

# LIBERTIES

# RULE OF LAW REPORT

# 2024

# ITALY

**#ROLREPORT2024**



## **FOREWORD**

This country report is part of the Liberties Rule of Law Report 2024, which is the fifth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Latvia.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2024 report was drafted by Liberties and its member and partner organizations, and it covers the situation during 2023. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2024 report includes 19 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Thirty-seven member and partner organisations and one independent human rights expert contributed to the compilation of these country reports.

**[Download the full Liberties Rule of Law Report 2024 here](#)**

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# ITALY

## About the authors

### Italian Coalition for Civil Liberties and Rights (CILD)



Founded in 2014, the Italian Coalition for Civil Liberties and Rights (CILD) is a network of civil society organisations that protect and expand the rights and liberties of all, through a combination of advocacy, public education and legal action.

### Antigone



Antigone is an Italian NGO founded in 1991, which deals with human rights protection in the penal and penitentiary system. Antigone carries out cultural work on public opinion through campaigns, education, media and publications. It conducts studies and research, and it contributes to the writing of normative texts. Thanks to its Observatory on Italian prisons for adults and minors, it monitors conditions in all prisons in Italy and publishes a report on the Italian penitentiary system. Antigone has an Ombudsman and legal clinics around Italy that collect complaints from prisoners. Antigone also carries out investigations about ill-treatment and is at times formally involved in the related trials.

### A Buon Diritto Onlus



A Buon Diritto Onlus, since its establishment, has been carrying out activities of rights promotion, legal assistance, social guidance, monitoring, research and advocacy, with a focus on migration. The organisation works to safeguard fundamental rights, offering qualified assistance to those who are deprived of their liberty, those who are trying to integrate in our country, those who are victims of discrimination or racist episodes, and those who have suffered abuse and torture.

## Osservatorio Balcani e Caucaso Transeuropa



Established in 2000, OBCT is a think tank focused on Southeast Europe, Turkey, and the Caucasus that explores and reports on the socio-political and cultural developments of Italy and six other EU Member States, namely those taking part in the EU enlargement process and those included in the European Neighbourhood Policy. As an operational unit of the Center for International Cooperation, OBCT is committed to strengthening the European project by supporting transnational relations and raising public awareness on areas at the heart of many European challenges, thanks to a participatory and multi-sectoral approach that weaves together online journalism, research, training, outreach, and policy advice.

## La Società della Ragione (SdR)



SdR is an Italian non-profit organisation, founded in 2008, working in the field of criminal law, civil and human rights, social marginalities. It aims to promote a new approach to criminal law, to reduce incarceration, and improve compliance with human rights. SdR conducts different initiatives and research activities.

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## **Key concerns**

In the area of justice, there have been reforms that generally tend to make the justice system less efficient, promoting, in particular, a securitarian approach.

Advancements were made this year in anti-corruption measures, following the implementation of one of two recommendations contained in the European Commission's 2023 Rule of Law Report. A new National Anti-Corruption Plan ('23-'25) was approved and the Whistleblowing Decree (No. 24 of 2023)

entered into force in March,<sup>1</sup> followed by the release of updated guidelines for implementation,<sup>2</sup> thereby transposing the EU Directive 2019/1937 into Italian law. On the other hand, political changes delayed the progress of recommendations for lobbying laws.<sup>3</sup>

2023 saw a worrying increase in the level of political influence in the Italian media sector. The unwarranted interference in public broadcasting service not only threatens the independence of public service media and its financial sustainability, but it also causes major concern over the protection of free, independent and pluralistic journalism in the country. The Italian Parliament advanced five bills to reform the regime on defamation.<sup>4</sup> However, some of these amendments have shifted their focus from the need to protect journalists from abuses of the law and vexatious lawsuits to the need to safeguard plaintiffs, prioritising the right to reputation over freedom of expression.

Regarding checks and balances, compared to 2022 no progress has been made in establishing a sustainable, functional, and independent institutional body for the protection of human rights, in line with UN Resolution No. 48/134 of 1993.

In the area of civic space, there has been a regression. The Decree Law No. 1/2023 criminalises rescue operations at sea, endangering migrants' right to life and the right to asylum. The government's hostility to civil society impedes the crucial work of NGOs to contribute to the development of democracy and human rights. The government has also imposed limitations on the right to strike and has been particularly hostile towards protesters. Additionally, comprehensive anti-conflicts of interest rules and lobbying regulations to establish an operational lobbying register, including a legislative footprint,<sup>5</sup> still need to be adopted. The government continues to hinder journalists' work as 'watchdogs' of democracy and anti-corruption.<sup>6</sup>

1 <https://www.ocme.com/modello-231/procedura-whistleblowing-ocme-rev.0.pdf>

2 <https://www.dataguidance.com/news/italy-anac-releases-guidelines-whistleblowing-decree>

3 <https://freedomhouse.org/country/italy/freedom-world/2023>

4 <https://www.senato.it/leg/19/BGT/Schede/FascicoloSchedeDDL/ebook/55242.pdf>; <https://www.senato.it/leg/19/BGT/Schede/FascicoloSchedeDDL/ebook/55273.pdf>; <https://www.senato.it/leg/19/BGT/Schede/FascicoloSchedeDDL/ebook/56433.pdf>; <https://www.senato.it/leg/19/BGT/Schede/FascicoloSchedeDDL/ebook/56728.pdf>; <https://www.senato.it/service/PDF/PDFServer/DF/425746.pdf>

5 The Italian CSO The Good Lobby has launched two campaigns: one on the adoption of regulations to establish an operational lobbying register and one on the adoption of anti-conflicts of interest rules. The government has yet to adopt these two provisions. <https://www.thegoodlobby.it/campagne/lobbying-italia/>; <https://www.thegoodlobby.it/campagne/conflicto-di-interessi/>

6 <https://www.article19.org/resources/italy-seizure-order-article-domani/>

In Italy, 2023 is confirmed as a year marked by the absence of a real legislative proposal on LGBTQIA+ people's rights and combating discrimination based on sexual orientation and gender identity, and a year of steps backwards regarding surrogacy, crime of torture and rights of detainees.

### State of play (versus 2023)

-  Justice system
-  Anti-corruption framework
-  Media environment and freedom of expression and of information
-  Checks and balances
-  Enabling framework for civil society
-  Systemic human rights issues

#### Legend

Regression      No progress      Progress



## Justice system

### Key recommendations

- *Guarantee the magistrates' freedom of opinion and thought, and above all the independence of the judiciary.*
- *Avoid the criminalisation of dissent and the introduction of new forms of criminal repression, which, among other things, would further increase the already high rates of overcrowding in prisons.*
- *Preserve the specificities of the juvenile justice system, which is historically characterised by an educational-pedagogical, rather than punitive, approach.*

## Judicial independence

**Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the in-**

**dependence of the judiciary (e.g. Council for the Judiciary)**

Despite the failure of the 2022 referendum on the separation of judicial careers,<sup>7</sup> the

<sup>7</sup> <https://elezioni.repubblica.it/2022/referendum/20220612/3/italia/>

issue remains on the agenda of Italian public debate. Between 2022 and 2023, a series of bills<sup>8</sup> were tabled on the subject which, in brief, envisage: the separation of the hiring process for judges and prosecutors, the creation of two separate Superior Councils of Judges and Prosecutors, with an increase in the number of so-called ‘lay’ members (mainly academics or lawyers), appointed by Parliament or partly by Parliament, and partly by the President of the Republic (the bills differ on this point).<sup>9</sup> In addition, the Minister of Justice, Carlo Nordio, stated at a conference on 11 November 2023 that the implementation of the announced separation of careers would be ‘postponed’ to the process of the other constitutional reform, that of the elected Prime Minister, declaring his inclination towards a constitutional law inspired by the British system, in which “the public prosecutor is independent, but he is the prosecutor’s lawyer and has no powers over the judicial police”.<sup>10</sup>

***Significant developments capable of affecting the perception that the general public has of the independence of the judiciary***

In 2023, government representatives’ public statements significantly shaped political discussions, though not always resulting in legislative

actions. On 2 October, the ‘Apostolico Case’ marked a pivotal moment when Judge Iolanda Apostolico, from the Catania court’s immigration section, ordered the release of a migrant in a detention centre for repatriation (Centri di permanenza per il rimpatrio - CPR) due to an unpaid €5,000 deposit. This decision challenged the applicable decree (Decree-Law No. 1 of 2 January 2023, and the Ministry of the Interior Decree of 14 September 2023), with Judge Apostolico arguing the regulations contradicted EU directives.

Prime Minister Giorgia Meloni, expressing disbelief on Facebook, labelled the justifications behind Judge Apostolico’s order as “unbelievable”.<sup>11</sup> Subsequently, Minister of Infrastructure and Transport, Matteo Salvini, posted a video on social media depicting the magistrate participating in a 2018 procession protesting the government’s handling of migrants on the ship Diciotti. Salvini argued that this indicated the magistrate’s personal biases against government positions, leading to calls for Judge Apostolico’s resignation from politicians in the majority.<sup>12</sup>

Government statements impacting public perception of the judiciary also came from Minister of Defence Guido Crosetto, who asserted that “the only threat to the stability of Giorgia

8 Recently in 2023: <https://www.senato.it/service/PDF/PDFServer/DF/424240.pdf>

9 [https://www.sistemapenale.it/it/opinioni/rossi-separare-le-carriere-di-giudici-e-pubblici-ministeri-o-riscrivere-i-rapporti-tra-poteri#\\_ftnref1](https://www.sistemapenale.it/it/opinioni/rossi-separare-le-carriere-di-giudici-e-pubblici-ministeri-o-riscrivere-i-rapporti-tra-poteri#_ftnref1)

10 <https://www.ilgiornale.it/news/interni/separazione-carriere-subito-premierato-nordio-annuncia-nuova-2239770.html>

11 <https://global.ilmanifesto.it/the-reality-behind-melonis-propaganda-against-a-catania-judge/>

12 <https://www.editorialedomani.it/giustizia/video-apostolico-salvini-cosa-successo-migranti-lgjk1ebx>

Meloni's government is the judicial opposition".<sup>13</sup> Additionally, Alfredo Mantovano, Under Secretary to the Presidency of the Council of Ministers, proposed introducing psycho-aptitude tests for magistrates, a suggestion that was ultimately rejected.<sup>14</sup>

## ***Fairness and efficiency of the justice system***

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### ***Length of proceedings***

In 2023, there was a gradual reduction in the duration of trials and, at the same time, an acceleration in the reduction of the backlog in courts, in line with the objectives of the PNRR agreed with Europe. The data as of 30 June 2023, compared to the reference year of 2019 specified in the PNRR, indicate a decisive acceleration in the reduction of the duration of trials calculated on the basis of disposition time - a key indicator that gauges the ratio between pending and finalised trials. In the civil justice sector, there was a substantial decrease of 19.2%, while the criminal justice sector witnessed an even more pronounced reduction of 29%. Particularly marked was the reduction in the last year in the criminal sector (17.5% lower compared to the first half of 2022), thanks to a substantial increase in the number of finalised proceedings.<sup>15</sup>

### ***Execution of judgments***

In the Italian justice system, the so-called 'security measures' still exist in the penal code and may be enacted against people charged with crimes and sentenced to prison in addition to the period of imprisonment, if they are deemed by the judge to be 'socially dangerous'. In this case, after the person has served the sentence for the committed crime, the judge may order an additional period of detention in so-called 'work houses'. The work houses are located in eight prisons as a special section of the same prisons. Perpetrators of crimes who are considered 'socially dangerous' are usually sentenced to serve a 'security measure' for one or two years in a work house. At the end of the period, the security measure may be extended (and frequently is extended) for more years, without any limit to the extensions. Therefore, the implementation of the security measures in principle may lead to what Italians call *ergastolo bianco*, or a 'white life sentence', because the security measure can be extended indefinitely. The designation of 'socially dangerous' is not connected to the seriousness of crimes; usually people sentenced to this 'security measure' come from poor backgrounds and are recidivists for minor crimes, such as theft, minor drug crimes etc. Clearly, the provision of security measures does not comply with the guarantees required in a democratic and liberal

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13 <https://www.ilfattoquotidiano.it/2023/11/26/lattacco-di-crosetto-ai-magistrati-so-di-riunioni-tra-toghe-per-fermare-il-governo-lanm-fake-news-il-pd-infondati-complotti-e-velate-minacce/7365353/>

14 [https://www.repubblica.it/politica/2023/11/28/news/crosetto\\_magistrati\\_caso\\_giustizia-421413211/](https://www.repubblica.it/politica/2023/11/28/news/crosetto_magistrati_caso_giustizia-421413211/)

15 [https://www.giustizia.it/giustizia/page/it/monitoraggi\\_giustizia\\_civile\\_e\\_penale#](https://www.giustizia.it/giustizia/page/it/monitoraggi_giustizia_civile_e_penale#); <https://www.sistemapenale.it/it/scheda/gatta-gialuz-riforma-cartabia-e-durata-media-del-processo-penale-29-nel-primo-semester-del-2023-i-dati-del-monitoraggio-statistico-del-ministero-della-giustizia>

state, as such provision is related to the features of the person, instead of the actions he/she has committed. At the end of 2023, the Ministry of Justice<sup>16</sup> reported that there were 311 people serving in the work houses, compared to 294 at the end of 2022 and 298 at the end 2021. On 13 October 2022, the proposed law ‘Amendments to the Penal Code, concerning the abolition of detention security measures for imputable persons and the regulation of probation’ (Chamber Act No.158/2022), an initiative of Deputy Riccardo Magi, was presented and assigned to the Justice Commission. Presently, the bill is waiting to be put on the commission’s agenda to be discussed.<sup>17</sup>

### **Respect for fair trial standards, including in the context of pre-trial detention**

To gauge the efficacy of the justice system in Italy, it is crucial to examine instances of miscarriages of justice leading to unfair detentions. From 1992 to 31 December 2022, a concerning 30,556 cases were identified where individuals were wrongly placed in pre-trial detention, underscoring a disconcerting trend. This equates to more than 985 innocent people annually experiencing pre-trial detention. The

financial implications of these miscarriages of justice are substantial, amounting to a total compensation cost exceeding €846,655,000, averaging around €27,311,000 annually.<sup>18</sup> The year 2022 alone witnessed 539 cases of unjust detention, necessitating a compensation payout totalling €27,378,000.

### **Other**

In 2023, on the topic of migration, Italy witnessed an unparalleled surge in decrees and agreements, significantly compromising the rights of asylum seekers and migrants. The attention and controversy surrounding the issue stem from political propaganda rather than a genuine necessity for improving its management or addressing emergencies. On 26 February, on the beach of Steccato Cutro, a few kilometres from Crotone, the bodies of dozens of migrants who died in a shipwreck at sea washed up. In the end, 94 bodies were recovered.<sup>19</sup> The Meloni government seized on this incident for political gain, convening a Council of Ministers on 9 March 2023 in Cutro, resulting in Legislative Decree No. 20/2023.<sup>20</sup> This decree increased penalties for so-called smugglers, often victims themselves, and curtailed asylum seeker

16 [https://www.giustizia.it/giustizia/it/mg\\_1\\_14\\_1.page?contentId=SST996131](https://www.giustizia.it/giustizia/it/mg_1_14_1.page?contentId=SST996131)

17 <https://www.societadellaragione.it/progetti/misure-di-sicurezza/>

18 <https://www.errorigiudiziari.com/errori-giudiziari-quantisono/>

19 <https://www.fanpage.it/attualita/naufragio-crotone-quantisono-i-morti-i-sopravvissuti-e-i-dispersi-in-mare/>

20 <https://www.gazzettaufficiale.it/eli/id/2023/05/05/23A02665/sg>

protections, raising concerns about adherence to international refugee and human rights laws.<sup>21</sup> Moreover, the government has increased the detention time of migrants in detention centres for repatriation (CPR) to up to 18 months of detention.<sup>22</sup> This move is an unnecessarily afflictive and propagandistic measure that has no impact on the success of repatriations, as reported by some Italian non-governmental organisations,<sup>23</sup> and by the data contained in the report ‘Black Holes: Detention without charge in Repatriation Centres for Migrants - Centri di Permanenza per i Rimpatri (CPRs)’.<sup>24</sup>

Further, the Meloni government announced a memorandum with Albania on 6 November,<sup>25</sup> outlining collaborative efforts to manage migratory flows. Albania will grant Italy the use of designated areas on its territory, allowing Italy to establish, at its own expense and

jurisdiction, two centres for managing sea arrivals of migrants, asylum requests and expulsion procedures.<sup>26</sup> This agreement faced constitutional legitimacy doubts<sup>27</sup> due to its contents falling within Article 80 of the Italian Constitution, therefore requiring parliamentary involvement, and because the automatic recourse to detention is clearly not compatible with European and Italian legislation on the matter. However, it was the Albanian Constitutional Court that suspended the ratification<sup>28</sup> of the controversial agreement in December 2023, as it fell into the category of agreements that require authorization from the President of the Albanian Republic. The final decision of the Albanian Court is expected in March 2024.

In 2023, reforms in the Italian justice system raised concerns about potential negative impacts

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21 There have been many critical issues raised by civil society and the United Nations High Commissioner for Refugees regarding the compatibility with international legislation on refugees and human rights, regarding the feasibility of the envisaged measures, the potential impact on the asylum, and the space of protection guaranteed to asylum seekers, refugees and stateless persons: <https://www.unhcr.org/it/wp-content/uploads/sites/97/2023/05/Nota-tecnica-di-commento-legge-Legge-5-maggio-2023-n.-50.pdf>

22 <https://www.gazzettaufficiale.it/eli/id/2023/09/19/23G00137/sg>

23 <https://www.asgi.it/notizie/cpr-riforma-costi-non-misure-irragionevoli/>; <https://cild.eu/wp-content/uploads/2023/10/Antigone-CILD-commento-DL-124-2023.pdf>

24 [https://cild.eu/wp-content/uploads/2022/07/ReportCPR\\_En\\_2vers-1.pdf](https://cild.eu/wp-content/uploads/2022/07/ReportCPR_En_2vers-1.pdf)

25 <https://integrazioneimmigranti.gov.it/it-it/Ricerca-news/Dettaglio-news/id/3496/Protocollo-dintesa-tra-Italia-e-Albania-in-materia-di-gestione-dei-flussi-migratori>

26 For an estimated cost of 16 million in the first year of implementation.

27 <https://www.asgi.it/notizie/accordo-italia-albania-asgi-illegittimo-parlamento/>

28 <https://www.balcanicaucaso.org/aree/Albania/Albania-la-Corte-Costituzionale-sospende-l-accordo-Rama-Meloni-229028>

on both fairness and efficiency.<sup>29</sup> Decree-Law No. 123 of 15 September, converted with amendments by Law No. 159 of 13 November (called the ‘Caivano decree’), introduces criminal provisions concerning minors, promoting a punitive approach.<sup>30</sup> The Caivano decree testifies to the widespread practice of normative intervention, almost always by means of emergency decrees following dramatic events in the news, with the illusion of pursuing this or that emergency through the tightening of penal instruments. The extension of punitive measures proposed, to the detriment of the educational approach to young people, is at

odds with the cultural foundations that have shaped the Italian justice system, which has proven to be effective and is even considered a model at European level. Instead of moving more decisively in the direction that had proved to be the most beneficial, the Caivano decree, which was later converted into law, reversed the course by pushing for a dangerous homologation of the instruments of punishment for minors with those for adults. While the Pacchetto Sicurezza, comprising three bills endorsed by the Council of Ministers on 16 November 2023, advocates for an unnecessary and inequitable reinforcement of the criminal

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29 <https://www.antigone.it/upload2/uploads/docs/AntigoneDICaivano.pdf>

30 In the Official Journal No. 266 of 14/11/2023. The most relevant points are:

- The maximum penalty for non-culpable offences for which it is permitted to accompany a minor caught in the act of committing an offence to the police station is reduced from five to three years; for measures other than pre-trial detention, the threshold of applicability to persons over the age of 14 is lowered from five years to four years.
- The maximum penalty required to proceed with detention, arrest in *flagrante delicto* and pre-trial detention of juveniles aged 14 and above for non-culpable offences is reduced from nine to six years. Additionally, the legislation allows for detention, arrest, and pre-trial detention of minors aged 14 and above in specific cases (i.e. aggravated theft, offences related to carrying weapons or offensive objects, violence or threats against public officials, resistance to public officials, and production and distribution of drugs).
- Regarding the internal security of juvenile prisons (IPM), a significant change grants the director the authority to seek authorisation from the Surveillance Magistrate for transferring individuals aged 18 to 21. This applies if the person, who committed an offence as a minor, engages in behaviour compromising security, disrupting order, using violence, or threatening others in the institution. For detainees aged 21 to 25, clearance may be requested based on engaging in any of the mentioned behaviours, providing discretionary power to the penal institution.
- Implementation of the measure of ‘aggravation’ (*aggravamento*), i.e. placing a minor in an IPM due to removal from the community or repeated violations of prescriptions, the recent change eliminates the previous maximum duration of 30 days for this measure. As a result, the duration becomes indefinite.

and prison repression model.<sup>31</sup> These measures contribute to a further rise in the prison

population, which is now characterised by a 123% overcrowding rate.

## Anti-corruption framework

### Key recommendations

- *A draft law was tabled aimed at abrogating the offence of abuse of public office and limiting the scope of the offence of trading in influence, but progress still needs to be made in this regard.*
- *Legislation addressing conflicts of interest comprehensively is yet to be enacted and needs immediate adoption. While a parliamentary inquiry on the necessity of establishing comprehensive rules for lobbying is in progress, it should be replaced by an amendment of the legislation as originally planned before the change in government.*
- *Senate hearings to examine the practice of directing donations through political foundations and associations have commenced, yet tangible legislative changes are still pending.*

### Framework to prevent corruption

#### **Integrity framework, including incompatibility rules (e.g.: revolving doors)**

Minister Cartabia's reform of the judicial system and its self-governing body, the Supreme Council of Magistrates (CSM), was passed in June,<sup>32</sup> which it is hoped will have an impact on halting revolving doors. According to the new regulations, judges entering politics and

31 Notably, it proposes:

- Introduction of the offence of prison riot (Art. 415 bis of the Criminal Code), carrying penalties of two to eight years for promoting, organising, or directing a riot, and one to five years for mere participation. This offence is equated with mafia and terrorism charges and can apply to CPR detainees.
- Raising the penalty limits of several criminal offences.
- Extension of the catalogue of hostile offences under Article 4bis of the Penitentiary Law and restrictions on prison benefits.
- Increased penalties for offences committed against public officials.
- Imprisonment of pregnant women or those with children under one year of age by repealing paragraphs 1 and 2 of Art. 146 of the Criminal Code.

<https://www.antigone.it/news/3508-i-nostri-6-no-al-pacchetto-sicurezza>

32 [https://www.ansa.it/english/news/2022/06/16/justice-reform-passed\\_cdf96094-6159-4b74-921f-330171c886c1.html](https://www.ansa.it/english/news/2022/06/16/justice-reform-passed_cdf96094-6159-4b74-921f-330171c886c1.html)

securing public office are barred from returning to their judicial roles after completing their terms. Those elected to the Italian or European Parliament, regional or town councils, or those winning mayoral elections may assume administrative roles in the justice ministry after their term, but are restricted from presiding over cases. Additionally, magistrates who run for office without success or assume non-elected government positions face a three-year prohibition from serving as judges. The reform also prohibits judges from concurrently holding judicial positions and political offices, even if in different regions.

***General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)***

There is no information on accessible reporting on behalf of the government (if conducted at all) through civil society consultations. While a platform exists,<sup>33</sup> it has invited consultation on around 25 non-contentious items over several years, with limited input of civil society sought actively.

***Measures in place to ensure whistleblower protection and encourage reporting of corruption***

The Whistleblowing Decree (No. 24 of 2023) entered into force in March followed by the release of updated guidelines for implementation, transposing EU Directive 2019/1937 into Italian law. While it's too early to earnestly comment on the practical effectiveness of this law, as it has only been in force for under a year and thus needs to be 'tested' for a longer period, on its face it appears that the law is an improvement on previous Italian regulations regarding whistleblowing, which were regarded, at least in the private sector, as being rather fragmented and limited in scope.<sup>34</sup>

With the introduction of this new Whistleblowing Decree, rules on whistleblowing in both the public and private sector are now laid out within a single, comprehensive instrument, and more people fall within its scope. Whereas before the implementation of the Decree the obligation was limited to companies adopting and using an organisational and management scheme, according to Legislative Decree No. 231/2001 for the prevention of criminal conduct within the workplace protection is now formally extended to those employed in companies employing at least 50 employees under permanent or fixed-term employment contracts over the previous year,

33 [https://partecipa.gov.it/processes?filter%5Barea\\_id%5D=&filter%5Bdate%5D=all&filter%5Bscope\\_id%5D=](https://partecipa.gov.it/processes?filter%5Barea_id%5D=&filter%5Bdate%5D=all&filter%5Bscope_id%5D=)

34 <https://www.martinimanna.com/blog/13tr4ap2a4anzupx74gnun33ip6kgi>

and employees of companies falling within the scope of application of regulations on financial services, products and markets, prevention of money laundering or terrorist financing, transport security, and environmental protection.<sup>35</sup> The law also allows non-profit entities to provide support measures to whistleblowers.

**List the sectors with high-risks of corruption in your country and list the relevant measures taken/envisaged for preventing corruption and conflicts of interest in these sectors. (e.g. public procurement, health-care, other)**

A new public procurement code fully entered into force in July 2023 (Legislative Decree No. 36 of March 31 2023),<sup>36</sup> which now applies to public tenders for work, services, and supplies. In our view, however, the elements allowing subcontracting without percentage limits and ‘cascade subcontracting’ may require additional reform, as many argue that limiting subcontracting to a maximum of one or two sub-layers and limiting the permitted percentage of employed workers, the number of tasks, and the percentage of the turnover generated down the subcontracting chain, is necessary.<sup>37</sup>

## **Investigation and prosecution of corruption**

### **Criminalisation of corruption and related offences**

A draft law was tabled aimed at abrogating the offence of abuse of public office and limiting the scope of the offence of trading in influence,<sup>38</sup> but progress still needs to be made in this respect.

### **Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)**

The practice of channelling donations through political foundations and associations before they are transferred to political parties remains an obstacle to public accountability because these transactions are difficult to trace and monitor. In the previous legislature (before the Meloni government was installed) there had been a text already approved by the Chamber, which only needed to be passed by the Senate.<sup>39</sup> The fall of that government and the subsequent installation of the Meloni government killed that attempt. Currently in Parliament, on the topic of lobbying there are only proposals

35 <https://www.seyfarth.com/news-insights/new-rules-and-obligations-for-employers-in-italy-concerning-whistleblowing.html>

36 <https://www.lexology.com/library/detail.aspx?g=51b8f2d6-e57c-4a42-9887-f15de31cf4e3>

37 <https://www.limitsubcontracting.eu/materials/rules/Better%20subcontracting%20rules%20GB.pdf>

38 <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52023SC0812>

39 <https://www.thegoodlobby.it/qui-si-fa-la-storia-ok-della-camera-alla-legge-sul-lobbying-ora-il-senato-deve-migliorarla/>

presented by the opposition. None have progressed to examination - see here such proposals of the opposition parties, the discussion of which has not yet begun: PD, IPD;<sup>40</sup> M5S;<sup>41</sup> M5S;<sup>42</sup> AZ,IV,RE.<sup>43</sup> The government is showing no interest in regulating the representation of interests in line with previous efforts aiming towards this objective.

The President of the Constitutional Affairs commission of the Chamber, Nazario Pagano (from the Forza Italia party) started a fact-finding investigation within the Constitutional Affairs commission in March 2023 on this topic, but after some initial hearings, the work seems to have stopped again (in this video<sup>44</sup> the hearings in March 2023 can be viewed).

In November 2023 then Pagano stated that the proposed law on the regulation of stakeholders could be implemented “by January”,<sup>45</sup> following the (imminent) conclusion of the fact-finding investigation on the phenomenon carried out by the same parliamentary body, but this remains to be seen. Among the previews on the provision provided to the media outlet ANSA by Pagano, there is the hypothesis that a register of such professionals who carry out ‘lobbying’ activities could be kept “by the CNEL, or by a Guarantor”.<sup>46</sup>

In Italy, an excellent job is done by The Good Lobby, which has been asking for the approval of a law text for years, whose campaign remains ongoing.<sup>47</sup>

## Media environment and media freedom

### Key recommendations

- *Italian decision-makers should initiate a comprehensive reform of defamation laws, which must be aligned with international freedom of expression standards and should focus on decriminalising defamation and establishing reasonable limits on damages within civil law to protect press freedom, free expression, and the public’s right to know. Any such reform must take into account the current EU debate on the proposal for a directive on SLAPPs*

40 <https://www.senato.it/leg/19/BGT/Schede/Ddliter/55231.htm>

41 <https://www.senato.it/leg/19/BGT/Schede/Ddliter/55306.htm>

42 <https://www.senato.it/leg/19/BGT/Schede/Ddliter/55677.htm>

43 <https://www.senato.it/leg/19/BGT/Schede/Ddliter/56180.htm>

44 <https://www.youtube.com/watch?v=7JMthMJHtLs>

45 [https://www.ansa.it/sito/notizie/fisco\\_lavoro/2023/11/29/pagano-fi-verso-la-proposta-di-legge-sulle-lobby-a-gennaio\\_12d79f58-aa16-49c2-a978-681782e5151d.html](https://www.ansa.it/sito/notizie/fisco_lavoro/2023/11/29/pagano-fi-verso-la-proposta-di-legge-sulle-lobby-a-gennaio_12d79f58-aa16-49c2-a978-681782e5151d.html)

46 [https://www.ansa.it/sito/notizie/fisco\\_lavoro/2023/11/29/pagano-fi-verso-la-proposta-di-legge-sulle-lobby-a-gennaio\\_12d79f58-aa16-49c2-a978-681782e5151d.html](https://www.ansa.it/sito/notizie/fisco_lavoro/2023/11/29/pagano-fi-verso-la-proposta-di-legge-sulle-lobby-a-gennaio_12d79f58-aa16-49c2-a978-681782e5151d.html)

47 <https://www.thegoodlobby.it/campagne/lobbying-italia/>

*and consider the impact that it will have on public participation and public interest issues; In the transposition phase of the anti-SLAPP Directive, Italian policy-makers should implement a progressive reform in which the Commission's horizontal anti-SLAPP Recommendation is fully integrated.*

- *Italian authorities should guarantee the autonomy of the national Coordination Centre for the monitoring, analysis, and permanent exchange of information on the phenomenon of intimidation of journalists and make it fully independent of the Ministry of Interior. They should enhance the scope of the Centre to allow for a comprehensive reporting of all types of violations, threats, and attacks against journalists and media workers - including legal threats and SLAPPs - and adopt a more adequate monitoring methodology that goes beyond the reports solely collected by the police.*
- *Italian authorities must speed up the creation of a national registry of beneficial owners of media enterprises, which must be publicly available for consultation in an open data format. Moreover, Italian authorities must commit to the protection of the editorial independence of media organisations and of the journalistic sources by prohibiting the use of surveillance technologies, and spyware in particular, by law enforcement agencies or any other actor to access journalistic sources.*

## **Transparency of media ownership**

### **The transparent allocation of state advertising (including any rules regulating the matter)**

In order to fully address the need for information on state advertising in media, broad transparency obligations both within national and EU regulations are needed. Public authorities are usually obliged to keep records of their advertising expenditure, and such a collection of data can be used to achieve a greater transparency at EU level through the creation of

national and EU-wide databases that provide transparent data around the funds that states allocate to media companies through public advertising. The proposed EMFA regulation partially addresses this issue by providing a general framework to all the Member States.<sup>48</sup>

It should be acknowledged that there is a concern that wide-reaching transparency of state advertising in media may deter smaller governments from funding small and local media, which would put their existence in jeopardy. However, there is little empirical evidence that supports this concern.

48 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0457>

Times of emergency, when governments and other public institutions communicate with the wider public through paid emergency messages, which benefit from certain exemptions from general rules, also constitute a case of particular concern. The Opinion of the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament provides for a comprehensive proposal on how to address this specific issue by bringing emergency messages under the general regulatory framework, which has proven its efficacy.<sup>49</sup>

### **Rules governing transparency of media ownership and public availability of media ownership information, and their application**

Transparency of media ownership strengthens the accountability of media service providers, enforces media freedom and pluralism, and improves the health of the entire EU media market, especially if the wider public is made aware of the structural connection between media ownership, private interests and they shape public opinion.

Based on the work of a consortium of European organisations that analysed the text of the proposed EMFA regulation, we can appreciate that the coming European Media Freedom Act (EMFA) will partially address this issue by enforcing increased transparency about who owns media companies and how, which is key to ensure that political interferences in our democratic life are curbed.<sup>50</sup>

Still, the proposed regulation falls short of providing an efficient response to the issue, which could be better addressed by making transparency of media ownership for every media service provider mandatory through an EU-wide database of media ownership. This would be a primary tool to ensure that Member States adhere to the same standards, develop national regulatory authorities or bodies, and maintain national databases of media ownership. Mandatory yearly reports on media ownership data by national regulatory authorities or bodies should be produced, which include the obligation for data on media ownership to be made publicly available free of charge and in an electronic, user-friendly manner.

### **Public service media**

#### **Independence of public service media from governmental interference**

The relation between media and the Meloni government has been affected by the interference of the executive in the governance of the Italian public broadcasting service.

The independence of Radiotelevisione Italiana (RAI), the Italian national public broadcasting company, is a traditionally sensitive topic which periodically surfaces on the Italian political agenda, its funding and governance being subjected to political interference. The 2023 Media Pluralism Monitor placed Italy among the countries in which the independence of public

49 [https://www.europarl.europa.eu/doceo/document/LIBE-AD-746757\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/LIBE-AD-746757_EN.pdf)

50 [https://epd.eu/content/uploads/2023/11/EMFA\\_openletter\\_nov\\_2023\\_transparency.pdf](https://epd.eu/content/uploads/2023/11/EMFA_openletter_nov_2023_transparency.pdf)

service media is most threatened.<sup>51</sup> Last spring, the current cabinet made significant internal management changes, which led to the resignation of the public broadcaster CEO.<sup>52</sup> On that occasion, international media freedom groups raised alarm about the Italian public service broadcaster's independence.<sup>53</sup> Such political appointments set a worrisome precedent for two reasons. Firstly, the RAI CEO resigned one year prior to the conclusion of his term and just a few weeks before the yearly expiration of a number of RAI's TV show contracts, citing political pressure. Secondly, the newly appointed CEO, Roberto Sergio, swiftly implemented an editorial shift, arguably in line with the ruling coalition's agenda, which had immediate consequences on RAI's programming.<sup>54</sup> The timing resulted in a flood of well-established shows migrating to private broadcasting companies, such as the celebrated show *Che Tempo Che Fa*, led by Italian journalist Fabio Fazio.<sup>55</sup> Similarly, the case of Roberto Saviano's anti-mafia show, *Insider*, which had been already recorded and then cancelled abruptly, caused international

resentment.<sup>56</sup> What both Fazio and Saviano have in common, along with other professionals who left RAI over the past few months, is their criticism, subtle or vocal, toward members of the current cabinet.

Another unjustified political interference in the independence of the Italian public service broadcaster was registered last November when *Report's* presenter, Sigfrido Ranucci, was summoned by the RAI Director's Supervisory Committee.<sup>57</sup> This can be seen as a manifestation of political pressure targeting an independent investigative TV programme, whose reporting has been critical of a number of members of the current government. The summons was not only unusual, given that individual journalists have never been audited by the Committee before, but members of the ruling coalition also took the chance to publicly mock Ranucci during the meeting.<sup>58</sup>

Finally, Giorgia Meloni's coalition partner and Lega's leader, Matteo Salvini, decided to shrink

51 <https://op.europa.eu/en/publication-detail/-/publication/945f485e-2514-11ee-94cb-01aa75ed71a1/language-en>

52 <https://fom.coe.int/en/alerte/detail/107639298;globalSearch=true>

53 <https://www.rcmediafreedom.eu/News/Italy-International-Media-freedom-groups-raise-alarm-about-RAI-s-independence>

54 [https://www.adnkronos.com/Archivio/politica/rai-lettera-dellad-sergio-ai-dipendenti-ora-al-lavoro-per-far-ri-partire-lazienda\\_3Ily4NtstrjwfxFKThaZfo](https://www.adnkronos.com/Archivio/politica/rai-lettera-dellad-sergio-ai-dipendenti-ora-al-lavoro-per-far-ri-partire-lazienda_3Ily4NtstrjwfxFKThaZfo)

55 [https://www.repubblica.it/spettacoli/tv-radio/2023/05/14/news/fabio\\_fazio\\_lascia\\_rai\\_nomine\\_meloni-399825394/](https://www.repubblica.it/spettacoli/tv-radio/2023/05/14/news/fabio_fazio_lascia_rai_nomine_meloni-399825394/)

56 <https://www.mapmf.org/alert/30556>

57 <https://www.ilfattoquotidiano.it/2023/11/07/vigilanza-rai-processo-report-destra-scatenata-ranucci-inchieste-su-tutti/7346561/>

58 <https://www.rcmediafreedom.eu/News/Italy-MFRR-partners-condemn-summons-of-RAI-presenter-Sigfrido-Ranucci>

the funding allocation to the broadcasting service, a provision which was introduced into the recently approved Budget Law – a change which further threatens RAI's financial autonomy.<sup>59</sup>

## **Safety and protection of journalists and other media actors**

### **Frequency of verbal and physical attacks**

Over 2023, Mapping Media Freedom registered 15 cases of physical assaults against journalists and media workers - four of which resulted in injury - 27 cases of verbal attacks and 11 cases of attacks or threat to property.<sup>60</sup>

Here we report some examples.

On 31 January, Tg2 journalist Stefano Fumagalli and cameraman Davide Messineo were assaulted by protesters gathered in front of Opera Prison in Milan. The assailants hurled stones and firecrackers at them. The group comprised supporters of Alfredo Cospito, who had recently been transferred to that prison and is being held in solitary confinement.<sup>61</sup>

On the same day, journalists Anna Iselle and Mirko Longhi from the Vicenza local media outlet TvA Notizie were verbally assaulted and threatened by a group of people who surrounded them while the two were filming a press conference about the area's redevelopment. The two journalists promptly called the police, who intervened without delay.<sup>62</sup>

On 27 November 2023, an envelope with a bullet and written threats addressed to a journalist was delivered to the headquarters of the Roman Journalists' Union. The envelope included a 357 Magnum calibre bullet and a paper with four ungrammatical lines, written on a computer in capital letters, stating "this is one of the 6 that we stick in the bas\*\* journalist's head". The letter was not signed. The envelope and its content were delivered to the police and a complaint was filed. The reporter, expressly mentioned in the text by surname, had carried out numerous investigations into crime in the Roman suburbs, with particular focus on drug trafficking. Local press freedom groups and journalists unions denounced the serious death threat against the journalist.<sup>63</sup>

59 <https://www.usigrai.it/con-il-taglio-delle-risorse-la-rai-rischia-di-essere-smantellata-nel-silenzio-generale-le-dispute-nel-governo-danneggiano-il-servizio-pubblico/>

60 [https://www.mapmf.org/explorer?f.from=2023-01-01&f.to=2023-12-31&f.country=Italy&f.type\\_of\\_incident=-Physical+assault](https://www.mapmf.org/explorer?f.from=2023-01-01&f.to=2023-12-31&f.country=Italy&f.type_of_incident=-Physical+assault); [https://www.mapmf.org/explorer?f.from=2023-01-01&f.to=2023-12-31&f.country=Italy&f.type\\_of\\_incident=Verbal+attack](https://www.mapmf.org/explorer?f.from=2023-01-01&f.to=2023-12-31&f.country=Italy&f.type_of_incident=Verbal+attack)

61 <https://monitor.civicus.org/explore/climate-activists-charged-for-throwing-paint-at-senate-building-facing-possible-prison-sentences/>

62 <https://www.mapmf.org/alert/25638>

63 <https://fom.coe.int/en/alerte/detail/107640326>

### **Law enforcement's capacity to ensure journalists' safety and to investigate attacks on journalists and media activists**

According to the latest report of the Italian Coordination Centre for the monitoring, analysis, and permanent exchange of information on the phenomenon of intimidation of journalists,<sup>64</sup> which covers the first 9 months of 2023, the police registered 71 cases of intimidation or attacks involving 68 journalists - 17 women and 51 men.<sup>65</sup> Insults and verbal attacks were among the most frequent cases of intimidation, mostly happening via the web, especially social networks. Lazio, Lombardia, and Campania remained the regions with the highest number of cases.

This data show a decrease in cases compared to the first 9 months of 2022 when the police registered 84 acts of intimidation. At first glance, this might appear to be a positive development, but it must be considered that not all journalists or media workers decide to report violations to the police, which may explain the relatively low number of women targeted by attacks. As highlighted in the research *Interviewing Journalism II - Needs and Gaps in support for women and local journalists* published by OBC Transeuropa, women are often more vulnerable to threats than their male colleagues; yet, the fear of professional retaliation prevents them

from reporting their cases to the police, leading to a worrying trend of under-representation and underreporting of the attacks.<sup>66</sup>

In 2021, the European Commission identified the Italian Coordination Centre as establishing best practices to ensure journalists' safety; representatives of the Italian media sector, the FNSI, and OdG have also recognised that the establishment of this special body has improved the relationship between journalists and public authorities. Nevertheless, some crucial shortcomings remain: firstly, the fact that the Centre is part of the Ministry of the Interior exposes it to political interferences that undermine its independence. Secondly, there continues to be a serious risk of underreporting: besides the fact that journalists may decide not to report attacks, the fact that data is based on police reports also means that cases of intimidation or attacks from the police are not taken into account. Finally, the Centre does not monitor cases of legal threats or so-called SLAPPs that are prevalent and worrisome in the current Italian media context.

### **Lawsuits and prosecutions against journalists (including SLAPPs) and safeguards against abuse**

In 2023, Mapping Media Freedom registered 24 legal incidents located in Italy.<sup>67</sup> The number

64 <https://www.article19.org/resources/europe-directory-to-protect-journalists/>

65 [https://www.interno.gov.it/sites/default/files/2023-12/report\\_9\\_mesi\\_2023\\_web.pdf](https://www.interno.gov.it/sites/default/files/2023-12/report_9_mesi_2023_web.pdf)

66 <https://www.balcanicaucaso.org/eng/Occasional-papers/Interviewing-Journalism-II.-Needs-and-gaps-in-support-for-women-and-local-journalists>

67 [https://www.mapmf.org/explorer?f.from=2023-01-01&f.to=2024-01-09&f.country=Italy&f.type\\_of\\_incident=-Legal+incident](https://www.mapmf.org/explorer?f.from=2023-01-01&f.to=2024-01-09&f.country=Italy&f.type_of_incident=-Legal+incident)

of acts of legal intimidation and formalised lawsuits initiated by political figures targeting critics of the government has been increasing steeply. Intolerance to criticism pertaining to political conduct signals a disquieting trend of Italian leadership, which fails to take into consideration the public interest. Here is a list of important examples:

1. In March, Domani's newsroom learned that Claudio Durigon, Undersecretary at the Ministry of Labour and Social Affairs, had initiated a criminal defamation lawsuit against them when two police officers handed them a seizure order directed at one of Domani's articles. The article examined the alleged links between Durigon and members of local criminal organisations in Latina, south of Rome. The seizure order was followed by an awkward order of release signed by Rome's prosecutor. The lawsuit was recently dismissed.<sup>68</sup>

2. In May, Adolfo Urso, Minister of Enterprises and Made in Italy and member of Fratelli d'Italia party, announced he will take legal action against RAI's investigative program Report following alleged "blatant falsehoods made with clear defamatory intent" contained in the broadcast.<sup>69</sup>

3. In June, Lega leader and current minister of Infrastructures Matteo Salvini announced that he had instructed his lawyers to file a complaint against L'Espresso for their 2019 report about the so-called Metropoli case, which revealed alleged connections between Lega and the Kremlin.<sup>70</sup>

4. In June, Minister of Tourism and member of Fratelli d'Italia party Daniela Santanché announced she had mandated her lawyers to file a defamation lawsuit against RAI's investigative program Report due to its recent critical reporting on the minister's business ventures.<sup>71</sup>

68 The dismissal did not stop the undersecretary from going after Domani's newsroom again, as he presented them with a legal notice demanding €200,000 compensation plus €500 daily until a number of investigative articles he dislikes are removed; <https://www.mapmf.org/alert/25312>; <https://www.editorialedomani.it/politica/italia/una-repubblica-fondata-sulle-querele-contro-i-giornalisti-cz5igtzn>; <https://www.rcmediafreedom.eu/News/Italy-Prosecutor-issues-seizure-order-for-article-published-by-newspaper-Domani>; <https://www.rcmediafreedom.eu/Publications/Focus-on-SLAPP/Focus-on-SLAPP/Media-politics-and-vexatious-lawsuits-An-Italian-perspective>; <https://www.rcmediafreedom.eu/Multimedia/Video/Interview-with-Nello-Trocchia>; <https://www.editorialedomani.it/idee/commenti/il-procuratore-di-roma-ferma-lultimo-attacco-giudiziario-del-governo-a-domani-vgf8k19q>; <https://www.editorialedomani.it/durigon-querela-domani-hf99l26b>; <https://www.editorialedomani.it/fatti/durigon-chiede-soldi-a-domani-p9tkyk7y#:~:text=E%20basta%20articoli%20sulla%20casa>

69 <https://www.mapmf.org/alert/30345>

70 <https://www.mapmf.org/alert/30351>

71 <https://www.mapmf.org/alert/30437>

5. In August, Arianna Meloni, wife of Minister of Agriculture Francesco Lollobrigida and sister of the prime minister Giorgia Meloni, currently secretary of the political section of leading coalition party, Fratelli d'Italia, filed a lawsuit against satirical illustrator Mario Natangelo in relation to a caricature published in *Il Fatto Quotidiano*.<sup>72</sup>

6. In September, Giancarlo Giorgetti, current Minister of the Economy, announced that he instructed his lawyers to file a lawsuit against daily newspaper *Domani* for an article authored by investigative journalist Giovanni Tizian. In the quoted piece, Tizian had examined links between business ventures and government contracts granted to Francesca Verdini, partner of Matteo Salvini.<sup>73</sup>

7. In October, Ignazio La Russa, president of the Senate and member of Fratelli d'Italia, announced a criminal defamation complaint against RAI show *Report*. The announcement was made one day prior to the show screening an episode dedicated to La Russa's family alleged business ventures.<sup>74</sup>

8. In October, Italian writer and journalist Roberto Saviano was found guilty of criminal defamation by the Criminal Court of Rome. The case was initiated by Giorgia Meloni in November 2021, when she was leader of the opposition, prior to her assuming the current role of Prime Minister. The criminal lawsuit accused Saviano of aggravated criminal defamation due to his critical comments about Meloni's persistent anti-migrant stance, voiced during the television program. The Criminal Court of Rome convicted Saviano of criminal defamation. The conviction represents a serious blow to freedom of expression.<sup>75</sup>

9. In December, the third hearing in the criminal defamation trial initiated by current minister of Transportation Matteo Salvini against Roberto Saviano was postponed for the second time by the judge due to Salvini's non-appearance.

### **Confidentiality and protection of journalistic sources (including whistleblower protection)**

Article 4 of the EMFA regulation is a slippery and dangerous precedent, as it creates the legal basis for the use of spyware against journalists

72 <https://www.mapmf.org/alert/30589>

73 <https://www.mapmf.org/alert/30714>

74 <https://www.mapmf.org/alert/31095>

75 The judge acknowledged the mitigating circumstances, mentioning the moral motivation that led Saviano to formulate his criticism. The criminal court ordered the writer to pay a fine of €1,000 and €2,600 of legal expenses; a further compensation for civil claims of the plaintiff will be determined by a civil court; <https://www.rcmediafreedom.eu/News/Italy-Roberto-Saviano-s-conviction-a-major-blow-to-free-expression>; <https://www.rcmediafreedom.eu/Multimedia/Video/SLAPPs-in-Italy-Roberto-Saviano-on-public-figures-seeking-to-silence-criticism-on-questions-of-public-interests>

through the abuse of the press freedom alleged values.

The form of substandard protection introduced by Article 4 represents bad news for those EU countries which currently enjoy better protection, while the argument that the EMFA introduces just a minimum standard seems weak, as the regulation constitutes a political signal that producing lower protections is possible in the coming EU framework.

Italy can be counted among the countries that would see a de facto decrease in the quality of the norms that protect journalistic sources in case any future government will adapt the national standards to the new minimum provided in the EMFA. This worrying trend overlaps with the fact that Italy was one of the fiercest supporters of watering down the protections nested in Article 4 during the legislative process in 2022-2023, as well as during the trialogue between the EU institutions in November 2023.

### **Access to information and public documents**

In implementing the European Directive 2016/343/EU<sup>76</sup> aimed at strengthening the presumption of innocence, Italy has created a rule that makes it difficult, if not impossible, to verify news. It imposes a stop on the full or partial publication of the content of wiretaps,

reasons for arrest, judicial proceedings and the contents of precautionary custody orders at least until the end of the preliminary hearing. The ban was labelled by Italian journalism, professional representatives and advocates as a ‘gag law’, which has nothing to do with the principle of presumption of innocence and represents a serious blow to the right to freedom of the press.<sup>77</sup>

Another cause of concern among media professionals was the new law promoted by the Italian Minister of Justice, Carlo Nordio, related to the use of wiretapping. The legislator has the task of finding the right balance between two principles of constitutional rank, the right to privacy and protection of the dignity of people, and the right to inform and be informed, a cornerstone of the democratic system. The minister announced that he wanted to proceed with a profound review of the discipline as, he claimed, wiretaps have become an instrument of personal and political delegitimization that puts a huge burden on the public coffers. Unions and journalistic organisations have defined this further tightening on the publishability of judicial documents and the contents of wiretaps, already the subject of three legislative interventions between 2017 and 2020 (law 103/2017, decree 216/2017, law 7/2020), a harmful restriction on freedom of the press and expression.<sup>78</sup>

76 <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1496243297811&uri=CELEX:32016L0343>

77 <https://www.articolo21.org/2022/12/tutela-delle-fonti-e-del-diritto-di-cronaca-consiglio-nazionale-fnsi-in-piazza-il-14-dicembre/>; <https://www.balcanicaucaso.org/aree/Italia/Rete-NoBavaglio-appello-professionisti-giornalisti-e-societa-civile-Non-ci-faremo-mettere-il-bavaglio>

78 <https://www.balcanicaucaso.org/aree/Italia/Intercettazioni-e-trojan-il-ddl-Nordio-allarma-i-giornalisti-226922>

## Other

Throughout 2023, the Italian Parliament advanced five bills (No. 81,<sup>79</sup> No. 95,<sup>80</sup> No. 466,<sup>81</sup> No. 573,<sup>82</sup> No. 616<sup>83</sup>), aimed at reforming the current civil and criminal defamation provisions, and responding to the call of the Italian Constitutional Court (ruling No. 132/2020<sup>84</sup> and ruling No. 150/2021).<sup>85</sup>

None of the bills considered the EU current debate on the proposal for a directive aimed at countering SLAPPs.<sup>86</sup> Specifically, two key concepts were missing from the text of the Italian bills: public participation and public interest. The lack of any elaboration of these notions resulted in legislative attempts which are unable to address the challenges that SLAPPs pose to journalists and press freedom. Eventually, it became clear that the bills would only have a marginal effect compared to the task assigned by the Constitutional Court, which had called on the Italian Parliament to initiate a ‘comprehensive’ reform of defamation

provisions, and to implement the 2023 Rule of Law Report recommendation from the European Commission.

In October 2023, the Italian Senate eventually chose to bring forward only the bill advanced by the ruling coalition, Bill No. 466, which aims at reforming the criminal code addressing criminal defamation through the press.

While Italian civil society has welcomed the provision codifying the abolition of prison sentences in line with the rulings of the Strasbourg Court, this practice was already consolidated in Italian jurisprudence and prescribed by the Constitutional Court (No. 150 of 2021). However, the bill introduces a number of pejorative aspects.<sup>87</sup> Bill No. 466 proposes to significantly raise the minimum fine, setting two brackets: penalties from €5,000 to €10,000, and €10,000 to €50,000. An increase in fines of any amount goes against the interpretation of Article 10 ECHR provided by the jurisprudence of the ECtHR.<sup>88</sup> Moreover, monetary penalties

79 <https://www.senato.it/leg/19/BGT/Schede/FascicoloSchedeDDL/ebook/55242.pdf>

80 <https://www.senato.it/leg/19/BGT/Schede/FascicoloSchedeDDL/ebook/55273.pdf>

81 <https://www.senato.it/leg/19/BGT/Schede/FascicoloSchedeDDL/ebook/56433.pdf>

82 <https://www.senato.it/leg/19/BGT/Schede/FascicoloSchedeDDL/ebook/56728.pdf>

83 <https://www.senato.it/service/PDF/PDFServer/DF/425746.pdf>

84 <https://www.cortecostituzionale.it/actionSchedaPronuncia.do?anno=2020&numero=132>

85 <https://www.cortecostituzionale.it/actionSchedaPronuncia.do?anno=2021&numero=150>

86 <https://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=CELEX:52022PC0177&from=EN>

87 <https://www.rcmediafreedom.eu/Resources/Reports-and-papers/Italian-civil-society-organisations-take-part-in-parliamentary-consultations-on-defamation-reform>

88 The ECtHR has repeatedly stressed that penalties for defamation must take into account the impact they will have on the economic situation of the defendant, in order to prevent the imposition of a disproportionate fine which would trigger a chilling effect on freedom of the press and expression.

emerge as particularly damaging for those with limited means, such as small publishers and freelance journalists, while they prove ineffective for those with generous financial resources, a dynamic that encourages the use of lawsuits for the mere purpose of intimidation.

In addition, the introduction of the publication of an automatic rectification, without the chance for the editor to add a title, a comment or reply, shrinks the space for press freedom.

Finally, provisions concerning the imposition of disciplinary penalties intended to disqualify journalists from practising the profession for a period of up to 6 months are worrying, due to the potential deterrent effect of criticism.

Bill No. 466 is therefore problematic,<sup>89</sup> and risks triggering a chilling effect on freedom of the press and expression, even more so in a context characterised by an alarming number of politicians and public figures who respond to investigative journalism and criticism with SLAPPs.

## Checks and balances

### Key recommendations

- *Thirty years after the approval of UN Resolution 48 of 1993, the Italian government should urgently step up its efforts to create a sustainable, functional, and independent institutional body for the protection of human rights. No progress has been made since last year, as the bill to establish the Data Protection and Human Rights Authority is still being discussed in Parliament.*
- *It is crucial to monitor the progress of the two worrying proposals for constitutional amendments presented at the end of 2023 by the government, concerning Article 77<sup>90</sup> of the Italian Constitution on the conversion into law by the Parliament of decree-laws presented by the government, and concerning the so-called 'Reform of the Premierate',<sup>91</sup> which would transform Italy from a Parliamentary Republic to a Presidential Republic.*

89 <https://www.fnsi.it/ddl-diffamazione-fnsi-e-cnog-senza-modifiche-pronti-a-scendere-in-piazza>

90 <https://www.senato.it/service/PDF/PDFServer/BGT/01372867.pdf>

91 <https://www.senato.it/service/PDF/PDFServer/DF/428967.pdf>

## **Process for preparing and enacting laws**

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### **Regime for constitutional review of laws**

At the end of 2023, the government submitted a draft constitutional law proposing an amendment to Article 77 of the Italian Constitution,<sup>92</sup> which regulates the conversion of decree-laws initiated by the government into law by Parliament within a maximum period of 60 days, subject to expiration penalties. The current proposal, yet to be approved, suggests extending this conversion period from 60 days to 90 days. Some legal experts<sup>93</sup> have raised concerns about the potential consequences of this reform. They argue that it may legitimise the misuse of decree-laws by the government, originally intended as instruments of necessity and urgency only. Critics fear that this adjustment could make it even easier for governments to resort to decree-laws, further diminishing the role of Parliament. When considered alongside the Premierato<sup>94</sup> reform, this measure could collectively weaken the influence of the Italian Parliament and its political representatives.

## **Independent authorities**

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Thirty years after the adoption of UN Resolution 48/134 and countless recommendations from European and international bodies, Italy has still not established a National Human Rights Institution in line with the Paris Principles. In 2023, there has been no progress at the normative level. The bill introduced at the end of 2022 by a member of the Italian Senate, proposing the creation of a Data Protection and Human Rights Authority,<sup>95</sup> has not yet received approval from Parliament. It is currently under consideration in the Senate Constitutional Affairs Committee as of March 2023.<sup>96</sup> According to the proposed and not yet approved law, the responsibility for respecting and protecting human rights would be assigned to the Italian Data Protection Authority,<sup>97</sup> an already existing body, extending its competence and powers and enabling it to supervise the respect and enforcement of human rights, including on the web, extending well beyond the protection of personal data.

## **Electoral framework**

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In November 2023, the Council of Ministers approved<sup>98</sup> a draft constitutional law, called

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92 <https://www.senato.it/service/PDF/PDFServer/BGT/01372867.pdf>

93 <https://www.editorialedomani.it/politica/italia/il-governo-interviene-sullabuso-di-decreti-legge-ma-la-top-pa-e-peggiore-del-buco-utwj3ljv>

94 <https://www.senato.it/service/PDF/PDFServer/DF/428967.pdf>

95 <https://www.senato.it/service/PDF/PDFServer/BGT/01361649.pdf>

96 <https://www.senato.it/leg/19/BGT/Schede/Ddliter/56026.htm>

97 <https://www.garanteprivacy.it/web/garante-privacy-en>

98 <https://www.governo.it/it/articolo/comunicato-stampa-del-consiglio-dei-ministri-n-57/24163>

‘Reform of Premierate’, intending to institute direct elections for the Prime Minister. The constitutional reform, yet to be approved by Parliament, has the declared objective of strengthening the stability of Italian governments, signifying a departure from a parliamentary to a presidential form, which would be the first time in the country’s Republican history.

The proposed text<sup>99</sup> introduces the novel concept of direct election of the Prime Minister through universal suffrage, with a proposed term of five years in office. It also would abolish the position of Senators for life, appointed by the President of the Republic, in the future. Additionally, the constitutional amendment outlines an electoral law designed to adhere to principles of representativeness and governability. This law proposes a majority prize on a national basis, allocating 55% of the seats in the Chamber to lists and candidates associated with the Prime Minister. However, the reform faces opposition from various quarters. Notably, the Democratic Party secretary, Elly Schlein, who is critical of the government, asserts that the proposed reform is flawed and hazardous, contending that it weakens the parliamentary system, restricts the prerogatives of the President of the Republic, and dismantles the parliamentary form of government.<sup>100</sup> Similarly, the Coordination for Constitutional Democracy

also expresses severe and clear disagreement with the draft constitutional law:

*“The Meloni government wants to deal a definitive blow to the parliamentary democracy outlined in the Constitution, born out of the resistance to Nazi-fascism. For these reasons, the government’s draft must be rejected. [...] The direct election of the Prime Minister must be countered with the demand to give voters the power to choose their representatives. This is the real reform to be achieved with a new electoral law and the modalities of constant participation in the democratic life of citizens, not every five years on the day of the vote for the premier, as Giorgia Meloni would like.”<sup>101</sup>*

99 <https://www.senato.it/service/PDF/PDFServer/DF/428967.pdf>

100 [https://www.ansa.it/sito/notizie/politica/2023/11/03/pd-m5s-e-azione-contro-la-riforma-del-premierato\\_53725b89-0315-499c-8b60-e407afe3e3d2.html](https://www.ansa.it/sito/notizie/politica/2023/11/03/pd-m5s-e-azione-contro-la-riforma-del-premierato_53725b89-0315-499c-8b60-e407afe3e3d2.html)

101 <https://www.coordinamentodemocraziacostituzionale.it/2023/11/30/premierato-no-del-coordinamento-per-la-democrazia-costituzionale-agenzia-di-stampa-askanews/>

## Civic space

### Key recommendations

- *The right to protest and strike are crucial elements of a functioning rule of law framework. The government should ensure that the aforementioned rights are protected.*
- *The government, especially the Ministry of the Interior, should stop criminalising NGOs' activity at sea by assigning ports which are extremely far away from the location where migrants are in danger. The government has to ensure that no migrant is left behind during rescue operations.*
- *Some ministers have been attacking journalists due to their research activity on corruption, conflicts of interest and transparency. The government should protect journalists, as their role as watchdogs of the rule of law is crucial for a functioning democracy.*

## Freedom of association

### **Criminalisation of activities, including humanitarian or human rights work**

Decree Law No. 1/2023 criminalises rescue operations at sea, endangering migrants' right to life and right to asylum. The government wants to stop NGO ships from carrying out multiple rescue operations at sea: the Minister of the Interior is now able to assign ports that are located far away from where migrants are in danger, and NGO ships are forced to conclude rescue operations fast with the risk of leaving some migrants at sea. Decree Law No. 1/2023 has been criticised by the Council of Europe (CoE)<sup>102</sup> as it raises both procedural and

substantive difficulties with respect to freedom of association and the protection of civil society space.

## Freedom of peaceful assembly

### **Criminalisation of protesters**

In the so-called DDL Eco-Vandali (Bill No. 693 against climate activists and their actions),<sup>103</sup> many critical issues can be highlighted in relation to the guarantees of freedom of assembly. One of the most worrying aspects is that the proposal intends to punish the same conduct already prosecuted by the penal code (Article 518-duodecimos), further aggravating the sanctioning system. These rules have a

102 <https://rm.coe.int/expert-council-conf-exp-2023-opinion-italy-30-jan-2023-en/1680a9fe26#:~:text=Decree%20Law%201%2F2023%20requires,such%20information%20with%20the%20authorities>

103 <https://www.senato.it/leg/19/BGT/Schede/Ddliter/57050.htm>

clear criminalising effect on activism and on those who carry out acts of civil disobedience as an instrument of individual or collective protest.<sup>104,105</sup>

## **Freedom of expression and of information**

### **Criminalisation of speech**

Members of the government and Parliament have been using strategic lawsuits against journalists to intimidate them and to hinder their work on corruption, conflicts of interest, transparency and accountability. For example, see lawsuits against the Italian newspaper Domani and journalist and writer Roberto Saviano.<sup>106</sup>

### **Restrictions on access to information**

Journalists have been protesting against a new amendment<sup>107</sup> applied to Article 114 of the

Code of Criminal Procedure, the so-called Legge Bavaglio, which restricts the publication of procedural documents verbatim, full of interceptions and information still to be verified. According to the Italian Order of Journalists, this provision will represent an obstacle to access to judiciary information.<sup>108</sup>

### **Spread of and responses to disinformation**

The government adopted Presidential Decree No. 174/2023<sup>109</sup> to combat disinformation. According to the provision, there should be a ‘guarantor of information’ whose task it is to hinder the spread of fake news. However, the decree does not specify how this figure will have to carry out the difficult job of preventing the spread of disinformation. Nevertheless, according to the text, the guarantor must be a figure of “proven professionalism, experience, impartiality and without previous membership of the agency where he works.”

104 <https://www.amnesty.it/il-senato-approva-il-testo-di-legge-contro-gli-attivisti-climatici/>

105 [https://www.ansa.it/english/news/politics/2023/11/10/salvini-attacking-the-right-to-strike-says-landini\\_c94d-fc47-d4bf-4b98-8a8e-aa60e114ebcd.html](https://www.ansa.it/english/news/politics/2023/11/10/salvini-attacking-the-right-to-strike-says-landini_c94d-fc47-d4bf-4b98-8a8e-aa60e114ebcd.html)

106 <https://www.article19.org/resources/europe-jovanovic-saviano-slapps-perugia-festival/>; <https://www.editoriale-domani.it/idee/commenti/italys-govt-is-attacking-media-freedom-but-we-can-stop-it-fcwkcljp>

107 [https://documenti.camera.it/leg19/resoconti/assemblea/html/sed0216/leg.19.sed0216.allegato\\_a.pdf#page=93](https://documenti.camera.it/leg19/resoconti/assemblea/html/sed0216/leg.19.sed0216.allegato_a.pdf#page=93)

108 <https://www.google.com/url?q=https://www.odg.it/ordini-regionali-giornalisti-legge-bavaglio-e-una-minaccia/53719&sa=D&source=docs&ust=1704903726575280&usg=AOvVaw0frCicByWNc8Bpmx9CacS7>; Giovanni Zaccaro, secretary and member of the association Area Democratica per la Giustizia: “*News of the arrests will circulate anyway but without the support of the reasons that justify them. In this way, the spread of partial reconstructions, inferences and half-truths is encouraged, which are certainly not good for confidentiality and the presumption of innocence. To guarantee the presumption of innocence, even on the media scene, we do not need bans but only investing in the professionalism of magistrates, defenders and journalists*”, in Il Manifesto; <https://ilmanifesto.it/non-ce-bavaglio-ma-per-i-cittadini-e-anche-peggio>

109 <https://www.gazzettaufficiale.it/eli/gu/2023/07/27/174/sg/pdf#page=24>.

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## **Attacks and harassment**

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### **Intimidation / negative narratives / smear campaigns / disinformation campaigns**

In 2022, Minister of the Interior Matteo Piantedosi used the term *carico residuale* (residual load) when referring to ‘non-vulnerable’ migrants who would not have been allowed to disembark from the NGO ship SOS Humanity 1 which arrived at the port of Catania. As a matter of fact, many humanitarian associations and NGOs affirmed that Minister Piantedosi used offensive words that dehumanised migrants, as if they were objects. On that occasion, an inter-ministerial decree<sup>110</sup> was issued against SOS Humanity 1 and its commander which permitted entry in territorial waters only for the time strictly necessary to ensure assistance operations for people in emergency conditions and precarious health conditions, as assessed by the ‘competent national authorities’. The shipwrecked people then turned to the Civil Court of Catania, presenting a precautionary appeal to ask that they also be allowed to leave the ship in order to start the asylum procedure. The Civil Court of Catania affirmed that the Decree was illegitimate.<sup>111</sup>

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## **Online civic space**

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### **Attacks, threats and hate speech online**

In 2023 there is a general alarming increase in online attacks, threats and hate speech, including by public institutions and politicians. An important example is the case against Elena Cecchettin, Giulia’s sister, who had to go through a large wave of attacks, threats and hate speech online after she decided to use her voice and her social media platforms to spread awareness of gender-based violence, rape culture and how these two elements are rooted within the Italian society and culture. Elena Cecchettin is Giulia’s sister, the young woman killed on November 11 2023 by her ex-partner Filippo Turetta in the Veneto region. Elena was attacked by Stefano Valdengamberi, a far right-wing member of the Regional Council of Veneto, who criticised what she was wearing – suggesting she was a “satanist” – and denied the existence of patriarchy and rape culture.<sup>112</sup>

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110 Interministerial decree between the Ministry of Defence, the Ministry of Infrastructure and Ministry of the Interior; [https://sos-humanity.org/wp-content/uploads/2022/11/IT\\_Decree\\_HUM1\\_IT.pdf](https://sos-humanity.org/wp-content/uploads/2022/11/IT_Decree_HUM1_IT.pdf)

111 <https://www.asgi.it/notizie/sbarco-e-domanda-di-asilo-devono-essere-garantiti-senza-distinzioni-commento-al-lordinanza-su-sos-humanity/>

112 <https://www.euronews.com/2023/11/24/femicide-is-italy-doing-enough-to-protect-its-women-and-girls-and-those-they-leave-behind>; [https://www.ansa.it/english/news/general\\_news/2023/12/10/giulia-cecchettins-family-threatened-insulted-online\\_1acfd584-c9e3-40dd-9890-356ec79b6536.html](https://www.ansa.it/english/news/general_news/2023/12/10/giulia-cecchettins-family-threatened-insulted-online_1acfd584-c9e3-40dd-9890-356ec79b6536.html); <https://www.fanpage.it/politica/consigliere-veneto-attacca-la-sorella-di-giulia-cecchettin-fa-una-recita-ideologica-ed-e-satanista/>

## **Disregard of human rights obligations and other systemic issues affecting the rule of law environment**



### **Key recommendations**

- *Consider schools and universities as primary places to fight gender-based violence, discrimination, and hate crimes and speech by promoting the dissemination of non-stigmatizing and non-exclusionary language, providing structural financial resources, and investing in the training and education of trainers and teachers.*
- *Develop at the political level a non-stigmatizing and non-exclusionary language that respects the LGBTQIA+ people, who are systematically targeted by attacks based on ideological positions and for propaganda purposes, especially by the political majority elected in September 2022.*
- *Reform parenting and adoption regulations with a view to protect the children of all homosexual couples and grant equal status to family social formations other than the male-female pair.*
- *Grant LGBTQIA+ people full recognition of their right to health, including procedures and treatment of transition pathways, breaking away from the pathologizing view of LGBTQIA+ people and deconstructing the cultural stigma of sexual orientation and gender identity pathways through the dissemination of different cultural models.*
- *Do not criminalise surrogacy. In July 2023, the Italian Chamber of Deputies approved and forwarded to the Senate a draft law on the prosecution of the crime of surrogacy committed abroad by an Italian citizen, which would be considered a universal crime.*
- *Do not amend the crime of torture in any way. The proposal to amend the torture offence unequivocally represents a major step backwards in a constitutional state, especially for the rights of detainees. In general, the 2023 reforms go in the direction of limiting the rights of the prison population, thereby promoting a closed prison model.*
- *Ensure the implementation and full compliance with the recommendations of international bodies regarding the need to prevent torture in all its forms, as well as ensuring cooperation and fruitful dialogue with these bodies.*

- *To ensure effective prosecution of crimes of alleged torture committed in prisons, each prison should therefore be equipped with a video surveillance system that covers every room in the building and has long-term archiving arrangements, so that facts can be established even if reported after a certain period of time. Another necessary measure is to ensure the identification of the officers, at the very least when engaged in activities to restore law and order within prisons.*

## **Systemic human rights violations**

### **Widespread human rights violations and/or persistent protection failures**

In 2023, Italy witnessed a notable absence of legislative proposals addressing the rights of LGBTQIA+ individuals and combatting discrimination based on sexual orientation and gender identity. The political stance adopted by the majority elected in September 2022 indicated limited prospects for increased recognition of LGBTQIA+ rights, with the community being consistently targeted for ideological attacks and propaganda purposes.<sup>113</sup>

The National Observatory on Femicides, Lesbicides, and Trans\*cides, operated by the association Non Una Di Meno, reported 113 cases of femicide, lesbicide, and trans\*cide as of 8 December 2023. These included 97 femicides, 1 trans\*cide, 10 suicides, and 5 deaths under

investigation, all linked to hetero-cis-patriarchal violence and hatred.<sup>114</sup>

Italy still lacks a specific law allowing adoption for same-sex couples and the transcription of birth certificates for children born within such families. This legal provision is crucial to safeguard the rights of the 20,000 individuals in civil unions who declare a homosexual or bisexual orientation, 8.4% of them with cohabiting children.<sup>115</sup> In 2022, several Italian cities blocked and denied the transcription of certificates of children naming both parents, providing transcription only in relation to the biological parent. The trend was later confirmed with the Circular No. 3 of 2023,<sup>116</sup> which followed the Supreme Court United Sections ruling No. 38162 of 30 December 2022.<sup>117</sup> This decision states that the foreign act certifying the filial relationship - which includes both the biological parent and the parent of choice of a child born by surrogacy - must be considered contrary to law and order, therefore the transcription of the act cannot be automatic. The Supreme Court

113 <https://www.rapportodiritti.it/lgbtqi#capitolo>

114 <https://osservatorionazionale.nonunadimeno.net/>

115 [https://www.welforum.it/wp-content/uploads/2022/09/LUG02\\_LGBT.pdf](https://www.welforum.it/wp-content/uploads/2022/09/LUG02_LGBT.pdf)

116 <https://dait.interno.gov.it/documenti/circ-dait-003-servdemo-19-01-2023.pdf>

117 [https://www.formazionegiuridica.org/images/Sentenze/Sez\\_Unite\\_38162-2022.pdf](https://www.formazionegiuridica.org/images/Sentenze/Sez_Unite_38162-2022.pdf)

is retaining a provision for legal recognition of the affective bond through adoption in special cases, pursuant to Article 44, co. 1(d), Law No. 184 of 1983.

In 2023, the Italian approach was denounced by the European Parliament through an amendment submitted by Renew Europe, as it constituted a worrying “broader attack against the LGBTQI+ community in Italy”.<sup>118</sup> Finally, in July 2023, the Italian Chamber of Deputies approved and forwarded to the Senate a worrying and discriminatory draft law on the prosecution of the crime of surrogacy committed abroad by an Italian citizen, considered as a universal crime.

The report ‘Rapporto Diritti 2023’ asserts that the Italian context is still strongly characterised by a culture with homolebotransphobic traits and that several actions should be implemented to change the current situation (the report includes a list).<sup>119</sup>

### **Follow-up to recommendations of international and regional human rights monitoring bodies**

Almost 30 years after ratifying the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment (UNCAT), the Italian parliament approved Law No. 110/2017, which introduced the crime of torture into the Criminal Code (Article 613bis).

The definition of torture provided by the law diverges in several aspects from the one provided by the UNCAT, but the introduction of the new crime represented an important step forward. The first convictions for torture that came at the beginning of 2021 and the numerous proceedings that are still ongoing are proof of this.

In September 2023, the sentence of the Court of Siena convicted five prison officers at the San Gimignano prison of torture for the crimes committed against detainees on February 17 2021, imposing sentences ranging from 5 years and 10 months to 6 years and 6 months imprisonment. This is a leading case in the field of torture in the Italian criminal justice system. The sentence also identified the solitary confinement units inside the prison as the primary location of prison violence.<sup>120</sup>

To date, there are several open proceedings for torture allegations. The most important one, in terms of people involved and media coverage received, is undoubtedly the trial for the brutal violence committed by hundreds of

118 <https://www.associazionelucacoscioni.it/notizie/comunicati/trascrizione-figli-coppie-omogenitoriali#:~:text=%E2%80%99CI%20Sindaci%20italiani%20%E2%80%93%20continua%20,orientamento%20sessuale%20dei%20genitori%E2%80%9D>

119 <https://www.rapportodiritti.it/lgbtqi#capitolo>

120 [https://www.questionegiustizia.it/data/doc/3626/trib\\_siena\\_anonimizzata.pdf](https://www.questionegiustizia.it/data/doc/3626/trib_siena_anonimizzata.pdf)

prison officers against detainees at the Santa Maria Capua Vetere prison in April 2020.<sup>121</sup> Thanks to the surveillance video, it was possible to prosecute more than 100 people, including police officers, doctors and prison administration managers.

Despite this, the majority party ‘Fratelli d’Italia’, with the support of some members of the government, has proposed to repeal the offence of torture, reducing it to a common aggravating circumstance. This would jeopardise ongoing trials, starting specifically with the trial for the brutality committed in the Santa Maria Capua Vetere prison, the largest torture trial in European history.<sup>122</sup>

## ***Fostering a rule of law culture***

### ***Efforts by state authorities***

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Too little attention is paid to the publication of the Rule of Law Report in EU Member States. In Italy, over the course of 2023, mainstream newspapers have not given much media space to the Rule of law report, as previously reported. Targeted efforts to increase the impact of the reports are still necessary.

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121 <https://www.rapportoantigone.it/diciannovesimo-rapporto-sulle-condizioni-di-detenzione/santa-maria-capua-vetere/>

122 <https://ilmanifesto.it/tortura-riformare-la-legge-ora-vuol-dire-affossare-i-processi>

## Contacts

### **Associazione Antigone / Association Antigone**

Associazione Antigone is an Italian NGO working to protect human rights in Italy, with a focus on the penal system. Antigone carries on cultural work on public opinion through campaigns, education, media, publications and the academic review “Antigone”.

Via Monti di Pietralata 16

00157 Rome

Italy

[segreteria@antigone.it](mailto:segreteria@antigone.it)

[www.antigone.it](http://www.antigone.it)

### **Coalizione Italiana Libertà e Diritti Civili (CILD) / Italian Coalition for Civil Liberties and Rights**

The Italian Coalition for Civil Liberties and Rights (CILD) supports and empowers civil society groups working to address some of the most pressing human rights issues faced by the country today, through a combination of capacity building on policy analysis, advocacy, media strategy and public education.

Via Monti di Pietralata 16

00157 Rome

Italy

[info@cild.eu](mailto:info@cild.eu)

[www.cild.eu/en/](http://www.cild.eu/en/)

### **The Civil Liberties Union for Europe**

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

Ringbahnstrasse 16-18-20

12099 Berlin

Germany

[info@liberties.eu](mailto:info@liberties.eu)

[www.liberties.eu](http://www.liberties.eu)



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