Address by Hon. Min. Plen. Fabrizio Petri, President of the Inter-Ministerial
Committee for Human Rights (CIDU),
On the First Periodic Report of Italy
Relating to the International Convention for the Protection of All Persons from
Enforced Disappearance
(UN CED Committee - 16th session)**

Geneva, April 8, 2019

*Madam Chairperson,
Distinguished members of the Committee,
Ladies and Gentlemen,*

I am sincerely honoured to address today, on behalf of the Italian Government, this august Committee.

Allow me, at the outset, to recall **the Italian (rigid) Constitution of 1948, which envisages the protection of all rights and fundamental freedoms included in relevant international standards**, such as the European Convention on Human Rights and Fundamental Freedoms, the Human Rights Universal Declaration, the International Covenant on Civil and Political Rights and the International Convention for the Protection of All Persons from Enforced Disappearance.

The protection and promotion of rights – be it civil and political, economic, social and cultural, be it referred to freedom of expression, to the protection of personal liberty or to the fight against racism or to the human rights of the child and of women – constitutes one of **the fundamental pillars of both domestic and foreign policies of Italy**.

No arbitrary conduct against fundamental freedoms is allowed by the Italian legal system. In this respect, **mention may be made - on a comparative note with other systems - of the measures to counter terrorism**.

As for guarantees and safeguards, the relevant Italian Constitutional system of procedural guarantees, including the right to defence, is an example, but not the only one. Within this framework, allow me also to recall *inter alia*: the so-called “principle of the double level of adjudication” made of a system of appeals, characterized by three possible levels of trial; the principle of due process of law; the role of the Constitutional Court; the mandatory prosecution; and **the inviolability of personal liberty**¹.

Madam Chairperson,

The Italian Government remains deeply committed to ensuring the protection of human dignity and the fundamental rights of individuals and, more generally, in countering any possible violation and/or arbitrary deprivation of personal liberty and inhuman or degrading situation or treatment - as can be inferred also from our initial periodic report (CED/C/ITA/1).

In this respect - by recalling the above Report -, despite the lack of the autonomous crime of enforced disappearance (*reato proprio*) in our penal code, we deem that **Article 605² c.p. and the**

¹ **Article 13 of the Italian Constitution** envisages as follows: “Personal liberty is inviolable. No one may be detained, inspected, or searched nor otherwise subjected to any restriction of personal liberty except by order of the Judiciary stating a reason and only in such cases and in such manner as provided by the law. In exceptional circumstances and under such conditions of necessity and urgency as shall conclusively be defined by the law, the police may take provisional measures that shall be referred within 48 hours to the Judiciary for validation and which, in default of such validation in the following 48 hours, shall be revoked and considered null and void.^[1] Any act of physical and moral violence against a person subjected to restriction of personal liberty shall be punished.^[2] The law shall establish the maximum duration of preventive detention”.

² **Article 605 of the penal code** envisages, as follows: “Whoever deprives another person of his/her personal liberty shall be punished by imprisonment penalty from six months to eight years. This penalty is from one to ten years when the offense is committed: against an ascendant, a descendant, or spouse; 2) by a public official, by abuse of powers inherent to his/her duties. If the conduct referred to in the first paragraph above is committed against a child, the imprisonment penalty from three to twelve years applies. If the conduct is committed in any of the circumstances referred to in the second paragraph above, against a child under the age of fourteen or when the abducted child is taken or kept abroad, the imprisonment penalty from three to fifteen years applies. If the offender causes the death of the abducted child, a life imprisonment penalty applies. Moreover, the penalties provided for in the third paragraph shall be decreased by up to a half when the defendant concretely acts: 1) for the child to regain his/her liberty; 2) to prevent that

variety of aggravating circumstances, as well as other criminal conducts envisaged by the penal Legislator already cover comprehensively this crime.

Madam Chairperson,

In terms of achievements, allow me to recall, inter alia, that at the outset of 2017 we **finally closed all Judicial Psychiatric Hospitals (in Italian, OPG), which have been then replaced by REMS (standing for Facilities for the implementation of security measures)** where regional Authorities through Local Health-Care Departments (in Italian, *ASL*) take care of each internee.

Madam Chairperson,

I also would like to stress the specific commitment of Italian Authorities to **ensuring adequate human rights training for all law enforcement agencies and the judiciary**. As a way of examples, **all initial training courses for personnel of the various roles of the Carabinieri Corps** include a specific module on the International Convention for the Protection of All Persons from Enforced Disappearance (Article 23).

Moreover, permanent lifelong training remains a key issue for all law enforcement agencies. In this regard *Carabinieri Corps* and *Guardia di Finanza* have been developing specific activities, including e-learning courses. Likewise, OSCAD³ has trained so far more than 11.000 officers and cadets in the area of its mandate.

Madam Chairperson,

With regard to the establishment of an independent National Human Rights Institution, as mentioned in our reply to List of Issues (CED/C/ITA/Q/1/Add.1), a specific draft legislation is debated particularly **within the Constitutional Affairs Commission of the Senate of Italy**. Against this background, allow me to recall that the **Italian National Preventive Mechanism (NPM) under OPCAT with a full-fledged independent mandate has been in place since March 2016**.

Madam Chairperson,

Last but not least, CIDU as the National Mechanism for Reporting and Follow-up (NMRF) has already planned **follow-up activities with relevant CSOs, Italy's NPM and AGIA (National Authority-Guarantor of Children and Adolescents)** once this august Committee will publish its Concluding Observations following today and tomorrow's consideration of Italy.

Madam Chairperson,

In conclusion, allow me to thank you, Madam Chairperson, and this eminent Committee **for our Constructive Dialogue**. I also would like to reiterate that the Italian delegation is honoured to be here today to respond to your questions, to the best of its ability.

I thank you for your attention.

the criminal conduct leads to further consequences, by concretely helping the Police authority or the Judicial Authorities collecting conclusive pieces of evidence, to reconstruct the facts and identify or capture one or more offenders; 3) to prevent further actions of child-related abduction".

³ Observatory for Security against Acts of Discrimination.