

#rolreport2025

**LIBERTIES**

**RULE OF LAW REPORT**

**2025**



Co-funded by the European Union

**ITALY**



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# FOREWORD

This country report is part of the Liberties Rule of Law Report 2025, which is the sixth 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, Latvia, Lithuania, Malta, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Greece.

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 2025 report was drafted by Liberties and its member and partner organisations, and it covers the situation during 2024. 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 2025 report includes 21 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. Over forty member and local partner organisations contributed to the compilation of these country reports.

**[Download the full Liberties Rule of Law Report 2025 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, that 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 cooperates in writing 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 also 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

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deprived of their liberty, those who are trying to integrate into Italy, 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.

### StraLi



StraLi (STRAtegic LItigation) is a non-profit organisation of legal professionals dedicated to safeguarding rights through strategic litigation. It is a non-partisan, non-denominational, democratic association recognised as an ETS - ODV (Third Sector Entity - Voluntary Organisation). Guided by principles of civic engagement, solidarity, and social benefit, StraLi focuses on protecting fundamental rights and freedoms by utilising both national and international judicial systems.

## KEY CONCERNS

### *Justice System*

The reforms discussed or approved during 2024 profoundly undermine the rule of law, promoting an authoritarian and extremely punitive approach that will distort the face of the Italian justice system.

Some progress has been made with regard to the digitisation of justice in Italy. In particular, investments were made for the implementation of telematic civil and criminal proceedings and the creation of a database of civil judgments thanks to the National Recovery and Resilience Plan (PNRR) funds.

### *Anti-Corruption Framework*

Italy's Anti-Corruption Authority is said to be preparing a single transparent platform in Italy,<sup>1</sup> but there has been no progress on adopting new lobbying regulations or establishing an operational lobbying register. In practice, new whistleblowing regulations have in some respects been said to be a regression in protection for whistleblowers.

Italy did not adopt the pending bill on conflicts of interest, nor did it adopt comprehensive rules on lobbying, establish an operational lobbying register, address channelling of donations via political entities or introduce a single

electronic register for party/campaign finance information, as recommended.

### *Media Environment and Media Freedom*

Media freedom has been under increased pressure, with unprecedented attacks and threats often initiated by public officials and members of the ruling coalition, which signal a heavy intolerance to any form of media criticism. This results in a broad contraction of freedom of expression and the democratic quality of the country.

Until the law on public service media (PSM) is amended to align with the European Media Freedom Act (EMFA), PSM will remain vulnerable to undue political control. Additionally, the reform process of the defamation legal apparatus still does not foresee full decriminalisation, which remains a concern for freedom of expression.

### *Checks and Balances*

Compared to 2023, 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.

Compared to the European Commission's recommendations for Italy, there is no significant progress in establishing a National Human

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1 ANAC (2024), Busia (ANAC): *Italy must support the European anti-corruption directive*, 10 October 2024, available at: <https://www.anticorruzione.it/en/-/busia-anac-italy-must-support-the-european-anti-corruption-directive->.

Rights Institution taking into account the UN Paris Principles.







### **Civic Space**

Since the right-wing majority government led by Giorgia Meloni took office in October 2022, concerns have been raised about the gradual erosion of civic space. This worrying process has been called out by many civil society organisations committed to monitoring and reporting the shortcomings and implications of legislative measures impacting civil rights — in particular, the right to protest, freedom of expression and the media, and right of assembly. This trend is driven by a strong commitment to criminalising activists and minorities, intended as a deterrent to silence dissent.

### **Disregard of Human Rights Obligations and Other Systemic Issues Affecting the Rule of Law Environment**

According to ILGA Europe’s Rainbow report,<sup>2</sup> Italy continues to remain at the bottom of the ranking, losing two positions and finding itself in 35<sup>th</sup> place out of 49 monitored EU countries. The EU Commission’s country-specific recommendations of 2024 for Italy didn’t provide any suggestions or steps to be taken by authorities on LGBTQIA+ people and rights.

### **State of play** (versus 2024)

-  Justice system
-  Anti-corruption framework
-  Media Environment and Media Freedom
-  Checks and balances
-  Civic Space
-  Human Rights

#### Legend

**Regression**      **No progress**      **Progress**



2 ILGA Europe (2024), *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People Covering the Period of January to December 2023, 2024*, available at: [https://www.ilga-europe.org/files/uploads/2024/02/2024\\_italy.pdf](https://www.ilga-europe.org/files/uploads/2024/02/2024_italy.pdf).

## JUSTICE SYSTEM

### Key recommendations

- *Guarantee the independence of the judiciary by avoiding any form of interference by the executive in the decisions of magistrates, in particular any form of direct attack on individual judges.*
- *Stop introducing new criminal offences aimed at criminalising dissent and the most vulnerable groups in Italian society. Do not pass the Security Bill. Instead, promote measures aimed at ensuring social security.*
- *Guarantee the rights of detainees and avoid further condemnation by the European Court of Human Rights for violations of Article 3 of the European Convention on Human Rights by reducing overcrowding in Italian prisons.*

### Judicial independence

#### Appointment and selection of judges, prosecutors and court presidents

A political deadlock is currently affecting the composition of the Constitutional Court. At the time of writing, the nomination of the 15th judge, to replace Silvana Sciarra, whose 9-year mandate expired in November 2023, has not happened yet.<sup>3</sup> Moreover, in December

2024 the mandate of three other members of the Constitutional Court expired. The Parliament last convened on 14 January 2025 for its 13th session to nominate the missing Constitutional Court judges – yet it was again unsuccessful due to the lack of compromise on suitable candidates.<sup>4</sup> The reduced number of judges of the Constitutional Court represents a constitutional default which impacts the democratic balance. In the short term, operating with fewer judges reduces the available

3 Pagella Politica (2024), 'Parliament again late in electing a Constitutional Court judge' (Il Parlamento è di nuovo in ritardo nell'elezione di un giudice della Corte Costituzionale), 28 June 2024, available at: <https://pagellapolitica.it/articoli/ritardo-parlamento-elezione-giudice-corte-costituzionale>; Pagella Politica (2024), 'Constitutional judges know how to deal with politics' (*I giudici costituzionali ci sanno fare con la politica*), 15 October 2024, available at: <https://pagellapolitica.it/articoli/giudici-corte-costituzionale-esperienza-politica>.

4 Il Post (2025), 'Where the parliament's mess on the Constitutional Court comes from' (*Dove nasce l'inghippo del parlamento sulla Corte costituzionale*), 14 January 2025, available at: <https://www.ilpost.it/2025/01/14/corte-costituzionale-elezione-parlamento-referendum-forza-italia/>.



expertise and sensitivity, increases decision times (although delays are not currently the Court's main challenge), and creates a bench with an even number of members, complicating the majority-rule decision-making process. In the long term, having only 11 judges out of 15 poses a clear threat to the Court's ability to function – Article 16 of Law No. 87 of 1953 states that “the Court functions with the presence of eleven judges”. While a fully staffed bench allows up to four absences without disrupting operations, a reduction to exactly 11 judges leaves no margin for unforeseen circumstances. Any personal issue could compromise the Court's functioning entirely. Even more concerning, this configuration grants a single judge disproportionate influence, as their mere absence could paralyse the Court, contravening the constitutional principles designed to ensure its effective operations.<sup>5</sup>

Nevertheless, the nomination of the missing members depends on a political compromise which needs to be reached in the Parliament. In response to the situation, President of the Republic Sergio Mattarella urged the nomination to be carried out as soon as possible, in respect of democratic principles at the heart of which lies the Parliament.<sup>6</sup>

***Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)***

On 13 June 2024, the Ministry of Justice submitted to Parliament a draft constitutional reform, currently under parliamentary review, which incorporates changes highlighted in the 2024 EU Commission rule of law report.<sup>7</sup>

5 Justice Together (2024), ‘The Constitutional Court with reduced ranks: inefficiencies and risks arising from the continuing failure to elect the fifteenth constitutional judge’ (*La Corte costituzionale a ranghi ridotti: inefficienze e rischi derivanti dalla perdurante mancata elezione del quindicesimo giudice costituzionale*), 29 July 2024, available at: <https://www.giustiziainsieme.it/it/costituzione-e-carta-dei-diritti-fondamentali/3222-la-corte-costituzionale-a-ranghi-ridotti-inefficienze-e-rischi-derivanti-dalla-perdurante-mancata-elezione-del-quindicesimo-giudice-costituzionale-corrado-caruso-pietro-faraguna>.

6 Presidenza della Repubblica (2024), *Intervento del Presidente della Repubblica Sergio Mattarella in occasione dell'incontro con i componenti dell'Associazione Stampa Parlamentare, i Direttori dei quotidiani e delle agenzie giornalistiche e i giornalisti accreditati presso il Quirinale per la consegna del Ventaglio da parte dell'Associazione Stampa Parlamentare*, 24 July 2024, available at: <https://www.quirinale.it/elementi/118752>.

7 Parliament (Italy), Constitutional Bill - Rules on the judicial system and the establishment of the Disciplinary Court (*Disegno di legge costituzionale - Norme in materia di ordinamento giurisdizionale e di istituzione della Corte disciplinare*), 13 June 2024, [https://www.camera.it/leg19/995?sezione=documenti&tipoDoc=lavori\\_testo\\_pdl&idLegislatura=19&codice=leg.19.pdl.camera.1917.19PDL0095000&back\\_to=](https://www.camera.it/leg19/995?sezione=documenti&tipoDoc=lavori_testo_pdl&idLegislatura=19&codice=leg.19.pdl.camera.1917.19PDL0095000&back_to=); European Commission (2024), Rule of Law Report Country Chapter on the rule of law situation in Italy, 24 July 2024, available at: [https://commission.europa.eu/document/download/60d79a4f-49cd-4061-a18f-d3a4495d6485\\_en?filename=29\\_1\\_58066\\_coun\\_chap\\_italy\\_en.pdf](https://commission.europa.eu/document/download/60d79a4f-49cd-4061-a18f-d3a4495d6485_en?filename=29_1_58066_coun_chap_italy_en.pdf).

However, criticism was raised regarding the proposed separation of career paths for judges and prosecutors, which would entail the establishment of two distinct High Councils of the Judiciary. The National Association of Judges (ANM) has repeatedly voiced concerns that these changes could jeopardise the independence of both judges and prosecutors, undermining the balance of powers.<sup>8</sup>

**Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges**

Several legislative proposals currently promoted by the government pose significant risks to the independence of the judiciary. Among these, one proposal seeks to hold public prosecutors accountable – both financially and through disciplinary actions – for cases of unjust detention.<sup>9</sup> Any decision under Articles 314 and 315 of the Code of Criminal Procedure (concerning financial reparation for unjust detention)

must be notified to the General Prosecutor of the Court of Auditors, which would evaluate whether to initiate a disciplinary proceeding against the judge who applied the unjust detention. Another would initiate disciplinary proceedings against judges or prosecutors who fail to abstain from decisions in situations involving “serious reasons of convenience” in addition to the circumstances already provided for by law.<sup>10</sup> Particularly concerning is a vague and open-ended clause granting the Ministry of Justice discretionary power to determine such cases, which could undermine judicial independence.

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

The judiciary has been suffering great pressure from the executive, including intimidation – resulting in situations where the use of bodyguards is needed for the personal protection of judges – and disciplinary proceedings as a

8 Associazione Nazionale Magistrati (2024), ‘Casciaro: Career separation is a dangerous path traced by the government’ (*Casciaro: separazione carriere è un sentiero pericoloso tracciato dal governo*), 19 October 2024, available at: <https://www.associazionemagistrati.it/doc/4420/casciaro-separazione-carriere-sentiero-pericoloso-tracciato-da-governo.htm>.

9 R. Carlino (2024), ‘Il magistrato che sbaglia dovrà pagare. Ecco la nuova proposta di Costa’, *Il Foglio*, 22 October 2024, available at: <https://www.ilfoglio.it/giustizia/2024/10/22/news/il-magistrato-che-sbaglia-dovra-pagare-eco-la-nuova-proposta-di-costa-7076630/>

10 The proposal will be discussed at the next meeting of the Council of Ministers, so no official text is available yet. See: Il Fatto Quotidiano (2024), ‘Arriva l’obbligo di astenersi anche solo per “ragioni di convenienza”: la mossa del governo per togliere i processi ai magistrati sgraditi’, 19 November 2024, available at: <https://www.ilfattoquotidiano.it/2024/11/19/magistrati-sgraditi-governo-sanzioni-decreto-legge-astensione-convenienza/7771978/>; Sole24Ore (2024), Arriva un nuovo bavaglio contro i magistrati, 20 November 2024, available at: <https://www.ilssole24ore.com/art/arriva-nuovo-bavaglio-contro-magistrati-AG5151GB>.

consequence of judges' decisions which contrast with the government's political line. Here are three recent, particularly concerning examples of government representatives continuing to undermine the judiciary through preposterous attacks, fostering an adversarial narrative that erodes public trust in judicial independence.<sup>11</sup>

- As regards the Apostolico case, mentioned in the 2024 Liberties rule of law report, the Ministry of the Interior withdrew the appeal against judge Iolanda Apostolico's decision, who refused to validate the detention of a migrant person held in a immigration detention centre (*Centro di Permanenza per il Rimpatrio - CPR*) due to an unpaid €5,000 deposit. Her decision challenged the applicable legal framework (Law Decree No. 1/2023, 2 January 2023, and the Ministry of Interior Decree of 14 September 2023), with Judge Apostolico arguing that the regulations conflicted with EU directives. Nonetheless, Judge Apostolico announced her resignation one year after the attacks received on social media from Prime Minister Meloni and Minister Salvini, who asked for her resignation.<sup>12</sup>
- The implementation of the Italy-Albania protocol, which established the externalisation of migration management, brought about a tug-of-war between the government and the judiciary. Indeed, only two missions were carried out within the protocol. The protocol provided for migrant people coming from 'safe countries of origin' and without conditions of vulnerability to undergo an accelerated border procedure in the centres built on Albanian territory. As for the first mission, on 18 October 2024, the Tribunal of Rome refused to validate a detention order issued by the Rome Police Authority against individuals from Egypt and Bangladesh, citing a ruling of the European Court of Justice (ECJ) – issued on 4 October 2024 – which challenged the concept of 'safe country of origin'. Faced with this clear failure, the top figures in Meloni's administration have responded by attacking the judiciary, accusing it of politicising the decision regarding the migrant people involved.<sup>13</sup> First among them was the Minister of Justice, Carlo Nordio, who described the ruling by the Rome Court as "abnormal", and other government members echoed these criticisms,<sup>14</sup> with Prime

11 Il Manifesto (2024), "*Aria pesante intorno ai magistrati*". *Ora per l'Anm è allerta massima*, 2 November 2024, available at: <https://ilmanifesto.it/aria-pesante-intorno-ai-magistrati-ora-per-lanm-e-allerta-massima>.

12 Redazione Ansa (2023), *League calls for resignation of migrant-ruling judge*, 6 October 2023, available at: [https://ansabrasil.com.br/english/news/politics/2023/10/06/league-calls-for-resignation-of-migrant-ruling-judge\\_9e93b8b6-eb14-4f74-8b25-5341dbdfdc7d.html](https://ansabrasil.com.br/english/news/politics/2023/10/06/league-calls-for-resignation-of-migrant-ruling-judge_9e93b8b6-eb14-4f74-8b25-5341dbdfdc7d.html).

13 CILD (2024), *The Meloni-Rama Project goes up in smoke, an attack on the judiciary*, 23 October 2024, available at: <https://cild.eu/en/2024/10/23/the-meloni-rama-project-goes-up-in-smoke-an-attack-on-the-judiciary/>.

14 Il Fatto Quotidiano (2024), 'Caso migranti in Albania, Nordio attacca la magistratura: "Se esonda dobbiamo intervenire". Ma il tribunale ha solo applicato la sentenza Ue', 19 October 2024, available at: <https://www.ilfattoquotidiano.it/2024/10/19/caso-migranti-in-albania-nordio-attacca-la-magistratura-se-esonda-dobbiamo-intervenire-ma-il-tribunale-ha-solo-applicato-la-sentenza-ue/7736488/>.

Minister Giorgia Meloni accusing the judiciary of political bias and obstructionism.<sup>15</sup> In reaction, the Council of Ministers approved Law Decree No. 158/2024, which gives primary legislative force to the measure establishing the ‘safe country of origin list’, aiming to alter the dynamics between domestic and EU jurisdiction. Nevertheless, this Law Decree was brought before the ECJ for clarification in the context of the second mission. This way, the judges managed once again to suspend the detention orders. The National Association of Magistrates and CSOs condemned the government’s rhetoric as a direct attack on democracy and the constitutional separation of powers.<sup>16</sup> These government-led attacks had serious consequences on the

perception of the general public. Silvia Albano, the judge in charge of the non-validation of detention in the first mission, received death threats and was compelled to file a formal complaint with the Rome Police Authority to initiate legal proceedings.<sup>17</sup> Government representatives continue to undermine the judiciary through preposterous attacks, fostering an adversarial narrative that erodes public trust in judicial independence.<sup>18</sup>

- In the so-called Open Arms case, Matteo Salvini, Italy’s Deputy Prime Minister and former Minister of the Interior, was acquitted on 20 December 2024, of charges related to a 2019 incident involving the NGO Open Arms.<sup>19</sup> Salvini was

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- 15 Politico (2024), ‘Giorgia Meloni’s vendetta against Italy’s judges’, 13 November 2024, available at: <https://www.politico.eu/article/giorgia-melonis-italy-judges-viktor-orban-hungary-albania-rome-court-russia-war-ukraine/>; il Fatto Quotidiano (2024), ‘Albania, Landini: “Gravissimi gli attacchi di Meloni alla magistratura, i soldi spesi per il centro sono uno schiaffo a tutti noi”’, 19 October 2024, available at: <https://www.ilfattoquotidiano.it/2024/10/19/albania-landini-attacco-meloni-magistratura-schiaffo-video/7736540/>.
- 16 Associazione Nazionale Magistrati (2024), Rispetto per la giurisdizione è una necessità democratica, 22 October 2024, available at: <https://www.associazionemagistrati.it/doc/4424/rispetto-per-la-giurisdizione-una-necessit-democratica.htm>; Associazione per gli studi giuridici sull’immigrazione (2024), ‘Cosa è sfuggito al governo che si ostina a gridare all’usurpazione di poteri?’, 21 October 2024, available at: <https://www.asgi.it/allontamento-es-pulsione/cosa-e-sfuggito-al-governo-che-si-ostina-a-gridare-allusurpazione-di-poteri/>; Associazione per gli studi giuridici sull’immigrazione (2024), ‘Sotto attacco l’indipendenza della Magistratura e la nostra Costituzione’, 6 November 2024, available at: <https://www.asgi.it/asilo-e-protezione-internazionale/magistratura-costituzione/>.
- 17 Euronews (2024), ‘Minacce di morte alla giudice Albano, non aveva convalidato il trattenimento dei migranti in Albania’, 24 October 2024, available at: <https://it.euronews.com/my-europe/2024/10/24/minacce-di-morte-alla-giudice-albano-non-aveva-convalidato-il-trattenimento-dei-migranti-i>.
- 18 Il Manifesto, “Aria pesante intorno ai magistrati”. Ora per l’Anm è allerta massima, 2 November 2024, available at: <https://ilmanifesto.it/aria-pesante-intorno-ai-magistrati-ora-per-lanm-e-allerta-massima>.
- 19 Euronews (2024), ‘Italy’s Deputy PM Matteo Salvini found not guilty in Open Arms migrants case’, 20 December 2024, available at: <https://www.euronews.com/my-europe/2024/12/20/italys-deputy-pm-matteo-salvini-found-not-guilty-in-open-arms-migrants-case>.



accused of refusal to perform official duties and the kidnapping of 157 people, for events that occurred in August 2019, when he was Minister of the Interior. At the hearings in September 2024, the prosecutors requested a six-year sentence to be imposed and compensation of €1,000,000 to be paid to the migrant people involved. Salvini claimed that “protecting borders is not a crime” to prove his innocence, and Meloni supported his view, claiming that “[t]urning the duty to protect Italy’s borders from illegal immigration into a crime sets a very serious precedent”.<sup>20</sup> Such statements risk undermining judicial independence, intimidating officials involved, and violating the constitutional principle of separation of powers. A Palermo newspaper reported that prosecutors handling the case and their families have received repeated threats, both online and via anonymous letters, prompting a security warning.<sup>21</sup>

### **Other**

The proposal to introduce psycho-attitude interviews for judicial appointments has sparked considerable debate. As highlighted in the *2024 Rule of Law Report*,<sup>22</sup> the ANM emphasised the proposal’s current lack of clarity, warning that it could undermine public trust in the judiciary.<sup>23</sup> Additionally, the Associazione Magistratura Democratica (Democratic Association of Magistrates) noted that concerns were previously raised by members of the Società Psicoanalitica Italiana during a similar legislative proposal in 2004, arguing that such tests could jeopardise judicial independence by allowing subjective assessments in the selection and evaluation process.<sup>24</sup>

20 CILD (2024), *Democracy at the Crossroads – Mapping rights and freedoms in Italy 2024*, available at: [https://cild.eu/wp-content/uploads/2024/12/Democracy\\_Crossroads\\_FINAL.pdf](https://cild.eu/wp-content/uploads/2024/12/Democracy_Crossroads_FINAL.pdf).

21 PalermoToday (2024), ‘Insulti e minacce ai pm del processo Open Arms, scatta l’allarme sicurezza a Palermo’, 20 September 2024, available at: <https://www.palermotoday.it/cronaca/minacce-pm-processo-open-arms-salvini-allarme.html>.

22 European Commission (2024), *2024 Rule of Law Report*, pages 4-5, 2024, available at: [https://commission.europa.eu/document/download/60d79a4f-49cd-4061-a18f-d3a4495d6485\\_en?filename=29\\_1\\_58066\\_coun\\_chap\\_italy\\_en.pdf](https://commission.europa.eu/document/download/60d79a4f-49cd-4061-a18f-d3a4495d6485_en?filename=29_1_58066_coun_chap_italy_en.pdf).

23 ANM (2024), ‘L’ANM sui test psicoattitudinali di ingresso in Magistratura’, 3 March 2024, available at: <https://www.associazionemagistrati.it/doc/4132/lanm-sui-test-psicoattitudinali-di-ingresso-in-magistratura.htm>.

24 Questione Giustizia (2024), ‘Test psicoattitudinali per i magistrati’, 24 March 2024, available at: <https://www.questionegiustizia.it/articolo/test-psicoattitudinali-per-i-magistrati>.

## Quality of justice

### **Accessibility of courts (e.g. court fees, legal aid, language)**

Shortcomings persist in regards to the accessibility of courts. Indeed, individuals face high costs to defend their rights in court – among which are lawyers’ fees, travel costs and court fees – which are out of reach for many people. For this reason, the state assumes the judicial costs for the indigent. Nonetheless, this legal aid has several drawbacks, as the payment is usually insufficient and it arrives only after a year. Also, the income requirements for applying for legal aid are very low. The income limits are indicated annually by the Italian Minister of Justice. For this year the limit is €12,838.01 for a family unit (the sum can be increased by €1,000 for each additional family member), excluding people with income even slightly above that amount.<sup>25</sup> Additionally, accessibility of courts is often hindered by language barriers: the lack of translation of judicial documentations<sup>26</sup> and the insufficiency of language mediators in court hearings is alarming

considering how Italy is concerned about migration processes.

### **Training of justice professionals (including judges, prosecutors, lawyers, court staff)**

The proper functioning of justice presumes a good training system for justice professionals. However, the path to becoming a justice professional is tortuous. To become a judge, prosecutor or court staff, it is necessary to pass a difficult public competition, and then one can wait at least nine months or more for appointment. On the other hand, to become a lawyer, candidates have to do a legal internship within a law office for 18 months, usually without pay and with exhausting working hours. Also, from 2022, trainee lawyers have to attend (and pay for) private, mandatory classes before taking the exam. Difficulties related to this professional career lead to a decrease in candidates in the last years, creating alarmism about a future with insufficiency of lawyers.<sup>27</sup>

25 Ministero della Giustizia (2024), ‘Patrocinio a spese dello Stato nei giudizi civili e amministrativi’, 31 October 2024, available at: [https://www.giustizia.it/giustizia/page/it/patrocinio\\_a\\_spese\\_dello\\_stato\\_nei\\_giudizi\\_civili\\_e\\_amministrativi#](https://www.giustizia.it/giustizia/page/it/patrocinio_a_spese_dello_stato_nei_giudizi_civili_e_amministrativi#).

26 Giurisprudenza Penale (2024), ‘Depositata la sentenza delle Sezioni Unite sulla mancata traduzione dell’ordinanza di custodia cautelare personale emessa nei confronti di imputato o indagato alloglotta’, 15 April 2024, available at: <https://www.giurisprudenzapenale.com/2024/04/15/depositata-la-sentenza-delle-sezioni-unite-sulla-mancata-traduzione-dellordinanza-di-custodia-cautelare-personale-emessa-nei-confronti-di-imputato-o-indagato-alloglotta/>.

27 Corriere della Sera (2024), ‘Nel Paese degli avvocati mancheranno gli avvocati’, 20 November 2024, available at: [https://www.corriere.it/frammenti-ferruccio-de-bortoli/24\\_novembre\\_20/nel-paese-degli-avvocati-mancheranno-gli-avvocati-6a367b62-fe7a-49a1-a4e3-fa2270602x1k.shtml](https://www.corriere.it/frammenti-ferruccio-de-bortoli/24_novembre_20/nel-paese-degli-avvocati-mancheranno-gli-avvocati-6a367b62-fe7a-49a1-a4e3-fa2270602x1k.shtml).

**Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)**

Management of the justice system was influenced by a recent step forward in the digitisation process. Indeed, the COVID-19 pandemic emergency led to a digitalisation of criminal procedures, whereas the civil process had already been digitised by Law No. 111/2014. Nonetheless, the use of digital technology, particularly of electronic communication tools is often problematic. As a matter of fact, due to continuous problems with digital platforms and complaints from court users and lawyers, the complete telematic filing of criminal acts was recently postponed for another year.<sup>28</sup>

Regarding the digitisation of justice, the National Recovery and Resilience Plan (PNRR) provided for an investment of €133,476,440.91. These were invested in the implementation of telematic civil and criminal process and a database of civil decisions.

Compared to these goals, an additional element was introduced in 2024: the digitisation of first-instance criminal proceedings and interoperability between computer platforms of the Telematic Criminal Process. At the same time, an increase in resources allocated to the Ministry of Justice to the amount of €36,000,000 was established. With respect to the total investment of the digitisation sector, as of June 2024, €19,082,970.63 has been spent, used in particular for the digitisation of 7,750,000 dossiers and the creation of a system of aggregation and interchange of data at various levels called ‘Data Lake’.<sup>29</sup>

**Fairness and efficiency of the justice system**

**Length of proceedings**

Regarding the length of proceedings, the most recent data available, from a report by the Ministry of Justice, refer to the first half of 2024.<sup>30</sup> While there have been substantial improvements in the duration of proceedings in both civil and criminal sectors, the clearance

28 Such critical issues were denounced by the justice professionals for many months before this decision. See: Corriere della Sera (2024), ‘Il processo penale telematico slitta di un altro anno: rinvio a gennaio 2026. L’allarme dei procuratori: «Troppe criticità»’, 23 November 2024, available at: [https://milano.corriere.it/notizie/cronaca/24\\_novembre\\_23/il-processo-penale-telematico-slitta-di-un-altro-anno-rinvio-a-gennaio-2026-l-allarme-dei-procuratori-troppe-criticita-f4e75547-2969-4fb9-979a-6264a21e7x1k.shtml](https://milano.corriere.it/notizie/cronaca/24_novembre_23/il-processo-penale-telematico-slitta-di-un-altro-anno-rinvio-a-gennaio-2026-l-allarme-dei-procuratori-troppe-criticita-f4e75547-2969-4fb9-979a-6264a21e7x1k.shtml).

29 Ministero della giustizia (2024), Digitalizzazione (M1C1-I1.6.2), giustizia.it, 6 September 2024, available at: [https://www.giustizia.it/giustizia/it/mg\\_2\\_11\\_2.wp#](https://www.giustizia.it/giustizia/it/mg_2_11_2.wp#).

30 Ministry of Justice (Italy) (2024), Report On Statistical Monitoring of PNRR Indicators - I Semester 2024 (*RELAZIONE SUL MONITORAGGIO STATISTICO DEGLI INDICATORI PNRR – I SEMESTRE 2024*), 22 October 2024, available at: [https://www.giustizia.it/cmsresources/cms/documents/pnrr\\_relazione\\_indicatori\\_statistici\\_ott24.pdf](https://www.giustizia.it/cmsresources/cms/documents/pnrr_relazione_indicatori_statistici_ott24.pdf).

rates suggest a need for continued efforts to sustain and enhance backlog reduction across the judiciary system. In the civil sector, there was a reduction in disposition time<sup>31</sup> of 22.9%, while pendency was reduced by 23.3%.

The clearance rate<sup>32</sup> for the first half of 2024 decreased to 1.08, signaling reduced efficiency in clearing backlogs compared to 2023, when it stood at 1.14. Nevertheless, the report highlights that the national backlog reduction target set for 2024 is almost achieved. In addition, the report presents data on cases exceeding the reasonable duration limit: in the first six months of 2024, backlogs in first-instance courts decreased by 31.8%, while in courts of appeal, the reduction was even steeper at 43.2%.

In the first half of 2024, the disposition time in the criminal sector saw a 32% reduction, improving upon the 25% reduction achieved in 2023. The number of pending criminal cases dropped by 26.5%. The clearance rate for this sector reached 1.05, representing a decline compared to 2023, when it stood at 1.12. As with the civil sector, this indicates a slight decrease in the ability to clear the backlog.<sup>33</sup>

### **Execution of judgments**

Regarding the enforcement phase of judgments, it is important to highlight the enactment into law of Law Decree No. 92/2024, known as the ‘Prisons Decree’, on 10 August 2024.<sup>34</sup> It was expected to introduce measures which would enhance respect with human dignity and encourage access to alternative measures to detention, in order to counter growing overcrowding. However, it failed to achieve its aims. Instead, the Prison Decree provided new recruitment of prison police staff and directors, although a reduction in training for officers is planned, as well as the complete revision of the procedure for granting early release. Regarding the latter, the substantial change pertains to the time limits for granting the measure, no longer at the interested party’s request after the first six months of detention, but already upon sentencing. Verifications of the existence of the requirements for accessing the measure are conducted when applying for prison benefits or alternative measures or near the end of the sentence. However, this new provision on early release appears to be ineffective: it risks making the modalities of access to early release

31 The disposition time is the ratio of pending cases to cases resolved within a year, which indicates the average time required to resolve cases.

32 The figure is calculated as the ratio of resolved cases to new cases registered in a given period. This measures a court’s ability to reduce its backlog. A value above 1 means the court has resolved more cases than it registered, demonstrating its ability to reduce pending workloads.

33 Ministero della Giustizia (2024), ‘Monitoraggi della giustizia civile e penale’, 18 December 2024, available at: [https://www.giustizia.it/giustizia/page/it/monitoraggi\\_giustizia\\_civile\\_e\\_penale](https://www.giustizia.it/giustizia/page/it/monitoraggi_giustizia_civile_e_penale).

34 Antigone (2024), *Commento al decreto-legge 4 luglio 2024, n. 92 recante “Misure urgenti in materia penitenziaria, di giustizia civile e penale e di personale del Ministero della giustizia”*, available at: <https://www.antigone.it/upload2/uploads/docs/CommentoDLCarceri.pdf>.



more confusing and complicating the work of the Surveillance Courts. Moreover, the provision only addresses the procedure for those who will be sentenced after the decree's entry into force. It provides no guidance regarding proceedings already underway or individuals already in the execution phase of their sentence. Consequently, the new procedure for cumulative recognition of periods of early release accrued by inmates does not affect the duration of the sentence to be served, and thus does not impact prison overcrowding.

A further rule within the 'Prison Decree' that has fallen short of expectations is the provision concerning the increase in telephone interviews with family members. In fact, previous circulars – issued during the COVID-19 Pandemic and subsequently confirmed – already introduced the possibility of increased phone calls. In essence, the new rule merely confirms an existing practice without intervening decisively, for example, on the duration of the phone call itself, which remains limited to only 10 minutes. Within the decree, there is also provision for the establishment of a registry containing a list of communities, useful for facilitating access to alternative measures to detention for all those who – although they meet the necessary requirements – lack external support to facilitate their reception. In this sense, it is a measure to be welcomed, but one that raises concerns related to the modalities of economic support, the availability of

specialised personnel, as well as the concern that a privatisation of the sentence execution phase may occur.

Lastly, the exclusion of persons placed in the 41-bis regime from access to restorative justice programmes is foreseen.<sup>35</sup> The 41-bis special detention regime is a strict form of imprisonment for individuals involved in organised crime, designed to sever their connections with criminal organisations. Introduced after the Capaci and Via D'Amelio massacres, it limits prisoners' contact with the outside world to neutralise their influence. The regime is applied by motivated decree of the Ministry of Justice and has an initial duration of four years. Any renewals have a duration of 2 years. Persons who can be subjected to 41-bis are individuals convicted or accused of the crimes indicated in the first sentence of paragraph 1 of Art. 4-bis of the Prison Law (e.g., crimes committed for the purpose of terrorism, including international terrorism) or crimes committed for the purpose of aiding and abetting mafia-type associations.

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

In order to assess the effectiveness of the judicial system in Italy, it is also necessary to examine the cases of miscarriages of justice leading to wrongful imprisonment. The most recent data available refer to 2023 and are contained

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35 Giustizia Insieme (2024), 'Il decreto-legge 4 luglio 2024 n. 92 "Carcere sicuro" e le attese del mondo penitenziario', 10 July 2024, available at: <https://www.giustiziainsieme.it/it/giustizia-pene/3201-d-1-92-2024-carcere-sicuro-at-tese-mondo-penitenziario-fabio-gianfilipp>.

in the Ministry of Justice's *Report on Precautionary Measures and Judicial Errors* published in April 2024.<sup>36</sup> The report shows that in 2023, 1,120 applications for wrongful imprisonment reached a final decision; of these, 543 ended with a favourable decision (48.5%). The reasons behind the final acceptances derive in about 75% of the cases from irrevocable measures declaring the person's extraneousness to the facts, and in the remaining 25% from the unlawful application of the precautionary measure. Looking at the economic aspect, there were 619 payment orders issued for a total of €27,844,794 (with an average amount per order of €44,983).

### **Quality and accessibility of court decisions**

In April 2024, the criminal section of the Court of First Instance of Florence referred to the Constitutional Court a question of legitimacy with respect to the amount of fees provided for interpreters and translators following requests from judicial authorities.<sup>37</sup> The order, in particular, contests how the provision of paltry

fees is closely linked to the difficulty of finding professionals to take on the assignment. The problem is obvious: defendants do not understand the Italian language and, therefore, what is happening to them. The issue, again according to the order, mainly concerns the validation hearings of arrests, which are characterised by tight deadlines and consequently by the need to quickly receive feedback from professionals. This close correlation led the court to highlight the unconstitutionality of the legislation in light of the fact that the fee amount can lead to a violation of Articles 3 and 111 of the Constitution (respectively, the right to equality and the right to a fair trial). Also, this is not in line with Directive 2010/64/EU of 20 October 2010 on the right to interpretation and translation in criminal proceedings.<sup>38</sup>

### **Other**

In the last two years, the process of criminalisation of vulnerable minorities was enhanced through legislative developments amending

36 V. Giglio, R. Radi, *Ingiuste detenzioni, errori giudiziari e misure cautelari emesse: finalmente pubblicata la Relazione ministeriale per l'anno 2023*, Terzultima Fermata, 16 April 2024, <https://terzultimafermata.blog/2024/04/16/ingiuste-detenzioni-errori-giudiziari-e-misure-cautelari-emesse-finalmente-pubblicata-la-relazione-ministeriale-per-lanno-2023-di-vincenzo-giglio-e-riccardo-radi/>; V. Stella, *Ingiusta detenzione, in 30 anni quasi un miliardo in risarcimenti*, Il Dubbio, 17 April 2024, <https://www.ildubbio.news/giustizia/ingiusta-detenzione-in-30-anni-quasi-un-miliardo-in-risarcimenti-iwcalc1r>.

37 *Giurisprudenza Penale*, *Compensi «irrisori» di interpreti e traduttori a richiesta dell'autorità giudiziaria: il Tribunale di Firenze ha sollevato questione di legittimità costituzionale*, GP, 6 June 2024, <https://www.giurisprudenzapenale.com/2024/06/06/compensi-irrisori-di-interpreti-e-traduttori-a-richiesta-dellautorita-giudiziaria-il-tribunale-di-firenze-ha-sollevato-questione-di-legittimita-costituzionale/>.

38 Directive 2010/64/EU of 20 October 2010 on the right to interpretation and translation in criminal proceedings, OJ 2010 L 280, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32010L0064>.

administrative and criminal law, increasing penalties and introducing new offences.

The so-called Caivano Decree,<sup>39</sup> as already flagged in the 2024 report, has disrupted the Italian juvenile justice system, contributing to overcrowding in the juvenile prisons (IPM).<sup>40</sup> Specifically, the Caivano Decree has increased the maximum sentence from four to five years for minor offences under the fifth paragraph of Article 73 of the Law on Drugs. By increasing the maximum sentence to five years, minor offences are included among the offences for which compulsory arrest in *flagrante delicto* and the possibility of pre-trial detention in prison are also envisaged for minors. Moreover, the possibility for the judge to order precautionary measures towards minors is enhanced. Although the Italian juvenile justice system provides that a person who has committed a crime as a minor can serve his sentence at an IPM until the age of 25, the Caivano Decree gives the director of the IPM the possibility to transfer the adult

offender to an adult prison with ease.<sup>41</sup> As a consequence, as of 7 December 2024, there were 590 boys and girls detained at juvenile prisons occupying 550 places, resulting in a crowding rate of 107.27%.<sup>42</sup> Such high numbers had never been recorded before. Since the decree came into effect, admissions have increased by 16.4%.

Moreover, Bill No. 1660 – the so-called Security Decree – is currently at the core of the debate in the Italian Parliament. Its amended version under scrutiny by the Senate (Bill No. 1236) introduces 11 new offences and 18 aggravating circumstances or increased penalties. In many of its provisions, it clearly conflicts with a number of constitutional principles that govern the Italian legal system, specifically in the field of criminal law, immigration law and prison law. The law was denounced by the Organisation for Security and Cooperation in Europe (OSCE), which stated: “The majority of the provisions carry the potential to undermine the fundamental tenets of criminal justice and the

39 Parliament (Italy) (2023), DEGREE-LAW No. 123 Urgent measures to combat youth distress, educational poverty and juvenile crime, as well as for the safety of minors in the digital sphere (*DECRETO-LEGGE n. 123 Misure urgenti di contrasto al disagio giovanile, alla povertà educativa e alla criminalità minorile, nonché per la sicurezza dei minori in ambito digitale*), 15 September 2023, available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2023-09-15;123>.

40 Antigone (2024), *A un anno dal decreto Caivano, Il dossier di Antigone sull'emergenza negli Istituti Penali per Minorenni*, available at: <https://www.antigone.it/upload2/uploads/docs/A%20UN%20ANNO%20DAL%20DL%20CAIVANO%20-%20Documenti%20Google.pdf>.

41 Antigone (2023), *Il nostro documento sul decreto legge Caivano*, 29 September 2023, available at: <https://www.antigone.it/news/3500-il-nostro-documento-sul-decreto-legge-caivano>.

42 GNL (2024), *Osservatorio penitenziario adulti e minori*, GNL, 9 December 2024, available at: <https://www.garantenzionaleprivatiliberta.it/gnpl/resources/cms/documents/af4e43d8267a38bdefc8c8f05c31f7cb.pdf>.

rule of law”.<sup>43</sup> The legislation pushes towards a criminalisation of dissent and social struggles, turning behaviours that have to do with protest, discontent and social marginality into crimes. Below are some of the most relevant changes.<sup>44</sup>

‘Arbitrary occupation of property intended as someone else’s domicile’ is introduced as a new crime in Article 634-bis of the Criminal Code. The current punishment for the unauthorised occupation of real estate had already been amended with Law Decree No. 113/2018 (so-called Salvini Decree). The government intends not only to introduce the new offence under analysis, but to further increase the penalty from two to seven years’ imprisonment, also for those who cooperate in the occupation, thus excluding the possibility of applying the substitute penalties for the latter (only possible if not exceeding four years, pursuant to Legislative Decree No. 150/2022).

Moreover, blocking a road is made a criminal offence, providing for the alternative punishment of imprisonment of up to one month and a fine of up to €300 (at present, such conduct constitutes an administrative offence punishable by a fine of €1,000 to €4,000). In addition, a special aggravating circumstance is introduced where such conduct is carried out by several persons together, which entails the application of a penalty of six months to

two years imprisonment. It is clear that the phenomenon intended to be sanctioned is that of collective protest mobilisations, so much so that the public has dubbed the norm the ‘Anti-Gandhi norm’.

With the approval of the security bill, the mandatory deferral of imprisonment in the case of a pregnant woman or mother of a child under one year of age (Article 146 of the Criminal Code) would be eliminated, thus disregarding the best interest of the child.

The bill also provides for the prohibition of selling SIM cards to people with no permit of stay, for identification purposes. In case of non-compliance, the closure of the business or activity of the company from five to 30 days is ordered as an accessory administrative sanction. This provision particularly targets migrants, depriving them of communicating with their country of origin and getting in touch with associations and lawyers.

Lastly, the most notable provision of this bill aims to introduce the offence of prison riot to the Criminal Code. Acts of violence or threat or resistance to the execution of orders given, committed by three or more detainees in a prison, in a detention centre for repatriation or in an extraordinary reception centre, would be punished with imprisonment from one to five

43 Antigone e ASGI, The new security law is an attack on the rule of law, available at: <https://www.antigone.it/upload2/uploads/docs/traduzione%20inglese.docx.pdf>.

44 The Guardian (2024), Demonstrations being held in Italy against ‘repressive’ security bill, 25 September 2024, available at: <https://www.theguardian.com/world/2024/sep/25/demonstrations-being-held-in-italy-against-repressive-security-bill>.



years. Thus, disobedience and passive resistance are subject to harsh criminal punishment under this provision. Moreover, the crime of prison riot is equated with mafia and terrorism

crimes for the purposes of access to prison benefits, as it would also be recalled by Article 4-bis of the Prison Law.

## ANTI-CORRUPTION FRAMEWORK -

### Key recommendations

- *As recommended the Council of Europe's Group of States against Corruption's (GRECO) Evaluation Report for its Fifth Evaluation Round, Italy should bolster anti-corruption measures, particularly targeting top executive functions (PTEFs) and law enforcement agencies.<sup>45</sup> GRECO recommended 19 recommendations in this respect, further elaborated below, all of which should be adopted. These included the introduction of rules on how top executives engage with lobbyists and other third parties, rules requiring that "sufficient information about the purpose of these contacts be disclosed" and that top executives be formally required to declare all their financial interests.<sup>46</sup>*
- *As the new law, Legislative Decree No. 24/2023, which implements European Directive No. 1937/2019 on whistleblowing, is in some ways weaker compared to Italy's pre-existing whistleblower protection law,<sup>47</sup> the level of protection granted to whistleblowers should be bolstered such that the protection in all ways is at least as high as within the pre-existing Italian whistleblowing legislation, and the additional sanction that has been provided for whistleblowers who are responsible for the crime of defamation should be removed.*
- *Italy should implement the prior recommendations for Italy included in the EU Commission's 2024 report in this area, including adopting the pending bill on conflicts of interest, adopting comprehensive rules on lobbying, establishing an operational lobbying register, addressing the channelling of donations via political entities and introducing a single electronic register for party/campaign finance information.*

45 GRECO (2024), *Evaluation Report Italy*, 28 August 2024, available at: <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680b16315>.

46 Ibidem.

47 Transparency International Italia (2023), Decreto Legislativo 24 / 2023 TRASPOSIZIONE DELLA DIRETTIVA EUROPEA SUL WHISTLEBLOWING 1937/2019, 2023, available at: [https://transparency.it/images/pdf\\_publicazioni/2023\\_Primo\\_Commento\\_dlgs\\_242023\\_Whistleblowing.pdf](https://transparency.it/images/pdf_publicazioni/2023_Primo_Commento_dlgs_242023_Whistleblowing.pdf).

## Levels of corruption

Transparency International consistently ranks Italy among the more corrupt countries in Western Europe. In the *2022 Corruption Perceptions Index*,<sup>48</sup> Italy scored 56/100, indicating a significant corruption problem.

In the Italian healthcare system, regional political appointments of general directors of Local Health Authorities can “sometimes result from improper negotiations involving internal or external interests to the system”.<sup>49</sup> In the south of Italy, corruption has contributed to rising healthcare costs.

Pharmaceutical and medical device companies have been indicted in recent years for using corrupt practices to ensure the utilisation of their pharmaceutical or medical products in hospitals.<sup>50</sup> While some companies settled with the authorities, those who did face criminal trials had verdicts that “significantly diverged from one another, with a number of verdicts

overruled by the Court of Appeals (this has happened not just in the healthcare sector but also in the oil and gas sector)”.<sup>51</sup>

## Framework to prevent corruption

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

In the 2024 *Liberties Rule of Law Report*, we discussed the judicial reforms introduced by Minister Cartabia, including changes to the Supreme Council of Magistrates (CSM), which were enacted in June 2022.<sup>52</sup> While these reforms represent a significant step forward, it is still too early to fully evaluate their impact on issues such as revolving doors or the judicial system as a whole. Broader systemic challenges persist, including uneven reform implementation and inefficiencies in Italy’s legal processes. Nonetheless, these measures are widely regarded as positive strides towards fostering a more transparent and impartial judicial framework.

48 Transparency International (2022), *Corruption Perceptions Index*, available at: <https://www.transparency.org/en/cpi/2022>.

49 RUSI (2024), *Catch Me If You Can: Mafia’s Infiltration into Italy’s Healthcare System*, 8 February 2024, available at: <https://www.rusi.org/networks/shoc/informer/catch-me-if-you-can-mafias-infiltration-italys-healthcare-system#:~:text=This%20blog%20joint%20second%20place,identities%20of%20Italy’s%20most%20wanted>.

50 International Bar Association (2024), ‘New decisions in the Italian legal system regarding corruption in the healthcare sector’, 11 June 2024, available at: <https://www.ibanet.org/new-decisions-in-Italy-corruption-in-health-care-sector#:~:text=The%20fight%20against%20corruption%20in,or%20medical%20products%20in%20hospitals>.

51 Ibidem.

52 Redazione Ansa (2022), *Justice reform passed*, 16 June 2022, available at: [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).

In the broader context of corruption, the Council of Europe’s Group of States against Corruption (GRECO) has recently urged Italy to strengthen its anti-corruption efforts, with a particular focus on persons entrusted with top executive functions (PTEFs) and law enforcement agencies. On 28 August 2024, GRECO published a new evaluation report<sup>53</sup> highlighting significant shortcomings in Italy’s legal framework for combating corruption. The report criticised its excessive complexity and the absence of a unified integrity framework applicable to all PTEFs. It outlined 19 recommendations aimed at addressing these deficiencies, emphasising the prevention of conflicts of interest, greater transparency, and the establishment of robust ethical standards. These recommendations included the introduction of rules on how persons “with top executive functions engage in contacts with lobbyists and other third parties who seek to influence the government’s legislative and other activities” and rules requiring that “sufficient information about the purpose of these contacts be disclosed, such as the identity of the person(s) with whom (or on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion”, that those with top executive functions be formally required to declare all their financial interests

and ensuring that this information is published in a timely manner, and that audits of corruption and integrity-related risks covering those with top executive functions be carried out regularly, and that whatever remedial measures are suggested/implemented should be made public.<sup>54</sup> For law enforcement agencies, the recommendations focus on enhancing internal controls, promoting diversity, and cultivating a culture of integrity. Italy has been required to submit a follow-up report by 30 September 2025, detailing its progress in implementing these recommendations.

Additionally, a notable weakness in Italy’s anti-corruption framework is the absence of a dedicated regulatory authority with exclusive jurisdiction to prosecute corruption cases.<sup>55</sup> While any public prosecutor may initiate a corruption investigation, this lack of centralised oversight could hinder the effectiveness of anti-corruption efforts.

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53 International Bar Association (2024), ‘New decisions in the Italian legal system regarding corruption in the health-care sector’, 11 June 2024, available at: <https://www.ibanet.org/new-decisions-in-Italy-corruption-in-health-care-sector#:~:text=The%20fight%20against%20corruption%20in,or%20medical%20products%20in%20hospitals>.

54 Ibidem.

55 Global Compliance News, ‘Anti-Corruption in Italy’, available at: <https://www.globalcompliancencnews.com/anti-corruption/anti-corruption-in-italy/>.

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**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 for the government (if conducted) on civil society consultations. While a platform exists,<sup>56</sup> it has invited consultation on around 37 non-contentious items over the last five years, typically with short timeframes for response and limited publicity or active efforts to seek civil society input. The freedom of information (FOI) process remains necessary to gain access to pieces of information that should be freely and openly accessible.

**Rules on preventing conflicts of interest in the public sector**

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.

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

Legislative Decree No. 24/2023,<sup>57</sup> which implements European Directive No. 1937/2019 on whistleblowing, replaced Law No. 179/2017 for the public sector and Legislative Decree No. 231/2001 for the private sector. While initially celebrated, it is arguable that the new legislation, in certain respects, weakens the protections previously afforded under Italy's whistleblower laws.

On the positive side, the decree broadens the definition of whistleblowers, extends the scope of reportable misconduct to cover a wider range of unlawful activities, and significantly increases the pool of individuals who can report. It also enhances whistleblowing protections in the private sector and strengthens the role of ANAC (Italy's Anti-Corruption Authority) as the national authority overseeing whistleblowing, including within the private sector. A whistleblower is also now able to report to ANAC and directly to the media.

However, the law introduces notable drawbacks. It adds a sanction against whistleblowers found guilty of defamation, and some provisions are ambiguously worded, leaving room

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56 ParteciPa, Processi, [https://partecipa.gov.it/processes?filter\[area\\_id\]=&&filter\[date\]=all&&filter\[scope\\_id\]=](https://partecipa.gov.it/processes?filter[area_id]=&&filter[date]=all&&filter[scope_id]=).

57 Gazzetta Ufficiale della Repubblica Italiana (2023), Decreto Legislativo 10 Marzo 2023, n. 24, Gazzetta Ufficiale della Repubblica Italiana, 10 March 2023, available at: <https://www.gazzettaufficiale.it/eli/id/2023/03/15/23G00032/sg>.



for varying interpretations.<sup>58</sup> The protections are inconsistently applied across the public and private sectors, leading to disparities. Furthermore, while the EU directive safeguards whistleblowers who opt for external reporting channels from the outset, the Italian transposition imposes restrictive conditions on their use, limiting whistleblowers' options and diverging from EU standards.

In some ways, the new legislation offers a less favourable framework for whistleblowers compared to its predecessor. For instance, while the directive protects whistleblowers who report based on a reasonable belief in the accuracy of the information, the Italian law subjects this to a discretionary evaluation, a provision absent in previous legislation. These changes risk undermining the level of protection and support previously granted under Italy's earlier whistleblowing regime.

**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)**

- Public Procurement
- Construction and Infrastructure
- Law Enforcement and Judiciary

A public procurement code was put into place in July 2023 (Legislative Decree No. 36 of March 31, 2023)<sup>59</sup> and applies to public tenders for work, services, and supplies. Elements therein allowing for subcontracting without percentage limits and 'cascade subcontracting' still require additional reform in our view, 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 for the code to have real substantive force.<sup>60</sup>

58 Transparency International Italia (2023), *Decreto Legislativo 24 / 2023 TRASPOSIZIONE DELLA DIRETTIVA EUROPEA SUL WHISTLEBLOWING 1937/2019*, 2023, available at: [https://transparency.it/images/pdf\\_publicazioni/2023\\_Primo\\_Commento\\_dlgs\\_242023\\_Whistleblowing.pdf](https://transparency.it/images/pdf_publicazioni/2023_Primo_Commento_dlgs_242023_Whistleblowing.pdf).

59 International Association of Young Lawyers (2023), 'The new Public Procurement Code: New items, application, and transitional regime', Lexology, 18 September 2023, available at: <https://www.lexology.com/library/detail.aspx?g=51b8f2d6-e57c-4a42-9887-f15de31cf4e3>.

60 European Federation of Building and Woodworkers, 'Better European Laws for Subcontracting in the construction sector', available at: <https://www.limitsubcontracting.eu/materials/rules/Better%20subcontracting%20rules%20GB.pdf>.

Criminal offences exist for the practices of bid rigging (those who obstruct or displace a tenderer with violence or threats, or with gifts, promises, collusion or other fraudulent means, or those who prevent or disrupt tendering procedures) and obstruction in the selection of contractors (those who attempt to frustrate a public authority's selection procedure and criteria when going to tender).<sup>61</sup>

We hope to see a respective increase in investigations with regard to the procurement and tender processes associated with public funds.

There are also several cases pointing to a lack of integrity and judicial corruption, including cases where bribes have been paid to release members of criminal organisations from pre-trial detention, cases of petty corruption like the exchange of judicial influence through sexual favours, and judges routinely not paying for bills at restaurants.<sup>62</sup>

There is also still rampant political bargaining for court and prosecutor appointments, and several corruption cases involving magistrates. For example, there was in recent years 'discovery of clandestine meetings among current and former members of the Council and of the Parliament to influence the appointment of the

chief prosecutor of Rome, along with thousands of WhatsApp messages showing intentions and negotiations to assign top positions.<sup>63</sup>

## **Investigation and prosecution of corruption**

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

In June 2023, the Council of Ministers presented a draft law that would decriminalise abuse of public office and limit the scope of trading in influence. Law No. 114/2024 (the so-called Nordio law) was approved in July 2024 and brought noteworthy modifications to the Italian Penal Code, including the abolition of the criminal offence of abuse of office, previously governed by Article 323. This offence had been used to sanction public officials who engaged in actions or decisions that contravened laws or regulations, leading to unlawful benefits or damages. Its elimination was justified as a means to alleviate the burden of administrative litigation and investigations involving public officials. Critics had long contended that the offence was overly broad and prone to misuse, creating procedural difficulties and discouraging effective public administration. However, the repeal has raised

61 A&O Shearman (2024), 'Recent and future trends in Italian white collar crime and investigations', 10 January 2024, available at: <https://www.aoshearman.com/en/insights/cross-border-white-collar-crime-and-investigations-review-2024/recent-and-future-trends-in-italian-white-collar-crime-and-investigations>.

62 Law, Technology and Humans, 'The Never-Ending Crisis of Italian Justice: Role and Responsibility of Its Governance System, Law, Technology and Humans', 2023, available at: <https://classic.austlii.edu.au/au/journals/LawTechHum/2023/12.html>.

63 Ibidem.

concerns among legal experts and anti-corruption advocates, who warn of potential accountability gaps. Without this provision, there may be fewer mechanisms to address public misconduct and inadequate recourse against unfair administrative acts. Additionally, critics point out that no replacement measures, such as civil or administrative penalties, have been implemented, potentially undermining safeguards against abuse of power and weakening systemic efforts to combat corruption effectively.<sup>64</sup>

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

The investigation and prosecution of high-level and complex corruption cases in Italy face several significant obstacles including institutional weaknesses, legislative gaps including those already identified in this report, and gaps in enforcement. Italy's judiciary, while independent, often faces undue political influence in corruption cases. Politicians accused of wrongdoing also are able to use Italy's defamation laws, which still criminalise defamation, to discourage journalists from having the courage to report on their actions, as defending a defamation case is extremely expensive and time-consuming, even if journalists or academics would prevail ultimately.

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64 *Questione Giustizia* (2024), *Abuso d'ufficio: una partita ancora aperta*, 5 November 2024, available at: <https://www.questionegiustizia.it/articolo/abuso-d-ufficio>.

## MEDIA ENVIRONMENT AND MEDIA FREEDOM

### Key recommendations

- *In line with the provisions of the European Media Freedom Act (EMFA), Italy should initiate a comprehensive reform of the legislation regulating the Italian public broadcaster RAI (Radiotelevisione italiana) to ensure its independence from political meddling and provide for adequate and predictable funding to guarantee its financial sustainability.*
- *Italy should introduce adequate regulations to ensure stronger safeguards to prevent excessive media concentration. In line with Article 6 of the EMFA, Italian authorities should ensure full disclosure of ownership and potential conflicts of interest in the media sector. The Italian Authority for Communications Guarantees (AGCOM) should also ensure full transparency of the distribution of state advertising funds to avoid undue market distortion.*
- *Italy must fully decriminalise defamation to align with its international human rights obligations. In addition to decriminalisation, reforming civil defamation laws is crucial to provide the judiciary with procedural safeguards that protect public watchdogs from repression of media freedom and freedom of expression. The effective transposition of EU Directive 2024/1069 against SLAPPs must uphold the highest standards outlined in the EU Anti-SLAPP Recommendation and the principles of the Council of Europe.*

### Pluralism and concentration

#### **Rules governing and safeguarding the pluralistic media market, and their application (including regulating mergers, acquisitions and other ownership changes)**

In September 2023, rumours emerged about the potential acquisition of AGI (Agenzia Giornalistica Italia), one of Italy's largest news agencies, by the Angelucci Group. Since 1965,

AGI has been owned by ENI, a multinational energy company in which the Italian government holds a 35% stake. The possibility of a sale to Antonio Angelucci – a Lega Member of Parliament, media mogul, and owner of several newspapers such as *Il Giornale*, *Libero*, and *Il Tempo* – sparked immediate concerns over media concentration, political influence, and conflicts of interest.<sup>65</sup>

65 Media Freedom Rapid Response (2024), *Silencing the fourth estate: Italy's democratic drift – mission report*, July 2024, available at: <https://www.mfr.eu/mission-report-silencing-the-fourth-estate-italys-democratic-drift/>.

AGI's editorial staff strongly opposed the sale, arguing it would undermine the agency's independence and impartiality. Throughout 2024, they mobilised in protest, including a two-day strike in March. The staff repeatedly expressed dissatisfaction with the lack of transparency, particularly after the management's vague acknowledgement of receiving an "unsolicited expression of interest" in April 2024. Tensions escalated in May 2024, when the editorial committee voted to express a lack of confidence in director Rita Lofano, citing fears of conflicts of interest due to Lofano's close working relationship with former director Mario Sechi, now editor-in-chief of *Libero* (which is one of Angelucci's newspapers) and former spokesman for Prime Minister Giorgia Meloni.

Opposition parties, including the Partito Democratico (PD) and Movimento 5 Stelle (M5S), also condemned the potential sale. Raising concerns about its compatibility with the newly adopted EMFA, the PD brought the issue to the attention of EU institutions, sending a formal letter to European Commission Vice President Věra Jourová.<sup>66</sup>

In addition to the inconvenience caused by the possible sale, the agency also faced internal restructuring, which resulted in staff reductions and ultimately in the closure of its Milan headquarters. According to AGI's journalists, this latter decision will have detrimental consequences for the agency, sparking concern about its capacity to continue producing independent and high-quality information.

By October 2024, AGI's editorial staff continued to demand clarity on the agency's future, warning that the sale could set a dangerous precedent, threatening the independence of other news outlets in Italy.<sup>67</sup> Indeed, such a possibility becomes even more alarming if it is considered in light of the broader trend of media capture that also affects public service media.

## **Transparency of media ownership**

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

State advertising in the media is regulated by the Consolidated Law on Audiovisual and Radio Media Services (TUSMAR), as

66 European Parliament (2024), Parliamentary question - E-000890/2024, European Parliament, 21 March 2024, [https://www.europarl.europa.eu/doceo/document/E-9-2024-000890\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2024-000890_EN.html); Euronews (2024), 'Agi, PD to EU Commissioner Jourová: "Takeover a risk to journalists' independence"', 1 April 2024, available at: <https://www.eunews.it/en/2024/04/02/agi-pd-to-eu-commissioner-jourova-takeover-a-risk-to-journalists-independence/>.

67 FNSI, AGi (2024), *i giornalisti tornano a chiedere chiarezza sul futuro: «Forte preoccupazione»*, FNSI, 5 December 2024, available at: <https://www.fnsi.it/agi-i-giornalisti-tornano-a-chiedere-chiarezza-sul-futuro-forte-preoccupazione>.



amended by Legislative Decree No. 208 of 8 November 2021.<sup>68</sup> Article 41 of TUSMAR stipulates that public institutions purchasing advertising on mass media must adhere to the following criteria: 50% of their advertising expenditures must be allocated to newspapers and periodicals, while 15% must go to local radio and TV stations.

Additionally, the same article requires that all advertising expenditures be reported to Autorità per le Garanzie nelle Comunicazioni (AGCOM), the regulatory authority responsible for supervising state advertising distribution and ensuring compliance with these criteria. Under the current procedure, state administrations are required to submit data on their advertising expenses through an electronic module each September.<sup>69</sup>

However, despite the regulation, this data is not easily accessible, which undermines transparency in the allocation of state advertising. Furthermore, as noted by the Media Pluralism Monitor 2024, Article 41 of TUSMAR currently applies only to public administration

expenditures, excluding those of state-owned companies.<sup>70</sup> This exclusion indirectly affects the transparency of state advertising distribution even more.

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

According to the Media Pluralism Monitor 2024 (MPM 2024), the level of transparency in media ownership remains insufficient. While the legal framework regulating the financial transparency of the media sector is in place,<sup>71</sup> the practical implementation of such rules continues to be a challenge, increasing the risk of media concentration.

The Italian media market is characterised by a complex chain of ownership, with a pyramid-like structure where a holding company controls several companies and their related outlets. Such a structure often makes it difficult to trace back the ultimate media owner, further increasing the risk of media

68 Legislative Decree No. 177/2005 (2005), Testo Unico della Radiotelevisione, 31 July 2005, available at: <https://www.altalex.com/documents/codici-altalex/2011/02/18/testo-unico-della-radiotelevisione>.

69 AGCOM (2024), State Advertising, 10 July 2024, available at: <https://www.agcom.it/entipubblici>.

70 EUI (2024), *Media Pluralism Monitor 2024 - Italy*, June 2024, available at: [https://cadmus.eui.eu/bitstream/handle/1814/77006/Italy\\_EN\\_mpm\\_2024\\_cmpf%20%282%29.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/77006/Italy_EN_mpm_2024_cmpf%20%282%29.pdf?sequence=1&isAllowed=y).

71 The value of financial transparency of the media sector is enshrined in Article 21(5) of the Italian Constitution (Art. 21, co. 5) and regulated by a set of norms, such as the Law on the Press (no. 47/1948, Art. 5); the new Consolidated Act on Audiovisual Media Services (TUSMA), Legislative Decree no. 208/2021 (Art. 29); and Law 249/1997 (Art. 1 § 6), instituting the AGCOM and the ROC (the Register of Communications Operators). Source: Media Pluralism Monitor 2024.

concentration and potential ties to political or other vested interests.<sup>72</sup>

In 2023, AGCOM prepared a set of guidelines on the methodology and criteria to be followed for the assessment of positions of significant market power harmful to media pluralism. After opening it to public consultations in April 2023, AGCOM adopted the guidelines in March 2024 by resolution No. 66/24/CONS.<sup>73</sup> Based on the guidelines, AGCOM determines whether a position of significant market power that harms pluralism exists and, if confirmed, defines the measures for its swift resolution.

## Public service media

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

Italy's public service media has long faced political influence, a phenomenon known as *lottizzazione*. However, the past two years have seen unprecedented levels of political interference, heightening the risk of public media being captured by political power.

Key concerns regard RAI's governance and funding structures, which currently leave the public broadcaster vulnerable to political interference. RAI's governance is currently regulated by Law No. 220/2015,<sup>74</sup> better known as the Renzi Bill. This law regulates the appointment of RAI's board of directors: out of a total of seven members, two are elected by the government, two by the Chamber of Deputies, two by the Senate and one by RAI employees. Such a provision allows for significant influence by the ruling majority, exposing the public broadcaster to the risk of undue political interference. The Renzi Bill also grants enhanced powers to the RAI's CEO, who is selected by the government and can enjoy considerable expenditure freedom.

These provisions contravene the EMFA, which is to be enforced by August 2025. In light of this, in May 2024 two appeals were filed with the Regional Administrative Court of Lazio with the aim of halting the procedure for the renewal of RAI's board of directors.<sup>75</sup> The first appeal dealt with the selection criteria for the RAI board, arguing that the current procedure does not comply with the requirements of transparency and non-discrimination provided

72 Media Freedom Rapid Response (2024), *Silencing the fourth estate: Italy's democratic drift – mission report*, July 2024, available at: <https://www.mfr.eu/mission-report-silencing-the-fourth-estate-italys-democratic-drift/>.

73 Adoption of guidelines aimed at verifying the existence of positions of significant market power detrimental to pluralism, pursuant to Art. 51, paragraph 5, of Legislative Decree 8 November 2021, n. 208, AGCOM 2024, available at: <https://www.agcom.it/provvedimenti/delibera-66-24-cons>.

74 Legge N. 220/2015, *Gazzetta Ufficiale della Repubblica Italiana*, 15 January 2016, available at: <https://www.gazzettaufficiale.it/eli/gu/2016/01/15/11/sg/pdf>.

75 These legal actions were supported by several civil society organisations and unions, such as Articolo 21, Slc-Cgil, Usigrai, Rete No Bavaglio, Infocivica, and TvMediaWeb.

by the EMFA, while the second appeal raised concerns about the candidates' independence from the executive powers and requested a referral to the EU court to assess the Italian norm's legitimacy in light of the EMFA regulation.<sup>76</sup> Despite these legal actions, RAI's new board of directors was installed on 1 October.

As a result of the continuous political meddling, journalists at RAI face unprecedented pressure and self-censorship. Among the most significant examples is the cancellation of Italian intellectual Antonio Scurati's antifascist monologue in April 2024,<sup>77</sup> and the subsequent disciplinary case initiated against journalist Serena Bortone, host of the show during which the speech was to be performed.<sup>78</sup> In response to the increasing pressure, RAI's journalists' union, Usigrai, organised a 24-hour strike on 6 May 2024, and a large majority of Usigrai members (75%) joined the strike to denounce attempts to turn RAI into a government mouthpiece.<sup>79</sup>

At the beginning of November, the RAI Parliamentary Oversight Committee organised the Stati Generali del Servizio Pubblico to discuss the challenges and future development of the Italian public service broadcaster RAI.<sup>80</sup> The event brought together political, institutional, and media representatives, including RAI executives and representatives from journalistic and media unions, communication experts and European media regulation stakeholders. Such an event was presented as a sign of commitment to reforming RAI to align with the provisions of the EMFA.

### **Financing (including transparency of financing)**

The Italian government holds nearly 100% of RAI's shares through the Ministry of Economy, giving it substantial control over the broadcaster's operations, which are heavily influenced by government budget allocations. RAI currently relies on two main sources of financing: a citizens' fee (*canone RAI*) and advertising revenues. However, a new

76 Media Freedom Rapid Response (2024), *Silencing the fourth estate: Italy's democratic drift – mission report*, July 2024, available at: <https://www.mfr.eu/mission-report-silencing-the-fourth-estate-italys-democratic-drift/>.

77 European Centre for Press and Media Freedom (2024), *Rai's editorial independence questioned after censorship allegations*, 20 April 2024, Mapping Media Freedom, available at: <https://www.mapmf.org/alert/31460>.

78 Ordine dei Giornalisti (2024), 'RAI: procedimento disciplinare per Serena Bortone. La solidarietà delle cpo e di GiULiA giornaliste', 9 May 2024, available at: <https://www.odg.it/procedimento-disciplinare-per-serena-bortone-la-solidarieta-delle-cpo-e-di-giulia-giornaliste/56779>.

79 FNSI (2024), 'Rai, Usigrai proclama sciopero dei giornalisti il 6 maggio', FNSI, 25 April 2024, available at: <https://www.fnsi.it/rai-usigrai-proclama-sciopero-dei-giornalisti-il-6-maggio>.

80 FNSI (2024), 'Stati generali del servizio pubblico, Costante: «Sì a una legge per Rai, ma serve la riforma del settore»', 6 November 2024, available at: <https://www.fnsi.it/stati-general-del-servizio-pubblico-costante-si-a-una-legge-per-rai-ma-serve-la-riforma-del-settore>.

regulation spearheaded by Matteo Salvini has increased the integration of the *canone RAI* into general taxation, granting the government greater discretion to expand or reduce RAI's funding at will.<sup>81</sup> This change further amplifies the broadcaster's vulnerability to political influence. Indeed, the 2024 Budget Law established that the citizens' fee is to be reduced from €90 to €70, hence RAI's independent revenue suffered a 22% cut.<sup>82</sup> Despite the strong will of the Lega party, this provision was not passed in the 2025 Budget Law, therefore the fee will be set back to €90.<sup>83</sup>

### **Other**

In 2024, the amendment of the Italian media coverage rules under the *par condicio* law, designed to ensure equal treatment and balanced representation of political forces during election campaigns, became the centre of controversy.

The so-called 'Fazzolari decree' passed in April by the ruling Brothers of Italy and Lega parties allowed the full broadcast of speeches by government officials, including the Prime

Minister, on public channels, framing these communications as 'institutional' rather than political and thus exempting them from the strict time constraints of *par condicio*. Such provision disproportionately widened the communication opportunities of the ruling coalition while limiting the access to opposition forces.<sup>84</sup>

Soon after the introduction of such amendments to the *par condicio* rule for the public broadcaster, the Italian Authority for Communications Guarantees (AGCOM) approved a resolution on private broadcasters that did not include the modifications introduced by the Fazzolari decree. The direct result was that the rules on *par condicio* for public broadcaster RAI differed from those for private broadcasters, thus creating a dangerous double standard on political communication which sparked heavy criticism from opposition parties, media organisations and journalists unions, who also coined the term "TeleMeloni" to warn about the attempts at capturing the public service media and turning it into a propaganda tool for the government.

81 P. Remer (2024), 'Come si sovvenziona la Rai', 9 February 2024, *La legge per tutti*, available at: [https://www.laleggepertutti.it/673273\\_come-si-sovvenziona-la-rai](https://www.laleggepertutti.it/673273_come-si-sovvenziona-la-rai).

82 European Federation of Journalists (2023), 'Italy: EFJ joins FNSI in warning about the independence of PSM', EFJ, 24 October 2023, available at: <https://europeanjournalists.org/blog/2023/10/24/italy-efj-joins-fnsi-in-warning-about-the-independence-of-psm/>.

83 Openpolis (2024), 'I precari equilibri della maggioranza nelle commissioni parlamentari', 5 December 2024, available at: [https://www.openpolis.it/i-precari-equilibri-della-maggioranza-nelle-commissioni-parlamentari/?utm\\_source=Newsletter&utm\\_medium=email&utm\\_campaign=governo-e-parlamento](https://www.openpolis.it/i-precari-equilibri-della-maggioranza-nelle-commissioni-parlamentari/?utm_source=Newsletter&utm_medium=email&utm_campaign=governo-e-parlamento).

84 Media Freedom Rapid Response (2024), *Silencing the fourth estate: Italy's democratic drift - mission report*, July 2024, available at: <https://www.mfr.eu/mission-report-silencing-the-fourth-estate-italys-democratic-drift/>.

## Online media

### **Competence and powers of bodies or authorities supervising the online ecosystem, including the digital services coordinators role**

In compliance with the Digital Services Act (DSA, EU Regulation 2022/2065), AGCOM was designated the country's Digital Service Coordinator (DSC) with Law Decree No. 123/2023 (Art 15, 15 September 2023, adopted with amendments with Law No. 159/2023, 13 November 2023). Therefore, the DSC in Italy is an ad hoc office established within the independent authority AGCOM for the purpose of implementing the DSA. Law Decree No. 123/2023 established its staff composition, providing for the increase by 23 positions in the staff composition of AGCOM. Giulio Votano was nominated as its Director on 30 September 2024. The budget of the DSC Office derives from contributions from the revenues of digital services providers, as defined in detail under Article 15.5 Law No. 159/2023. In September, the modalities for the recognition of the title of trusted reporter flaggers were set out on the basis of Art 22 DSA,<sup>85</sup> as well as modalities for the certification of bodies for the out-of-court resolution of disputes between service

recipients and online platforms under Article 21 of the DSA.<sup>86</sup> Nevertheless, at present the DSC Office within AGCOM is still very much in its early stages of implementation.

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

#### **Frequency of verbal and physical attacks + Smear campaigns**

One hundred thirty incidents of attacks on media freedom were recorded in Italy on the Mapping Media Freedom Platform from January to November 2024.<sup>87</sup> The most common forms of attacks included physical attacks, legal intimidation through defamation lawsuits, online harassment, property damage and editorial interference by state run media.

The situation for journalists who report on organised crime and sensitive issues is particularly grim. For them, the main sources of threats are politicians, public institutions and unknown perpetrators.

Women journalists suffer the most from incidents of online harassment and bullying where they become targets of sexist and ageist smear campaigns. Another serious concern is legal

85 AGCOM (2024), Decision No. 283/24/CONS of 24/07/2024 - Procedural regulation for recognizing the status of "Trusted Reporter" pursuant to Art. 22 of the DSA, available at: [https://www.agcom.it/sites/default/files/media/allegato/2024/Allegato%20A%20Regolamento%20di%20procedura%20%281%29\\_0.pdf](https://www.agcom.it/sites/default/files/media/allegato/2024/Allegato%20A%20Regolamento%20di%20procedura%20%281%29_0.pdf).

86 AGCOM (2024), Decision No. 282/24/CONS - Regulation on the certification procedure for bodies handling out-of-court dispute resolution between online platform providers and service recipients pursuant to Art. 21 of the Digital Services Act, available at: [https://www.agcom.it/sites/default/files/media/allegato/2024/delibera%20282\\_24\\_%20cons.pdf](https://www.agcom.it/sites/default/files/media/allegato/2024/delibera%20282_24_%20cons.pdf).

87 European Centre for Press and Media Freedom (2024), Mapping Media Freedom, available at: <https://www.mapmf.org/explorer?f.from=2024-01-01&f.to=2024-11-18&cf.country=Italy>.



intimidation through defamation lawsuits, known as strategic lawsuits against public participation (SLAPPs), which are mostly used by politicians and public figures to silence critics. They are a tool to suppress dissent and criticism.

### **Rules and practices guaranteeing journalist's independence and safety**

During the first half of 2024, the Council of Europe documented 75 alerts concerning press freedom violations in Italy, including 47 direct attacks on journalists.<sup>88</sup> In 2024, Italy has not enacted new legislation specifically aimed at enhancing the independence and safety of journalists. However, significant developments at the European Union level have introduced measures that impact Member States, including Italy.

On 7 May 2024, the European Media Freedom Act came into force, establishing unprecedented safeguards to protect media independence and pluralism across the EU.<sup>89</sup> This regulation

introduces, among others, measures to prevent political interference in editorial decisions and ensure transparency in media ownership. On 6 May 2024, the European Union introduced a directive to tackle strategic lawsuits against public participation (SLAPPs)<sup>90</sup> and abusive lawsuits designed to intimidate and silence journalists and activists. In Italy, the misuse of defamation laws remains a widespread practice to suppress critical voices. Despite this EU initiative, Italy has yet to fully align its national legislation with the directive.

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

Since January 2024, the Mapping Media Freedom platform has registered 44 legal incidents in Italy.<sup>91</sup> In 33.3% of these incidents, the MMF registered a defamation alert and in 26.7% of such cases, legal warnings. Out of 44 legal incidents, in 17 cases government

88 Platform to Promote the Protection of Journalism and Safety of Journalists (2024), *Press Freedom in Europe: Time to Turn the Tide*, Council of Europe, 2024, available at: <https://rm.coe.int/annual-report-2024-platform-for-the-safety-of-journalists-web-pdf/1680aeb373?>

89 Rappresentanza in Italia (2024), 'Entra in vigore il primo regolamento dell'UE per proteggere l'indipendenza e il pluralismo dei media', European Commission, 7 May 2024, available at: <https://italy.representation.ec.europa.eu/notizie-ed-eventi/notizie/entra-vigore-il-primo-regolamento-dellue-proteggere-lindipendenza-e-il-pluralismo-dei-media-2024-05-07>.

90 European Parliamentary Research Service, Strategic Lawsuits Against Public participation (SLAPPs), EPRS, February 2024, available at: [https://www.europarl.europa.eu/RegData/etud\(2024\)es/BRIE/2022/733668/EPRS\\_BRI%282022%29733668\\_EN.pdf](https://www.europarl.europa.eu/RegData/etud(2024)es/BRIE/2022/733668/EPRS_BRI%282022%29733668_EN.pdf).

91 MFRR legal incidents' category comprise a range of alerts ranging from legal warnings, complaints, defamation, criminal charges grounded in different provisions, civil lawsuits, convictions, to detention. Most fall under legal warnings and defamation. However, the legal files related to these alerts have not been scrutinised, so they have not been labelled as vexatious.

and public officials constituted the source of the incident.<sup>92</sup>

The use of lawsuits to intimidate and silence investigative journalism and critical views constitutes an unsettling trend.<sup>93</sup> In the 2024 annual report published by CASE, Italy emerges as the country with the highest number of SLAPPs, at 26.<sup>94</sup>

To be sure, SLAPPs are challenging to identify for several reasons: there is no legally binding definition, leading to varied databases with distinct methodologies; a national or EU SLAPP registry is still lacking (despite being prioritised in the EU anti-SLAPP Recommendation); and many SLAPP targets remain silent, with pre-litigation settlements often unseen by the public. While the CASE data only scratches the surface, it offers a strong starting point for understanding SLAPPs' impact across Europe.

Legal harassment is a frequent tactic employed by prominent members of the Cabinet and political parties within the governing coalition, targeting critical journalists, media outlets, and writers.<sup>95</sup> For instance:

- In September 2024, the ruling Fratelli d'Italia (FdI) party threatened to file a civil lawsuit seeking €30,000 in damages from the *Domani* newspaper over an article investigating the party's donation to the fascist association Acca Larenzia. FdI demanded compensation for "damaging the party's image and reputation".<sup>96</sup>
- In June 2024, Italian Minister of Enterprises and Made in Italy, Adolfo Urso, filed a lawsuit asking compensation ranging from €250,000 to €500,000 against journalists from newspapers *Il Foglio* and *Il Riformista*.<sup>97</sup>

92 European Centre for Press and Media Freedom (2024), Mapping Media Freedom, available at: [https://www.mapmf.org/explorer?f.from=2024-01-01&f.to=2024-12-04&f.country=Italy&f.type\\_of\\_incident=Legal+incident](https://www.mapmf.org/explorer?f.from=2024-01-01&f.to=2024-12-04&f.country=Italy&f.type_of_incident=Legal+incident).

93 Media Freedom Rapid Response (2024), *Silencing the fourth estate: Italy's democratic drift - mission report*, July 2024, available at: <https://www.mfr.eu/mission-report-silencing-the-fourth-estate-italys-democratic-drift/>.

94 Coalition against SLAPPs in Europe (2024), *A 2024 Report on SLAPPs in Europe: Mapping Trends and Cases*, CASE, 9 December 2024, available at: <https://www.the-case.eu/resources/a-2024-report-on-slapps-in-europe-mapping-trends-and-cases/>.

95 OBC Transeuropa (2024), *Press freedom in Italy: those in power are not to be criticised*, 3 May 2024, available at: <https://www.balcanicaucaso.org/eng/Areas/Italy/Press-freedom-in-Italy-those-in-power-are-not-to-be-criticised-231217>.

96 European Centre for Press and Media Freedom (2024), 'Fratelli d'Italia threatens legal action against Domani', Mapping Media Freedom, 30 September 2024, available at: <https://www.mapmf.org/alert/32193>.

97 European Centre for Press and Media Freedom (2024), 'Minister Adolfo Urso sues Il Foglio and Il Riformista journalists for defamation', 7 June 2024, Mapping Media Freedom, 30 September 2024, available at: <https://www.mapmf.org/alert/31863>.

- In June 2024, Fratelli d'Italia (FdI) filed a civil lawsuit against Rai TV show 'Report' journalist Giorgio Mottola and author Sigfrido Ranucci. The lawsuit demanded over €50,000 in damages for a Report episode titled 'La mafia a tre teste', which linked Meloni's father to a mafia boss.<sup>98</sup>
- In March 2024, Daniela Santanchè, Italy's Minister of Tourism and a member of the Fratelli d'Italia party, sued the weekly magazine L'Espresso over an article examining Santanchè's business history. A request of €5 million in damages has been advanced.<sup>99</sup>
- In February 2024, Undersecretary of State Giovanbattista Fazzolari announced legal action against the newspaper *Domani* due

to an article regarding his connections with the general manager of 3-I spa.<sup>100</sup>

- In January 2024, Minister of Defence and member of Fratelli d'Italia (FdI) Guido Crosetto threatened legal action against the newspaper *Il Fatto Quotidiano* following an article about a secret dinner event organised by the Italian branch of the U.S. consulting firm Ernst & Young.<sup>101</sup>

This trend sets a troubling example for lower-level public officials and publicly owned companies attempting to silence criticism on matters of public interest. The most prominent case is that of serial SLAPP offender ENI (Ente nazionale idrocarburi). Over the past few years, ENI has threatened news outlets *Il Fatto Quotidiano*, Rai and Report, as well as *Domani*.<sup>102</sup> Most recently, in October 2024,

98 European Centre for Press and Media Freedom (2024), 'Government party Fratelli d'Italia sues journalists Mottola and Ranucci for defamation', Mapping Media Freedom, 4 June 2024, available at: <https://www.mapmf.org/alert/31920>.

99 European Centre for Press and Media Freedom (2024), 'Minister Santanchè sues L'Espresso for defamation', Mapping Media Freedom, 26 March 2024, available at: <https://www.mapmf.org/alert/31870>.

100 European Centre for Press and Media Freedom (2024), 'Undersecretary of State Fazzolari announces lawsuit against Domani', Mapping Media Freedom, 12 February 2024, available at: <https://www.mapmf.org/alert/31286>; European Centre for Press and Media Freedom, 'Undersecretary of State Giovanbattista Fazzolari announces complaint against Domani', Mapping Media Freedom, 22 September 2024, available at: <https://www.mapmf.org/alert/32145>.

101 European Centre for Press and Media Freedom (2024), 'Minister of Defence threatens legal action against Il Fatto Quotidiano', Mapping Media Freedom, 27 January 2024, available at: <https://www.mapmf.org/alert/31224>.

102 OBC Transeuropa (2023), 'The CASE Italia network expresses solidarity with Greenpeace Italy and ReCommon, targets of legal intimidation by the Italian oil industry Eni', 21 December 2023, available at: <https://www.balkanicaucaso.org/eng/Areas/Italy/The-CASE-Italia-network-expresses-solidarity-with-Greenpeace-Italy-and-ReCommon-targets-of-legal-intimidation-by-the-Italian-oil-industry-Eni>.

ENI sued Italian NGOs ReCommon and Greenpeace Italia, accusing them of conducting a “hate campaign” against the company.<sup>103</sup> In November 2024, ENI filed a criminal defamation lawsuit against ReCommon’s Program Director Antonio Tricarico over an interview given to Italian public media Report.<sup>104</sup>

***Amending existing national laws or drafting and adopting new laws, which regulate the use of spyware, including safeguards and remedies***

Italy has not yet introduced specific legislation to regulate the use of spyware comprehensively, despite the growing concerns about its potential misuse. The European Media Freedom Act, which prohibits surveillance of journalists without judicial oversight, offers a crucial framework for Member States, including Italy, to address these concerns.

In recent years, spyware scandals such as Pegasus have highlighted the urgent need for laws to safeguard against unauthorised surveillance. Investigative reports, including

findings by advocacy groups like Article 19, reveal that Italy lacks clear legal protections for whistleblowers and journalists, leaving them particularly vulnerable to invasive surveillance practices.<sup>105</sup>

Advocacy groups have emphasised the necessity for Italy to align its legislation with international standards to effectively address the misuse of spyware against journalists. The International Press Institute (IPI) has called for robust safeguards to prevent the exploitation of surveillance technologies, highlighting the critical need for legal reforms that provide remedies for individuals targeted by such intrusive measures.<sup>106</sup>

The Council of Europe has also expressed serious concerns regarding the deployment of spyware against journalists, underscoring the importance of implementing comprehensive legal frameworks that protect media professionals from unauthorised surveillance. Their 2024 report emphasises the need for Member States, including Italy, to adopt measures that

103 OBC Transeuropa (2024), ‘ENI sues a representative of ReCommon over an interview given to Italian public media’, 21 November 2024, available at: <https://www.balcanicaucaso.org/eng/Areas/Italy/ENI-sues-a-representative-of-ReCommon-over-an-interview-given-to-Italian-public-media>.

104 European Centre for Press and Media Freedom (2024), ‘Oil company Eni threatens Rai program Petrolio, Mapping Media Freedom’, 27 February 2024, available at: <https://www.mapmf.org/alert/31370>.

105 Article 19 (2024), ‘Italy: Urgent appeal for defamation reform’, 8 October 2024, available at: <https://www.article19.org/resources/italy-urgent-appeal-for-defamation-reform/>.

106 International Press Institute (2024), ‘IPI calls for stronger safe guards to prevent misuse of spyware against journalists’, ifex, 5 June 2024, available at: <https://ifex.org/ipi-calls-for-stronger-safeguards-to-prevent-misuse-of-spyware-against-journalists>.

align with international human rights standards to safeguard press freedom.<sup>107</sup>

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

Access to public information in Italy remains a significant challenge for journalists and civil society organisations. While the legal framework, including Law No. 241/1990 on Administrative Procedure, provides a foundation for transparency, its application has often been criticised for bureaucratic inefficiencies and inconsistent enforcement.

Journalists report frequent delays or outright refusals when requesting public documents, particularly in sensitive areas such as government spending and corruption investigations. Reports from legal and administrative experts in 2024 highlight that these obstacles not only impede the media's ability to inform the public but also weaken transparency and accountability within the administration.<sup>108</sup>

The Freedom of Information Act (FOIA), introduced in Italy in 2016, aimed to improve transparency and accountability by granting broader access to public records. However, a 2024 report by the Council of Europe and concerns outlined by CSOs highlighted gaps in its implementation, including vague exemptions and the lack of effective enforcement mechanisms.<sup>109</sup> Advocacy groups, including Transparency International Italy, have consistently highlighted the deficiencies in Italy's whistleblower protection framework.<sup>110</sup> Further, the new Code of Public Contracts, effective January 2024, mandates the digitalisation and transparency of procurement processes to facilitate access to information on public tenders. However, analyses from governance specialists indicate that the practical implementation of these measures has been slowed by technological and organisational barriers, which risk perpetuating the existing inefficiencies.<sup>111</sup>

107 Council of Europe (2024), 'Safety of Journalists platform 2024 report: serious concern about the use of spyware against journalists, abusive lawsuits and journalists in exile', 5 March 2024, available at: <https://www.coe.int/en/web/portal/-/safety-of-journalists-platform-2024-report-serious-concern-about-the-use-of-spyware-against-journalists-abusive-lawsuits-and-journalists-in-exile>.

108 M. Candore (2024), 'L'accesso difficile dei giornalisti a fonti e documenti della pubblica amministrazione', 29 July 2024, *Diritto.net*, available at: <https://www.diritto.net/accesso-del-giornalismo-ai-dati-pubblici>.

109 A. Del Freato (2024), 'Libertà di informazione. Nei primi sei mesi del 2024 ben 75 gli alert sull'Italia nella piattaforma del Consiglio d'Europa', 25 July 2024, *Articolo 21*, available at: <https://www.articolo21.org/2024/07/liberta-di-informazione-nei-primi-sei-mesi-del-2024-ben-75-gli-alert-sullitalia-nella-piattaforma-del-consiglio-deuropa>.

110 Transparency International Italia, Whistleblowing, <https://www.transparency.it/whistleblowing/>

111 *lente pubblica.it* (2024), 'Digitalizzazione appalti e obblighi di trasparenza: le novità per il 2024', 5 January 2024, available at: <https://lente pubblica.it/pa-digitale/digitalizzazione-appalti-obblighi-trasparenza-2024>.



## Other

*Do you consider the progress of the implementation of the Anti-SLAPP Directive in your country adequate? Have there been any positive developments you could attribute to the Anti-SLAPP Directive?*

So far, the Italian Ministry of Justice has not introduced specific legislation aimed at transposing the EU anti-SLAPP Directive. Efforts of the Italian and European civil society organisations to establish a dialogue upon this transposition have been unsuccessful.<sup>112</sup> In 2024, CASE Italia, the Italian anti-SLAPP working group, issued a call for the effective transposition of the anti-SLAPP Directive, accompanied by the decriminalisation of defamation and reforms to civil defamation laws.<sup>113</sup>

In Italy, most vexatious lawsuits are related to defamation laws. A proposed reform to defamation legislation, introduced by Senator Alberto Balboni in 2022 (DDL S 466), aims to remove prison sentences for criminal defamation. Critics argue that the draft law, while an important step forward, does not go far enough in ensuring robust protections for journalists. Indeed, it would increase pecuniary

penalties for defamation – up to €10,000 – and it would establish a penalty of suspension from performing journalistic activities for a period of one to six months. Prioritising the right to reputation over the right of freedom of expression has a deterrent effect which would intimidate journalists into silence.<sup>114</sup>

The bill does not fully decriminalise defamation, which remains a concern for freedom of expression. The proposal also increases fines for criminal defamation significantly, which could disproportionately affect people with limited resources and discourage media freedom. Additionally, the bill introduces new penalties, such as suspending journalists from their profession, requiring journalists to correct their work, or preventing them from adding a title, comment, or reply — a provision which could undermine press independence.

The reform fails to fully protect journalists from vexatious lawsuits, instead prioritising the protection of plaintiffs' reputations. This shift in focus suggests an approach that views the journalistic community as acting in bad faith, placing more emphasis on the right to reputation than freedom of expression, which many see as an unbalanced stance.

112 Media Freedom Rapid Response (2024), *Silencing the fourth estate: Italy's democratic drift – mission report*, July 2024, available at: <https://www.mfr.eu/mission-report-silencing-the-fourth-estate-italys-democratic-drift/>.

113 OBC Transeuropa (2024), 'Libertà di espressione e SLAPP: nuovi dati e strumenti in Italia', 9 December 2024, available at: <https://www.balcanicaucaso.org/aree/Italia/Liberta-di-espressione-e-SLAPP-nuovi-dati-e-strumenti-in-Italia-234966>.

114 Italian Coalition for Civil Liberties and Rights (2024), *Democracy at the Crossroads – Mapping rights and freedoms in Italy 2024*, CILD, available at: [https://cild.eu/wp-content/uploads/2024/12/Democracy\\_Crossroads\\_FINAL.pdf](https://cild.eu/wp-content/uploads/2024/12/Democracy_Crossroads_FINAL.pdf).

## CHECKS AND BALANCES

### Key recommendations

- *Thirty-one 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.*
- *The 'Premierato reform' introduced by the Meloni government proposes the direct election of the Prime Minister and simultaneous parliamentary elections, aiming to secure a majority through an electoral law. Critics argue it undermines constitutional balance by centralising power in the Prime Minister, reducing Parliament's role, and threatening the independence of other state powers.*

### Process for preparing and enacting laws

#### **Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)**

As highlighted by the EU Commission in its *2024 Rule of Law Report*, the frequent use of law decrees by the government raises concerns about the balance of powers between the government and the Parliament. As for official data, during the current legislature, the government issued 79 law decrees, of which only 67 were converted into law by the Parliament.<sup>115</sup> Law decrees presume circumstances

of emergency and necessity which allow the executive to overturn the ordinary legislative process and issue legislative measures with direct application. The Parliament then has 60 days to discuss the content of the law decree in the chambers and adopt it. To this regard, a reform bill (Bill No. 574) was presented by a Forza Italia Senator, aiming to extend this timeframe to 90 days.<sup>116</sup> This aim of this bill appears to be the normalisation of the use of emergency decrees, by facilitating the process of conversion into law by the Parliament, hence depriving this legal instrument of its (intentional) circumscribed application circumstances. Overall, this trend concerning the great use of law decrees continues, while this bill is currently under discussion within specialised committees in the Senate, with a

115 Camera dei deputati (2024), *La produzione normativa: cifre e caratteristiche*, 13 December 2024, available at: [https://temi.camera.it/leg19/temi/19\\_t118\\_la\\_produzione\\_normativa\\_nella\\_xvii\\_legislatura.html](https://temi.camera.it/leg19/temi/19_t118_la_produzione_normativa_nella_xvii_legislatura.html).

116 Atto Senato N. 574, 7 March 2023, <https://www.senato.it/leg/19/BGT/Schede/Ddliter/56729.htm>.

potential negative impact on the democratic balance of powers.

### **Independent authorities**

Thirty-one years after the adoption of UN Resolution 48/134,<sup>117</sup> which underscores the importance of establishing National Human Rights Institutions (NHRIs) in accordance with the Paris Principles, Italy remains one of the few European Union countries without such a body. The Paris Principles, endorsed by the United Nations General Assembly in 1993, provide a comprehensive framework for the creation and operation of NHRIs, emphasising independence, pluralism, and a broad mandate to promote and protect human rights. Despite repeated recommendations from international organisations, including the United Nations, the Council of Europe,<sup>118</sup> and the European Union Agency for Fundamental Rights (FRA),<sup>119</sup> Italy has yet to meet these

standards. In 2024, the absence of meaningful legislative progress highlighted the country's ongoing delays.<sup>120</sup>

A bill introduced at the end of 2022<sup>121</sup> by a member of the Italian Senate proposed the creation of an Authority for the Protection of Data and Human Rights. This authority, as outlined in the proposal, is an expanded version of the existing Data Protection Authority (DPA), with an extended mandate to include the supervision of broader human rights issues, particularly in the digital sphere. In any case, the legislative proposal remains stalled in the Senate Constitutional Affairs Committee. However, the proposal does not provide clear details on how the authority should address the complexities of human rights that extend beyond the digital sphere, such as discrimination, freedom of expression, migrants' rights, or gender-based violence in the real-world context. Several experts, including academics and

117 UN General Assembly, Resolution No. 48/134, National institutions for the promotion and protection of human rights, 20 December 1993 (A/RES/48/134).

118 European Network of National Human Rights Institutions (2023), *Implementing the Council of Europe Recommendation on National Human Rights Institutions: The State of Play – The situation in Italy*, ENNHRI, 2023, available at: <https://ennhri.org/wp-content/uploads/2023/05/Italy-Country-Report-CoE-NHRI-Rec-ENNHRI-Baseline.pdf>.

119 European Union Agency for Fundamental Rights (2021), *Istituzioni nazionali per i diritti umani forti ed efficaci*, FRA, 2021, available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-strong-effective-nhris-summary\\_it.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-strong-effective-nhris-summary_it.pdf).

120 For a more in-depth reconstruction of the (as yet unapproved) proposals in Italy, see: F. Savastano (2023), 'L'AUTORITÀ NAZIONALE PER I DIRITTI UMANI: VECCHI PERCORSI E NUOVE IPOTESI PER UN ORGANISMO CHE NON RIESCE A VEDERE LA LUCE.', NOMOS, 2023, available at: <https://www.nomos-leattualitaneldiritto.it/wp-content/uploads/2023/06/savastano1.2023.pdf>.

121 Atto Senato N. 303, 9 November 2022, available at: <https://www.senato.it/service/PDF/PDFServer/BGT/01361649.pdf>.

representatives of civil society, have emphasised that a fully independent NHRI, created from scratch and in compliance with international standards, would be a preferable solution to ensure an integrated, pluralistic, and genuinely effective approach to the protection of human rights in Italy. Advocacy groups and human rights organisations have expressed concerns over the lack of urgency in establishing such a body, arguing that the proposed authority could fill a critical gap in Italy's institutional framework. Most recently, in Geneva, during the 48th session of the United Nations Universal Periodic Review (UPR), Amnesty International and the Italian Coalition for Civil Liberties and Rights (CILD)<sup>122</sup> reiterated that the absence of a dedicated National Human Rights Institution (NHRI) undermines Italy's ability to address systemic human rights violations and fulfil its international obligations.

### **Electoral framework**

The Meloni government promoted an amendment to the Italian Constitution through Bill No. 935,<sup>123</sup> which introduced the so-called "Premierato Reform".<sup>124</sup> On 18 June 2024, it was approved in the first reading by the Senate; for the reform to be finally adopted, it must be approved in two readings in each chamber of

Parliament. The core of the reform is the direct election of the Prime Minister and the simultaneous election of the members of both chambers. In order to enable the Prime Minister to obtain and maintain a majority in Parliament, an electoral law will be delegated to guarantee a majority to lists and candidates linked to the elected President.

The first aspect to highlight is how the reform undermines the current constitutional balance by decentralising the role of Parliament in favour of the Prime Minister. In the case that, for any personal reason, the Prime Minister needs to step down, the President of the Republic must entrust the formation of the government to a parliamentarian elected 'in connection' with the Prime Minister. The nature of this connection is not clear, nor is it made explicit whether this parliamentarian must belong to those directly elected by the people or also to those who are in Parliament as a result of the majority awarded to lists and candidates linked to the elected President. Lastly, there is the worrying question of the powers conferred on the Parliament, which, in the hypothesis envisaged by the reform, will also be made up of people who are not directly elected, but – precisely – by virtue of the majority prize. In fact, Parliament elects

122 S. Gherardi (2024), 'CILD in Geneva for the UPR Pre-Session', CILD, 6 December 2024, available at: <https://cild.eu/en/2024/12/06/cild-in-geneva-for-the-upr-pre-session/>.

123 Atto Senato N. 935, 15 November 2023, available at: <https://www.senato.it/service/PDF/PDFServer/BGT/01394479.pdf>.

124 F. Sorrentino (2024), La riforma costituzionale della forma di governo, Associazione Italiana dei Costituzionalisti, July 2024, available at: <https://www.associazionedeicostituzionalisti.it/it/la-lettera/07-2024-la-riforma-costituzionale-della-forma-di-governo/i-rischi-del-premierato>.

the President of the Republic, some members of the Superior Council of the Magistracy and even a third of the judges of the Constitutional Court. This undermines the independence

and tertiary nature of the other powers of the state<sup>125</sup> to the benefit of centralisation in the hands of the Prime Minister.<sup>126</sup>

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125 Italian Coalition for Civil Liberties and Rights (2024), 'At CILD, we are concerned about the premiership reform', CILD, 1 August 2024, available at: <https://cild.eu/en/2024/08/01/at-cild-we-are-concerned-about-the-preiership-reform/>.

126 A.Mastropaolo, L. Revelli (2024), *Le parole sono importanti: osservazioni sul testo della proposta di riforma costituzionale per l'introduzione del premierato in Italia*, Costituzionalismo.it, 2024, available at: <https://www.costituzionalismo.it/wp-content/uploads/2-2024-3.-Mastropaolo-revelli.pdf>.

## CIVIC SPACE

### Key recommendations

- *The government, especially the Ministry of the Interior, should stop criminalising NGOs' activity at sea by imposing fines and administrative detention orders against vessels and aircraft engaged in search and rescue (SAR) operations in the Mediterranean.*
- *Effectively protect the right to protest, by stopping the criminalisation of dissenting opinions through the increase of penalties, the introduction of new offences and the strengthening of administrative measures of repression against activists, minorities and human rights defenders.*
- *Promptly and decisively condemn all instances of hate speech, particularly those expressed by politicians or individuals holding public office. A parliamentary regulation should be established to counter hate speech and misleading information spread by politicians with a discriminatory effect on minorities.*

### Freedom of association

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

As noted in the Liberties 2024 rule of law report, the so-called 'Piantedosi Decree' (Law Decree No. 1/2023) aims at hindering search and rescue (SAR) operations, setting out

administrative fees against NGOs and detainment of their vessels. Since its introduction, 25 vessels have been detained under this law.<sup>127</sup> In October 2024, a judge from the Court of Brindisi brought the case before the Constitutional Court, challenging the lawfulness of such a provision.<sup>128</sup>

127 M. Di Vito (2024), "Una legge ingiusta". I dubbi costituzionali sul Decreto Piantedosi, *Il Manifesto*, 12 October 2024, available at: <https://ilmanifesto.it/una-legge-ingiusta-i-dubbi-costituzionali-sul-decreto-piantedosi>.

128 Associazione per gli studi giuridici sull'immigrazione (2024), 'Decreto Piantedosi contro le ONG: finalmente al vaglio della Corte costituzionale la scelta del governo di punire chi svolge attività umanitaria', ASGI, 11 October 2024, available at: <https://www.asgi.it/asilo-e-protezione-internazionale/decreto-piantedosi-contro-le-ong-finalmente-al-vaglio-della-corte-costituzionale-la-scelta-del-governo-di-punire-chi-svolge-attivita-umanitaria/>.



Law Decree No. 145/2024<sup>129</sup> further criminalises NGOs involved in sea rescue operations in the Mediterranean, by increasing fees and detention. Indeed, this decree establishes that navigation of NGO vessels is suspended until a prefectural order on its administrative detention period is issued – this way the effective suspension of the vessel is longer, without the possibility of appeal. Furthermore, repeated violations within the previous five years trigger stricter penalties, applying not only to the same captain but also to the ship’s owner or operator. The time frame to challenge an administrative detention order for a ship has been reduced from 60 days to 10 days. Nevertheless, punitive measures also target aircraft engaged in monitoring missions over the Mediterranean route. Sanctions include administrative detentions, fines of up to €10,000, and even the possibility of confiscation. The affected aircraft have been instrumental in identifying vessels in distress and exposing severe human rights abuses, such as failures to render aid, unwarranted delays in rescue operations, and forced returns following violent interceptions. NGOs argue that these regulations are designed to weaken the legal obligation to report maritime emergencies.<sup>130</sup>

### **Counterterrorism regulations, including on terrorist financing**

Bill No. 1660 is currently under discussion in the Senate in its amended version (Bill

No. 1236). Article 1 of the bill envisions an increase in offences and punishable conduct in the matter of terrorism. This new provision would punish with imprisonment from 2 to 6 years anyone who “knowingly procures or possesses material containing instructions on the preparation or use of deadly war devices, firearms or other weapons or harmful or dangerous chemical or bacteriological substances, as well as on any other technique or method for the perpetration of acts of violence or sabotage of essential public services, for the purpose of terrorism”. Moreover, the bill introduces a new paragraph to Article 435 of the Criminal Code, which would punish with imprisonment from six months to four years the distribution by any means or the advertising of material containing instructions on how to manufacture such material.

### **Freedom of peaceful assembly**

Freedom of peaceful assembly is strictly related to the guarantee of expression of thoughts and pluralism, core values of any democratic society. However, this same principle has been dangerously compromised. Indeed, freedom of peaceful assembly is enshrined in Article 17 of the Italian Constitution and it is limited only in cases of public security and safety. Nevertheless, repression of peaceful assemblies and protests by armed police and new threatening legislation is a day-to-day issue in

129 Law Decree No. 145/2024, *Gazzetta Ufficiale della Repubblica italiana*, 11 October 2024, available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2024-10-11;145>.

130 SeaWatch (2024), ‘Decreto Flussi approvato al Senato: approccio punitivo contro naufraghi e ONG’, SeaWatch, October 2024, available at: <https://sea-watch.org/it/decreto-flussi-approvato/>.

Italy. Peaceful protests, often led by students, are disrupted by acts of force and violence by the police: this has been the case in Pisa<sup>131</sup> and in Rome,<sup>132</sup> where pro-Palestine students were brutally beaten by the riot police, and in Bologna,<sup>133</sup> where armed police intervened against left-wing protesters. To counter those movements in support of Palestinian people, the Lega party even proposed a bill aimed

to ‘oppose antisemitism’, which would in fact criminalise pro-Palestinian demonstrations under antisemitic allegations.<sup>134</sup>

With the introduction of Law No. 6/2024,<sup>135</sup> protests by eco-activists are also restricted as punishments have increased.<sup>136</sup> This new legislation is extremely worrisome, as pointed out by the UN Special Rapporteur Michel Forst.<sup>137</sup>

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131 This episode is particularly alarming as not only students were beaten by the police, but also the distribution of the riot police hindered any chance of escaping or sheltering from the brawling. See: O. Sacchelli (2024), ‘Pisa, scontri tra studenti pro Palestina e Polizia per un corteo non autorizzato’, *Il Giornale*, 23 February 2024, available at: <https://www.ilgiornale.it/news/nazionale/pisa-scontri-studenti-pro-palestina-e-polizia-sinistra-2287830.html>.

132 In particular, concerns for this protest were raised as initially this manifestation was prohibited by the Italian authorities. See: Amnesty International Italia 2024, ‘Dichiarazione sul divieto di manifestare il 5 ottobre a Roma per la Palestina’, 2 October 2024, available at: <https://www.amnesty.it/dichiarazione-sul-divieto-di-manifestare-il-5-ottobre-a-roma-per-la-palestina/>.

133 Bologna Today 2024, ‘Manifestazioni a Bologna: scontri tra antifascisti e Polizia. Tre agenti feriti’, 9 November 2024, available at: <https://www.bolognatoday.it/cronaca/manifestazione-antifascisti-bologna-scontri-polizia.html>.

134 Redazione Ansa 2024, ‘DDL Lega, stop a manifestazioni se si usano simboli e slogan antisemiti’, ANSA, 27 January 2024, available at: [https://www.ansa.it/sito/notizie/politica/2024/01/27/ddl-lega-stop-a-manifestazioni-se-si-usano-simboli-e-slogan-antisemiti\\_443a3d6f-2244-4a50-a7bb-d2f35cb73363.html](https://www.ansa.it/sito/notizie/politica/2024/01/27/ddl-lega-stop-a-manifestazioni-se-si-usano-simboli-e-slogan-antisemiti_443a3d6f-2244-4a50-a7bb-d2f35cb73363.html).

135 The eco-activism question was also a matter of criticism by the United Nations expertise. See: S. Bauducco (2024), “La criminalizzazione degli ecoattivisti minaccia la democrazia”: l’Onu accusa Ue e Italia. “Applicato il Codice antimafia contro chi manifesta”, *Il Fatto Quotidiano*, 17 March 2024, available at: <https://www.ilfattoquotidiano.it/2024/03/17/la-criminalizzazione-degli-ecoattivisti-minaccia-la-democrazia-lonu-accusa-ue-e-italia-applicato-il-codice-antimafia-contro-chi-manifesta/7479881/>.

136 Amnesty International Italia (2024), ‘Manifesta oggi per i diritti di domani: una campagna condivisa’, 5 July 2024, available at: <https://www.amnesty.it/manifesta-oggi-per-i-diritti-di-domani-una-campagna-condivisa/>; H. Roberts, F. Di Sario (2024), ‘Meloni’s street protest crackdown prompts concerns of growing repression in Italy’, *Politico*, 1 October 2024, available at: <https://www.politico.eu/article/giorgia-meloni-street-protest-crackdown-concerns-growing-repression-italy-security-bill-climate-activists/>.

137 For the reference to Michel Forst’s position paper as UN Special Rapporteur on Environmental Defenders under the Aarhus Convention, ‘State repression of environmental protest and civil disobedience: a major threat to human rights and democracy’, available at: [https://unece.org/sites/default/files/2024-02/UNSR\\_EnvDefenders\\_Aarhus\\_Position\\_Paper\\_Civil\\_Disobedience\\_EN.pdf](https://unece.org/sites/default/files/2024-02/UNSR_EnvDefenders_Aarhus_Position_Paper_Civil_Disobedience_EN.pdf).

Nonetheless, the most evident attack on freedom of peaceful assembly is constituted by the new Bill No. 1660, on public security.<sup>138</sup> As previously discussed, this bill deeply affects the right to protest in many ways<sup>139</sup> — from road blockades to passive resistance in prisons. Hence, protesters would also envisage severe administrative sanctions, as urban bans and *fogli di via*,<sup>140</sup> and up to six years imprisonment only for exercising their constitutional right.

Furthermore, in case of a fight between the armed police and the protesters, the latter would not have any tutelage: while the riot police can resort to biometric surveillance and filing to identify the demonstrators, the

protesters have great difficulty in identifying any police agent.<sup>141</sup>

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

### **Rules on hate speech and their enforcement**

Problematic online content and hate speech reveal an increasing trend, as highlighted by Amnesty International Italy's 2024 Barometro dell'Odi<sup>142</sup> and widely examined in the sixth ECRI (European Commission Against Racism and Intolerance) report on Italy.<sup>143</sup> Social rights activists, migrants, marginalised and racialised people, LGBTQIA+ people, student unions, feminist groups, climate protesters,

138 A. Giuffrida (2024), 'Demonstrations being held in Italy against 'repressive' security bill', *The Guardian*, 25 September 2024, available at: <https://www.theguardian.com/world/2024/sep/25/demonstrations-being-held-in-italy-against-repressive-security-bill>.

139 Amnesty International Italia (2024), 'Pacchetto sicurezza: le nostre preoccupazioni sul progetto di legge', 17 May 2024, available at: <https://www.amnesty.it/pacchetto-sicurezza-le-nostre-preoccupazioni-sul-progetto-di-legge/>.

140 This administrative measure, initially meant to avoid violent participation in sports events, leads to an interdiction on accessing public space for a period of time plus a pecuniary sanction. See: Legislative Decree No. 159/2011, *Gazzetta Ufficiale della Repubblica Italiana*, 6 September 2011, available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2011-09-06;159>.

141 Indeed, the riot police intervene with the riot uniform, equipped and covered by a shield and without any identification code. See: L. Rapini (2024), 'Numeri identificativi per poliziotti e carabinieri: in Europa 20 Paesi li utilizzano. Non ci sono in Italia e altri quattro', *La Stampa*, 14 March 2024, available at: [https://www.lastampa.it/cronaca/2024/03/14/news/polizia\\_codici\\_identificativi\\_mancano\\_italia-14145162/](https://www.lastampa.it/cronaca/2024/03/14/news/polizia_codici_identificativi_mancano_italia-14145162/); The need to identify armed policemen is a sensitive topic in Italy, leading to different NGOs' campaigns, for example: Amnesty International (2024), 'Manifesta oggi per i diritti di domani: nuovo appello e campagna', 20 May 2024, available at: <https://www.amnesty.it/manifesta-oggi-per-i-diritti-di-domani-nuovo-appello-e-campagna/>.

142 Amnesty International Italia, *Barometro dell'odio - delegittimare il dissenso*, 2024, available at: <https://www.amnesty.it/barometro-dellodio-delegittimare-il-dissenso/>.

143 Council of Europe, *European Commission against Racism and Intolerance (2024), ECRI Report on Italy (sixth monitoring cycle)*, Strasbourg, 22 October 2024, available at: <https://rm.coe.int/sixth-ecri-report-on-italy/1680b205f5>.

and sea rescue NGOs are the main targets of online and offline attacks, including by leading exponents of the government team for propaganda purposes. Expert civil society organisations note a worrying normalisation of hate speech amid growing political polarisation<sup>144</sup>. Italy's legal landscape on the topic is characterised by legislative limitations and implementation gaps.<sup>145</sup> The Mancino Law<sup>146</sup> (1993) and Article 604-bis of the Criminal Code address prejudices rooted in racial, ethnic, national, or religious grounds. Critically, that law lacks targeted criminal protections against discrimination based on sex, gender, gender identity, and/or sexual orientation.<sup>147</sup> This statutory gap has long prompted advocacy for legal reforms, highlighting the need to expand anti-discrimination frameworks to encompass these unprotected categories. A draft law addressing these gaps has nevertheless been stalled in the Justice Commission in Referral Seat since January 2023.<sup>148</sup>

### **Criminalisation of speech**

Government Bill No. 1660, currently under consideration by the Senate as Act No. 1236, has been sparking major concerns among CSOs, activists, human rights experts and institutional human rights bodies. The Organization for Security and Co-operation in Europe's (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) has warned that the draft law "exhibits several shortcomings that are likely to impede the exercise of human rights and fundamental freedoms",<sup>149</sup> including that of expression. According to activists and HRDs, the bill results in the criminalisation of collective forms of dissent, thus simultaneously determining a worrisome chilling effect.<sup>150</sup>

Strategic lawsuits against public participation (SLAPPs) in Italy increasingly threaten freedom of expression, with politicians, interest groups and public figures using legal actions to

144 Redazione (2024), Una spaventosa normalità, 'Rete Nazionale per il contrasto ai discorsi e ai fenomeni d'odio', 14 November 2024, available at: <https://www.retecontrolodio.org/2024/11/14/una-spaventosa-normalita/>.

145 On implementation gaps, to date not yet filled, please refer to the ECRI Report on Italy 2024.

146 Law No. 205/1993, Gazzetta Ufficiale della Repubblica Italiana, 25 June 1993, available at: <https://www.gazzettaufficiale.it/eli/id/1993/06/26/093G0275/sg>.

147 Arcigay, Report omolesbobitransfobia 2024, available at: <https://www.arcigay.it/wp-content/uploads/2024/05/Report-omolesbobitransfobia-2024-Foglio1.pdf>.

148 Atto Camera No. 401, 19 October 2022, available at: <https://www.camera.it/leg19/126?tab=&leg=19&idDocumento=401>.

149 OSCE (2024), ODIHR Opinion on Certain Articles of the Bill No. 1660 Relating to Countering Terrorism, Public Security, Protection of Personnel in Service and Prison Regulations in Italy (2024), 27 May 2024, available at: [https://legislationline.org/sites/default/files/2024-05/2024-05-27%20-%20Opinion\\_Italy\\_Draft%20Law%20on%20Public%20Security%20-%20final.pdf](https://legislationline.org/sites/default/files/2024-05/2024-05-27%20-%20Opinion_Italy_Draft%20Law%20on%20Public%20Security%20-%20final.pdf).

150 F. Yaku (2024), Il Decreto Sicurezza 1660 non rispetta i diritti e la Costituzione: dal convegno al Senato si salda la critica fra organizzazioni, giuristi e moviment, In Difesa Di, 25 October 2024, available at: <https://www.in-difesadi.org/2024/10/25/il-decreto-sicurezza-1660-non-rispetta-i-diritti-e-la-costituzione-dal-convegno-al-senato-si-consolida-la-critica-di-giuristi-e-movimenti/>.

silence critical voices of civil society and undermine public debate, with recent cases targeting pro-Palestinian activists.<sup>151</sup> The new school evaluation system (Law No. 150/2024)<sup>152</sup> intensifies internal sanctions and mainly penalises protesting students. The lowering of conduct grades particularly targets politically engaged students' activities, such as unauthorised assemblies or sit-ins, despite Article 4 of the Student Statute guarantees freedom of expression and peaceful demonstration.

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

As pointed out in the 2024 rule of law report, a much disputed legislative measure was poised to impose restrictions on media reporting, mandating that journalists withhold publication of judicial pre-trial orders, in any format, until the preliminary hearing reaches its conclusion. Following the publication of Law No. 15/2024,<sup>153</sup> critically labelled as a 'gag law', empowering the government to amend Article

114 of the Criminal Procedure Code, in September the Council of Ministers approved a draft legislative decree to this end (Act of government No. 196).<sup>154</sup> The Chamber and the Senate expressed their favourable opinions on the text, inviting the executive to consider extending the publication ban "to all personal precautionary measures" and to provide for a tightening of sanctions in case of violations.<sup>155</sup> On 9 December 2024, the Council of Ministers, partially accepting the indications of parliamentary commissions, approved the decree, expanding the scope of the regulation but without the feared intensification of the sanctions apparatus. Therefore, the verbatim publication of orders applying personal precautionary measures, even non-custodial ones, will be prohibited until preliminary investigations are concluded or until the preliminary hearing is completed.<sup>156</sup> Although no increase in sanctions was provided, journalists emphasise that this legislative measure marks a negative

151 A. B. (2024), 'L'Associazione Italia-Israele porta in tribunale i sanitari per Gaza', *Firenze Today*, 8 August 2024, available at: <https://www.firenzetoday.it/cronaca/denuncia-diffamazione-sanitari-gaza.html>.

152 Law No 150/2024, *Gazzetta Ufficiale della Repubblica Italiana*, 1 October 2024, available at: <https://www.gazzettaufficiale.it/eli/id/2024/10/16/24G00168/sg>.

153 See: Liberties (2024), *Liberties Rule of Law Report 2024*, p. 30 available at: [https://dq4n3btxmr8c9.cloudfront.net/files/sk0vsd/ITALY\\_Liberties\\_RuleOfLaw\\_Report\\_2024.pdf](https://dq4n3btxmr8c9.cloudfront.net/files/sk0vsd/ITALY_Liberties_RuleOfLaw_Report_2024.pdf).

154 Atto Governo No. 196, 9 September 2024, available at: <https://www.camera.it/leg19/682?atto=196&tipoAtto=atto&cidLegislatura=19&tab=>.

155 Redazione Roma (2024), 'Verso una nuova stretta sui cronisti, stop alla pubblicazione di atti', *Sole24Ore*, 5 December 2024, available at: <https://www.ilsole24ore.com/art/verso-nuova-stretta-cronisti-stop-pubblicazione-atti-AGE-h6yYB>.

156 P. Frosina, 'Il "bavaglio Costa" è legge: il governo approva il divieto di pubblicare le ordinanze di arresto. E lo estende a interdittive e misure meno gravi', *Il Fatto Quotidiano*, 9 December 2024, available at: <https://www.ilfattoquotidiano.it/2024/12/09/bavaglio-costa-legge-governo-ordinanze-arresto-divieto-misure-interdittive/7798049/>.

turning point in judicial reporting, jeopardising the public's right to be informed.<sup>157</sup>

### **Other**

Universities have become critical sites of freedom of expression concerns. Student organisations report increasing difficulties organising events on politically sensitive topics, such as the Middle-Eastern situation. External pressures have aimed to cancel or modify conferences addressing controversial issues, exemplified by recent incidents limiting open academic discourse, as seen at the University of Milan in March.<sup>158</sup> In a broader context, recent developments reveal a troubling pattern of restricting freedom of expression and assembly through pre-emptive bans and preventive administrative measures.<sup>159</sup>

## **Attacks and harassment**

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

In the past year, Italian ministries often commented on news items to instrumentalise stories in order to further stigmatise and strengthen discrimination against migrant people and other minorities. For instance, on the occasion of the International Day for the Elimination of Violence against Women, Minister of Education Giuseppe Valditara stated that the increase in sexual violence is somehow linked to irregular migration<sup>160</sup> - this statement was supported by Prime Minister Meloni as well.<sup>161</sup> With the aim of spreading negative and misleading narratives against migrant people, Minister of Transports and Infrastructure Salvini created a whole campaign in reaction to the pending Open Arms case, for which he is accused of

157 FNSI (2024), 'Vietato pubblicare le ordinanze di misure cautelari, ok al decreto. Costante: «Un bavaglio ancora più ampio»', FNSI, 9 December 2024, available at: <https://www.fnsi.it/vietato-pubblicare-le-ordinanze-di-misure-cautelari-ok-al-decreto-costante-un-bavaglio-ancora-piu-ampio>.

158 M. Di Lucchio (2024), 'Le polemiche sul convegno all'Università Statale sul conflitto israelo-palestinese', rainews.it, 5 March 2024, available at: <https://www.rainews.it/tgr/lombardia/video/2024/03/polemiche-convegno-universita-statale-conflitto-israelo-palestinese-0d3ddae9-817d-4df9-b584-c02b1c07abd7.html>.

159 Amnesty International (2024), 'Statement expressing concern about law enforcement officials violating human rights, including the rights to freedom of expression and to peaceful assembly, on 5 October in Rome preceding and during the "National demonstration for Palestine"', 28 November 2024, available at: <https://www.amnesty.org/en/documents/eur30/8713/2024/en/>.

160 D. Preziosi (2024), 'La dottrina di Meloni sulla violenza di genere "la colpa è dei migranti"', *Domani*, 25 November 2024, available at: <https://www.editorialedomani.it/politica/italia/meloni-patriarcato-violenza-di-genere-immigrati-iwfduurj>.

161 Ansa English Desk (2024), 'Illegal migration has impact on violence against women - PM', *ANSA*, 19 November 2024, available at: [https://www.ansa.it/english/news/2024/11/19/illegal-migration-has-impact-on-violence-agst-women-pm\\_d5809adf-e523-42ce-b959-094145474e8a.html](https://www.ansa.it/english/news/2024/11/19/illegal-migration-has-impact-on-violence-agst-women-pm_d5809adf-e523-42ce-b959-094145474e8a.html).



kidnapping and refusal to perform official duties, risking six years imprisonment. The campaign is marked #20dicembre (20 December), the date foreseen for the sentencing. In all posts within this communication campaign, the Minister addressed news items involving cases where non-Italian persons were found guilty to justify the crimes he has been accused of by the NGO Open Arms under legitimate security reasons.

### **Physical attacks on people and property**

Journalists in Italy suffer from increasing physical attacks, in addition to legal threats and SLAPPs. For instance, in Turin, a journalist from *La Stampa* was physically assaulted. On the evening of 20 July 2024, Andrea Joly was passing by a place where a gathering of Casa Pound (a hard-right-wing movement) was happening. He was documenting the lively gathering he had come across with his phone camera, when a group of two to four extremist right-wing militants attacked him, pushing and punching him on the ground.

A hostile environment is also perpetrated by police forces, increasingly using violence against human rights defenders and young activists. For instance, since the exacerbation of the Israeli-Palestinian conflict after 7 October 2023, students' movements have been engaging in continuous peaceful demonstrations in the streets and the prolonged occupation of Italian universities with tents, in the so-called

'student-intifada'. In the academic context, they demand the end of partnerships with Israeli universities. Through pro-Palestinian demonstrations in the streets, they demand that the government stop sending military equipment to Israel and condemn the genocide by the Israeli government in the occupied Palestinian territories and against the Palestinian people. In Pisa and Florence, the police rushed the crowd, which included many under-age students, with batons.

### **Online civic space**

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

In 2024, an increase in online hate speech was recorded. Amnesty International - Italy conducted a study<sup>162</sup> to investigate online hate speech, with a particular focus on the right to protest. The study revealed that 15.3% of the analysed online content is offensive, discriminatory, or incites hatred, marking a significant increase compared to previous years. Hate speech, in particular, has tripled, exceeding 3% of the total content analysed. Immigration (2.3%) and women's rights (2.2%) attract a significant share of problematic comments. Indeed, women and individuals with migrant backgrounds are the primary targets of online hate, followed by the LGBTQIA+ community and those living in poverty. Linked to the right to protest, problematic comments on social media particularly target climate justice and economic and social rights. These

162 Amnesty International Italia (2024), Barometro dell'odio - delegittimare il dissenso, 2024, available at: <https://www.amnesty.it/barometro-dellodio-delegittimare-il-dissenso/>.

groups face a range of attacks, from offensive comments to direct incitement of hatred and violence. Among the case studies observed within the study, those that recorded the highest levels of hate speech all revolved around actions promoting climate justice. Notably, two instances were linked to an initiative by Extinction Rebellion (XR) in Venice, where activists used a harmless, reversible dye to turn the Grand Canal green, aiming to spotlight COP 28. One case involved a politician's post labeling the activists as 'eco-vandals', while the other was a neutral news piece by *Corriere della Sera*. However, the article highlighted the penalties and legal actions faced by the participants, including fines, expulsion orders, and urban bans.<sup>163</sup>

Concerns over the growing prevalence of xenophobia in the public discourse have been raised by the European Commission against Racism

and Intolerance (ECRI).<sup>164</sup> The report notes how political rhetoric has become increasingly divisive and hostile, particularly towards refugees, asylum seekers, migrants, Italian citizens with migrant backgrounds, Roma communities, and LGBTQIA+ individuals. Alarming, many offensive and hate-filled remarks have been made by prominent politicians and public officials, especially during election periods, both online and offline. This trend has contributed to the 'normalisation' of hate speech in public life, deepening feelings of marginalisation and exclusion within various vulnerable groups in society. For instance, on the podcast *La Zanzara* Vittorio Feltri, a journalist from right-wing newspaper *Libero*, delivered a harsh xenophobic comment against Muslim people, stating he considers them to be an "inferior race" and would rather "shoot them in the mouth", a clear statement that incites violence.<sup>165</sup>

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163 Amnesty International Italia (2024), *Barometro dell'odio - delegittimare il dissenso*, 2024, available at: <https://www.amnesty.it/barometro-dellodio-delegittimare-il-dissenso/>.

164 European Commission Against Racism and Discrimination (2024), *Rapporto dell'ECRI sull'Italia*, council of europe, October 2024, available at: <https://rm.coe.int/sixth-report-on-italy-translation-in-italian-/1680b205f7>.

165 Fatto Quotidiano (2024), 'Vittorio Feltri choc: "Ai musulmani sparerei in bocca, non mi vergogno di considerarli razza inferiore". Lite con Parenzo a La Zanzara', 20 November 2024, <https://www.ilfattoquotidiano.it/2024/11/29/zanzara-feltri-choc-sparerei-musulmani-razza-inferiore-scontro-parenzo-corvetto/7785632/>.

## **DISREGARD OF HUMAN RIGHTS OBLIGATIONS AND OTHER SYSTEMIC ISSUES AFFECTING THE RULE OF LAW ENVIRONMENT**

### **Key recommendations**

- *Grant the status of marriage to civil unions between same-sex and trans couples, allowing the automatic recognition of children regardless of the sexual orientation and/or gender identity of the parents and allowing adoptions, also through the approval of the step-child adoption.*
- *Resume the discussion on a law that can protect LGBTQIA+ people from all forms of discrimination and hate crime; depathologise the issues concerning the transgender and intersex experience.*

*As recommended in the 2024 report:*

- *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 most recent 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 recommendations by 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 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. Furthermore, in order to prevent torture in prison, the elimination of solitary confinement is urgently needed.*

## Systemic human rights violations

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

The data collected by the Italian Gay Help Line relating to 2023 reveal that incidents of discrimination and hatred rise by 34%<sup>166</sup> and are mainly perpetrated by acquaintances of the victim, despite remaining the outcome of a systemic prejudice present in the public discourse and social organisation of our country.

Italy has not yet promulgated any law against homophobia and transphobia. Regarding the gender affirmation process, the law that regulates it is (unfortunately) over 30 years old, but there was an important innovation as the Court of Trapani<sup>167</sup> in July 2023, and the Court of Cuneo<sup>168</sup> in February 2024 recognised the right to change name and gender identity at the registry office without having to undergo any surgery and without any hormone therapy. These decisions are based on a previous ruling of the Constitutional Court, No. 221 of 2015.

On the state of rights for intersex people, nothing has changed. No law has been promulgated on the matter and no rights have been protected. In fact, the scientific protocols remain mainly anchored to an interventionist model, created in the 1950s, that provides for the shape of children's genitals to be surgically modified with the informed consent from their parents, and not to avoid or postpone it until the person can provide informed consent for themselves.

### **Impunity and/or lack of accountability for human rights violations**

Since the rejection in the Senate of the so-called 'Zan bill' on homophobia and transphobia, occurred in October 2021, the debate has been totally absent on the political stage. Indeed, on the occasion of the International Day Against Homophobia, Biphobia and Transphobia on 17 May 2024, the Italian government did not sign either the Declaration on the continuous progress of the human rights of LGBTQIA+ people in Europe or the Joint Ministerial Declaration on the occasion of the

166 Gay Centre (2024), *Il livello della Gay Helpline*, 17 May 2024, available at: [https://gayhelpline.it/wp-content/uploads/sites/5/2024/05/Report-II-livello-Gay-Help-Line\\_2024\\_finale.pdf](https://gayhelpline.it/wp-content/uploads/sites/5/2024/05/Report-II-livello-Gay-Help-Line_2024_finale.pdf).

167 F. Q. (2024), 'Sentenza storica del Tribunale di Trapani: ok a cambio nome e identità di genere anche senza operazione. Primo caso in Italia', *Il Fatto Quotidiano*, 16 July 2023, available at: <https://www.ilfattoquotidiano.it/2023/07/16/sentenza-storica-del-tribunale-di-trapani-ok-a-cambio-nome-e-identita-di-genere-anche-senza-operazione-primo-caso-in-italia/7230954/>.

168 V. Da Ros (2024), Tribunale di Cuneo – sent. 203/2024: rettifica degli atti di stato civile, autorizzazione agli interventi e non obbligatorietà del previo adeguamento chirurgico del sesso, *BioDiritto*, 23 February 2024, available at: <https://www.biodiritto.org/Biolaw-pedia/Giurisprudenza/Tribunale-di-Cuneo-sent.-203-2024-rettifica-degli-atti-di-stato-civile-autorizzazione-agli-interventi-e-non-obbligatorieta-del-previo-adequamento-chirurgico-del-sesso>.

international day against homophobia, biphobia, transphobia and intersexuality, signed by 32 Member States of the Council of Europe.<sup>169</sup>

In the absence of a codification within hate crimes, the identification of the crimes against LGBTQIA+ people for their sexual orientation and/or gender identity is complex, creating the phenomenon of under-recording, also due to the unpreparedness of the justice bodies and authorities to identify homotransphobic violence and provide adequate remedies.

Additionally, the right to create a family for LGBTQIA+ people received a major setback when the Ministry of the Interior sent a circular (No. 3/2023) to the Prefects urging them to transcribe only the biological parent in the birth certificates of children with same-sex parents, pursuant to the sentence of the Court of Cassation, SS. UU. Civilians, No. 38162/2022. The sentence states that the foreign provision certifying the filiation relationship, both with the biological parent and with the intended parent, of a child born from surrogacy must be considered contrary to the public order. Therefore, the transcription of the act is not automatic. The Court of Cassation maintains the provision of legal recognition of the emotional

bond through adoption pursuant to Article 44, co. 1, l. d), Law No. 184/1983 ('adoption in particular cases').

There has also been a serious backlash on the legislation that guarantees filiation relationships in same-sex couples. An amendment was presented in July 2023 by a member of the ruling far-right Fratelli d'Italia party to the law regarding medically assisted procreation, with the introduction of the prosecution of the crime of surrogacy committed by an Italian citizen even abroad, and it was approved by the Senate in October 2024.<sup>170</sup> Therefore, with the approval of the amendment to Law No. 40/2004, Italian citizens, who are parents of children born abroad through surrogacy, will not be able to register the birth certificate in Italy as it constitutes a self-declaration.

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

As reported in the previous report, the crime of torture continues to prove its importance, which is why it should neither be amended nor repealed.<sup>171</sup> In fact, there are many ongoing torture prosecutions. Among them, the case

169 ILGA Europe (2024), Hate and violence against LGBTI people in Italy. Letter to political leaders, 4 June 2024, available at: <https://www.ilga-europe.org/files/uploads/2024/06/open-letter-political-leaders-italy.pdf>.

170 R. Cuboni (2024), Italian Senate passes law making surrogacy a universal crime, *Il Messaggero*, 17 October 2024, available at: [https://www.ilmessaggero.it/en/italian\\_senate\\_passes\\_law\\_making\\_surrogacy\\_a\\_universal\\_crime-8421250.html](https://www.ilmessaggero.it/en/italian_senate_passes_law_making_surrogacy_a_universal_crime-8421250.html).

171 Y. Hassan Holgado, M. Ikonomu (2024), 'I tentativi di abolire il reato di tortura in Italia: cosa prevede la legge e le proposte in campo', *Domani*, 26 June 2024, available at: <https://www.editorialedomani.it/fatti/reato-tortura-italia-cosa-prevede-articoli-legge-modifiche-abolizione-cestaro-cedu-codici-identificativi-ra6vp2hm>.

that took place at the Milan juvenile prison, Cesare Beccaria, deserves to be mentioned. This is the first case of alleged torture inside an Italian juvenile prison. In May 2024, precautionary measures were ordered against 13 officers on duty at this juvenile prison. The serious episodes allegedly took place between November 2022 and March 2024 against eight minors, who were serving their sentence inside the juvenile prison.<sup>172</sup> Another trial that is still ongoing is that for the violence perpetrated against a Tunisian detainee held in the solitary confinement unit of the prison of Reggio Emilia in April 2023. The detainee was brutally assaulted by at least 10 prison officers who are currently on trial for torture.<sup>173</sup>

On 14 November, the Undersecretary for Justice Andrea Delmastro, at an event to present the new cars used by the prison police to transport prisoners subject to the 41-bis regime of the Prison Law or placed in the high-security circuit, publicly stated: “It is a great joy for me to see this powerful vehicle parading

around, with the Mobile Operational Group of the prison police on it, and to let the citizens know how we know how to deal with and pursue those behind that glass and do not let them breathe”.<sup>174</sup> This is a statement that shows disregard for the rights of detainees and the meaning of punishment.

### **Implementation of decisions by supranational courts, such as the Court of Justice of the EU and the European Court of Human Rights**

In 2013, in the case *Torreggiani and others v. Italy*,<sup>175</sup> the European Court of Human Rights condemned Italy for violating Article 3 of the European Convention on Human Rights. This judgement was the result of a lawsuit brought by seven inmates who accused Italy of living in less than three square metres each, with limited access to hot water and poor lighting in their cells. This decision had a profound impact on Italian prisons, leading to a series of reforms. It is in this context that in 2014 Italy introduced

172 RaiNews (2024), ‘Violenze e torture nel carcere Beccaria, scene cruente nei video: il pestaggio di un 15enne’, Rainews.it, 30 April 2024, available at: <https://www.rainews.it/articoli/2024/04/violenze-e-torture-nel-carcere-beccaria-scene-cruente-nei-video-il-pestaggio-di-un-15enne-iniziati-gli-interrogatori-a-milano-20282032-8a3c-4fef-87dd-86457f9982b0.html>.

173 Repubblica (2024), ‘Detenuto incappucciato e picchiato: il video del pestaggio nel carcere di Reggio Emilia’, *Repubblica*, 9 February 2024, available at: <https://video.repubblica.it/cronaca/reggio-emilia-detenuto-picchiato-in-carcere/462512/463476>.

174 Ansa (2024), ‘Polemica su Delmastro: “Gioia nel non far respirare detenuti su auto polizia”’. VIDEO, SkyTG24, 15 November 2024, available at: <https://tg24.sky.it/politica/2024/11/15/andrea-delmastro-sottosegretario-polemica-auto-41-bis>.

175 ECtHR, *Torreggiani and Others v. Italy*, January 2013, available at: <https://hudoc.echr.coe.int/eng?i=002-7400>.



a compensatory remedy with Article 35 of the Prison Law<sup>176</sup> which provides that prisoners who have been subjected to non-compliant treatment and have been detained for at least 15 days in conditions that violate Article 3 are entitled to have their residual prison sentence reduced, equivalent to one day for every 10 days of violation. Those who have served a sentence of less than 15 days or are no longer detained or whose residual sentence does not allow for the full deduction of the sentence reduction are entitled to receive compensation of €8 for each day spent in detention under the unlawful conditions. The claim can be filed within six months after the end of the detention or pre-trial detention.

According to the latest available data, during 2023 the surveillance judges decided 8,234 complaints; of these, 4,731 (57.4%) were granted. As can be seen from the graph, the number of sentence reductions has been increasing since 2021.<sup>177</sup>

## **FOSTERING A RULE OF LAW CULTURE**

### **Efforts by state authorities**

State authorities in Italy do not seem to engage in initiatives to foster a rule of law culture, as Prime Minister Giorgia Meloni herself seems to deny any shortcomings concerning the state of the Rule of Law in the country. Indeed, in light of the findings of the EU Commission rule of law report published in July 2024, Meloni reacted with a defensive letter<sup>178</sup> addressed to EU Commission President Von der Leyen. In particular, the Italian PM presented some justifications against three criticisms allegedly pointed out by the EU Commission: the threatened independence of the public service media (PSM) through political interference; the causality between the new editorial line and the resignation of many TV hosts; and the alleged lack of respect of the *par condicio* rule during the European Parliament 2024 election. Moreover, Meloni stated: “The content of this document has been distorted for political purposes by some in an attempt to attack the Italian Government. Some have even gone so far as to claim that the rule of law is at risk in Italy, particularly about freedom of information and

176 Law No 354/1975, *Gazzetta Ufficiale della Repubblica Italiana*, 26 July 1975, available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1975-07-26;354~art35ter>.

177 Associazione Antigone (2024), *Nodo alla gola - XX Rapporto di Antigone sulle condizioni di detenzione*, 2024, p. 16, available at: <https://www.antigone.it/upload2/uploads/docs/CSNodoallagola.pdf>.

178 Redazione Ansa (2024), *La lettera di meloni a Von der Leyen*, ANSA, 28 July 2024, available at: [https://www.ansa.it/sito/notizie/politica/2024/07/28/la-lettera-di-meloni-a-von-der-leyen\\_f9f81f69-9224-4ec8-9740-0370785f6cd5.html](https://www.ansa.it/sito/notizie/politica/2024/07/28/la-lettera-di-meloni-a-von-der-leyen_f9f81f69-9224-4ec8-9740-0370785f6cd5.html).

the public broadcasting service”. In this way, Meloni denounced the report for instrumentalising information and creating ‘fake news’ about the respect of the rule of law in Italy to undermine the government, challenging the reliability and legitimacy of the remarks and recommendations presented by the EU Commission.

### **Contribution of civil society and other non-governmental actors**

Civil society organisations are actively engaged in grassroots networks participating in demonstrations to express their severe concern regarding the current situation in Italy. Nonetheless, advocacy efforts remain insufficient, due to the lack of proper resources to advance advocacy campaigns and disseminate information on the shrinking democratic space in the country. Moreover, the rampant authoritative drift happening in Italy and affecting the rule of law seems not to reach European decision-makers and international authorities, also affecting foreign funds allocated to CSOs.

In October 2024, CILD was invited to give its contribution to a consultation with CSOs organised in Rome by the European Economic and Social Committee (EESC) within the Fundamental Rights and Rule of Law Working Group. On this occasion, CILD expressed its concerns on the progressive erosion of the civic space driven by recent political evolutions,

focusing in particular on the risks deriving from the potential passing of Bill No. 1660. Moreover, CILD is participating in the 4th Universal Periodic Review cycle investigating human rights in Italy. Indeed, in July CILD submitted a written document drafted with some of its member organisations, highlighting some pressing issues regarding human rights in Italy.<sup>179</sup> On the occasion of the UPR pre-session organised in Geneva in November, CILD had the chance to speak before the permanent delegations on key human rights concerns in Italy, evaluating the lack of progression in the implementation of recommendations received in 2019 on the occasion of the last UPR cycle. Its statement focused on three main points: migration and administrative detention; the criminalisation of civil society and shrinking civic space; and freedom of expression and media. Participating in the UPR is of utmost importance for CILD in order to bring its voice before international delegations within a proper review process on human rights. CILD’s commitment constitutes an attempt to make international actors understand the gravity of the erosion of rights and freedoms occurring within the Italian formally democratic political setting.

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179 Italian Coalition for Civil Liberties and Rights (2024), *Joint Submission to the Universal Periodic Review of Italy*, CILD, July 2024, available at: <https://cild.eu/wp-content/uploads/2024/12/CILD-Joint-Submission-UPR-2024-final.pdf>.

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## CONTACTS

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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.

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### ***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 21 national civil liberties NGOs from across the EU.

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