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# Italy

## A briefing to the UN Committee against Torture

### 1. Introduction

This briefing summarizes Amnesty International's main concerns regarding Italy's compliance with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). The briefing highlights concerns and recommendations of other monitoring bodies on issues relevant to torture and ill-treatment in Italy during the time-span covered by the period reports examined at this session. It also outlines Amnesty International's concerns regarding Italy's compliance with specific articles of the Convention against Torture and in this regard will concentrate on Articles 3, 4, 10, 12, 13 and 16. In the context of these articles, Amnesty International highlights the continued practice of *refoulement* of migrants and asylum-seekers as well as of persons suspected of involvement with terrorist activities; police ill-treatment and related impunity and the continuing absence of a specific crime of torture within the penal code which incorporates, at a minimum the elements of Article 1 of the Convention against Torture.

### Concerns related to specific articles

#### 2. Article 3 – the prohibition of refoulement

Amnesty International is concerned about the collective expulsions of migrants without opportunities being provided for the lodging and fair, prompt and satisfactory examination of claims by individuals for international protection. The organization considers the unfair and inefficient nature of this process has led to instances of *refoulement*. The following cases highlight this concern:

##### 2.1. Forcible returns to Libya

Since 2004, Amnesty International has received numerous reports of collective expulsions from Italy to Libya of persons not of Libyan origin. Amnesty International is concerned that forcible returns to Libya may amount to *refoulement* as expellees may face human rights violations, including ill-treatment, in Libya<sup>1</sup>. Amnesty International is also concerned about expulsions of third country nationals from Libya towards third countries where they may suffer further human rights abuses, including ill-treatment.

*Below are several examples of the reports of forcible returns to Libya that Amnesty International has received. In each of these examples, Amnesty International is concerned that the Italian authorities did not give the individuals concerned an effective opportunity to*

*apply for asylum; to have any asylum claim assessed individually in a fair and satisfactory procedure. Prior to expulsion to Libya, no investigation took place to determine whether any of the individuals risked serious human rights abuses, including torture or other ill-treatment upon return to Libya or further removal from Libya to a third country where they would have been at risk of such abuses.*

22 June 2005

On 22 June 2005, the Italian authorities forcibly returned at least 45 people to Libya<sup>ii</sup>.

17 March 2005

On 17 March 180 people were removed from the Lampedusa migrant detention centre and flown to the Libyan capital, Tripoli, under Italian police escort<sup>iii</sup>.

20 December 2004

On 20 December 2004, hundreds of foreign nationals who had recently arrived in Italy were deported from Crotone (Calabria) to Libya.

October 2004

In October 2004, the UNHCR expressed "deep concern" over the fate of hundreds of foreign nationals, the majority of them apparently from North Africa, who had arrived on the southern island of Lampedusa, following reports that many were being sent to Libya "without proper assessment of their possible protection needs". It said that lack of access to the individuals concerned, in both Italy and Libya, was preventing UNHCR from exercising its mandate to ensure that refugees were properly protected. UNHCR subsequently reported that some five days after requesting authorization, and "following the return by air of more than 1,000 persons to Libya", it was granted access to the Lampedusa processing centre where those arriving had been held initially. Its preliminary evaluation was that "the rushed method used to sort out the incoming persons by nationality" had "not allowed individual persons from all national groups concerned to claim asylum."<sup>iv</sup>

## **2.2 Expulsion of unaccompanied minors**

In January 2006, three brothers of Somali origin who were minors were sent back to Ghana, from where they had arrived only the previous day. During their detention at Malpensa airport in Milan they were reportedly not asked their age or nationality, nor informed about the possibility of applying for asylum. They were not allowed to contact their relatives in Europe; no age assessment was made and the authorities made no attempts to establish the whereabouts of their family. The three eventually travelled to Ivory Coast as they did not feel

safe in Ghana. The return of three unaccompanied minors to a country which is not their country of origin put them at risk of ill-treatment was clearly was not in the children's best interest and put them at risk of ill-treatment. The Italian authorities did take satisfactory measures to prevent a breach of the principle of *refoulement*.

### **2.3. Forcible returns to Syria**

On 28 November 2002, Italian authorities forcibly returned a family of six consisting of Muhammad Sa'id al-Sakhri (m), aged 44; Maysun Lababidi (f), aged 31; Ragda al-Sakhri (f), aged 11; Muhammad al-Sakhri (m), aged nine; Marwa al-Sakhri (f), aged six; and Rudina al-Sakhri (f), aged two to Syria. Upon return to Syria, Muhammad Sa'id al-Sakhri was detained for 11 months on charges of belonging to the Muslim Brotherhood Organisation, which under Syrian Law 49 is punishable by the death penalty. According to reports received by Amnesty International, Muhammad Sa'id al-Sakhri was tortured and ill-treated during his 11-month detention in Syria, and was not brought before a court during this time<sup>v</sup>.

### **2.4. The Pisanu Law**

Since 2005, many persons have been expelled under the so-called Pisanu Law - an anti-terror urgent decree (Decree Law no.144 of 27 July 2005) which was enacted in July 2005 and immediately converted into law (no. 155 of 31 July 2005). The Pisanu Law allows expulsion orders of both regular and irregular migrants to be decided and implemented based on well-grounded reasons to believe that an individual's stay in Italy could favour in any manner terrorist organizations and activities. The law does not require the person deported to have been convicted of or charged with a crime connected to terrorism. The expulsion can be ordered by the Minister of Interior or, under his/her delegation, by a Prefect -- and the Pisanu Law does not provide for judicial confirmation or authorization of the expulsion decision and of its implementation.

A decision to expel under the law may be appealed before a judge, but the appeal does not have a suspensive effect on the deportation. Amnesty International is therefore concerned, among other things, that the expulsion procedure lacks effective protection against *refoulement*.

In November 2006, the European Court of Human Rights issued Interim Measures which had the effect of suspending the deportation of three people about to be expelled from Italy under the Pisanu Law. The Court based its decision on the risks they would run in their countries of origin if expelled, including the risk of torture and ill-treatment.

Also in 2006, the Italian Constitutional Court started investigating whether some provisions of the Pisanu Law violate the right to judicial remedy, the right to defence, and the right to fair trial. This investigation is still pending.

## **2.5. Forcible returns to Tunisia under the Pisanu Law**

### *Cherif Foued Ben Fitouri*

On 4 January 2007, Cherif Foued Ben Fitouri was expelled from Italy to Tunisia without being able to exercise his right to legal counsel or his right to a judicial remedy, and without any protection against the risk of *refoulement*. Cherif Foued Ben Fitouri had resided legally in Italy for a decade, and is married to an Italian woman with whom he has young children. His expulsion was based on provisions of the Pisanu Law. According to the expulsion order, he was removed from Italy because of being an acquaintance of persons involved with Islamic groups allegedly planning terrorist acts (“*ha un consolidato circuito relazionale con elementi di primo piano nel panorama dell’integralismo islamico presente in Italia, coinvolti in progettualità terroristiche*”). In Tunisia he was held between 5 and 15 January 2007 in solitary confinement in the Tunisian Ministry of Interior. On 16 January 2007 he was transferred to a prison under military jurisdiction. According to reports received by Amnesty International, he has been subject to ill-treatment whilst in detention in Tunisia. Cherif Foued Ben Fitouri has never been investigated for or charged with any crime, in Italy or elsewhere.

Cherif Foued Ben Fitouri has made an appeal against his expulsion, which is still pending. He remains in detention in Tunisia.

## **2.6. Renditions**

### **2.6.1. The rendition of Abu Omar**

At around 12:30pm on 17 February 2003, Osama Mustafa Hassan Nasr, known as Abu Omar, who has Italian residency, was abducted from a street in Milan as he was on his way to a local mosque. Amnesty International believes that his abduction was part of a USA-led programme of secret detentions and renditions – the unlawful transfer of people between states outside of any judicial process<sup>vi</sup>. Allegedly, a man stopped Abu Omar to ask for identification and while this was being checked, two men appeared and forced him into a white vehicle. According to a witness, Abu Omar was sprayed with an unknown substance in his mouth and nose area before having his mouth taped.

Abu Omar was taken to the US military base at Aviano in northern Italy. From there, he was flown in a Learjet LJ-35 using the call sign SPAR-92, to the US military base Ramstein, in Germany, and then on to Cairo, Egypt.

During the transfer process, Abu Omar claims to have been beaten and interrogated. For the duration of the flight to Egypt, he claims that his head was bound with tape and his legs and arms were tied with plastic binds. He has described how he had severe difficulty breathing during the flight and had to be resuscitated. In Egypt, he has said that he was imprisoned and tortured. Allegations of ill-treatment include being hung upside down and having had electric shocks applied to his testicles.

On 20 April 2004, Abu Omar was temporarily released from detention to visit his family in Alexandria, Egypt. He called his wife in Italy and friends in Milan and told them that he had been tortured. Egyptian authorities detained him on 9 May 2004 and released him in early 2007. Abu Omar continues to suffer from the effects of the ill-treatment at the hands of the Egyptian authorities following his abduction.

Several SISMI (Italian Military Intelligence and Security Service) agents and *carabinieri* (military police) have been investigated by Italian magistrates for kidnapping or complicity in kidnapping, including the SISMI head Nicola Pollari. In December 2006, a Milan prosecutor asked for the indictment of 9 Italian citizens, primarily operatives of SISMI. On 16 February 2007, a Milan judge indicted the 9 Italian citizens. Hearings in the case against those indicted are scheduled to restart on 8 June 2007.

### **2.6.2. Rendition of Abou Elkassim Britel**

Italian citizen Abou Elkassim Britel was reportedly arrested in Pakistan in March 2002 by the Pakistani police and interrogated by US and Pakistani officials. He was subsequently rendered to Morocco and has been detained ever since, reportedly in the detention facility 'Temara'. Preliminary criminal investigations were opened against Abou Elkassim Britel but were reportedly closed in September 2006 due to lack of evidence. In a letter sent by Abou Elkassim Britel to amongst others the Italian president and the Italian foreign minister, he describes being subject to ferocious torture in detention in Morocco.

According to the European Parliament report on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners (2006/2200(INI)), following his arrest in Pakistan, the Italian Ministry of Internal Affairs was in 'constant cooperation' with foreign secret services concerning the case of Abou Elkassim Britel. During a parliamentary debate in December 2006 the Italian government stated that the Italian embassy in Rabat had done its best to ensure Abou Elkassim Britel's well-being in Moroccan detention and that it was trying to get him released.

### **Concluding Observations of the Human Rights Committee**

In November 2005, in the Concluding Observations adopted by the UN Human Rights Committee, adopted following its consideration of Italy's fifth periodic report on the

implementation of the International Covenant on Civil and Political Rights, the Human Rights Committee reminded Italy of “the absolute right of each person not to be expelled to a country where he/she may face torture or ill-treatment, and the obligation of the State party, consequently and in all circumstances, to ensure that the situation of each migrant is processed individually.”<sup>vii</sup>

### **Findings of the European Committee for the Prevention of Torture (CPT)**

In April 2006, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its report on its visit to Italy in 2004. The CPT highlighted the removal of foreign nationals to Libya which took place at the end of 2004. The CPT urged that each individual case of return should be properly verified to ensure that the persons to be removed would not run a real risk of being subjected to torture or other ill-treatment.

## **3. Article 4 – introducing the crime of torture**

Torture is punishable as a specific offence under the Italian wartime military penal code (*Codice penale militare di Guerra*, art.185 bis, introduced by Law n.6 of 31 January 2002) but Italy has yet to include a specific crime of torture in its ordinary criminal legislation as required by Article 1 of the Convention against Torture to which it is signatory. Recommendations to this effect have been made by the UN Human Rights Committee, the Committee Against Torture and the Committee on the Rights of the Child in their concluding remarks on previous periodic reports by Italy.

In recent years, several bills aimed at introducing torture as a specific offence within the criminal penal code have been presented to parliament. During the current (XVth) legislature several such bills have again been presented, both in the Chamber of Deputies and in the Senate. In December 2006, a draft law introducing the specific offence of torture was approved by the Chamber of Deputies. Discussions of this draft bill, together with other bills on the same topic presented by members of the Senate, are currently underway within the Justice Committee of the Senate. Should the Senate change the text which was approved by the Chamber of Deputies a further reading by the Chamber of Deputies would be required in order for the law to be adopted.

During a recent discussion within the Justice Committee of the Senate the majority of speakers accepted the idea that a specific offence of torture was necessary to implement the Convention against Torture.

### **Findings of the Commissioner for Human Rights of the Council of Europe**



On 14 December 2005, the Commissioner for Human Rights of the Council of Europe published a report on his June 2005 visit to Italy<sup>viii</sup>. The report raised, among other things, the absence of a specific crime of torture in the criminal code, as defined in international standards, including the Convention against Torture<sup>ix</sup>. The Commissioner urged the Italian authorities to insert the crime of torture in the Criminal Code as soon as possible.

#### **4. Article 6 – deprivation of liberty**

##### **Concluding Observations of the Human Rights Committee**

In November 2005, the UN Human Rights Committee recommended that “the maximum period during which a person may be held in custody following arrest on a criminal charge be reduced, even in exceptional circumstances, to less than the present five days and that the arrested person be entitled to access to independent counsel as soon as he or she is arrested.”<sup>x</sup>

#### **5. Article 10 – training of law enforcement officials**

Amnesty International is concerned about violations of international human rights standards by Italian law enforcement officers. Such violations include resorting to excessive use of force and failure to ensure that law enforcement officers on active duty are identifiable. The organization has underscored the duty of the authorities to ensure that Italian law enforcement officers are adequately equipped and trained to employ non-violent means and only resort to the use of force and firearms when strictly necessary and proportionate. The Italian authorities should conduct a thorough review of current policing practices, including the training and deployment of law enforcement officials in crowd control and the regulations on the use of force and firearms by law enforcement officials. Key measures should be adopted to ensure compliance with provisions of the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the UN Code of Conduct for Law Enforcement Officials, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the European Code of Police Ethics. In particular, to avoid future violations of human rights, Italy must ensure that its officers are adequately equipped and trained to employ non-violent means and only resort, to the use of force and firearms when strictly necessary and proportionate, including in situations of crowd control. The authorities should also ensure that law enforcement officials are subject to strict regulations regarding the use of such methods, and to ensure a system of accountability. Among other measures to ensure individual accountability, all law enforcement officers should be obliged to display some form of identification.

## **6. Articles 4, 12, 13 and 16 – Prompt and impartial investigations into alleged torture and ill-treatment**

Amnesty International is concerned about allegations of excessive use of force, and torture or other ill-treatment by law enforcement officials in Italy. There is currently no mechanism in Italy to investigate allegations of ill treatment by law enforcement officers promptly, impartially and thoroughly and consequently, those who are responsible for such violations are not held accountable. Below are details of a few emblematic events that illustrate these problems.

### **6.1. Event in Val di Susa - 2005**

From October 2005 until the end of 2005, there was an intensification of the demonstrations taking place in Val di Susa (an alpine valley in the Piedmont region in north western Italy), against a planned high speed railway line between Lyon and Turin. These demonstrations involved a “sit-in” of about 100 protestors in an area near the small town of Venaus, where the contracted enterprises were supposed to initiate works on the high speed railway.

At approximately 3am on 6 December 2005, several hundred law enforcement officials carried out an operation aimed at removing the demonstrators. At the time the operation began, some of the demonstrators were sleeping. According to consistent allegations and information gathered by Amnesty International, law enforcement officers subjected some of the peaceful demonstrators who held their hands up in the air to heavy beating some of them and forced dozens of them to enter into a small shed otherwise used as a shelter.

Demonstrators sleeping in tents at the time of arrival of the police were allegedly dragged outside by police officers and heavily beaten. Some of these reports are supported by audio-visual material.

At least 15 demonstrators were injured by the police during the operation, including an elderly man, a woman who had her neck in a neck brace, representatives of non-governmental organizations (NGOs), photographers and journalists. Some of them were hospitalized.

### **6.2. G8 summit – July 2001<sup>xii</sup>**

On 20-22 July 2001, the Italian city of Genoa hosted a G8 summit. It is estimated that over 200,000 people participated in anti-globalization demonstrations on the streets of Genoa in the days immediately preceding and during the summit. The vast majority protested peacefully. However, some demonstrations degenerated into violence, resulting in significant injuries to people and extensive damage to property. A great number of reports of human rights violations committed by law enforcement officers, prison officers and medical personnel against Italian citizens and foreign nationals emerged immediately and have continued to do so ever since. By the end of the summit, one protester, Carlo Giuliani, had

been shot dead, hundreds of people had been injured and more than 280 people, many of them foreign nationals, had been detained. Service records have established that, in addition to the shots fired in the context of Carlo Giuliani's death, law enforcement officers on the streets of Genoa fired at least 15 other shots, apparently into the air. Police officials have also confirmed that a man wearing a standard tabard identifying him as a member of the press, and recorded on film while wielding a pistol, was in fact a police officer.

Specific allegations of ill-treatment included the following;

- Law enforcement officers used excessive force on the streets during demonstrations that took place on Friday 20 and Saturday 21 July, beating with batons -- amongst others -- non-violent protestors (including people under the age of 18); journalists reporting on the demonstrations; doctors and nurses, who were clearly identifiable as such and providing medical assistance to demonstrators on a voluntary basis; and individuals unconnected to the demonstrations;
- During a police raid carried out in the early hours of Sunday, 22 July at the Diaz school, a building legally occupied by the Genoa Social Forum (GSF, the umbrella group organizing the main programme of demonstrations), law enforcement officers subjected individuals, many of whom had been asleep when the raid started, to deliberate beatings and ill-treatment, resulting in injuries. Some individuals alleged that law enforcement officials beat them repeatedly with batons, kicked them, and threw furniture on top of them, even when they were lying on the ground with their arms raised to indicate that they had no intention of resisting. Some of them required urgent hospitalisation while others required surgical treatment for their injuries. Medical reports recorded injuries to 62 people detained during the raid. Up to 20 people were reportedly carried out of the building on stretchers, two of them apparently unconscious.
- During transfer in police vehicles and inside detention facilities law enforcement and prison officers subjected individuals to beatings and other cruel, inhuman or degrading treatment. Allegations concern in particular the Bolzaneto and the Forte San Giuliano facilities. Bolzaneto receives and temporarily holds those detained by police and *guardia di finanza* before transfer to prison. The Forte San Giuliano facility is intended to receive and temporarily hold those detained by the Carabinieri before transfer to prison. As a result of the demonstrations, 222 people were processed through Bolzaneto and 57 people were processed Forte San Giuliano. Prison personnel (penitentiary police and medical staff) were on duty at the facilities as well as law enforcement officers. It has been claimed, that detainees were *inter alia*, slapped, kicked, punched and spat on, subjected to verbal abuse (sometimes of an obscene sexual nature), were deprived of food, water and sleep for lengthy periods. They were also made to line up with their legs apart and faces against the wall and forced to remain in this position for hours. They were beaten on parts of their bodies already injured during arrest if they failed to maintain this position. Some detainees were apparently threatened with death and some female detainees were reportedly threatened with rape. Some were subjected to

body searches carried out in a degrading manner. Allegations made by former Bolzaneto inmates have been largely supported by statements made by some members of the nursing staff on duty at the detention facility during G8.

In May 2003, the inquiry into the fatal shooting of Carlo Giuliani by a law enforcement officer then performing his military service in the *carabinieri* force, ended with the judge of the preliminary investigation ruling that the officer had acted in self-defence, making legitimate use of his firearm, and should not be charged. The judge concluded that using a pistol was the only means which the officer had at his disposal to confront the demonstrators' violent attack. It further concluded that, after waving his pistol in warning, the police officer had fired the fatal shot but had aimed into the air, not at Carlo Giuliani, and that the shot's trajectory was deflected by a chunk of plaster thrown by a demonstrator. In November 2006 a Genoa court declared that it would not reopen investigations into the death of Carlo Giuliani. Calls to reopen investigations had been prompted by the emergence of potential new evidence. In March 2007, the European Court of Human Rights declared admissible a complaint by the Giuliani family regarding article 2 (right to life) and article 3 (prohibition of inhuman treatment), article 6 (right to a fair hearing) and article 13 (right to an effective remedy).

In April 2005, almost four years after the events, the trial began of 28 police officers involved in an overnight police raid on the Diaz school. The officers, whose trial was still ongoing in April 2007, are charged with various offences, including assault and battery, falsifying and planting evidence, and abusing their powers as officers of the state. None of them, however, have been suspended from duty. Scores of other law enforcement officers believed to have participated in assaults could not be identified because their faces were hidden by masks, scarves or riot helmets and they wore no numbers or name tags.

On 17 January 2007, it emerged during a hearing in the trial of 29 police officers facing charges of, *inter alia*, violence and the fabrication of evidence in relation to the Diaz raid, that key evidence against the police officers (a number of molotov cocktails) had disappeared. The molotov cocktails, which a police officer had confessed to planting in the school on orders from the deputy police chief in Genoa, were originally used to charge the occupants with possession of explosives and to justify the raid. After it emerged that they had been planted by police officers, they were used in the trials against police officers. On 25 January 2007, a Genoa judge dismissed requests by lawyers defending the policemen to exclude, "as unfounded" elements of the charge involving the missing evidence from proceedings. The prosecuting magistrate's efforts to find the missing evidence were met by a reply from the Genoa *Questura* (provincial police office) stating that they may have been "destroyed by mistake".

Another trial began in October 2005 of police officers, *carabinieri*, prison guards and medical personnel accused of verbal and physical abuse of detainees in the Bolzaneto temporary detention facility through which over 222 detainees passed during the summit opened. The trial is ongoing at the time of writing.

Amnesty International is concerned by the widespread ill-treatment of protestors during the G8 demonstrations, including the death of one person. The organization is also concerned that no independent and impartial investigation has been set up to investigate the events, and that almost six years after the events, no-one has been held accountable for the events in Genoa and criminal proceedings risk remaining inconclusive by the time of the statute of limitations (seven and a half years).

### **6.3. 17 March 2001 – demonstrations in Naples<sup>xii</sup>**

A demonstration which took place in Naples on 17 March, on the occasion of the Third Global Forum devoted to the stated theme of Fostering Democracy and Development through e-Government, degenerated into violent clashes between certain groups of demonstrators and law enforcement officials, and resulted in injuries to both officers and demonstrators, as well as damage to property. Numerous reports from various sources, including witness and victim accounts and photographic evidence, presented a disturbing picture of widespread abuses and violations of international human rights standards perpetrated against non-violent demonstrators and others by members of the State Police, the *carabinieri* and the *Guardia di Finanza*. In a letter addressed to the former Minister of Interior in April 2001, Amnesty International expressed its deep concern about the allegations against law enforcement officials, including:

- non-violent protestors, including minors, trapped in a square sealed off by the police, being subjected to indiscriminate assaults by officers using rifle butts and truncheons, kicks, punches and stones, even though in many cases the protestors approached officers with their hands in the air as an indication of peaceful intent;
- the beating of individuals, including journalists, taking photographs or videotaping scenes of use of excessive force by police and the subsequent destruction of their cameras and film;
- failure to provide some injured detainees with prompt access to adequate medical care;
- detainees being denied access to a lawyer and not allowed to have a member of the family or a third person informed of their whereabouts;
- the ill-treatment of detainees, including minors, in police stations. Some of them were reportedly made to kneel on the floor of police stations with their faces to the wall for lengthy periods and subjected to random and deliberate beatings with truncheons, slaps, kicks, punches and verbal insults frequently of an obscene, sexual nature. Many detainees were given intimate body searches and in a number of instances the conduct of officers during body searches appeared deliberately aimed at humiliating and degrading the detainees.

In 2005, legal proceedings against 31 policemen reportedly involved in the Naples events were initiated. The charges include abuse of power; kidnapping; unlawful search of a person and personal inspection; violence; aggravated bodily injuries and damage<sup>xiii</sup>. The proceedings are ongoing. Amnesty International notes that more than six years have passed since the

Naples events and that no-one has been held accountable so far for the incidents and the statue of limitations of seven and a half years is rapidly approaching. The organization also notes that no independent and impartial investigation was set up to investigate the events. Amnesty International is therefore extremely concerned that the victims of these allegations will not have effective access to justice

### **Concluding Observations by the UN Human Rights Committee**

In November 2005, the UN Human Rights Committee<sup>xiv</sup>, expressed concern about “the reported persistence of ill-treatment by police and recommended that Italy “... increase its efforts to ensure that prompt and impartial investigations are carried out wherever there is reasonable ground to believe that an act of ill-treatment has been committed by one of its agents.”<sup>xv</sup>

The Human Rights Committee also expressed its concern about “reports of abuses committed by members of law enforcement agencies against vulnerable groups, in particular Roma, foreigners and Italians of foreign origin.”<sup>xvi</sup> In relation to this, the Human Rights Committee recommended that Italy “should take immediate action in order to put an end to these abuses, and to monitor, investigate and, when appropriate, prosecute police who ill-treat vulnerable groups.”<sup>xvii</sup>

### **Concluding Observations by The Committee on the Elimination of Racial Discrimination**

In August 2001, the UN Committee on the Elimination of Racial Discrimination considered Italy’s 13<sup>th</sup> periodic report. With regard to the duty of law enforcement officials to act with due diligence (article 12 and 13 of the Convention against Torture), the Italian authorities noted that incidents of racist violence had decreased. However, in its concluding observations, the committee raised concerns about incidents of racist violence, in particular in connection with football matches.<sup>xviii</sup> The Committee recommended, among other things, that Italy “ensure that the local authorities take more resolute action to prevent and punish racially motivated acts of violence against Roma and other persons of foreign origin.”<sup>xix</sup>

### **Findings of the European Commission on Racism and Intolerance (ECRI)**

On 16 May 2006, the Council of Europe’s European Commission on Racism and Intolerance (ECRI) published its third report on Italy<sup>xx</sup>. With regard to the duty for law enforcement officials to act with due diligence (relevant to article 12 and 13 of the Convention against Torture), ECRI reported that civil society organizations had stated that violence motivated by racism and xenophobia was under-reported in Italy and that the relatively low figures regarding this type of violence in Italy are not necessarily representative of the real situation there. ECRI also reported that civil society organizations had stressed “that the racist and xenophobic dimension of offences is often neglected by the criminal justice system, and

notably the police, and that such offences are therefore, as a rule, dealt with as ordinary offences.”<sup>xxi</sup>

ECRI strongly encouraged the Italian authorities “to pursue and intensify their efforts to monitor racist, xenophobic and anti-Semitic incidents in Italy” and to “ensure that the racist, xenophobic or anti-Semitic dimension of all offences be dealt with as such by the criminal justice system.”<sup>xxii</sup> ECRI also reiterated a call it had made in previous reports for Italy to “establish an independent commission to investigate all allegations of human rights violations by the police.”<sup>xxiii</sup>

### **Findings of the European Committee for the Prevention of Torture (CPT)**

In its April 2006 report, the CPT stated that it would continue to follow closely the progress of the judicial and disciplinary proceedings in course related to the incidents in Naples (March 2001) in the context of the Third Global Forum and Genoa (July 2001) in the context of the G8. In addition, it requested information on the measures taken to avoid such incidents in the future.

## **7. Ill-treatment in prisons**

In April 2000, the European Court of Human Rights ruled that Italy failed to carry out a “thorough and effective investigation into the credible allegations” of ill-treatment by Pianosa prison officers made by Benedetto Labita in October 1993. Benedetto Labita alleged that he and other prisoners had suffered systematic physical and mental ill-treatment, mainly between July and September 1992.

### **Concluding Observations of the Human Rights Committee**

The Human Rights Committee remains concerned about overcrowding in Italian prisons and recommended Italy to “increase its efforts to reduce significantly overcrowding in prisons, and consider this matter as a high priority.”<sup>xxiv</sup>

### **Findings of the Council of Europe’s Commissioner for Human Rights**

In his 14 December 2005 report on Italy, the Commissioner for Human Rights of the Council of Europe stated that “although not the sole cause, inadequate staffing contributes to the high mortality rate in prisons. Between January and May 2005, 43 prisoners died, and 26 of these were suicides...[these numbers are]...relatively disturbing, particularly since it appears that some of the deaths have gone unpunished or are still being dealt with by the courts, although they occurred in the 1990s.”<sup>xxv</sup>

<sup>i</sup> Regarding protecting potential refugees and asylum-seekers against further human rights abuses, including ill-treatment, Amnesty International is also concerned that Libya has not ratified the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, nor has it established national asylum procedures. Libya has signed and ratified the African Union Convention Governing the Specific Aspects of Refugee Problems in Africa, which provides a broad definition and a legal basis for refugee protection, as well as an obligation to co-operate with the United Nations High Commissioner for Refugees (UNHCR). However, according to the UNHCR, two key obstacles prevent the fulfilment of these obligations in practice: firstly, the lack of official acknowledgement of the presence of refugees and asylum-seekers in Libya; and secondly, the absence of any official contact or status accorded to the UNHCR in the country. In the absence of a legal protection framework, there is no effective guarantee that the rights of refugees will be protected.

<sup>ii</sup> For further information, see AI Index: EUR 30/005/2005.

<sup>iii</sup> For further information, see AI Index: EUR 30/002/2005.

<sup>iv</sup> For further information, see AI Index: EUR 30/01/2004.

<sup>v</sup> For further information, see AI Index: MDE 24/004/2003.

<sup>vi</sup> For further information, see AI Index: EUR 01/002/2007, AI Index: EUR 30/006/2006, AI Index: EUR 01/008/2006.

<sup>vii</sup> UN Doc. CCPR/C/ITA/CO/5 (24 April 2006). Paragraph 15.

<sup>viii</sup> Report by Mr. Alvaro Gil-Robles, Commissioner for human rights, on his visit to Italy 10 - 17 June 2005 (CommDH(2005)9). Paragraph 42.

<sup>ix</sup> *Ibid.* Paragraph 42-49.

<sup>x</sup> *Ibid.* Paragraph 13.

<sup>xi</sup> For further information, see AI Index: EUR 30/005/2006, AI Index: EUR 30/003/2005, AI Index: EUR 30/012/2001, AI Index EUR 30/010/2001, AI Index: EUR 30/008/2001, AI Index EUR 30/006/2001, AI Index EUR 30/004/2001.

<sup>xii</sup> For further information, see AI Index: EUR 30/001/2001.

<sup>xiii</sup> Comments by the Government of Italy on Concluding Observations of the Human Rights Committee. CCPR/C/ITA/CO/5/Add.1

<sup>xiv</sup> UN Doc. CCPR/C/ITA/CO/5 (24 April 2006).

<sup>xv</sup> *Ibid.* Paragraph 10.

<sup>xvi</sup> *Ibid.* Paragraph 11.

<sup>xvii</sup> *Ibid.* Paragraph 11.

<sup>xviii</sup> *Ibid.* Paragraph 313.

<sup>xix</sup> *Ibid.* Paragraph 310.

<sup>xx</sup> CRI(2006)19. Third report on Italy. Adopted on 16 December 2005, made public on 16 May 2006.

<sup>xxi</sup> *Ibid.* Paragraph 61.

<sup>xxii</sup> *Ibid.* Paragraph 64.

<sup>xxiii</sup> *Ibid.* Paragraph 81.

<sup>xxiv</sup> *Ibid.* Paragraph 16.

<sup>xxv</sup> Report by Mr. Alvaro Gil-Robles, Commissioner for human rights, on his visit to Italy 10 - 17 June 2005 (CommDH(2005)9). Paragraph 53.