

ITALY

MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION

Inter-ministerial Committee for Human Rights

Comitato Interministeriale per i Diritti Umani

**ITALY'S REMARKS
ON THE SAFETY OF JOURNALISTS AND IMPUNITY**

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ITALY'S REMARKS

Background

1. The Basic Law determines the political framework for action and organization of the State. The fundamental elements or structural principles of the constitutional law governing the organization of the State are as follows: Democracy, as laid down in Article.1; the so-called *personalistic* principle, as laid down in Article. 2, which guarantees the full and effective respect for human rights; the pluralist principle, within the framework of the value of democracy (Arts. 2 and 5); the importance of work, as a central value of the Italian community (Arts. 1 and 4); the principle of solidarity (Article.2); the principle of equality, as laid down in Article.3 (it is also the fundamental criterion applied in the judiciary system when bringing in a verdict); the principles of unity and territorial integrity (Article 5); and above all, the relevant principles, including the social state, the rule of law and the respect for human rights and fundamental freedoms, such as freedom of correspondence, freedom of movement, freedom of religion or belief, and freedom of opinion and expression.

2. The Italian legal system aims at ensuring an effective framework of guarantees, to fully and extensively protect the fundamental rights of the individual. Indeed, we rely on a solid framework of rules, primarily of a constitutional nature, by which the respect for human rights is one of the main pillars.

3. Within our national system of protection of human rights, mention has to be made, among others, of the Italian Constitutional Court that deals only with infringements of a constitutional level (the Constitutional Court consists of fifteen judges; one-third being appointed by the President of the Republic, one-third by the Parliament in joint session, and one-third by ordinary and administrative supreme court)¹. The Constitutional Court exercises its duty as one of the highest guardian of the Constitution in various ways. It becomes active when it is called on. For example, it supervises the preliminary stages of referenda and is competent in case of presidential impeachment. Complaints of unconstitutionality may be submitted to the Italian Constitutional Court by central and local Authorities claiming that a state or a regional Act might be unconstitutional. Therefore, the Court monitors Authorities to see whether they have observed the Constitution in their actions. It also arbitrates in cases of disagreements between the highest State's organs and decides in proceedings between central and local Authorities.

4. Procedurally, the Court must examine *ex officio* (the prosecutor) or upon request of the plaintiff/defendant whether the provisions to be applied are in compliance with the Basic Law. When the court considers that an act is unconstitutional, such evaluation brings to a suspension of the *a quo* proceeding. Accordingly, a decision is made by the Court itself, pursuant to Art. 134 of the Italian Constitution. The constitutional court decides (and its decisions cannot be appealed on) disputes: 1. concerning the constitutionality of laws and acts with the force of law adopted by state or regions; 2. arising over the allocation of powers between branches of government, within the state, between the state and the regions, and between regions; 3. on accusations raised against the head of State in accordance with the Constitution. More generally, the Court decides on the validity of legislation, its interpretation and on whether its implementation, in form and substance, is in line with the Basic Law. Thus, when the court declares a law or an act with the force of law unconstitutional, the norm ceases its force by the day after the publication of its decision.

¹ The constitutional court consists of fifteen judges; one-third being appointed by the Head of State, one-third by the Parliament in joint session, and one-third by ordinary and administrative supreme court.

5. Freedom of expression and freedom of the press are protected by the Italian Constitution of 1948 in its Article 21, which sets forth: “*Anyone has the right to freely express their thoughts in speech, writing, or any other form of communication. The press may not be subjected to any authorisation or censorship [...]*”.

The situation of journalists: specific steps to intensify efforts to enhance the safety of journalists and media workers; the issue of impunity

6. It should be noted that, given the relevance of the criminal conducts towards representatives of the press, the “*Coordination Centre for permanent monitoring, analytical and exchange activities of information on the phenomenon of intimidating acts towards journalists*” operates in the Minister of Interior Cabinet with strategic planning functions. This Centre represents an important connecting and consulting structure to identify targeted initiatives for the protection of freedom of press, to be understood in a broad sense.

7. Through the Decree of 10th September 2018, the Police-General Director for Public Security, at the Central Directorate of the Criminal Police, has activated a *Permanent Supporting Body* in the aforementioned Coordination Centre, as privileged forum for dialogue among representatives of the world of information, the Police Forces and of the Department of Public Security competent within the material scope, in order to identify, at an operational level, the most suitable interventions to prevent, namely, to counter this criminal phenomenon.

CONCLUSIONS

8. Italian Authorities take this opportunity to reiterate their firm willingness to continue cooperating with all relevant UN Special Procedures, mechanisms and bodies.