



Téléfax: (41-22) 917 90 08  
Téléphone: (41-22) 917 91 02  
Internet: www.ohchr.org  
Email: jnataf@ohchr.org



Palais des Nations  
CH-1211 GENEVE 10

REFERENCE: cc/jmn/fg/follow-up/CAT

17 November 2009

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee Against Torture (CAT), I refer to the examination of the fourth periodic report of Italy (CAT/C/67/Add.3), held on 4 and 7 May 2007. The Committee adopted its Concluding Observations (CAT/C/ITA/CO/4), in which it requested further comments by the Government of Italy in relation the specific issues of concern listed in paragraphs 7, 12, 16, and 20.

On behalf of the Committee, allow me to thank you for your response of 7 May 2008 providing comments by Your Excellency's Government on those paragraphs. The additional information provided assists the Committee in its ongoing analysis of the issues identified for follow-up in the paragraphs above. There remain issues where, in the Committee's view, the responses do not fully respond to the Committee's concerns, or in respect of which intervening events have rendered incomplete. Accordingly, as Rapporteur for Follow-up, I would be grateful for the supplementary clarification of Your Excellency's Government on the following outstanding matters.

With regard to the recommendation in paragraph 7 of the Concluding Observations regarding fundamental safeguards to protect against torture, the Committee notes the information provided on legislation in place guaranteeing the right to legal counsel upon arrest and detention. We would be grateful if you would provide the Committee with information on the measures in place to ensure these laws are implemented in practice, and with clarification regarding the matter of notification of a relative/friend: According to your response, "the suspect can be detained for the time strictly necessary for identification, and in any case, not exceeding 12 hours or, after having informed, also orally, the Public Prosecutor, not exceeding 24 hours... and in this case the suspect may ask to inform a member of his family or a live-in person". Please clarify when individuals who have been arrested or detained by the police are permitted to contact a family member to inform them of their detention, and when may they meet with an independent doctor? Is it only in instances when individuals will be detained for under 24 hours?

The Committee would also be grateful for clarification on the circumstances and conditions that would lead to a person in custody being held for up to 5 days as stated in your response. Specifically, how does the Court of Cassation determine "the existence of a specific and exceptional reason for precaution?" Furthermore, how frequently has this provision been granted by the Court of Cassation, as mentioned in paragraph A.2 of your response? Has the response been challenged in the courts and if so, with what outcomes?

S.E. Mme Laura MIRACHIAN  
Ambassadeur  
Permanent Mission of Italy  
Chemin de l'Impératrice 10  
1292 Pregny  
Fax 022 734 67 02 - 022 733 07 83

The Committee additionally requests clarification on whether individuals who are detained for up to 5 days are granted access to a lawyer during that time, and whether they may be subjected to interrogations without the presence of a lawyer. According to your response, article 104.3 of the Code of Criminal Procedure allows for the extension, up to five days, of detention of individuals and to “defer the exercise to confer with the defence counsel for a period of time not exceeding 5 days”. However, your response also indicates, at the end of paragraph A.2, that article 104.3 of the Code of Criminal Procedure “does not affect the right of the arrested person to be questioned in the presence of his/her defence counsel”. Would you kindly clarify this? Finally, your response states that through 31 December 2007, 39 foreigners had been expelled “upon proposal by the responsible officers of the Ministry of the Interior” (p. 10 of reply). Were merits, including the risk of torture on return, reviewed in any of these cases? Did the State party seek diplomatic assurances for the return of any of these individuals to their countries of origin? To what countries of origin were these 39 persons sent?

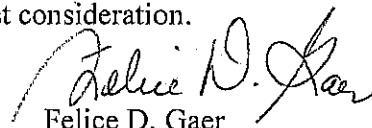
As to the recommendation in paragraph 12 of the Concluding Observations, the Committee is pleased to note the new directives adopted by the State party with regard to international protection measures and minimum standards for the qualification and status of third country nationals or stateless persons as refugees. The Committee would be grateful for an update on the status of Act No. 155/2005 which was set to be in force until 31 December 2007—was this Act renewed? If so, please provide information on the renewal, including time in force and whether amendments were made.

With regard to paragraph 16, we are pleased to note and commend the Government of Italy for the continued and extensive efforts made to reduce overcrowding in penitentiaries, including by opening more facilities for detention and renovating so many existing ones. We would be grateful to receive updated information on all new such facilities, including immigration centres, opened since May 2007 and the number of detainees that have been housed in each. Please provide updated information on whether the renovations and expansions of the detention centres listed in Table B of your response were completed by the end of 2008 as indicated, and whether those that were expected to be completed by the end of 2009 will in fact be so. The Committee would additionally be grateful to receive information on the remaining points recommended in paragraph 16, specifically on whether measures were taken to establish a system of effective monitoring of immigration centres by an independent body and other measures to improve living conditions in immigration and other detention centres.

With regard to the Committee’s recommendation in paragraph 20 concerning rehabilitation and compensation, please provide updated information on the status of Draft Law No. S. 1216 mentioned in paragraph D of your response. You stated that a change in government required the successors to make a new determination as to whether and how to proceed with the draft law. Finally, we would be grateful for statistical information on ongoing reparation, programmes, such as treatment and social rehabilitation services and other forms of assistance, including medical and psycho-social rehabilitation provided to victims of torture and ill-treatment.

Upon receipt of additional information, the Committee will be able to assess whether further information may be required. The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Italy on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.



Felice D. Gaer

Rapporteur for Follow-up on Concluding Observations  
Committee against Torture