

Amnesty International Report 2015/16 - The State of the World's Human Rights - Italy

A spiralling death toll among refugees and migrants trying to reach Italy by boat from North Africa was recorded between January and April. The number of deaths decreased after European governments deployed naval resources to save lives on the high seas. The implementation of an EU-agreed system to screen arrivals – the “hotspot approach” – raised concerns. Discrimination against Roma continued, with thousands segregated in mono-ethnic camps. Italy failed to introduce the crime of torture into domestic legislation, to establish an independent national human rights institution and to provide legal recognition to same-sex couples.

Refugees’ and migrants’ rights

Over 153,000 refugees and migrants arrived in Italy after crossing the central Mediterranean on unseaworthy and overcrowded boats. The overwhelming majority departed from North Africa and were rescued at sea by the Italian coastguard and Navy, other countries’ vessels, or by NGOs’ or merchant vessels.

About 2,900 refugees and migrants died or disappeared at sea while attempting the crossing during the year. The death rate considerably increased in the first four months, when about 1,700 deaths were reported, including over 1,200 caused by two major shipwrecks in April alone. This was linked to the reduction in resources for proactive patrolling enforced at the end of 2014, with Operation Mare Nostrum being replaced with the smaller, border control-focused Operation Triton by Frontex, the EU border management agency.

At the end of April, European governments decided to reinstate patrolling of the central Mediterranean, through improvements to the Triton operation, the launch of independent life-saving operations by individual governments and the establishment of the EU military operation in the southern Central Mediterranean (EUNAVFOR MED, later relabelled Operation Sophia), to tackle human smuggling. Such measures, coupled with increased efforts by NGOs, led to a drastic reduction of the death rate in the following months. However, due to the high number of people travelling – pushed by the deteriorating situation in countries of origin and transit – and the absence of safe and legal alternatives to seek protection in Europe, loss of life at sea continued to be recorded during the remainder of the year.

Italian authorities struggled to ensure adequate reception conditions for the tens of thousands of people disembarked in the country. The government enforced a plan to distribute them in reception centres across the country, in some cases encountering fierce resistance from local authorities and population, including violent attacks. In July, in Quinto di Treviso, Northeast Italy, residents and far-right militants broke into flats destined to receive asylum-seekers, took the furniture outside and set it on fire, leading the authorities to move the asylum-seekers to another location.

In August, new legislation was adopted to transpose EU directives on asylum, restructuring the reception system. Concern was raised in relation to a planned increase in the use of detention in Identification and Expulsion Centres (CIEs).

In September, Italy started applying the so-called “hotspot approach”, under which asylum-seekers of certain nationalities would be identified to benefit from relocation to other EU member states where they could seek asylum. The relocation programme led to the transfer of 184 people by the end of the year. There were concerns that asylum-seekers and migrants may be subjected to arbitrary detention and forced fingerprinting in centres designated as “hotspots”. In Sicily, authorities issued expulsion orders to individuals upon arrival, raising concern that people ineligible for relocation may be expelled without being previously granted an opportunity to seek asylum or receive information regarding their rights.

In September, the European Court of Human Rights condemned Italy, in the *Khlaifia* case, for the arbitrary detention, ill-treatment and collective expulsion of a group of Tunisians in 2011. The case concerned their detention in the Lampedusa reception centre and on military vessels, and their summary repatriation to Tunisia, without taking into account their individual circumstances.

“Irregular entry and stay” in the territory remained a crime. The government failed to adopt decrees to abolish it, although instructions to do so had been passed by Parliament in April 2014.

Discrimination

Roma

Thousands of Romani families continued to live in segregated camps and shelters, often in poor conditions, as highlighted by the UN Committee on Economic, Social and Cultural Rights in October. The government’s failure to effectively implement the National Strategy for Roma Inclusion (NSRI) meant that, three years after its adoption, no significant progress had been achieved towards offering adequate alternative housing to Romani families unable to provide for themselves. Roma living in camps continued to have little chance to access social housing, particularly in the capital, Rome. Forced evictions of Roma were reported across the country. In February, about 200 people, including children and pregnant women, were evicted from the Lungo Stura Lazio camp in Turin. The European Commission against Racism and Intolerance criticized evictions, often executed without providing procedural safeguards and alternative accommodation. It also reiterated recommendations to strengthen the independence and powers of the National Office against Racial Discrimination (UNAR), co-ordinating the implementation of the NSRI. However, the government reduced the UNAR’s resources and interfered with its activities.

In May, the Rome Civil Court recognized in a landmark ruling that the assignment of housing to Roma in the mono-ethnic camp of La Barbuta, near Ciampino airport, in an area deemed unsuitable for human habitation, constituted discriminatory conduct and had to be discontinued. The authorities had not taken any concrete action to enforce the ruling by the end of the year.

Rights of lesbian, gay, bisexual, transgender and intersex people

In July, the European Court of Human Rights held in the *Oliari* case that Italy had violated the applicants’ right to a private and family life, because of the lack of legal framework to protect the rights of same-sex couples. Nonetheless, Parliament failed to approve pending legislation to address this gap. In December, the Court of Appeal of Rome confirmed the right of a woman to formally adopt the child born by her female partner as a result of artificial insemination.

In July, the Court of Cassation ruled that transgender individuals must be able to obtain legal recognition of their gender without the requirement to undergo any medical treatment.

At the end of the year, Parliament had not yet approved legislative amendments to extend to homophobic and transphobic crimes the application of penalties against hate crimes based on other grounds.

Torture and other ill-treatment

A bill to incorporate the crime of torture into national legislation initially passed one branch of Parliament in April, but failed to pass in the end. Similarly, the government failed to introduce identification tags on the uniforms of law enforcement officers that would facilitate accountability for abuse.

In April, the European Court of Human Rights found in the Cestaro case that police storming the Diaz school, Genoa, during the G8 summit in 2001, had committed torture against demonstrators sheltered therein. The Court underscored how no official had been convicted for such treatment, linked to the absence of the crime of torture within the domestic legislation, to the application of the statute of limitations, and to the lack of police co-operation.

A national ombudsperson for the rights of detainees was still due to become operational at the end of the year.

Deaths in custody

Concerns remained about the lack of accountability for deaths in custody, despite slow progress in a few cases.

In June, a trial for manslaughter started against four police officers and three Italian Red Cross volunteers, in the case of Riccardo Magherini, who died during his arrest in a street in Florence in March 2014. Shortcomings in the investigations had been reported in previous months.

New evidence, including witness statements, emerged in the case of Stefano Cucchi, who died a week after his arrest in the prison wing of a Rome hospital in 2009, reinforcing the presumption that he may have died as a result of beatings. In September, fresh investigations were launched by prosecutors against police officials involved in his arrest. In December, the Court of Cassation ordered a new trial for five doctors who had been acquitted on appeal of charges of manslaughter.

Counter-terrorism and security

The European Court of Human Rights convened a public hearing in June in the Nasr and Ghali case. Lawyers for Usama Mostafa Hassan Nasr (known as Abu Omar) and his wife Nabila Ghali argued that Italian police and intelligence operatives were responsible for colluding with the CIA in Abu Omar's kidnapping in February 2003 and ill-treatment in Milan, his subsequent illegal rendition to Egypt, and his torture and other ill-treatment in secret detention in Cairo. The case remained pending at the European Court of Human Rights. In December, President Mattarella

granted a pardon to a CIA agent and a partial pardon to another one; both agents had previously been convicted in their absence by Italian courts for their role in the kidnapping and rendition.

In February, new counter-terrorism laws were adopted that increased prison sentences for “persons who are recruited by others to commit acts of terrorism”, and provided penalties for persons who organize, finance, or promote travel “for the purpose of performing acts of terrorism”. The laws also made it a crime for a person to participate in a conflict on a foreign territory “in support of a terrorist organization”, and granted the government the authority to keep a list of websites used for recruitment and to instruct Internet service providers to block such sites.

Legal, constitutional or institutional developments

Despite the government’s promises, Italy again failed to establish a national human rights institution in accordance with the Principles relating to the Status of National Institutions (Paris Principles).

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